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(HANSARD)

**Wednesday, May 12, 2010**



THE HONOURABLE NOËL A. KINSELLA  
SPEAKER

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## THE SENATE

Wednesday, May 12, 2010

The Senate met at 1:30 p.m., the Speaker in the chair.

Prayers.

### SENATORS' STATEMENTS

#### CANADIAN PARAPLEGIC ASSOCIATION

**Hon. Jim Munson:** Honourable senators, I am having a very interesting day. I am rather sore. I was allowed to walk in, but you may have seen a wheelchair outside. Senator Kochhar and I have been in wheelchairs since 7 o'clock this morning in an effort to raise awareness on behalf of the Canadian Paraplegic Association. I can tell you that I am more tired than I have ever been playing hockey. I am spending the day in a wheelchair to gain an understanding of what daily life is like for the more than 41,000 Canadians who live with spinal cord injuries. I have gained a new perspective. I have found out how much more time you need to get from one place to another. I know what it is like not to see eye to eye, and so does Senator Kochhar, but I discovered muscles in my upper body that I never thought existed.

I also discovered sad facts about spinal cord injuries. Every year, 1,200 new spinal cord injuries occur in this country, and 84 per cent of those happen to young people under 34 years of age. Three out of four spinal cord injuries happen to men. That is frightening for a father like me who has two sons in that range.

It is also frightening to learn that we do not have a cure for spinal cord injuries, that the unemployment rate for people with spinal cord injuries is 62 per cent and that the average cost for each injured person over the course of his or her lifetime is between \$1.25 million and \$25 million, depending on the injury.

There is much we need to do to find a cure for spinal cord injuries and to ensure that those who have a spinal cord injury participate fully in society. I will certainly reflect on that as I wheel my way through the rest of the day and also on what we need to do in this chamber to be more inclusive.

In the other place, modifications have been made to accommodate people in wheelchairs, such as Minister Fletcher, who was our leader today on the Hill with 35 MPs and two senators. Here in this chamber, Rick Wardell is one of the individuals who participates in the Friends of the Senate program. Rick works with our pages and is limited by what he does because this chamber cannot accommodate him in his chair. I think Rick deserves better. I think a person like Rick should be allowed to come into this chamber and deliver a message along the floor of this chamber. It is simple: Open the doors a bit wider, and of course the red carpet will not be damaged at all. I believe Rick deserves better, as do all people with spinal cord injuries.

No matter which government has been in power over the last 15 years, whether Liberal or Conservative, the funding for the Canadian Paraplegic Association has decreased from \$2 million a year to \$200,000. All of us — Liberals, Conservatives and

independents — who know our way around the Hill know it is not about politics; it is about helping others and being made aware. For example, Minister Flaherty has been good to me with funding when it comes to the Special Olympics. That shows that Liberals and Conservatives can work together.

I will end with the thought that we can do better.

#### NATIONAL NURSING WEEK

**Hon. Carolyn Stewart Olsen:** Honourable senators, I rise to recognize our nurses during this year's National Nursing Week.

May 12 marks the birthday of Florence Nightingale, who set the standard for professional nurses. In her honour, we celebrate today as International Nurses Day and take a moment to consider the role of her successors, our selfless, dedicated and devoted nurses, who often go unthanked and unappreciated.

Ms. Nightingale fought public opinion of the day and went to the Crimean War. She and a team of nurses travelled to military hospitals in Turkey, where they found appalling conditions. Their interventions saved many lives and, more importantly, awakened the public to the idea of nursing as a life-saving profession.

Daily, nurses go beyond the call of duty, being there for those at their most vulnerable. In birth and in death nurses stand fast; they ease and guide us through these painful transitions.

[*Translation*]

From our birth until our death, nurses offer support, guide us and help us with transitions through difficult times.

[*English*]

Today, the selfless hard work of nurses tends to go unnoticed. Nurses are dedicated and compassionate individuals who choose a demanding profession of long hours and unforgiving schedules, yet they approach their work with an enthusiasm unmatched by any profession.

When Canadians are ill, often the first person they see is a nurse. Nurses watch over their patients during the long, lonely hours of the night, offering support through recovery, sometimes for months and years. They are there when you are born, and they are there when you die. Nurses are with our military on the front lines, and families are comforted to know that a nurse was with a loved one as he or she faced injury or death so far from home.

Our nurses serve in isolated communities where there are no hospitals or doctors. They are responsible for improving health care outcomes, reducing costs, advocating for patient safety, promoting knowledge and driving innovation and research. This year's slogan says it best: "Nursing, you can't live without it!"

We have 270,000 registered nurses in Canada, and every day they touch the lives of Canadians.

Please join me in celebrating this week and in celebrating the contributions of those devoted hardworking men and women.

[*Translation*]

I invite all senators to join me in highlighting this special week and in celebrating the unparalleled commitment of these dedicated men and women.

• (1340)

[*English*]

### ABORIGINAL GATHERING ON DIABETES

**Hon. Lillian Eva Dyck:** Honourable senators, on Thursday, May 6, 2010, I had the honour and privilege of attending the seventh annual Aboriginal Gathering on Diabetes in Prince Albert, Saskatchewan and to give the keynote address.

These annual Aboriginal gatherings allow us to carefully examine the issue of diabetes in Aboriginal communities today: our struggles and our successes.

Diabetes affects the Aboriginal population in higher numbers than the non-Aboriginal population. The picture is staggering. Aboriginal Canadians are three to five times more likely to develop diabetes than non-Aboriginal Canadians. Aboriginal Canadians are developing diabetes at younger ages and Aboriginal women are four times more likely to develop diabetes than non-Aboriginal women. Diabetes is a very real health concern, and the numbers are growing. With current rates of diabetes among Aboriginals, the future projections of this epidemic are unacceptable. We must make serious efforts to combat this rate of diabetes in our Aboriginal communities.

I was pleased to announce the agreement between Cameco and the Canadian Diabetes Association, North Saskatchewan Region, to further expand the Travelling Diabetes Resource Program at the Aboriginal gathering. Cameco has graciously agreed to provide the Canadian Diabetes Association, North Saskatchewan Region, with a van for the region's Travelling Diabetes Resource Program. The addition of this van will allow the program to serve not only Prince Albert but also many Aboriginal Canadians in most regions of Saskatchewan in an effort to provide a healthier future for Canada's Aboriginal populations.

### NATIONAL ABORIGINAL HOCKEY CHAMPIONSHIP

**Hon. Donald Neil Plett:** Honourable senators, last week, I had the pleasure of having as my guests in the gallery a group of young ladies from Manitoba. These young women, aged 13 to 18 years, are all First Nations, Metis or Inuit. They were competing in Kanata in the ninth annual National Aboriginal Hockey Championship.

The Aboriginal Sport Circle, ASC, was established in 1995 to promote personal excellence through sport and to support the holistic development of Aboriginal athletes and coaches. The ASC established the National Aboriginal Hockey Championship in 2001 to reflect those priorities, while serving as the premier competition for minor level Aboriginal hockey in Canada.

[ Senator Stewart Olsen ]

The National Aboriginal Hockey Championship provides a forum for elite and bantam aged Aboriginal hockey players and attracts participation from First Nations peoples, Inuit and Metis across all 13 provinces and territories. The NAHC's long-term vision is to establish a competitive structure that will serve as the impetus for grassroots and regional Aboriginal hockey development. This annual event helps foster cultural unity and pride to celebrate the athletic abilities of Aboriginal athletes from across the country.

One of the truly amazing stories about this group is that they paid their own way to come to Ottawa, as I imagine all the other teams in the tournament did. In recent days and weeks we have heard many complaints about funding cuts to different groups, some of which have received funding for the last 36 years. These young hockey players needed to raise \$1,650 each. One family from my home riding of Provencher included two girls plus the assistant coach on the team. The father of the two hockey players who is also the husband of the assistant coach had recently lost his job, yet the family still managed to raise nearly \$5,000 to come out and play. They were thrilled to be here and compete. These young people must be congratulated for their efforts and initiative.

As for the outcome of the tournament, I am proud to say that this fine group of young women hockey players from Manitoba, six of whom were from the riding of Provencher, went through the round robin tournament undefeated. They then took on Saskatchewan in the semi-finals, thrashing them by a score of 7 to 1. This pitted them next against a strong Northern Ontario opponent in the championship game. Manitoba came out the winners with a score of 2 to 1, thus defending their championship from last year.

On the men's side, Manitoba ended up playing Saskatchewan in the final game. Saskatchewan squeaked out a winner, giving them the gold and Manitoba the silver.

Honourable senators, please join me in congratulating all of the participants in this year's championships.

### THE STANLEY CUP

**Hon. Francis William Mahovlich:** Honourable senators, I rise today to talk about an issue that is close to my heart and that of many Canadians. It is one about which many people across the country, especially Montrealers, are very excited. I am, of course, referring to the Stanley Cup.

This magnificent trophy has been idolized and, I dare say, worshipped by hockey fans for well over 100 years. The decorative silver bowl was donated by then Governor General, Lord Stanley of Preston, who himself became a great fan of the game when he was introduced to it at the 1889 Winter Carnival in Montreal. He thought there should be a trophy awarded to the top amateur hockey team in Canada which would symbolize Canadian amateur hockey supremacy. Over the years, a number of leagues competed to obtain the cup, but it was only in 1927 that the NHL took over and made the Stanley Cup its championship trophy.

With such magnificent and quintessential Canadian history, it is important to recognize the significance of the cup and to share it with the millions of visitors who come to our nation's capital every year.

[Translation]

That is why I support the idea of a monument to commemorate this symbolic gift from Lord Stanley.

[English]

First proposed by Ottawa historian Paul Kitchen, the project has now received the support of Hockey Canada, the NHL, the National Capital Commission in Ottawa, and countless enthusiastic hockey fans. Various sites around Ottawa have been suggested for the home of the monument, which organizers have suggested would be colossal in size, inspiring and historically significant. They want the statue to depict Lord Stanley as well as the original punch bowl he donated. If all goes according to plan, they hope to have the monument in place by the fall of 2012.

Having had the great fortune of hoisting the cup several times, I believe that it is tremendously important to honour the man who gave all hockey fans across this great country a reason to come together annually to celebrate the spirit of Canada and our mutual love of Canada's game.

**Hon. Senators:** Hear, hear!

## ROUTINE PROCEEDINGS

### STUDY ON FEDERAL GOVERNMENT'S RESPONSIBILITIES TO FIRST NATIONS, INUIT AND METIS PEOPLES

THIRD REPORT OF ABORIGINAL PEOPLES  
COMMITTEE TABLED

**Hon. Gerry St. Germain:** Honourable senators, I have the honour to table, in both official languages, the third report, interim, of the Standing Senate Committee on Aboriginal Peoples, entitled: *First Nations Elections: The Choice is Inherently Theirs*.

(On motion of Senator St. Germain, report placed on the Orders of the Day for consideration at the next sitting of the Senate.)

• (1350)

### CANADA-RUSSIA FRIENDSHIP DAY BILL

FIRST READING

**Hon. Peter A. Stollery** presented Bill S-218, An Act respecting Canada-Russia Friendship Day.

(Bill read first time.)

**The Hon. the Speaker:** Honourable senators, when shall this bill be read a second time?

(On motion of Senator Stollery, bill placed on the Orders of the Day for second reading two days hence.)

[Translation]

### CANADIAN NATO PARLIAMENTARY ASSOCIATION

STRATEGIC CONCEPT SEMINAR,  
OCTOBER 16, 2009—REPORT TABLED

**Hon. Pierre Claude Nolin:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian NATO Parliamentary Association, regarding the first Strategic Concept Seminar: NATO's Fundamental Security Tasks, held on October 16, 2009, in Luxembourg.

[English]

MEETING OF SUB-COMMITTEE ON FUTURE SECURITY  
AND DEFENCE CAPABILITIES, OCTOBER 12, 2009  
AND ROSE-ROTH SEMINAR, OCTOBER 13-15, 2009—  
REPORT TABLED

**Hon. Joseph A. Day:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canadian NATO Parliamentary Association respecting its participation at the Meeting of the Sub-Committee on Future Security and Defence Capabilities, held in Kyiv, Ukraine on October 12, 2009, and the seventy-second Rose-Roth Seminar, held in Lviv, Ukraine, from October 13 to 15, 2009.

VISIT TO ROME, MILAN AND LA SPEZIA, ITALY,  
OCTOBER 19-23, 2009—REPORT TABLED

**Hon. Joseph A. Day:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canadian NATO Parliamentary Association to the Visit to Rome, Milan and La Spezia, Italy, by the Sub-Committee on Transatlantic Economic Relations and the Sub-Committee on Energy and Environmental Security, from October 19 to 23, 2009.

[Translation]

## QUESTION PERIOD

### FINANCE

NATIONAL SECURITIES REGULATION

**Hon. Céline Hervieux-Payette:** Honourable senators, my question is for the Leader of the Government in the Senate. As she surely knows, the Fédération des chambres de commerce du Québec and some large Quebec companies, including Cascades, Quebecor, Jean Coutu, Industriel Alliance and many more,

oppose centralizing the securities commissions. There is no evidence to suggest that centralization would be either relevant or effective when it comes to preventing the moral and financial crisis we are experiencing.

I want to emphasize that the OECD has ranked Canada second in the world with respect to securities regulation.

And, as I am sure honourable senators know, neither the single American securities commission nor the single British securities commission managed to protect investors; both failed to see the crisis coming.

Despite these facts, the Prime Minister is stubbornly going ahead with his plan to create a single commission even though it is neither sensible nor in the interests of the provinces, including Quebec, which want nothing to do with it. In light of growing opposition on the part of Quebec business leaders, can the minister tell us when her government, specifically her Prime Minister, will reconsider this proposal, which is neither desired nor desirable, thereby saving the \$250 million already set aside for that purpose in the budget?

[English]

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, Canada is the only industrialized country without a national securities regulator. Canada will be participating in G8 and G20 meetings. There has been and will continue to be a call for more financial regulations and international coordination. With these international pressures on us, we continue to be questioned about our fragmented system at home when we are dealing with our international partners.

As the honourable senator is aware, and as has been stated many times, this is a voluntary initiative. A clear majority of the provinces and territories are committed to or are open to working towards a single securities regulator. This is a voluntary initiative, and I am aware of some of the objections to it in the Province of Quebec. However, some industries and some people in Quebec are able to see the virtue of a single securities regulator.

This is a voluntary effort. If the Province of Quebec decides that it does not want to participate, that should not impede the desires of other provinces that wish to have a single securities regulator.

**Senator Hervieux-Payette:** Honourable senators, the leader is arguing that we are the only country without a national organization. I must remind her that the Prime Minister is travelling around the world now telling people we have a different law, that is why we are different and they are all having problems. Either we go along with the rest and go down the drain, or we have our own rules. Our system has prevailed.

When will the leader's government table a study that will demonstrate, beyond any reasonable doubt, that we need that regulator and it is not for political purposes?

**Senator LeBreton:** Honourable senators, while travelling around the world representing us so very well, the Prime Minister and the Minister of Finance have discussed the notion of the global bank tax. Both have said that they do not believe Canada should be punished with this tax. The Prime Minister

pointed out that Canada has handled its finances very well and did not have any bank failures, nor did the Canadian government become involved in any bailouts. The Prime Minister stated that Canada should not be punished for all of its good work. Honourable senators, with regard to when our government will table its intentions, the honourable senator knows that the government is seeking an opinion from the Supreme Court of Canada to provide legal certainty on Parliament's authority to establish such a common securities regulator. Once that process is complete, we will table the plan.

**Senator Fraser:** What a good idea.

**Senator Comeau:** What is your position on it?

[Translation]

## INDUSTRY

### AMENDMENT TO COPYRIGHT ACT

**Hon. Francis Fox:** Honourable senators, my question is for the Leader of the Government in the Senate. At a meeting organized last week by the Canadian Private Copying Collective, parliamentarians of all political stripes learned that more than 1.3 billion songs are copied every year in Canada, more than 70 per cent of copies are made on an MP3 medium but only 9 per cent are made legally and, finally, artists are no longer being compensated, as in the past, for more than two thirds of the songs copied.

Because of this, the royalties collected for distribution to Canadian copyright holders, songwriters and performers have dropped by 60 per cent in the past three years, from \$27.6 million in 2008 to \$19.8 million in 2009 and \$10.6 million in 2010. It is clear that this trend could seriously hurt performing rights societies and songwriters.

Is the minister prepared to recommend to her colleagues that the Copyright Act be amended immediately and specifically to ensure that the Copyright Board can set royalties for private copies made using audio recording devices, to address the needs related to new technologies?

We are aware of the contrary Federal Court of Appeal decisions in 2008 stating that the Copyright Board had no jurisdiction under the current act.

• (1400)

[English]

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, copyrights are a complicated and complex issue. If the issue were easily solved, the previous government, which wrestled with it for many years without success, would have found a way to solve it.

The honourable senator will have to await the decision and comments of the minister. I cannot and will not comment further.

[ Senator Hervieux-Payette ]

[Translation]

**Senator Fox:** If I understood the minister correctly — and I did not have the chance to listen to the translation as I would have liked — I think she is referring to the bill the Minister of Industry is supposed to introduce in the house. Having looked at the statistics, I would say to the minister that this country's artists, composers and performers are in real danger. Experience shows that it can take years before a new copyright act is passed.

Given that this situation is hurting the most creative people in this country's communities, be they francophone, anglophone or multicultural, would the government consider amending the act immediately to provide fair compensation for this country's artists, which is what the act was originally intended to do?

[English]

**Senator LeBreton:** Again, honourable senators, copyright law is a complicated area, and it has become more complicated with the advance of technology. Honourable senators have seen comments by the minister reported in the media about attempts to address this issue. We will have to await the minister's response. I am not in a position to go further at this time.

[Translation]

## HEALTH

### MEDICAL USER FEES

**Hon. Lucie Pépin:** Honourable senators, my question is for the Leader of the Government in the Senate. The Government of Quebec has decided to introduce a \$25 user fee for every doctor's appointment. Most Quebecers oppose this and are waiting for the Government of Canada to take a clear and firm position.

Can the minister tell us whether the Government of Canada believes that Quebec's decision to impose user fees complies with the provisions of the Canada Health Act?

[English]

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, the Liberal Party leader seemed to support these fees initially, but that position was overturned, I am told, as a result of the reaction by his own caucus.

**Senator Mercer:** That is done. What is the government's position?

**Senator LeBreton:** The five principles of the Canada Health Act were recommended by the Hall Royal Commission on Health Services established by the Right Honourable John George Diefenbaker. These principles are the law of the land. The government expects provinces and territories to abide by the act. We have increased transfers to the provinces and territories by 6 per cent per year so they can continue to meet the health care needs of their residents. The government supports the five principles of the Canada Health Act.

[Translation]

**Senator Pépin:** I thank the honourable leader for her statement, but the question is this: Do user fees comply with the provisions of the Canada Health Act, yes or no?

[English]

**Senator LeBreton:** I will simply say again, honourable senators, that the Canada Health Act is the law of the land. We expect the provinces and territories to respect the law. The honourable senator will not draw me into a culture war with the Province of Quebec on the issue of the health care system.

[Translation]

**Senator Pépin:** Honourable senators, the provinces are responsible for providing health care. However, the federal government has responsibilities regarding health care that stem primarily from the federal spending power. Under the Canada Health Act, the federal government is also responsible for guaranteeing reasonable access to health care without financial or other barriers.

Some 62 per cent of Quebecers believe that Ottawa should use its powers to veto this \$25 user fee. Does the Government of Canada plan to heed the calls of Quebecers and intervene more actively in this matter?

[English]

**Senator LeBreton:** Honourable senators, the government has responded by not doing what the previous government did, which was to make major cuts to health care transfer payments to provinces. This government went one better. We increased transfers to the provinces and territories by 6 per cent per year to enable them to meet their health care needs.

**Senator Ringuette:** That was signed by Paul Martin.

**Senator LeBreton:** Again, the government believes the law should be followed, and I will not be drawn into a culture war between the Liberal government of Quebec and the Liberal opposition in Ottawa.

**Senator Comeau:** And their CBC friends.

**Hon. Joan Fraser:** Honourable senators, let me try this in the other official language.

The Government of Quebec is considering imposing a deterrent fee. The Canada Health Act says Canadians should have access to medical services without paying fees.

**Senator Mercer:** Exactly.

**Senator Fraser:** Does the Government of Canada believe that deterrent fees are legal under the Canada Health Act? If not, what will the government do about that?

**Senator LeBreton:** Honourable senators, I am glad that the Honourable Senator Fraser is supporting the Official Languages Act in that she felt it was necessary to ask me the same question in our other official language. I appreciate the support of the Official Languages Act, which was the argument that my colleague Senator Carignan made yesterday on Bill C-232 regarding the Supreme Court of Canada.

**Senator Comeau:** Great speech.

**Senator Fox:** Except he was wrong; he should check his sources.

**Senator LeBreton:** Honourable senators, there is a law in the land called the Canada Health Act. As a Conservative, I am proud of the act but not because of the revisionist history of the Liberal Party. The act came about because of the efforts of the Right Honourable John George Diefenbaker from Saskatchewan when he was Prime Minister. Mr. Diefenbaker commissioned Supreme Court Justice Emmett Hall, who would not have qualified to sit on the Supreme Court of Canada under Bill C-232.

**Senator Fraser:** Yes or no?

**Senator LeBreton:** In any event, the Canada Health Act is the law of the land. We expect the provinces and territories to abide by the act. I suggest to the honourable senator that she communicate to her Liberal colleagues in the province of Quebec that we all expect each province and territory to abide by the law.

**Senator Fraser:** Honourable senators, we will do that when we are back in government. In the meantime, the Conservatives are the government.

**Senator Comeau:** Speak to your friends.

[Translation]

## FOREIGN AFFAIRS

### UNITED NATIONS MISSION IN THE DEMOCRATIC REPUBLIC OF CONGO

**Hon. Roméo Antonius Dallaire:** Honourable senators, two weeks ago, Mr. Paul Dewar and I, both members of the All-Party Parliamentary Group for the Prevention of Genocide and other Crimes Against Humanity, wrote an article that was published in the papers. I know that Madam Leader does not give credence to newspapers. In this article, we stated that it is vital that Canada revisit its policy on the United Nations mission in the Democratic Republic of Congo, known as MONUC, and that it consider the United Nations' request to strengthen the mission and allow it to carry out its mandate.

The next morning, there was an article in the papers about the Conservative government's decision not to provide additional reinforcements to MONUC. Since I believe the newspapers, can the minister confirm that the Conservative government has decided not to provide additional resources to MONUC?

[English]

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, contrary to the honourable senator's opening remarks, I do believe in newspapers. However, I believe in factual newspaper reporting. I have always believed in newspapers and I read several each day.

I read the honourable senator's effort, together with Mr. Paul Dewar, with regard to the Democratic Republic of Congo. Canada has observers in the Democratic Republic of Congo but we will not send troops into the country. I believe this is overwhelmingly supported by the Canadian population. Canada is still involved, and will be for another year, in an important mission in Afghanistan. Afghanistan is where our focus lies.

• (1410)

**Senator Dallaire:** Honourable senators, the leader said she is reading newspapers that provide her with facts. I think it would be important to ensure what her facts are with regard to what the Canadian people think about sending reinforcements, or a commander, finally, to that mission. I contend that there are many people who thought we should have been there instead of somewhere else and who still hold that position.

General Leslie, for example, was told by the UN and by all the contributing nations of troops that he would be the best commander to take over that mission in the difficult times as it transitions — hopefully, over the next three to four years — to pulling out, and that he would make that mission more effective. Is the leader saying that he is not, and we are not, going to do anything else in that place where millions of people have been killed and there is still considerable conflict going on?

**Senator LeBreton:** Honourable senators, regarding General Leslie, I can only comment that it was speculation about potential future missions for him. As the honourable senator knows, General Leslie has now been given new responsibilities by DND.

With regard to the view of the Canadian public, I think it is clear that the Canadian public supports our soldiers and their mission in Afghanistan. It is an important mission. As a result of a parliamentary motion, of course, we will be withdrawing from Afghanistan in 2011.

I should have clarified that I do believe the Canadian public supports the position of the government, but I exclude *The Globe and Mail*, with their new editors, Geldof and Bono.

**Some Hon. Senators:** Oh, oh!

**Senator Dallaire:** Was the government told specifically in the military advice it received that it would not be in any way, shape or form capable of continuing the mission until, as Parliament has said, it should end in Afghanistan? Also, was it told we should be providing some staff officers and possibly even a commander to enhance that mission and make it more effective, if we so believed in the UN, and that we should be seeking to sit at that table where such decisions will be taken in the future?



**Senator LeBreton:** It should come as no surprise to the honourable senator that I am not at the strategic table of negotiations between DND and Foreign Affairs. The advice is given to DND within the military structure. Of course, as the honourable senator is probably well aware, much of that information and many of the discussions are not available for security reasons. Therefore, I cannot answer the honourable senator's question specifically.

I am simply saying that, as of now, we have an important mission in Afghanistan. We are committed to it. Many of our soldiers, men and women, have given their lives or been seriously injured fighting for democracy in Afghanistan. I believe that is what the Canadian people want us to focus on.

Obviously, I cannot give the honourable senator information that I do not have nor would I be privy to, about considerations made by the strategic planners at National Defence as to how they will handle their next military assignment.

**Senator Dallaire:** We are engaged in Afghanistan, but we still were able to go to Haiti. When we seek flexibility, we can find it.

Honourable senators, the specific question I have for the leader is this: Was the decision for us not to commit to the mission in the Democratic Republic of Congo taken by the Minister of Foreign Affairs, or was it the Minister of National Defence who said we did not have the capability to do it?

**Senator LeBreton:** First, the honourable senator is quite right. Thanks to the equipment that we bought for the Armed Forces, we were able to deploy to Haiti quickly. Our forces went to Haiti and did an outstanding job, and now they have withdrawn.

Again, I will not get into a debate with the honourable senator on the inner strategic planning of the Department of National Defence. I am not privy to that information, nor would I want to be. I can simply say that the comments of both the Minister of National Defence and the Minister of Foreign Affairs on the subject of the Democratic Republic of Congo are public and well known.

[Translation]

## TREASURY BOARD

### STRATEGIC REVIEW

**Hon. Maria Chaput:** Honourable senators, my question is for the Leader of the Government in the Senate. On Monday, May 3, 2010, the Honourable Stockwell Day, President of the Treasury Board, announced that he would conduct strategic reviews of 13 government organizations, which would yield \$1.3 billion in savings.

However, I was reading in the *Ottawa Citizen* that the Auditor General has expressed concerns about these reviews.

[English]

Auditor General Sheila Fraser said:

... departments have been put through so many reviews over the years that there is little room for significant cuts unless they start eliminating programs or invest in technology ... "I personally don't think there are a lot of easy wins," she said. "They would have been identified by now."

[Translation]

Of these 13 federal organizations that will come under scrutiny, three are regional agencies that work with communities and small businesses: the Economic Development Agency of Canada for the Regions of Quebec, the Atlantic Canada Opportunities Agency and Western Economic Diversification Canada.

Could we be advised of the criteria for this strategic review? Will there be a consultation process? What form will it take and who will be consulted?

Will there be an analysis of the impact on these francophone and anglophone communities and small businesses before certain programs are curtailed, cancelled or replaced? Could the leader obtain the answers from the minister responsible?

[English]

**Hon. Marjory LeBreton (Leader of the Government):** First, I answered the question with regard to regional development agencies the other day when asked a question by my colleague, Senator Manning, in terms of the funding of regional economic development.

With regard to the Auditor General, the honourable senator's information is somewhat stale. The President of the Treasury Board met with the Auditor General and they discussed several concerns. The Auditor General reported that she was well satisfied with the explanation from the Treasury Board Secretariat with respect to providing information to her office.

As honourable senators know, this is a program where we study the departments — and this has been going on since we formed the government. We have been going through a strategic review and have saved a considerable amount of money for the taxpayer. The strategic review is an ongoing effort.

As we ramp up our deficit reduction plan, departments under strategic review are asked to look for savings and efficiencies from within. In not one case has there been any allegation, other than from the opposition, that we are eliminating regional economic development agencies.

[Translation]

## DELAYED ANSWERS TO ORAL QUESTIONS

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** I have the honour to present, in both official languages, delayed answers to oral questions raised by the Honourable Senator Losier-Cool on March 30, 2010, concerning international cooperation, the Interim Haitian Recovery Commission and the role of women, and by the Honourable Senator Jaffer on April 20, 2010, concerning health, malaria.

### INTERNATIONAL COOPERATION

#### INTERIM HAITIAN RECOVERY COMMISSION— ROLE OF WOMEN

*(Response to question raised by Hon. Rose-Marie Losier-Cool on March 30, 2010)*

On March 31, 2010 at the International Donors' Conference in New York, Canada announced a commitment of \$400 million over two years for humanitarian and reconstruction programs in Haiti. This is in addition to Canada's five-year commitment to Haiti of \$555 million made in 2006, a commitment that we will meet. Hence, for the past five years, Canada has contributed approximately \$100 million a year to reconstruction and long term development efforts in Haiti. The Haitian Government's Action Plan for Recovery and Development lists Canada as one of the "main donors". Given this, as well as our past and present commitments, Canada will have a representative on the Board of the Haiti Interim Commission for Reconstruction. This will give Canada the opportunity to ensure effective co-ordination and use of resources as well as uphold a high level of accountability and transparency.

It is important to recognize the enormous generosity of individual Canadians who donated a total of \$220 million to eligible Canadian charities working so tirelessly in Haiti. The Government of Canada promised to match its generosity. Half of the government's matching fund will go towards its pledge made in New York. The other half will go to Canadian and international organizations working on the recovery and reconstruction of Haiti.

As the Government of Canada's lead agency for the provision of international assistance, the Canadian International Development Agency (CIDA) is hard at work to ensure a rapid and effective response to the January earthquake. CIDA's gender equality policy requires that all CIDA programming address women's specific needs. Gender-based analysis is conducted as part of the planning process for CIDA-funded projects. CIDA programming aims to improve women's access to and control over resources and services, including during reconstruction efforts. CIDA's Haiti Program has included equality between women and men as a crosscutting theme of all its programming including in such sectors as in health, education, food security and micro-finance.

CIDA also provides assistance for female parliamentarians through a variety of initiatives in order to enhance the political participation of women and help build good relations between the government's executive and legislative branches as well as between the Parliament and the Haitian population.

### HEALTH

#### MALARIA

*(Response to question raised by Hon. Mobina S.B. Jaffer on April 20, 2010)*

Since 2003, CIDA's support for the prevention of malaria has resulted in the distribution of over 7.9 million bednets in Africa to children under five and pregnant women through partnerships with the Red Cross, UNICEF and World Vision Canada. It is conservatively estimated that these nets will save approximately 121,000 lives.

The second element in CIDA's fight against malaria is expanding access to treatment for the poor. CIDA is providing \$60 million to increase access to treatment at the community level for malaria and pneumonia, two of the leading killers of children worldwide. It is conservatively estimated these programs will save over 135,000 lives.

In 2008, Canada pledged an additional \$450M over three years to the Global Fund to Fight HIV/AIDS, Tuberculosis and Malaria, bringing Canada's total commitment to \$978.4M. Approximately one-quarter of these funds are channelled towards malaria.

#### Concrete examples

CIDA is providing \$20M for Population Services International (PSI) to provide free malaria treatment (artemisinin-based combination therapies, ACTs) to the poor at the community level across four African countries. In addition to treatment for malaria, this Program will also include a component to treat pneumonia and diarrheal dehydration in children under five. PSI will be training community health workers to be able to recognize and treat these diseases within communities having limited access to a health facility. It is estimated this program will save over 50,000 lives.

CIDA is funding two programs of \$20M each for Malaria Consortium and Save the Children to provide free ACTs and antibiotics at the community level across multiple African countries. These two programs will treat malaria and pneumonia, two of the leading killers of children worldwide. The Save the Children program will train health workers to identify these diseases based on established clinical symptoms and treat presumptively for malaria or pneumonia without the use of diagnostic tools. The Malaria Consortium program will emphasize a diagnostic approach by training existing health workers to use simple diagnostic tools that can be used outside of a health facility, such as the Rapid Diagnostic Test (RDT) for malaria. This program will also provide treatment for diarrheal dehydration in children under five at the community level. It is estimated that combined, these programs will save over 85,000 lives.

**ANSWER TO ORDER PAPER QUESTION TABLED****PRIVY COUNCIL—CHANGE TO ACT OF SETTLEMENT**

**Hon. Gerald J. Comeau (Deputy Leader of the Government)** tabled the answer to Question No. 8 on the Order Paper—by Senator Downe.

• (1420)

[English]

**POINT OF ORDER**

**Hon. Joan Fraser:** Honourable senators, when the Leader of the Government in the Senate answered my question a moment ago, she said a couple of things that might cause a reader of the *Debates of the Senate* to be surprised that I support the Official Languages Act. I simply want the record to show that I have been an ardent and vocal supporter of the Official Languages Act since it was passed in 1969. I want the record to show that I have been an equally ardent and vocal supporter of language rights for both official language minority communities in Canada, including, but not only, the rights expressed in section 133 of the Constitution Act, 1867. I would be very upset should anyone conclude the contrary.

**ORDERS OF THE DAY****CONTROLLED DRUGS AND SUBSTANCES ACT****BILL TO AMEND—SECOND READING—  
DEBATE SUSPENDED**

On the Order:

Resuming debate on the motion of the Honourable Senator Wallace, seconded by the Honourable Senator Mockler, for the second reading of Bill S-10, An Act to amend the Controlled Drugs and Substances Act and to make related and consequential amendments to other Acts.

**Hon. George Baker:** Honourable senators, this is the first opportunity I have had to welcome Senator Marshall to this place. Senator Marshall has had a distinguished career in the provincial legislature and prior to that as the auditor general for the Province of Newfoundland and Labrador. She truly brings great experience to this place, and I welcome her here. I also note that she is only the second person from Newfoundland and Labrador to be appointed to the Senate who was born in Canada.

**An Hon. Senator:** That means she is young!

**Senator Baker:** The rest of us were born in a foreign nation called Newfoundland. The first person appointed to the Senate is Senator Fabian Manning. I reminded him the other day that three of us have sat in the Newfoundland House of Assembly. Back in 1965, I was the law clerk and then the chief clerk. In that capacity,

I wrote the rules of procedure for the Newfoundland's House of Assembly. His response to me was: "I wondered what caused all the chaos."

Honourable senators, I want to recognize the great contribution made by two senators in the chamber today, to the subject matter currently under debate. They are the two recognized people in the Parliament of Canada who, perhaps, know more about this subject than anyone else knows. One senator sits on the side opposite and one senator sits on this side. The first person I recognize is the Honourable Senator Nolin.

**Some Hon. Senators:** Hear, hear!

**Senator Baker:** Senator Nolin chaired a Senate committee mandated to study the use of illegal drugs in Canada. The committee produced a report in 2001 that has been referenced many times in court proceedings in Canada. Today, Senator Nolin is a recognized expert on the subject. Within the past year, I noticed that he was recognized as an expert witness in the Supreme Court of British Columbia, where he was called upon to testify on the subject of controlled drugs.

The second person I recognize sits on the Liberal side. He is considered an expert in the subject; is known throughout the country because of a television series; was the chief coroner in British Columbia for a brief time; and recently has written a magnificent book on the subject of the use of illegal drugs entitled, *A Thousand Dreams*. The author is the Honourable Senator Larry Campbell.

**Some Hon. Senators:** Hear, hear!

**An Hon. Senator:** Bravo!

**Senator Meighen:** It was all hearsay.

**Senator Baker:** When I was reading case law one day, I noticed that Senator Campbell's name had been used by the judge in reference to the fact that as the chief coroner, he had subpoenaed an academic who had authored a report. The case revolved around the discovery of a body in the ocean, I believe. There was a difference of opinion and a great deal of discussion as to whether the chief coroner had done the right thing. A couple of months ago, that academic author appeared as a witness before the Senate Legal Committee. Senator Campbell sat across the table at committee, prepared to cross-examine the witness. To my surprise, they got along well. It was like old home week. They were happy to see one another. I suggested to Senator Campbell after the meeting that the two of them had resolved their differences. He asked me what I meant. I reminded him of the court case those many years ago when he subpoenaed the academic author who had objected to his actions as chief coroner. Senator Campbell asked me if I had not read his recent book. I said that I had not read it and he replied that I should buy it and read it because the other person I was talking about had co-authored the book. I recommend this reading to anyone. It would be a particularly good Christmas present.

Honourable senators, I will make a brief reference to a point in Bill S-10 that is worthy of visiting. The mover at second reading on the government side talked about mandatory minimum sentences.

• (1430)

Honourable senators, mandatory minimum sentences, as we know them, are really not mandatory in most cases. I am saying that because there is a sort of fail-safe in this legislation to the mandatory minimum sentence that is taking away the discretion from the judge. There is also a discretion that is given to the Crown prosecutor. It is taking away the discretion from the judge and then transferring it to the Crown prosecutor, and it is in the law.

For example, how many times does one read in the newspaper that someone was convicted of impaired driving for the twentieth time in the last ten years? It is common, is it not? One wonders, as a legislator, “How could that be possible? We have mandatory minimum sentences for impaired driving.”

I was on every committee that dealt with that, and I know that subject inside out. I know that if one is found to be impaired, on their first conviction there is a mandatory minimum. One pays a thousand dollar fine, and loses their licence for a mandatory minimum of one year.

If one is picked up a second time, there is a mandatory minimum 30 days in jail and a mandatory loss of licence for two years minimum. If one is picked up a third time, as per section 255.(1)(a), there is mandatory minimum of 120 days in jail and one loses their licence for three years.

Beyond that, our mandatory minimum regime in the Criminal Code under impairment says it is an extra 120 days each time and an extra three years for which one loses their license. Honourable senators can figure it out: If a fellow has been caught 10 times — not 20 times — he has lost his license for 30 years.

(Debate suspended.)

### VISITOR IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I wish to draw your attention to the presence in the gallery of His Excellency Ban Ki-moon, Secretary-General of the United Nations.

On behalf of all senators, I welcome you to the Senate of Canada.

**Hon. Senators:** Hear, hear!

### CONTROLLED DRUGS AND SUBSTANCES ACT

BILL TO AMEND—SECOND READING—  
DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Wallace, seconded by the Honourable Senator Mockler, for the second reading of Bill S-10, An Act to amend the Controlled Drugs and Substances Act and to make related and consequential amendments to other Acts.

[ Senator Baker ]

**Hon. George Baker:** Honourable senators, I was at the point where one had lost their licence for 30 years. I am talking about MMs — not the candy M&M’s, but the mandatory minimums, as they are called. One would have lost their licence for 30 years and been in jail for five and a half years in that 10-year period. Therefore, how could one be out driving in order to have another 10 convictions?

Of course, the answer to the question is found in the clause that is contained in this bill. Unfortunately, in my opinion — and in a great many other people’s opinion — the provision should not be present as far as impaired driving convictions are concerned, but it is.

Let me read the sentence so that there will be no doubt about it. It is also in this provision, clause 8 of the bill. It says this:

The court is not required to impose a minimum punishment unless it is satisfied that the offender, before entering a plea, was notified of the possible imposition of a minimum punishment for the offence in question and of the Attorney General’s intention to prove any factors in relation to the offence that would lead to the imposition of a minimum punishment.

That is the Attorney General and the Crown prosecutor for the province. In the bill we are dealing with, it is a Crown prosecutor for the federal government. It is a federal Crown. In most cases, one will find a federal Crown and a provincial Crown if there is a mixture of charges. The point is that there is such a thing as prosecutorial discretion, which is built into every single act that we have, in one way or another, regarding mandatory minimum sentences.

The first thing we have to realize is that in the case of mandatory minimums, in certain circumstances they differ from province to province. There is a prosecutor’s manual in every single province. It is not the same in every province.

For example, in Ontario, what is considered to be a dated offence — that is, out of date — is beyond five years. If one has a conviction, say, for impaired driving more than five years old, the prosecutor has discretion as to whether or not to enter it under their rules. That is not present in Newfoundland. In Newfoundland, if one had a prior conviction 20 years ago, that is a prior conviction. There is no such thing as a dated impaired driving conviction.

Having made that point concerning the main point of the government as far as mandatory minimums are concerned, my chief problem with this bill, honourable senators, is a provision that has nothing to do with mandatory minimums. I will tell you what it is. It is a scary provision. I realize that the Liberals in the other place have supported this legislation. Let us not forget this. The Liberals in the other place support this legislation, as do the Conservatives. However, this is sober second thought in this chamber. That is what we are known for.

I will tell you about the scary provision that I find in this legislation, honourable senators. It will take me just a second to do it, and I will illustrate it with a couple of cases within the past year concerning university students.

The first one was in December 2009, Carswell B.C., 644. I quote:

[1] The accused is charged with one count of trafficking in ecstasy. . . .

[2] . . . he gave one ecstasy pill to an undercover officer, Cst. Haines, at a Rave event at the Pacific Coliseum.

[5] . . . Cst. Haines, pretending to be a party-goer, dressed up for the event.

Then it goes on to describe how she was dressed — this is an undercover police officer — which I will not read. She did have a mini skirt on, cowboy boots and so on. She had to do that, of course, because she was on an undercover job at this dance. It happens in every city in Canada, these undercover operations take place.

• (1440)

Here is the third sentence, paragraph 9 and 10:

Cst: Do you have some stuff for me?

Acc: No, let's dance. I'll get it for you later.

Cst: Uh No. I need it now. I want to be happy now.

Acc: Ok wait here, don't move.

Cst: Ok I'll be here.

This is the judge speaking:

The accused left and walked back towards the main stage area, disappearing into the crowd. He re-appeared some 3 minutes later and placed a rolled up paper into the constable's hand. There was an ecstasy pill inside the paper. There was a brief conversation.

Cst: Oh wow, thanks. How much?

Acc: Oh nothing, for you free.

Cst: Oh wow, really? You're a sweetie. Thanks.

The constable then gave the accused a hug. She signalled the arrest team to indicate that a transaction had occurred.

Then it says:

The accused was taken into custody.

He was handcuffed, searched and then brought to jail.

The second case, which I will just read two sentences from, is 2009 Carswell B.C. 3405. This is testimony from a police officer. How often does this happen?

Paragraph 7:

Prior to this **Rave**, Constable Kinney had acted as an undercover buy-officer at three prior **Raves**. It was her experience and opinion that drugs, in particular **ecstasy** and **Raves** were closely associated.

Paragraph 12:

Prior to Project **Twilliger**, Detective Kazuta had been involved with "Project Temporal" deployed to a Coliseum **Rave** on December 31, 2004, which resulted in ten arrests for **trafficking** or possession for the purpose of **trafficking**. In 2005, he was involved with "Project Thirst" deployed to a **Rave** at the Coliseum, which resulted in 13 arrests for **trafficking** or possession for the purpose of **trafficking**. Finally, "Project **Tirana**", which was deployed to a **Rave** at the Coliseum on December 31, 2007, and resulted in 11 **trafficking** arrests and six arrests for possession for the purpose of **trafficking**.

Honourable senators, all of those cases involved the exchange of a pill or two pills. In half the cases, no money was exchanged. You might say that is only the Pacific Coliseum. There is case law and there is a big arena in Calgary, Toronto, Montreal, Halifax, and the cases go on.

Why am I so concerned about this possibility? Obviously, you are not supposed to have illegal drugs. You are not supposed to be using illegal drugs.

Honourable senators, just listen to the summary of this bill. Herein lies the key. Do not forget that over the years, as Senator Nolin would attest, we have been careful to structure the schedules to the Narcotics Act and the Controlled Drugs and Substances Act so that cocaine and heroin are Schedule I drugs. Marijuana derivatives, et cetera, are Schedule II drugs. In Schedule III are what are considered to be the less serious drugs. This bill eliminates Schedule III and brings everything in Schedule III up to life imprisonment in Schedule I.

This is an interesting question, and one that I am sure will be debated in the committee. What is wrong with that? I will tell you what is wrong with it. Without a massive advertising campaign, here is what will happen. I am not too concerned about someone who is charged under a provision that now says that if you give one ecstasy pill to someone, it is life imprisonment; you are in that category. It is not being in the category of risk of life imprisonment; it is not that.

However, what is concerning in the law regarding controlled drugs, as Senator Nolin would tell you, is that when you are convicted of an offence for which life imprisonment is a possibility, other parts of the Criminal Code come into play. For example, conditions of release carry with them 10-year prohibitions. Anyone convicted of this offence after the passage of the bill would have a 10-year prohibition, for example, on the ownership or use of a firearm. Let us use that as an example. Suppose you were convicted and that after you served your sentence, you came out and had to serve a 10-year conditional sentence. Suppose you wanted to get a pardon.

**Senator Stewart Olsen:** No pardons.

**Senator Baker:** There is legislation coming in to that effect. You would normally wait five to six years — this is the law — before you can apply for a pardon. You have someone, just on one condition, waiting 15 years. Suppose it is a university student, waiting 15 years before he or she can even receive consideration for a pardon, all for exchanging an ecstasy pill with someone. This is a young university student in that situation at a rave dance.

My point is that I would say the bill will pass. The bill will pass because the Liberals agree with it and the PCs agree with it in the other place. The bill will pass. However, honourable senators, surely we can do something to say that we need an advertising campaign. We need to alert these young people that what they did last year is no longer acceptable because they could end up facing a charge of life imprisonment, have their life ruined, never be able to get a job, never be able to go to the United States or any foreign nation, because that is the condition of their conviction.

That is the main point I wanted to make, and it is a very important point; it is one of the main subjects of the bill. The summary of this bill says:

This enactment amends the *Controlled Drugs and Substances Act* to provide for minimum penalties for serious drug offences, to increase the maximum penalty for cannabis (marijuana) production and to reschedule certain substances from Schedule III to that Act to Schedule I.

When you look at the substances, you would never know it is something called ecstasy. It consists of about 50 letters and it starts with “N-Phenyl,” something, something, something. Believe me, I have read enough case law to know that that is the drug I just referred to, which is ecstasy. Others of those drugs that are in Schedule III are there for a specific purpose, and at the time the schedules were invented and added on to, they were not considered to be Schedule I drugs.

Honourable senators, that is the main point that I want to make. I wish to make just one observation concerning mandatory minimum sentences. I served in the House of Commons for many years. The House of Commons did a thorough study on mandatory minimum sentences, the only study ever done. It is the only complete study on the record.

• (1450)

The conclusion at page 70 says the committee does not generally support the introduction of further minimum sentences beyond murder, high treason and also the repeat of sexual offences. It was a conclusion of a House of Commons committee in 1988. I remember it well; I had been in the house 15 years at that time.

**An Hon. Senator:** Who was on the committee?

**Senator Baker:** Honourable senators, I will not say that Senator Nolin knows the answer, but the chair of the committee was David Daubney and the report is referred to as the Daubney report. Mr. Daubney is a great lawyer and has a great legal mind. I know him well; he is a good friend of mine. Where does he work now? He works with the Department of Justice, I believe in the minister's office, but I wonder who was the vice-chair of the committee? The Honourable Rob Nicholson, P.C. Thank you very much.

(On motion of Senator Nolin, debate adjourned.)

## MOTOR VEHICLE SAFETY ACT CANADIAN ENVIRONMENTAL PROTECTION ACT, 1999

### BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator MacDonald, seconded by the Honourable Senator Duffy, for the second reading of Bill S-5, An Act to amend the Motor Vehicle Safety Act and the Canadian Environmental Protection Act, 1999.

**Hon. Terry M. Mercer:** Honourable senators, I am afraid I will not be as entertaining as Senator Baker, but of course not many of us are.

Honourable senators, it is a pleasure for me to rise today to speak to second reading of Bill S-5, an act to amend the Motor Vehicle Safety Act and the Canadian Environmental Protection Act, 1999. As Senator MacDonald has aptly and in detail given you much information surrounding this bill, I will not speak for long on this subject.

Honourable senators, the basic premise of the bill concerns the importation of used vehicles into Canada from Mexico. We are told the reason for this bill is so that Canada can bring itself into line with its obligations under NAFTA. As a result, certain provisions must be changed in the two acts previously mentioned in order that these vehicles meet our stringent rules on the environment and safety.

I think all honourable senators can agree that we want to continue to protect the environment and the safety of all Canadians.

We have gone through this process before as we had to bring ourselves in line with similar provisions with the United States. Now it is Mexico's turn.

In the current Motor Vehicle Safety Act, there are provisions that allow for the importation of used vehicles that do not live up to Canadian standards from the United States on the condition that the buyer declares at registration that the vehicle has been improved to meet our standards. The buyer must prove this when he or she attempts to register the vehicle for use. Bill S-5 contains similar provisions for vehicles from Mexico.

The changes contained in Bill S-5 to the Canadian Environmental Protection Act acts in the same way. Both amendments contained in Bill S-5 provide for the creation of the regulations required to meet both safety and environmental standards. It is important to note that we are not talking about the importation of new vehicles or even parts. We are talking about older vehicles.

Honourable senators, how many vehicles can we expect to come into Canada as a result of this bill? I am told minimal to none. Thus, my first thought was why are we acting so quickly? Several

other questions have evolved from my discussions with officials. What are the levels of environmental standards for those types of cars in Canada as compared to those in the United States and Mexico? What differences, if any, exist? What are the similarities and differences in safety standards?

I have other questions regarding other countries and the number of used vehicles we import from them. I have questions concerning the rules surrounding such imports. One group pushing for these changes is the Imported Vehicle Owners Association of Canada. I can only hope that they will be contacted and asked to appear before our committee. I would also like to hear how the changes to these acts will affect the provincial regulations as the provinces are responsible for the registration of all vehicles. We are told that they have no problems with the changes, but it would still be interesting to hear what they would have to do.

Honourable senators, I am optimistic as to the answers to these various questions I have concerning this bill. For that reason, I support passing the bill for second reading in order that it can be studied by the Standing Senate Committee on Transport and Communications.

(Motion agreed to.)

[*Translation*]

REFERRED TO COMMITTEE

**Hon. Suzanne Fortin-Duplessis (The Hon. the Acting Speaker):** Honourable senators, when shall this bill be read the third time?

(On motion of Senator Comeau, bill referred to the Standing Senate Committee on Transport and Communications.)

## BANKRUPTCY AND INSOLVENCY ACT

BILL TO AMEND—SECOND READING—  
DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Ringuette, seconded by the Honourable Senator Tardif, for the second reading of Bill S-214, An Act to amend the Bankruptcy and Insolvency Act and other Acts (unfunded pension plan liabilities).

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, I see that this bill is on the Order Paper for the thirteenth day and we do not want it to die there.

I move the adjournment of the debate for the remainder of my time, but I would like to reserve the 45 minutes for the critic of the bill.

(On motion of Senator Comeau, debate adjourned.)

## BANKRUPTCY AND INSOLVENCY ACT AND COMPANIES' CREDITORS ARRANGEMENT ACT

BILL TO AMEND—SECOND READING—  
DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Eggleton, P.C., seconded by the Honourable Senator Tardif, for the second reading of Bill S-216, An Act to amend the Bankruptcy and Insolvency Act and the Companies' Creditors Arrangement Act in order to protect beneficiaries of long term disability benefits plans.

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, I see that this bill is on the Order Paper for the thirteenth day, and I move the adjournment of the debate for the remainder of my time, but I would like to reserve the 45 minutes for the critic of the bill.

(On motion of Senator Comeau, debate adjourned.)

• (1500)

## SUPREME COURT ACT

BILL TO AMEND—SECOND READING—  
DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Rivest, for the second reading of Bill C-232, An Act to amend the Supreme Court Act (understanding the official languages).

**Hon. Grant Mitchell:** Honourable senators, I am pleased to speak at second reading of Bill C-232, which has to do with the linguistic qualifications of Supreme Court judges.

I very much appreciated Senator Tardif's clear and inspirational speech on equal rights in Canada. I also found Senator Carignan's speech very interesting.

When Senator Carignan spoke yesterday, I imagined him as a lawyer, pleading a case in French before the Supreme Court. Ironically, he might not be understood at the Supreme Court, because some judges do not speak French.

This issue is interesting on two levels. The first is regarding the administration of justice and the distressing number of candidates who will have the legal and linguistic qualifications. The second is the issue of the fundamental principles of an officially bilingual Canada.

These are two solid arguments, and they are important and valid. It is clearly essential for Supreme Court judges to have very high qualifications. Our fear is that there will not be enough candidates who have these qualifications. In Western Canada, specifically, there is a feeling that there will not be enough lawyers who understand French.

However, the idea of judges who understand both official languages is tied to the — perhaps less practical, but more important — principle of Canadian values.

We have made progress since 1969, when we declared Canada to be a bilingual country. We can be proud of our progress. But we still have work to do. We have to keep looking for ways to improve bilingualism. The Supreme Court is an institution that is essential to our nation. Not promoting bilingualism would be a serious mistake.

We need to do what leaders must always do: make a list of priority issues, figure out which one is the most important and work on solving the problems. I think we should give bilingualism precedence over qualifications. I believe that fear of bilingualism will disappear once it is clear that expectations have changed.

Yes, I realize that some lawyers and many law students will have to learn a second language, and I know that is hard to do, as those listening to me now can tell.

However Canadians are often called upon to defend and promote this country's principles and values. I do not think it is too much to ask if we want to achieve our greatest hopes for this country and its judges. This is a question of fairness and justice for all Canadian citizens.

I should continue in French, perhaps, but I can express myself more clearly if I switch to English.

[English]

It is a question of competing priorities. There are two legitimate sides to this debate. You cannot always say that is the case. However, in this case, I believe that we should prioritize the broader principle, the principle that addresses the very nature, character and heart of Canada and Canadians, and that is our bilingual and bicultural nation. That is an essential quality of what we are as Canadians. It makes us different in the world.

Of course, we must attend to the administration of justice and ensure that we have the benefit of the best possible jurists that we can find for the Supreme Court of Canada. Some have raised a possible problem in that we may not have enough lawyers who have full bilingual comprehension and understanding. I am not convinced. That problem is within our power and their power to fix. It is the same old argument. I think of 22 years ago when courts were being restructured. The Supreme Court could not be restructured because we would never be able to find the people. It is the same argument that was made 40 years ago when this all started. We would never be able to find the qualified people. You know what? We have and we do.

It is certainly possible for jurists of the quality and level of intelligence of candidates for the Supreme Court to learn a second language and to learn it very well. That is the ultimate solution. If we continue as we do, we get the worst of both possible worlds. The ultimate solution is to adhere to the value, character and principle of bilingualism, promote it and have lawyers learn how to speak French. They will. They want to do it. Law faculties that want to become the best in the country will begin to teach their students French so that they, one day, can have people aspire to being jurists in the top court in the land. I think the problem will quite readily and quickly begin to take care of itself.

[ Senator Mitchell ]

Why is it that we cannot think on the grander scale about this issue? Why can we not think about how much Canada is and how much more Canada can be? If we begin to take for granted principles like bilingualism, which is at the heart of who we are, those principles can slip away. We should always be trying to find occasions, cases and ways to promote them. This proposal is a perfect way to promote that important principle. It is symbolic, yes, because it says to all Canadians that bilingualism matters deeply to us. It is also important because it will assist us ultimately in delivering justice even more effectively because we will have people who can speak both languages. I do not think that is too much to ask from Canadians. We ask all kinds of things of Canadians. I think of the sacrifices, effort, work and commitment that have gone into building this country to the state and level that it is today. We can certainly ask lawyers in this country to learn French or English so that they can work in the highest court in the land in both official languages. I do not think it is too much to ask at all. It is an easy vote, and I am voting yes for this bill.

I am from Alberta, from the West. I love Alberta deeply. I love the West. I have felt there have been times when it needed to be listened to and understood better. I also know that Quebec and francophones outside of Quebec have made this country special. They are one of the reasons this country is special. There are many reasons, but they are a particularly important one. They have made us different than the United States. That has been very important for what we are as a country and how we define ourselves as different from the United States.

• (1510)

Francophones have made us multicultural and, because we value that culture so much, we have had to pay recognition to other cultures. When people from around the world view Canada, do you know what they see? They see a multicultural, bilingual nation they aspire to emulate. People all around this world do so because of our tolerance, understanding, acceptance and the way we live together.

This bill can be one more powerful step in ascending that staircase to what can be the best, most perfect country in the world.

**Some Hon. Senators:** Hear! Hear!

(On motion of Senator Nolin, debate adjourned.)

## SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

### BUDGET AND AUTHORIZATION TO ENGAGE SERVICES—STUDY ON CURRENT SOCIAL ISSUES OF LARGE CITIES—SECOND REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the second report of the Standing Senate Committee on Social Affairs, Science and Technology, (*budget—study on current social issues pertaining to Canada's largest cities—power to hire staff*), presented in the Senate on May 6, 2010.

(Motion agreed to and report adopted.)



BUDGET AND AUTHORIZATION TO ENGAGE  
SERVICES—STUDY ON ACCESSIBILITY  
OF POST-SECONDARY EDUCATION—  
THIRD REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the third report of the Standing Senate Committee on Social Affairs, Science and Technology, (*budget—study on post-secondary education in Canada—power to hire staff*), presented in the Senate on May 6, 2010.

(Motion agreed to and report adopted.)

FISHERIES AND OCEANS

BUDGET AND AUTHORIZATION TO TRAVEL—  
STUDY ON ISSUES RELATING TO FEDERAL  
GOVERNMENT'S CURRENT AND EVOLVING POLICY  
FRAMEWORK FOR MANAGING FISHERIES AND  
OCEANS—THIRD REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the third report of the Standing Senate Committee on Fisheries and Oceans, (*budget—study on the evolving policy framework for managing Canada's fisheries and oceans—power to travel*), presented in the Senate on May 6, 2010.

(Motion agreed to and report adopted.)

[Translation]

OFFICIAL LANGUAGES

BUDGET AND AUTHORIZATION TO ENGAGE  
SERVICES AND TRAVEL—STUDY ON APPLICATION  
OF OFFICIAL LANGUAGES ACT AND RELEVANT  
REGULATIONS, DIRECTIVES AND REPORTS—  
SECOND REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the second report of the Standing Senate Committee on Official Languages (*budget—study on the application of the Official Languages Act—power to hire staff and travel*) presented in the Senate on May 6, 2010.

(Motion agreed to and report adopted.)

[English]

AGRICULTURE AND FORESTRY

BUDGET AND AUTHORIZATION TO ENGAGE  
SERVICES AND TRAVEL—STUDY ON CURRENT STATE  
AND FUTURE OF FOREST SECTOR—  
SECOND REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the second report of the Standing Senate Committee on Agriculture and Forestry, (*budget—study on the examination of the forest sector—power to hire staff and to travel*), presented in the Senate on May 6, 2010.

(Motion agreed to and report adopted.)

CONTRABAND TOBACCO

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Segal calling the attention of the Senate to the seriousness of the problem posed by contraband tobacco in Canada, its connection with organized crime, international crime and terrorist financing, including the grave ramifications of the illegal sale of these products to young people, the detrimental effects on legitimate small business, the threat on the livelihoods of hardworking convenience store owners across Canada, and the ability of law enforcement agencies to combat those who are responsible for this illegal trade throughout Canada, and the advisability of a full-blown Senate committee inquiry into these matters.

**Hon. Hugh Segal:** Honourable senators, I rise to speak to the inquiry standing in my name on contraband tobacco. I do so because I believe that the nature of our democracy is such that the rule of law — laws passed in this place and, more importantly, by the elected House of Commons and legislatures across Canada — is essential to both public order and individual freedom.

When laws come into disrepute or when laws are corrupted or intimidated into impotence and have no effect, none among us are safe. If the illegal importation, sale, financing, manufacture, distribution and export of tobacco is not addressed, what other illegal acts are we, by extrapolation, also tolerating? Are we tolerating the illegal smuggling of children for prostitution; the illegal importation of counterfeit pharmaceuticals; the illegal violation of copyright laws established to protect intellectual property?

Let us here and now dispel the notion of illegal contraband tobacco being a victimless crime. The honest storekeepers across Canada, who follow the federal government's "anti-kiddie" tobacco product law and provincial regulations, know, as do school principals, parents and teachers in neighbouring high schools, that millions of illegal cigarettes arrived on school property moments after the federal law came into effect. Therefore, more kids are smoking what are now profoundly cheaper illegal flavoured tobacco products. These products were

shown to the Senate committee by the union leader for the Benson & Hedges employees in Quebec City. It was the very committee that considered the new law some months ago.

Honourable senators, 2,300 of these honest storekeepers in Quebec and Ontario alone have been put out of business, in part, as a result of this new federal law. Bill C-32, with all our involvement and implication, put honest, small business storekeepers out of work, while increasing the criminal take for criminal gangs as well as illegal manufacture of “kiddie” tobacco. How is that, honourable senators, for a perverse outcome from well-intended legislation?

It is reminiscent of Prime Minister Chrétien’s decision, also well intended, to fight smuggling by reducing the excise tax on tobacco, thereby reducing the incentive to smuggle. Smuggling did slow down for a while and, by the reading of various health promotion and anti-tobacco analysts, tens of thousands of young girls in this country took up smoking, as an appetite suppressant or just to “be cool,” because they could afford to do so. Talk about federal tax policy increasing the death rate from cancer in years to come! That perverse outcome is worse than the one I mentioned a moment ago. Both these federal initiatives were well intentioned and based on sound bureaucratic and/or police advice. However, surely the perverse consequences of these initiatives, by both Liberal and Conservative prime ministers, need to be assessed in the harsh light of day.

• (1520)

In preparing for this intervention, I spoke to First Nations leadership, undercover police investigators and uniformed officers now involved in border and related area patrols. I spoke with these people informally and not in a comprehensive way. I also heard from a range of organizations — usually opposed to each other — that have united in support of the idea of a full-fledged Senate or public inquiry into the illegal tobacco trade. They included: the Association of Local Public Health Agencies; the Canadian Cancer Society; the Frontier Duty Free Association; the Ontario Korean Businessmen’s Association; the Canadian Medical Association; the Canadian Convenience Stores Association; the Bakery, Confectionary, Tobacco Workers and Grain Millers International Union; and the Non-Smokers’ Rights Association.

What have I learned? I have learned that in the absence of a firm Criminal Code provision on illegal transport, distribution or manufacture of tobacco, all that allows police to intervene is the Excise Act, whose penalties encompass only seizure of goods or fines. This means that the penalties for those found to be engaged in this activity frankly make the risk quite rewarding. When a young student in the Brantford area can fill an old “beater” car with illegal tobacco and drive home to Newfoundland for the Easter holidays and receive \$8,500 in cash for that mission, the risks under the Excise Act are not a sufficient deterrent.

This makes the task for our police — federal, provincial and municipal — almost impossible. At one level — and this echoes the concerns of Prime Minister Chrétien — police and criminal intelligence cannot be sure about what arms exist at the point of manufacture and dispatch. No police force wants a Waco Texas-type circumstance over illegal tobacco. However, those same police know and have seen that illegal contraband cash, which is

unbelievably lucrative, leads to drugs, prostitution, arms sales and importation, pornography and the kinds of crimes that attack thousands of victims in Canada daily.

Our provincial police forces, the RCMP, the Sûreté du Québec or the Ontario Provincial Police — usually have to act in provincial jurisdictions under the Highway Traffic Act. This means that even if police have intelligence that a truck leaving the Hill Island Canada-U.S. border is stuffed with illegal contraband tobacco, if the vehicle is in good repair, driving within the speed limit, has no excess exhaust and is not otherwise in violation of the Highway Traffic Act, they have no reason to pull it over. When police do pull over the vehicle, the only penalties available to the Crown attorney, should the driver be charged, are under the Excise Act. People are often bailed out within the hour by people who may have Russian, American, Hispanic or Middle Eastern accents. Cash is no problem for the alleged offenders.

The U.K. has been running an information campaign directed to the people who buy smuggled tobacco products. The ads point out that while people save a little money, the proceeds of the funds go to many dangerous people and organizations. International terrorist financing networks as well as hard drug pushers, importers of illegal immigrants and prostitutes — often entrapped themselves — are clearly identified in the U.K. advertising effort as beneficiaries of low-priced cigarettes.

When I last spoke in this chamber on this issue in December 2009, I put some suggestions on the record, to wit: First, prohibit the supply or transport of raw materials, including raw leaf tobacco, papers, filters and cardboard for packaging to anyone without a valid and legal tobacco manufacturing licence, and do so explicitly by Criminal Code description. Second, initiate discussions with First Nations implicated in any of this activity for a tax-sharing agreement in return for the lawful licensing of manufacturing plants on their land. Third, identify specific Criminal Code provisions that give all our police agencies more with which to work when smugglers, the financiers of smuggling and the criminal networks that manage this illegal system are identified. As criminal biker gangs throughout Canada are involved in this illegal trade, solicitors general should issue memoranda of enforcement to encourage Crown attorneys to prosecute smugglers and purveyors as associates of criminal conspiracies associated with criminal biker gangs with whom any association is now specifically illegal.

Honourable senators, no individual senator can do justice to this file. It is my strongest and most respectful recommendation to the leadership of both the government and the opposition in this chamber that a joint proposal for a special committee inquiry into illegal contraband tobacco, costs, remedies and best possible responses be initiated as soon as possible. I have not introduced such a motion because I understand that the leadership on both sides need to come to the conclusion I suggest today before such a suggestion is likely to be productive. It is also my hope that other honourable senators may choose to contribute their own wisdom and perspective on this complex issue.

Honourable senators, I heard from a uniformed enforcement officer about how helpless he feels when a large shipment of tobacco is found and police are powerless to do more than seize and fine. I heard from undercover agents who, when contacting an illegal purveyor as part of a large undercover investigation, could barely hear what the target of the investigation said on the

phone because of the deafening noise of multiple currency-counting machines in the background at the transshipment point under surveillance.

I also heard from former police officers who worry that, if sent in to enforce the law on First Nation's territory with the help of engaged and professional First Nations police that are doing their best on this difficult file, should shots be exchanged, political authorities will not stand behind police trying to do their job when the ensuing controversy arises.

Honourable senators, with young people picking up cigarettes cheaper than ever before from illegal sources; with governments losing multi-billion dollar tax revenues annually that are more desperately needed than ever; with the costs of tobacco use faced by our health care system; with young people embroiled in tobacco addiction for entire and, by definition, foreshortened lives; and with billions flowing to criminal networks engaged in everything from cyber fraud, arms dealing and terrorist funding to illegal immigration and prostitution conspiracies, this is not a victimless crime. This may be the crime with the largest number of victims of any crime committed in this country.

I hope other honourable senators in this chamber will speak when they can to this inquiry. I also hope our leadership on both sides of the aisle find a way to work together so that an existing or special committee might be tasked with a full-blown inquiry where evidence and testimony can be gathered in the open and upon which governments can finally act.

It is easy, honourable senators, to look away from contraband tobacco as simply one of those things by which we should not be troubled. However, honourable senators, consider this: If we do not act, we avert our eyes from an illegal activity that harms young people, reduces tax revenues, hurts First Nations, hurts the credibility of the police, harms our health care system and population health, hurts small business and hurts the very integrity of our borders. That illegal activity enriches criminal biker networks, illegal manufacturers and terrorist, prostitution and illegal drug networks. These are networks that use illegal arms to prey upon and, when necessary, simply eradicate citizens who stand in their way. If we permit all of this to happen, we are saying that the rule of law — fundamental to how a democracy balances freedom and order — is actually negotiable, or worse, a side-car afterthought.

None among us, who use a mirror to shave in the morning, put on makeup or straighten our tie or hair, would ever, under any circumstance, wish to be associated with that kind of abdication of responsibility.

(On motion of Senator Cordy, debate adjourned.)

- (1530)

## ABORIGINAL AFFAIRS

### INQUIRY—DEBATE ADJOURNED

**Hon. Patrick Brazeau** rose pursuant to notice of April 20, 2010:

That he will call the attention of the Senate to the issue of accountability, transparency and responsibility in Canada's Aboriginal Affairs.

He said: Honourable senators, I rise to call the attention of the Senate to the matter of accountability, transparency and responsibility in the undertaking and delivery of Canada's Aboriginal affairs.

There are certain factions within Canada's Aboriginal community which continue to take issue with Canada's treatment of its indigenous peoples. We hear, time and again, litanies of how the federal government stole our lands; how our cultures were taken away from us; how foreign systems of governance were imposed upon us; and how Canada purposefully sought to assimilate us in the interests of colonialism and shackled us to Indian reserves.

These grievances are entirely legitimate. The important question that needs to be answered is, how do we immeasurably improve the socio-economic conditions of Canada's most disadvantaged citizens? While we surely cannot change the horrible past, we can certainly help to shape a better future.

While these views are hardly pervasive, they do speak to a malaise and to an undercurrent in Canadian society which dispossesses the impact of native history in Canada's development. While the descendants of the French and the British lay claim to building this nation, there is scarce little recognition of the very real fact that First Nations were here long before the Europeans arrived, and that they played a significant role in the settlement of what is now known as Canada.

While the descendants of these settlers have thrived, what is it, honourable senators, that continues to elude Canada's Aboriginal peoples in their quest to stake their rightful claim to Canada's success and take their rightful place in Canada's society? Honourable senators, what is the key to ending the nihilism? What can be done to help identify the prescription for success?

I believe there is a fundamental and systemic need for greater accountability and responsibility in Canada's Aboriginal affairs. I am convinced that this issue is at the heart of the problem as Canada's Aboriginal community grapples with unrelenting poverty and lack of opportunity; and I seek, honourable senators, to inform this chamber — and through it, the public at large — on the factors that contribute to this truly human drama.

Attempting to effectively address this issue has been a significant pursuit of successive federal governments for the past nearly 40 years. In order to get a better understanding of tackling this challenge today, it is important to understand the Aboriginal population and the machinery of government through which it is served.

According to Indian and Northern Affairs Canada, the Aboriginal identity population reached just below 1.2 million in 2006. Of this, 53 per cent are registered or status Indians, 30 per cent are Metis, 11 per cent are non-status Indians, and 4 per cent are Inuit. In total, the Aboriginal identity population represents 4 per cent of the Canadian population.

Over half — 54 per cent of Aboriginal people — reside in urban areas, compared to 81 per cent for the non-Aboriginal population. In major cities, the concentration of Aboriginal people is highest in Winnipeg, at 10 per cent, followed by Regina and Saskatoon at 9 per cent.

Perhaps most telling is the fact that 48 per cent of Aboriginal people are less than 25 years old, while it is 31 per cent for non-Aboriginal peoples. The median age of the Aboriginal population is 27 years, compared to 40 years for non-Aboriginals.

From a legislative perspective, under section 91(24) of the British North America Act, federal jurisdiction was granted for “Indians, and lands reserved for the Indians.” This changes, however, once one leaves an Indian reserve. Off-reserve Indians are deemed to be under provincial jurisdiction, although there is no clear iteration of this in any policy or legislation.

Federal investments in the domain of Aboriginal affairs amount to over \$10 billion annually and are spread across approximately 30 federal departments. Given this, there can be no denying the sincere and evident desire of the federal government in its attempts to invest in Canada’s Aboriginal peoples. The political will is there, to be sure. However, let us examine the machinery of government and the application of the investments in and around Aboriginal public policy.

The principle engine of the machinery of government in respect of Aboriginal public policy is Indian and Northern Affairs Canada, INAC. In its role, INAC is intended to support Canada’s Aboriginal peoples in their efforts to improve social well-being and economic prosperity, develop healthier, more sustainable communities and participate more fully in Canada’s political, social and economic development to the benefit of all Canadians.

Let us take a closer look at the spending of Indian and Northern Affairs Canada. It is the fifth largest department in the federal bureaucracy. Its total budget is approximately \$7 billion per year, representing over 3.4 per cent of the overall budgetary Main Estimates for the federal government’s 2009-10 fiscal year. It is important to bear in mind again that there is an additional \$3 billion-plus in annual federal Aboriginal spending over the other 29 departments from which Aboriginal programs and services flow.

The legislation under which First Nations are governed is the Indian Act, which was enacted in 1876. Some might say that this statute sought to protect Aboriginal peoples’ interests through law; however, it was anything but protective. Its intended purpose was to assimilate and “get rid of the Indian problem.”

Honourable senators, if chamber rules permitted, I could speak for days about the prescriptive and colonial provisions of this act. Suffice it to say that this act is the cornerstone of First Nations’ suffering that has been perpetuated for 134 years.

Under the Indian Act, chiefs and band councils answer only to the Minister of Indian and Northern Affairs Canada. There is no legislative basis for any accountability by them to the citizens living in over 600 communities. The chiefs and band councils gain all of their authority and power via the Indian Act, without

having to assume any mantle of accountability or responsibility for their community members.

For example, chiefs and councils control the allocation and assignment of post-secondary education monies. They deem who does and does not receive it. In addition, there is no legislative or administrative basis which compels them to provide any accounting to any citizen who requests information on such expenditures.

When a band member moves off the reserve, they have little or no access to certain rights, privileges and/or benefits. This happens even though their communities receive funding for them. That is problem number one.

Now that we have an understanding of the issues of governance, let us return to the matter of funding these over 600 communities. Of INAC’s \$7 billion, the vast majority of these funds, almost 83 per cent or \$5.8 billion — or for a greater point of reference, nearly 20 per cent of the federal government’s voted transfer payments — flow directly through to these chiefs and band councils. These payments fund community infrastructure, education and social assistance. In addition to this, there are other pots of funding for such things as post-secondary education, economic development, claims and self-government, among other things.

In December 2008, INAC’s Chief Audit and Evaluation Executive commissioned the Institute on Governance to conduct a special study of INAC’s funding arrangements and accountabilities. Its purpose was, among other things, to establish the extent to which accountability provisions in these arrangements were appropriate and effective in achieving the accountability and reporting needs of First Nations, as well as those of Parliament and Canadians.

The study results found indications that accountability is not working well. Specifically, there was no reporting or inadequate reporting on performance; there was no serious, informed review of the information reported; or there were no appropriate program changes or consequences for poor performance. Therefore, how may we determine the return upon investments or results against plan, or gain any idea of the extent to which progress is achieved?

Further, this situation illustrates that there are accountability issues not only within First Nations, but also in the administrative framework of the Department of Indian and Northern Affairs Canada, which oversees them. That is problem number two.

Given such difficulties, invariably some First Nations run into financial difficulties, and intervention by the department is required. These actions of intervention occur on three levels: Recipient managed is a low-level of intervention applied when a recipient is determined to have both the willingness and capacity to resolve the difficulties that gave rise to the default. Co-management is a moderate level of intervention applied when a recipient is determined to have the willingness but lacks the capacity to resolve the difficulties that gave rise to the default. Third party management is the highest level of intervention applied when a recipient is determined to lack both the willingness and the capacity to resolve the difficulties that gave rise to the default.

• (1540)

Honourable senators, let us examine this troubling area in order to illuminate the extent of the problem. In ever-increasing numbers, First Nations find themselves in deficit positions as a result of poor recordkeeping and lack of adherence to budgets. Deficits are the result of a number of factors, including poor or no budget preparation and inadequate accounting systems and procedures to track expenditures and allocate them to the appropriate projects. A key contributor to this situation is the lack of adequate leadership and accountability from chiefs and band councils to ensure that records are kept appropriately and that funds are expended according to budgets. In many cases, government accountability and control are not understood by band accounting staff and the required systems are seldom implemented.

In fairness, a big part of the problem is that many of the government's accountability and control requirements are often not fully understood by the government staff responsible for the management and control of the funds. Budgets are not reviewed and approved in advance of funding; and, as we have seen, accountability for the results of spending is often not evaluated. Thus, audit costs soar and what little accountability there is tends to be in terms of expenditure allocation demonstrated only at year end. Throughout the fiscal year, interim reporting to government funders is often inaccurate, contrived or incomplete. As a consequence, the transparency expected by the government in the reporting of band operations is seldom achieved. Cultural conflicts, community politics and peer pressure are also factors contributing to financial difficulties in certain First Nations communities.

There are many examples of residents working in the band office being unable to break away from the welfare mentality as a result of the pressure from the rest of the community. It is important to note that most communities are made up of a handful of families and, in the spirit of nepotism, the families of the chief and key councillors are often favoured with administrative job positions ahead of more capable persons from other family groups. The effects of these factors include increased year-end audit costs, suspension of funding as a result of late or inadequate reporting and precious little demonstration of accountability. With this perceived lack of capacity, INAC's next step is to demand that a First Nation in financial difficulty appoint a co-manager selected by the band council to assist in the day-to-day operations of its finances.

However, in situations where a band has accumulated deficits exceeding 8 per cent of its INAC funding, the department has established a requirement that control of the band's finances be removed from the chief and council and handed over to an INAC-appointed, third-party manager. The selection of a third-party manager is made by an INAC tender issued to a restricted list of INAC-approved suppliers that have met the department's specific standards.

Honourable senators, permit me to be frank. Third-party management is a temporary and distasteful solution to the accountability problem. It is an expensive solution that costs anywhere from \$15,000 to \$50,000 per month per community. It takes much of the band's autonomy away from the chief and council, causes tension between the band and government and has

a number of side effects that result in a deteriorating relationship between Aboriginal people and the federal government. However, it is often the only remedy available to force a community to adhere to its budget and to dig itself out of debt. This is especially important given that much of the debt run up in such situations is to local suppliers and businesses whose livelihoods depend on those bills being paid.

Where third-party managers have been placed in control of communities for financial reasons, the eventual result is generally that First Nations are handed back a balanced set of books with a deficit reduced to within tolerable limits. This is the result of the development and implementation of a remedial management plan that restricts expenditures in programs, generates surpluses and uses such surpluses to pay down accumulated debts. When officials are questioned about the number of communities operating under third-party management, the lack of accurate data is readily and alarmingly apparent. As I just pointed out, departmental guidelines are specific about the conditions under which third-party management is mandated.

The financial condition of Canada's 630 reserve communities is reported by the auditors of those communities to INAC on an annual basis. In the meantime within INAC, each community is assigned a funding services officer who is paid to monitor the financial condition of the First Nations and to provide guidance and assistance to band management in handling their funding. It is the responsibility of these officials to evaluate the financial health of the communities under their watch. Equally, it is the responsibility of the regional intervention committee to recommend to regional management the imposition of third-party management as indicated by the established criteria laid down by INAC headquarters.

As proven by audit findings, it is clear that INAC's guidelines for intervention are not being followed. Regional management appears to either be manipulating data or ignoring it in order to keep communities out of third-party management. When I questioned a former third-party manager practicing in Manitoba on the topic, his response was:

I believe there are either 4 or 5 communities in Manitoba. INAC (Manitoba Region) is working frantically to get them all out of Third Party Management. They're still doing the tricky "sole-signing authority co-management thing." This allows the Region to report to Ottawa that they have virtually no one under Third Party Management (and thus officials collect their bonuses) but essentially keep First Nations under Third Party Management. I believe at last count roughly half of the 63 bands in Manitoba were either under Third Party Management, (4 or 5 in total) and the rest (about 25 or 30 First Nations) were under co-management.

INAC requires that bands' audited financial statements be posted so that all community members can have full and unfettered access to reports on how their funding has been spent. Yet, this requirement is not followed in many cases. Similarly, the requirement that audited financial statements be made available to taxpayers through the INAC website is often ignored as well.

**The Hon. the Acting Speaker:** The honourable senator's time has expired. Is it your pleasure, honourable senators, to grant an additional five minutes?

**Hon. Senators:** Agreed.

**Senator Brazeau:** Requirements for financial disclosures to include amounts paid to chiefs and band councils are not followed. What is more, amounts that are disclosed are often incomplete and misleading. Are we beginning to see a pattern emerge?

The funds are sent to the Assembly of Manitoba Chiefs, which forwards them to regional area management boards, which fund local management boards, which, in turn, fund the bands. At each of these levels, administrative fees are taken, thereby reducing the funds finally available for training.

As mentioned previously, a February 2009 audit by INAC of its intervention policy identified an overall and systemic weakness in quality control and assurance. These observations support the conclusion that management's controls are not adequate to ensure program compliance, effective monitoring, judgment and decision-making. That is problem number three.

Honourable senators, let us look at this lack of transparency around band finances. As has been observed, posting of audited financial statements on INAC's website is inconsistent at best. What is more, such detailed information delivered in accounting parlance is of little or no use to a grassroots community member who simply wished to know what his elected officials are being paid and where all the money is being spent. With regard to salaries, information recently forwarded by grassroots First Nations people to the Canadian Taxpayers Federation gives evidence to a situation that is shocking in the extreme.

In two recent examples, it was shown that certain chiefs' remuneration was at rates higher than those for the Prime Minister of Canada and the Premier of Alberta, while citizens in the two communities cited were at income levels below the poverty line. Let us remember too that in 2006, when the Federal Accountability Act was still under study, the AFN, with the determined effort of the opposition, successfully lobbied to have First Nations and their representative organizations exempted from oversight by its provisions.

How do we propose to put an end to such avarice? It is simple: We can amend the Federal Accountability Act to ensure that all publicly funded bodies are subject to the application of the act's provisions. For greater certainty, we can also request that the department revise its policy and increase its oversight to ensure that the salaries of all chiefs and band councils, which are fully funded through taxpayers' monies, are highlighted on INAC's website and that failure to comply will result in a suspension of funding. This is an absolute fundamental with which public officials should comply. Every Aboriginal citizen has a right to know specific details around the remuneration of their leaders in the clear pursuit of accountability and transparency.

• (1550)

Honourable senators, one cannot help but wonder what the application of nearly \$239 million over six years could do to directly benefit people at the grassroots level rather than to fund the national Aboriginal organizations. How much housing, education, social services or economic development might these resources bring about if directly applied? Of this nearly

\$239 million, for example, the representative body for the Chief of Assembly of First Nations received \$136,000. Over and above this, the regional bodies of the AFN and their tribal councils received even more resources. These multiple bodies are also advocacy groups that purport to speak with one voice for their regional interests. Similarly, tribal councils represent the interests of local groups of First Nations. It sounds to me like a perfect storm of overlap and duplication.

Obviously, I do not want to paint all band chiefs and band councils with the same brush because we know where the good ones are and we know who their chiefs are. Similarly, we know where the bad ones are and we know who the bad chiefs are.

[Translation]

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, the simultaneous interpretation is not available. Is it working now?

**The Hon. the Acting Speaker:** I can hear you through the interpretation.

**Senator Comeau:** Very good, it is working.

[English]

**Senator Brazeau:** To conclude, I would like to quote Chief Clarence Louie of the Osoyoos band in British Columbia who is viewed as an innovative native leader in Canada. He is a prime example of what can work well in First Nations communities when there is the will. Let us hear some of his wise counsel to his people, and I quote him:

My first rule for success is 'Show up on time.' My No. 2 rule for success is follow Rule No. 1.

Quote number two:

If your life sucks, it's because you suck.

Number three:

Join the real world — go to school or get a job.

Number four:

Get off of welfare. Get off your butt.

These words are a wake-up call to all communities. They also serve as a warning that things have begun to change. It is a realization that litigation, grants, contributions and bluster-filled politics will not save lives or change a generation; but changing the perceptions, hearts and minds of leaders, throughout the machinery of government and within the power structures throughout Indian country will.

When I determined my path in life would be in Aboriginal politics, the term "accountability" was rarely spoken of. Honourable senators, it took only a handful of Aboriginal leaders, me among them, to change this. We did so because the need was so desperate. We did so because the people deserve it. We continue to do so because it is the right and moral thing to do.

Honourable senators, we all have work to do, and it is time we got to it. People are waiting and people are in need. The people, the grassroots people, are looking for hope and action. After all, fulfilling peoples' dreams is all about being willing to work for them. I think Canada's Aboriginal peoples are worth working for accountably, transparently and responsibly. Thank you.

(On motion of Senator Di Nino, debate adjourned.)

[*Translation*]

#### TRANSPORT AND COMMUNICATIONS

##### COMMITTEE AUTHORIZED TO STUDY EMERGING ISSUES RELATED TO CANADIAN AIRLINE INDUSTRY

**Hon. Dennis Dawson**, pursuant to notice of May 11, 2010, moved:

That the Standing Senate Committee on Transport and Communications be authorized to examine and report on emerging issues related to the Canadian airline industry, including but not limited to:

(a) its performance and long-term viability in the changing global market;

(b) its place within Canada;

(c) its business relationship with their passengers; and

(d) its important economic effect in the Canadian communities where airports are located; and

That the committee report to the Senate from time to time, with a final report no later than June 28, 2012 and that the committee retain all powers necessary to publicize its findings until 180 days after the tabling of the final report.

(Motion agreed to.)

#### BUSINESS OF THE SENATE

**Hon. Fernand Robichaud:** Honourable senators, I have an important statement to make. Since we have reached the end of the *Order Paper and Notice Paper*, I would like to invite all honourable senators to send positive thoughts towards Pittsburgh this evening. I am confident that the Canadiens will win, but we need to make sure the odds are on our side.

(The Senate adjourned until Thursday, May 13, 2010 at 1:30 p.m.)

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