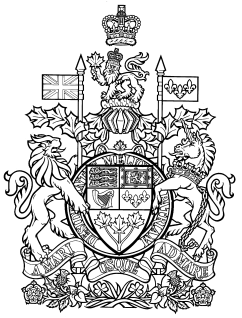

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OFFICIAL REPORT
(HANSARD)

Tuesday, June 22, 2010

THE HONOURABLE NOËL A. KINSELLA
SPEAKER

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(Daily index of proceedings appears at back of this issue).

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THE SENATE

Tuesday, June 22, 2010

The Senate met at 2 p.m., the Speaker in the chair.

Prayers.

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, before calling for Senators' Statements, I wish to remind honourable senators that the rules provide during Senators' Statements that senators may speak only once, but they speak for 3 minutes, and the total time allotted by the rules for Senators' Statements is 15 minutes.

[*Translation*]

SENATORS' STATEMENTS

MEECH LAKE ACCORD

Hon. Jean-Claude Rivest: Honourable senators, today I would like to highlight an anniversary of an event that was much talked about in Quebec, but not so much in the rest of Canada.

Exactly 20 years ago today, the Meech Lake Accord unfortunately collapsed. This negotiation was initiated because the Government of Quebec and all the political parties in the National Assembly refused to ratify the 1982 Constitution.

When Brian Mulroney was elected Prime Minister of Canada, he thought the situation was extremely dangerous to the unity of Canada. Therefore, he initiated constitutional negotiations to enable Quebec to become not just a legal partner, but also a political partner for the rest of Canada.

We cannot ignore the courage of the Prime Minister of Canada at the time, Mr. Mulroney, nor his fundamental tendency of having faith in people and their ideas. Take, for example, the free trade agreement, his fight against apartheid in South Africa, or his disputes with Prime Minister Thatcher of Great Britain. He took the considerable risk of bringing Canada and Quebec together to work on the Constitution. On that project, he worked with some very great Canadians, like the Premier of Quebec at the time, Robert Bourassa, as well as Ontario Premier David Peterson, New Brunswick Premier Richard Bennet Hatfield, and our former colleague, Nova Scotia Premier John Buchanan. He was able to reach an agreement that would solidify Canadian unity both for the whole country and for Quebec, in an extraordinary way.

Unfortunately, this agreement collapsed, for reasons we all know; there is no point repeating them here. The collapse can certainly not be blamed on the Prime Minister of Canada or on those who were party to the agreement at that time, but there were serious consequences. Of course, everyone remembers the 1995 referendum that called the very existence of our country into question.

However still today, this failure or refusal to normalize Quebec's situation within Canada has very clear political repercussions. For instance, it is very clear that Canada's two main political parties, the Liberal Party of Canada and the Conservative Party, have had a very hard time winning support and putting down roots in Quebec. This leads Quebecers to feel under-represented in Canadian affairs and dissatisfied with the current situation and, as a result, they vote for the Bloc Québécois.

We must bear in mind that the political situation can change and that Quebec could vote in a new sovereignist government. Those sovereignists could carry on the fight from 1982 and reopen the debate, which would not be good for Canada.

[*English*]

STATUTES REPEAL ACT

Hon. Tommy Banks: Honourable senators, I draw to your attention the fact that two years ago last Friday, we passed a bill called the Statutes Repeal Act, of which I am the ostensible author but which was contributed to by senators on all sides and by our expert staff and advisers. The act contained a coming into force clause to allow time for the government to deal properly with the substance of the legislation. That act came into force last Friday. The bill was an important Senate-sponsored bill, and we should all be proud of the fact that the act is now in force.

SAINT JOHN

TWO HUNDRED AND TWENTY-FIFTH ANNIVERSARY

Hon. John D. Wallace: Honourable senators will recall that last evening I spoke about the two hundred and twenty-fifth anniversary of Saint John, which is being celebrated this year. I wish to finish my comments and I will do so quickly. I do not want you to be left in anticipation wondering what was left unsaid, so I will say what remains to be said.

There is so much more in store as part of the two hundred and twenty-fifth anniversary celebrations of the incorporation of Saint John, and I encourage honourable senators to review the complete details that are readily available on the Saint John 225 website.

I am sure honourable senators will be interested to learn that Saint John is not only Canada's first incorporated city but it is also a city of many other Canadian firsts. To name but a few, it is the home of Canada's first chartered bank, namely the Bank of New Brunswick, which was established in 1830; the first public museum in the country, in 1842, and known today as the New Brunswick Museum; the first Boys and Girls Club, in 1902; the first YMCA, in 1870; Canada's first vocational school; the first female golf champion, Mabel Thompson; the first Miss Canada,

Winnie Blair; the first female commercial air pilot in Canada, Daphne Peterson; and the first National Historic Streetscape, namely Prince William Street, that was so designated in 1981.

Honourable senators, I warmly welcome and encourage each of you and your families to come and experience firsthand the warm hospitality of Saint John, and celebrate with us our two hundred and twenty-fifth anniversary and everything that our fine city and our surrounding communities have to offer.

THE LATE HONOURABLE CHARLES GAVAN "CHUBBY" POWER, P.C.

Hon. Dennis Dawson: Honourable senators, this is the second time this month that I have the honour to commemorate a great Quebecer and a famous Irish Canadian. Having mentioned Marianne O'Gallagher as the greatest Irish Canadian to come from Quebec City, I was quickly reminded of "Chubby" Power. Of course, I maintain my comments on Marianne, but I must bow to Mr. Power's great contributions.

Honourable senators will agree that a career in Parliament spanning 50-odd years, both here and in the other place, merits mention. History will tell if his grandson, the Minister of Foreign Affairs, Mr. Lawrence Cannon, will have a similarly long career.

[*Translation*]

A committee recently created by Irish Heritage Quebec has begun procedures with the Historic Sites and Monuments Board of Canada to formally recognize the historical significance of Charles Gavan "Chubby" Power and to have a commemorative plaque in his honour placed somewhere in the Quebec City riding of Québec. I am pleased to support this initiative, which is intended to give "Chubby" Power his rightful place in the history of Canada.

[*English*]

Charles Gavan Power, better known by his nickname "Chubby," was born in Sillery, Quebec, of Irish descent. He served in the military during the First World War, where he was wounded and decorated on his return.

After the war, he was elected as the Liberal Member of Parliament for Quebec South on December 17, 1917, and was re-elected nine times, which makes for a strong career in politics in Quebec City. Chubby was a natural-born politician, and the title of his memoirs, *A Party Politician*, remains a testimony to this fact. I encourage all honourable senators to read it; it is a very good political biography.

• (1410)

Charles Gavan Power was named to cabinet in 1935 by the Right Honourable William Mackenzie King as the Minister of Pensions and National Health. He was later Minister of National Defence for Air during the Second World War. It was in this later ministry that Chubby Power left his mark.

Above and beyond politics, the contribution of Charles Gavan Power to our military history is beyond remarkable. He was responsible for the massive expansion of the Royal Canadian Air Force, which saw its members exceed 200,000 under his leadership, becoming the fourth largest Allied air force. Indeed, it was under his guidance that the Royal Canadian Air Force not only began training over 130,000 Commonwealth and Allied pilots on Canadian soil but also began protecting our coasts, our maritime convoys and our national airspace with 37 squads entirely dedicated to these tasks.

In addition to the internal expansion of the air force under Mr. Power's plan, 48 squads were deployed in Western Europe, the Mediterranean and the Middle East to help win the fight in those theatres of war. Moreover, it should be noted that within the confines of the ministry of national defence, Chubby's first priority was the well-being and the interests of the RCAF personnel serving under British rule. There are some good examples in his biography of actions he took to achieve that.

It was also during this time that the air force expanded its outreach. Indeed, the RCAF had numerous women in its ranks, and today, the Air Cadets number close to 50,000 members.

DR. DOO HO SHIN

Hon. Yonah Martin: Honourable senators, I rise to pay tribute to a gentleman who is a pioneer of the Korean Canadian community in Canada in the truest sense of the word. If honourable senators recall, he graced us with his presence last week in our chamber. Dr. Doo Ho Shin has been a tireless community activist and leader for over four decades in Canada.

On the eve of June 25, 2010, the sixtieth anniversary of the outbreak of the Korean War, it is a fitting tribute to a survivor of the war. Dr. Shin recalls firsthand through his eyes as a seven-year-old boy in war-torn Seoul, which was a bleak contrast to the world class metropolis it is today. His first English words were "Gimme gum," which he and his playmates quickly learned to say to the friendly, kind-hearted foreign soldiers who lived among the millions of frightened, displaced Koreans in the 1950s.

The seven-year-old homeless boy became a top pathologist and his is the legacy of 26,791 Canadians who fought in the Korean War; the 7,000 Canadians who served in the theatre between the ceasefire and the end of 1955; the 1,558 total fatal and nonfatal casualties; and the 516 Canadians who made the ultimate sacrifice on Korean soil. These sacrifices were made to give children such as Dr. Doo Ho Shin a chance to have the democratic freedoms and educational opportunities to achieve their dreams. To the Korean War veterans in Canada and around the world, this tribute is as much about them as it is about a great man I call mentor, adviser and good friend.

A renowned physician in his field, he is the Korean counterpart of Quincy or House or, for a Canadian comparison, Wojeck, played to perfection by the late John Vernon. Dr. Shin practised with distinction at the Surrey Memorial Hospital and within the Fraser Health Region as a general pathologist. He is an active partner in BC Biomedical Laboratories Ltd. Dr. Shin is also a fellow of the Royal College of Physicians and Surgeons of Canada in general and anatomical pathology. Those are only a fraction of his personal achievements, which also include certification as a ski instructor and various notable adventures, such as his successful climb up Mount Kilimanjaro just last year.

In service to our nation, Dr. Shin is serving for a second term on the National Seniors Council, which advises the Minister of State (Seniors). As the former minister responsible for seniors, Senator LeBreton would know that Dr. Shin played an integral part with the rest of the members of the council in the NSC's report on elder abuse.

As a dedicated leader in his community, Dr. Shin has served on and headed many not-for-profit organizations. He is currently the president of the National Unification Advisory Council that advises the President of the Republic of Korea. Most recently, he co-founded the Canada-Korea Foundation, which seeks to invigorate and deepen Canada-Korea relations.

On a personal note, I have witnessed Dr. Shin's model leadership in action, and he is deserving of this tribute for his leadership and contributions to Canada.

CONTROVERSY OVER THE HIJAB AND NIQAB

Hon. Vivienne Poy: Honourable senators, when I came to Canada to study at McGill University more than 50 years ago, female students were not allowed to wear slacks to lectures, even on the coldest days of winter.

I never thought that, more than 50 years later, women in Canada would still be told what they can or cannot wear in public by those in authority, whether it is a public servant, a politician, or a family patriarch.

It was not that long ago that the Quebec Soccer Federation refused to allow Muslim girls to wear the hijab when they played soccer because it was ruled unsafe. Yet, it was deemed safe by the Ontario Soccer Association.

More recently, the Government of Quebec proposed a law banning women from wearing the niqab when they are receiving or delivering public services. Both the Canadian Civil Liberties Association and the Anglican Diocese of Montreal oppose this bill, saying that it is counterproductive to the goal of integration. As the Anglican Diocese clearly stated, "Women have the right to refrain from wearing the niqab in Quebec, but the right to choose not to wear such a garment implies the right to wear one, or it is not a right at all."

Canadians object to patriarchal control in which Muslim women are being forced to wear the hijab or the niqab. However, forcing women to remove them is an equally objectionable form of patriarchy and, to quote one of the women, it is as if "someone is asking me to take off my clothes."

Equality is about choice. On many occasions, Muslim women have told me that it is their choice what to wear over their heads and faces. For those who believe that women who wear the hijab or the niqab are victims of oppression, it makes no sense to oppress them further by refusing them access to education or health services.

As long as they are law-abiding citizens and pay their taxes, it is their right to receive public services.

As University of Toronto Professor Clifford Orwin said:

> It's the right of every resident of a liberal state to conduct herself as she thinks pleasing to God, on the sole condition that such conduct not violate the rights of others. And while wearing a *niqab* may send some observers into a high dudgeon, it impairs neither their civil interests nor their religious ones.

OLDS COLLEGE COMMUNITY LEARNING CAMPUS

Hon. Bert Brown: Honourable senators, I want to tell you about the opening of an innovative new community learning centre in Olds, Alberta. My wife, Alice, and I attended the opening last Friday.

Six years ago, Roy Bassard, an Alberta MLA, secured $6 million in funding for renovations of the old high school that was in serious need of upgrading. My wife, Alice, was on the board of governors of Olds College at the time and discussions began about a new location and a new school.

Olds College was originally an agriculture-based college and had surplus land on its campus. The idea to purchase land from the college evolved into situating a new high school on the college campus.

Following a luncheon and a glass and a half of wine five years ago, I found myself co-chair with my wife of the Olds College Advancement Fund. The Alberta government gave us a $30 million cheque ten minutes after the announcement of the co-chairmanship.

We soon developed a matching funds idea. Bell Canada built the first building and furnished it with $3 million worth of state-of-the-art telecommunications equipment for things such as virtual classes for students. Five years and $67 million later, we were pleased to be at the opening of Olds College Community Learning Campus last Friday. Many of those who attended the opening tour and banquet expressed their thoughts as simply, "Wow!"

The idea behind the Community Learning Campus is not only to grant college degrees but also to allow high school students to earn credits and learn a trade. When students graduate from grade 12, they will be skilled in practical disciplines such as land surveying, diesel mechanics, computer programming and more.

The Community Learning Campus includes a senior citizens' centre on healthy living through exercise and diet, and includes an auditorium for the performing arts. There is a gymnasium with 14 hydraulic basketball nets and giant shades that can be used to divide the space into different areas.

• (1420)

This great project was made possible by the many people who helped and participated in its development. Colleges and high schools of the future will no doubt emulate the experience of the Olds College Community Learning Campus. I want to thank all of those people who helped us in realizing this achievement, including the Governments of both Alberta and Canada.

ROUTINE PROCEEDINGS

STUDY ON NATIONAL SECURITY AND DEFENCE POLICIES

FOURTH REPORT NATIONAL SECURITY AND DEFENCE COMMITTEE TABLED

Hon. Pamela Wallin: Honourable senators, I have the honour to table, in both official languages, the fourth report, interim, of the Standing Senate Committee on National Security and Defence, entitled: *Where we go from here: Canada's Mission in Afghanistan.*

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

STUDY ON ISSUES RELATED TO NATIONAL AND INTERNATIONAL HUMAN RIGHTS OBLIGATIONS

FOURTH REPORT HUMAN RIGHTS COMMITTEE TABLED

Hon. Janis G. Johnson: Honourable senators, I have the honour to table, in both official languages, the fourth report, interim, of the Standing Senate Committee on Human Rights, entitled: *Canada and the United Nations Human Rights Council: Charting a New Course.*

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

FIRST NATIONS COMMERCIAL AND INDUSTRIAL DEVELOPMENT ACT

BILL TO AMEND—FIFTH REPORT OF ABORIGINAL PEOPLES COMMITTEE PRESENTED

Hon. Lillian Eva Dyck, Deputy Chair of the Standing Senate Committee on Aboriginal Peoples, presented the following report:

Tuesday, June 22, 2010

The Standing Senate Committee on Aboriginal Peoples has the honour to present its

FIFTH REPORT

Your committee, to which was referred Bill C-24, An Act to amend the First Nations Commercial and Industrial Development Act and another Act in consequence thereof, has, in obedience to the order of reference of Thursday, June 17, 2010, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

LILLIAN EVA DYCK
Deputy Chair

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

(On motion of Senator Dyck, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.)

TARTAN DAY BILL

FIRST READING

Hon. John. D. Wallace presented Bill S-222, An Act respecting a Tartan Day.

(Bill read first time.)

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

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

QUESTION PERIOD

INDUSTRY

MARQUEE TOURISM EVENTS PROGRAM—PRINCE EDWARD ISLAND

Hon. Percy E. Downe: Honourable senators, my question is for the Leader of the Government in the Senate. In 2009, three events in Prince Edward Island received funding from the Marquee Tourism Events Program. This year, one project was refused and overall funding for the province was decreased by over $150,000. Why was the funding reduced for Prince Edward Island?

Hon. Marjory LeBreton (Leader of the Government): I thank the honourable senator for the question, but I will need a little more information about the project to which the honourable senator refers.

The Marquee Tourism Events Program is a temporary two-year stimulus measure introduced as part of *Canada's Economic Action Plan*. Its goal was to provide a much-needed boost to the Canadian tourism industry and, in year two of the program, 2010, funding is being focused to ensure regional fairness and that every corner of Canada benefits from the temporary stimulus program. It is important that tourism events in every corner of the country are given the opportunity to promote Canada as a global destination of choice.

With regard to the honourable senator's question, I would appreciate more detail about the projects or events, after the receipt of which I would be happy to deliver a response. The MTEP is a two-year program and many organizations funded last year were not funded again this year. New organizations received funding and the balance was distributed fairly across the country.

Senator Downe: Could the Leader of the Government in the Senate explain how MTEP can stimulate tourism in Prince Edward Island when the funding is reduced?

Senator LeBreton: Excuse me, Senator Downe, the program funding was not reduced. It is a two-year program. Some groups were funded last year under MTEP and other groups were funded this year. It is not a reduction. It is a two-year program under *Canada's Economic Action Plan* intended to assist the tourism industry in attracting visitors. The fact that new organizations received funding this year is hardly a reduction.

Senator Downe: Honourable senators, the minister is absolutely wrong. In Prince Edward Island, not only did new organizations not receive any funding, but three organizations received funding in 2009, two received funding in 2010, and one organization was refused the previous year. Total funding for Prince Edward Island was reduced by more than $150,000.

The minister just indicated that this was stimulus funding to generate interest in and visitors to Prince Edward Island. Could she explain how reducing the funding stimulates tourism?

Senator LeBreton: Again, the Marquee Tourism Events Program is a national program. I am not familiar with all of the organizations that received funding last year in Prince Edward Island, but certainly some organizations received funding specifically for events held last year, whether festivals, anniversaries or other events. I would have to have more detail of the events which are the subject of the honourable senator's question.

This important program was brought in for two years to assist the tourism industry. Of course, many recipients are happy to have had the support, which has greatly assisted them in boosting their communities as a tourism choice.

• (1430)

Senator Downe: Honourable senators, I asked the minister this question a few weeks ago. I assumed the minister would have the information by now, since I received an answer yesterday to the written question I had asked.

The festivals in Prince Edward Island are all continuing, annual events. Funding, as I indicated, was reduced.

CANADIAN HERITAGE

UPCOMING VISIT OF HER MAJESTY QUEEN ELIZABETH II

Hon. Percy E. Downe: Honourable senators, the Head of State for Canada is coming to Canada. Since the government has invited Her Majesty to Canada, why have they not invited her to visit all of the provinces? I note, for example, that it has been 18 years since Her Majesty has been invited to visit Prince Edward Island, and it has been 33 years since the Queen has been invited to visit Quebec. Does the government intend to invite Her Majesty to Quebec and Prince Edward Island during her next visit to Canada?

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, returning to the Marquee Tourism Events Program question, obviously many annual events are held in many places all over the country, and Prince Edward Island is one of those places.

The Marquee Tourism Events Program was part of *Canada's Economic Action Plan* to give a boost to local and community events across the country. With regard to the visit of Her Majesty the Queen, the Honourable Senator Downe was the Chief of Staff in the Prime Minister's Office.

Senator Fox: And a good one, too.

Senator LeBreton: The honourable senator knows that the visits of Her Majesty to Canada are carefully planned and well-coordinated events. Her Majesty the Queen will not visit many provinces on this particular visit and I would not draw any conclusions based on her itinerary.

Her Majesty will be in the National Capital Region, obviously. She will also go to the Province of Manitoba, and she will also attend events in Toronto.

Senator Segal: Will the Queen visit Halifax?

Senator LeBreton: Yes, Halifax is included in Her Majesty's itinerary for this year.

We are hoping that the Queen will be able to visit our country again in two years' time when she is celebrating her Diamond Jubilee. I am quite certain that the Canadian Secretary to Her Majesty the Queen will be happy to take all requests, but, again, when the government makes these proposals, it is up to Buckingham Palace and the Queen to agree to them. I would not read anything into the fact that she is not visiting Prince Edward Island.

Hon. Jim Munson: Honourable senators, I have a supplementary question for the Leader of the Government in the Senate. Would the minister be able to supply us with the list of senators who have been invited to dine with the Queen or attend any reception with Her Majesty Queen Elizabeth?

Senator LeBreton: Unfortunately, honourable senators, I cannot. These events are being coordinated between officials of Buckingham Palace and Government House. The only event that I know of is one that I have personally been invited to, and I have been invited along with the Leader of the Opposition, Senator Cowan, and his wife.

Senator Fox: Congratulations.

Senator Munson: Could the minister give us a list of Conservative senators who have been invited to dine or to attend receptions with her Majesty the Queen?

Senator LeBreton: Honourable senators, this is the second time that I have had to admit this, and I regret that I have to do this, but I do not have a clue who has been invited. I have not been involved in any of the invitation lists. I do know that I was invited to one event, as was the Leader of the Opposition.

Senator Munson: Does anyone talk to you from the Prime Minister's Office?

Senator LeBreton: Absolutely not.

Senator Munson: Does anyone from the Prime Minister's Office consult you?

Senator LeBreton: Absolutely not, nor would I expect that Her Majesty Queen Elizabeth II would consult me about anything.

Senator Cordy: So it is just a coincidence?

[*Translation*]

TREASURY BOARD

CONTRACTING GUIDELINES

Hon. Francis Fox: Honourable senators, my question is for the Leader of the Government in the Senate and has to do with Treasury Board guidelines for awarding contracts.

[*English*]

As the leader is aware, the Treasury Board's contracting policy was adopted in order for the government to award contracts in a manner that stands the test of public scrutiny, facilitates access, encourages competition and reflects fairness in the spending of public funds. When awarding a contract, it is the responsibility of government agencies and departments to follow all of the procurement guidelines and regulations listed in the contracting policy. More specifically, different sections of Treasury Board policy state that approval must be obtained prior to entering into contracts or contractual arrangements; that bids must be solicited from potential contractors before any contract is entered into; that contracting officials are to ensure that contract files are properly documented; and that contracting authorities are required, as a follow-up, to report statistics.

Does the minister believe that these strict policies on contract awarding are essential to the operations of a transparent and accountable government?

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, I absolutely do. Our government is committed to a fair, open and transparent process for all contracts. The Privy Council officials have said that procurement processes are in complete accordance with Treasury Board guidelines.

Senator Fox: *The Canadian Press* reported on Sunday that an internal audit conducted by the Privy Council Office — and the Privy Council Office put out a press release confirming this — revealed that one third of the contracts awarded by the PCO breached Treasury Board guidelines by being retroactive and poorly documented.

Some Hon. Senators: Shame.

Senator Fox: Although overall compliance with Treasury Board was deemed to be good, the audit states:

> There is some risk associated with the relatively high number of contracts issued for work that has already begun, i.e., after the fact.

To that effect, the audit revealed that 29 percent of the supplier contract files were prepared after the supplier had already begun working.

Madam leader, as this mandate is supported by the Privy Council Office, as is that of the Prime Minister's Office, what measures have been taken by the government to ensure that PCO sets an exemplary standard in the fields of compliance and procurement?

Senator LeBreton: Honourable senators, my answer is the same. The Privy Council officials have said that the procurement processes that are being conducted are in accordance with all Treasury Board policies.

Senator Fox: That is not what their audit says.

AGRICULTURE

FARMING CRISIS IN SASKATCHEWAN

Hon. Robert W. Peterson: Honourable senators, in my home province of Saskatchewan and across the prairies, farmers are facing the worst spring seeding conditions in history. The situation is urgent. About 30 per cent of the crop remains unseeded, and what is in the ground is being flooded out.

My question is for the Leader of the Government in the Senate. Will the government commit to offer a quick, generous response to the crisis in Saskatchewan?

Hon. Marjory LeBreton (Leader of the Government): As the honourable senator knows, the Minister of Agriculture, the Honourable Gerry Ritz, has been on location surveying the situation.

Honourable senators, I have nothing further to add, but I will ask about Minister Ritz's analysis of the situation when he returns.

Senator Peterson: At the same time, could the leader ask the minister if he would have his recommendations ready so that farmers will be able to hear them at the federal-provincial agriculture ministers' meeting in Prince Albert in early July?

Senator LeBreton: Honourable senators, yes, I most certainly will make that request of the Minister of Agriculture.

PRIME MINISTER'S OFFICE

RECOMMENDATIONS OF THE COMMISSION OF INQUIRY INTO THE INVESTIGATION OF THE BOMBING OF AIR INDIA FLIGHT 182

Hon. Mobina S. B. Jaffer: Honourable senators, my question is for the Leader of the Government in the Senate. Tomorrow marks the twenty-fifth anniversary of the Air India bombing. This is the largest mass murder in Canadian history. In 1985, Prime

Minister Brian Mulroney immediately phoned the Prime Minister of India and apologized for the deaths of Indian citizens. On that day, 329 innocent people were murdered. Some lost spouses and children. Most of them were Canadians.

• (1440)

For 25 years, these families have been searching for answers. As a result of the initiative of our Prime Minister, there has been an inquiry and Justice Major has provided these families with the answers they have been yearning for.

Justice Major has suggested steps to help the families. When will the government consider these suggestions and take action? What will be the timeline?

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, the bombing of Air India Flight 182, 25 years ago, was a terrible tragedy; it was the worst terrorist attack in Canadian history. Canadian citizens lost their lives. The attack has had long-term implications and ramifications for the community and the victims' families.

The Prime Minister, as the honourable senator rightly stated, has listened and acted. The government and the Prime Minister have thanked Mr. Justice Major for his tremendous work. The Prime Minister personally met with representatives of the families and has extended his personal sympathy and that of the government on the loss of their loved ones.

As the Prime Minister has said, the report is a damning indictment of many things that occurred before and after the tragedy, which the government is determined to avoid in the future. The Prime Minister also indicated that the government will respond positively to the recommendations regarding an official apology and compensation to the victims.

Honourable senators, the report is large and detailed. The government takes the recommendations seriously and, as the Prime Minister indicated, he will offer an official apology and compensation for the victims. I was pleased to read in *The Globe and Mail* today that a member of the Sikh community was paying tribute to the Prime Minister for finally listening to their pleas.

Some Hon. Senators: Hear, hear.

Senator Jaffer: I appreciate there are many things on the security issue that will take time. However, 25 years ago, as I have already stated, 329 people lost their lives. Many mistakes were made by successive governments. As Justice Major stated, the families disagreed with this process; they were not seen as victims themselves but as adversaries who brought this calamity upon themselves.

What is the government doing to help the victims?

Senator LeBreton: Honourable senators, Senator Jaffer is absolutely correct. The treatment and the way this tragedy was handled, before and since, was totally unacceptable. The Prime Minister has met with the representatives of the victims. The report has just been released, as the honourable senator knows. Tomorrow is the twenty-fifth anniversary of the tragedy. The Prime Minister, personally and publicly, stated to the groups representing the victims that the government will publicly apologize on behalf of the people of Canada and respond positively on compensation for the victims.

In fairness, honourable senators, that step is a major one forward from what has happened in the past. I assure the honourable senator that the other recommendations with regard to CSIS, the RCMP, other agencies of government, security at airports, et cetera, have all received, and will continue to receive, the attention of the Government of Canada.

I cannot stand here today and give the honourable senator a definitive list of all the things the government will do to respond to Mr. Justice Major. I reiterate the Prime Minister's profound sadness, which he extended to the representatives of the victims of this terrible Canadian tragedy.

Senator Jaffer: I recognize the leadership role that the Prime Minister has played. I commend him for calling the inquiry, which no other prime minister called. I commend him for the way in which he has met with the families. I am also happy to read in the paper that tomorrow, 25 years after these 329 families suffered terrible pain, the Prime Minister will apologize.

However, we all know that an apology not backed by actions is not enough. I agree with the minister that it will take time before we can look at all the other things that Justice Major has set out. My only question to the Leader of the Government in the Senate is: When will the families receive the compensation they deserve; when will we start drying their tears?

Senator LeBreton: Honourable senators, once again, when the Prime Minister of this government makes a promise that he will deal with a situation like this one, he will keep the promise. Action will be taken.

As a lawyer, the honourable senator would know that there are many details to work out. The government cannot promise one day to compensate victims and then have a complete plan in place the next day. This plan will take time, but hopefully not too much time.

I will state again: The Prime Minister indicated to the representatives of the victims that the government would respond positively to the recommendations regarding an official apology and compensation.

I do not know what more I can add. I think the statement the Prime Minister has made on behalf of himself and the government is pretty definitive.

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, pursuant to the order adopted June 17, I leave the chair for the Senate to reconstitute itself into Committee of the Whole to hear from Ms. Suzanne Legault, respecting her appointment as Information Commissioner of Canada.

INFORMATION COMMISSIONER

SUZANNE LEGAULT—
RECEIVED IN COMMITTEE OF THE WHOLE

On the Order:

> The Senate in Committee of the Whole in order to receive Ms. Suzanne Legault respecting her appointment as Information Commissioner.

(The Senate was accordingly adjourned during pleasure and put into Committee of the Whole, the Honourable Senator Oliver in the chair.)

The Chair: Honourable senators, rule 83 states that:

> When the Senate is put into Committee of the Whole every Senator shall sit in the place assigned to that Senator. A Senator who desires to speak shall rise and address the Chair.

Is it agreed, honourable senators, that rule 83 be waived?

Hon. Senators: Agreed.

[*Translation*]

The Chair: I remind honourable senators that, pursuant to order of June 17, the committee will meet for a maximum of one hour.

I would now ask the witness to enter.

(Pursuant to Order of the Senate, Suzanne Legault was escorted to a seat in the Senate chamber.)

The Chair: Honourable senators, the Senate is resolved into Committee of the Whole to hear from Ms. Suzanne Legault respecting her appointment as Information Commissioner.

Ms. Legault, thank you for being with us here today. I invite you to begin your introductory remarks, which will be followed by the senators' questions. You now have the floor.

• (1450)

[*English*]

Suzanne Legault, Interim Information Commissioner of Canada: Thank you, honourable senators. I am truly delighted to be here today to answer your questions on my nomination as Information Commissioner. I am honoured to be conferred this tremendous privilege of being nominated for the position of Access to Information Commissioner of Canada. I am excited about the great responsibilities and the challenges that come with this position of agent of Parliament in serving both Parliament and Canadians.

Almost a year ago, when I accepted to take on this job on an interim basis, I made a commitment to maximize the effectiveness and timeliness of our investigative function to fully meet the needs and expectations of Canadians. Over the last year, through sustained and ongoing efforts, we have made great strides toward the achievement of this goal.

Mr. Chair, I would like to talk briefly about my career path leading up to this nomination. I am a lawyer by training. I graduated from McGill University with a bachelor of civil law and common law. I moved to the National Capital Region, where I practiced law as both a Crown prosecutor and a criminal defence lawyer.

I joined the public service in 1996, with the Competition Bureau, where I honed my skills as an investigator in both criminal and civil matters, and regulatory matters generally. I also assumed the role of special adviser to the Commissioner of Competition during a crucial time in the restructuring of the airline sector in Canada.

[*Translation*]

I briefly joined the Department of Justice as a legal counsel and litigator responsible for a wide variety of files related to competition matters before returning to the Competition Bureau in 2001 to join the executive ranks.

Before joining the Office of the Information Commissioner in 2007, I spent a year at the University of Ottawa in the Jarislowsky Chair in Public Sector Management under Dr. David Zussman, where I worked on the integration of competition policy into rule-making across the federal government.

I was appointed Assistant Information Commissioner in June 2007 and interim Information Commissioner in June 2009.

[*English*]

In summary, I have spent the last 20 years working in a variety of environments, including the private sector, the public service and academia. Through my diverse work experiences, I have honed my skills in investigation, mediation, negotiation and litigation. My experience as a public servant has taught me much about policy development on complex matters and the privileged relationship that we hold with Parliament and its committees.

This experience also made me a steward of sound management practices. Over the last three years, the Office of the Information Commissioner of Canada has fundamentally changed, and I can honestly say today that it has come a long way. It is stronger, more accountable and more effective.

I was directly involved in establishing and improving the organization's capacity in areas such as corporate services, information management, parliamentary affairs and systemic issues. I was also a key architect of our new business model, which has led to significant efficiencies.

My office's efforts at improving our financial management practices and governance were recognized last year by the Office of the Auditor General. I have also reinforced our internal audit functions to ensure that we gain maximum efficiencies and make adjustments in a timely fashion. Since joining the office in 2007, I have gained an in-depth knowledge of the Access to Information Act.

Above all of these work experiences, however, the greatest strength I bring to the position of Information Commissioner is my ability to deal with highly complex matters and to find creative solutions.

[*Translation*]

Since starting my interim term, I have been directly involved in our investigations on a daily basis. This year, I have made full use of the powers and tools at my disposal to maximize adherence to legislative requirements. My office has collaborated with all stakeholders in the search for the best resolution to complaints. However, I took a firm hand when required. I have also adopted a more proactive and integrated approach to assessing compliance with our Act, as articulated in the three-year plan.

My focus was on investigations and on the investigative function. As a result, we have closed more complaints this year than in the Commission's 27-year history. We have also reduced by nearly one third the average time it took us to conclude investigations into our recent complaints.

If my nomination is confirmed, my leadership and my vision will be governed by excellence — excellence in service to Canadians, excellence in service to Parliament, excellence in stewardship of the OIC and excellence as an employer.

In practical terms, this means that, first and foremost, my focus will remain on our investigations. We have made great strides this year in reducing our inventory of cases. However, we continue to deal with a heavy caseload, and until such time as we reach a manageable caseload, dealing with investigations will be my number one priority.

I will systematically work towards improving access to information as a whole, at all levels — in terms of requests, dealing with systemic problems and strengthening legal standards.

[*English*]

I do not think it is helpful to say that everything related to the federal access to information regime is broken. As my experience has taught me, it is much more productive to address specific issues with the right people, based on strong evidence, and to develop creative solutions. I am optimistic that with this approach, the access to information regime will become stronger.

As an ombudsperson, I see my role as a catalyst between the various stakeholders to bring about advancement in the access to information regime in Canada. I have said in the past that the Access to Information Act, in my view, lags behind most Canadian and foreign jurisdictions. My goal is to bring about greater convergence between legal standards in Canada and those in more progressive laws internationally. As information now flows across levels of governments and across national and international boundaries, Canadians should not have to face varying standards and receive different responses, depending on where the request is made.

On December 12, 2006, when former Commissioner Marleau appeared before this committee to discuss his own nomination, he said the following:

> When Parliament grants an agent of Parliament a trust on behalf of all Canadians, the very least Parliament deserves to receive in return is leadership that it can trust.

I am most honoured by this nomination. In the last year as interim Information Commissioner, I believe I have demonstrated that I can lead my office through its complex mandate in a trustworthy manner.

I will be pleased to answer any questions.

[*Translation*]

The Chair: I remind honourable senators that, pursuant to last Thursday's order, the committee will meet for a maximum of one hour. I would therefore ask that you keep your questions as brief as possible. Ms. Legault, your cooperation on this point will also be appreciated.

[*English*]

Senator Downe: First, I want to thank you for the work that you have already done in your short time in the job. I find it a tremendous improvement over the last year or so that you have been there.

To give you an example, on December 15, 2008, I filed an access to information request with Veterans Affairs Canada regarding any cost savings associated with the New Veterans Charter, including the lump sum disability award compared to the ongoing disability pension. The department responded that: "Consultation with another government department is required," and requested a delay of 120 days.

• (1500)

A year and a half later, after a number of letters of complaint, I received a response indicating that the file was delayed at the Privy Council Office. I wrote directly to the Prime Minister and to the Clerk of the Privy Council, and a week later, after waiting 18 months, I received an answer to my inquiry.

How can you address such situations when central agencies intervene in departments to hold up the release of information? Do you check to see whether this consultation actually takes place? Do you set limits in terms of what can fall under the definition of "consultation," which was used in this case simply to delay the release of information?

Ms. Legault: Mr. Chair, the issue of consultations in the access to information regime is one of the systemic and problematic issues identified in our report cards this year.

There are very few statistics collected by the government in relation to consultations among institutions, and there are no time limits in the legislation. We have asked the Treasury Board Secretariat to collect more detailed statistics on consultations. Right now, the only thing that is collected is consultations that are under or over 30 days; whereas we know from experience that consultation delays are far in excess of 30 days.

The Treasury Board Secretariat, I believe, will put in place a more detailed statistical collection of data, which will give us more information. As a result of the report cards this year, I launched a

systemic investigation into the issue of mandatory consultation. I have discussed mandatory consultation with the President of the Treasury Board and with the Secretary of the Treasury Board, because I believe these issues are crucial to the delays in the system.

Following the report cards, I announced I would use subsection 9(2), a provision in our legislation that requires institutions to provide the Office of the Information Commissioner with notices of extensions, which include consultations. This year, I will develop a form that will require institutions to provide more details to justify the length of the extensions, including those consultations.

First, Mr. Chair, we will see results from these initiatives. We will obtain more data, which will allow us to better diagnose the problem. We will be able to target our recommendations and find solutions to the real problems we have diagnosed.

Senator Andreychuk: Ms. Legault, I want to thank you for the work you have done, and you have proven already that you understand that the need for proper management, adherence to the act and timeliness are all good factors for access to information. Outdated information is of benefit to historians, perhaps, and not to practical applications.

It is in that line I would like to know where you place your philosophy and thinking. Access to information is one of our democratic principles — the right to know what your government is doing on your behalf.

You said that our act lags behind other acts, and there are very many differences that I have studied. One of them is the definition of the public, the right to know. Should your emphasis be on average individual Canadians getting information from the government because they have no other reasonable way, or is it for institutions, such as the Senate, the House of Commons and, perhaps, the press, to have more access?

Ms. Legault: Mr. Chair, obviously, the fundamental tenet of access to information is that Canadians, the citizens of our country, should have access to public sector information, and that leads to accountability, transparency, and makes for a more informed citizenry.

In terms of access to information, the act is structured such that there is a presumption in favour of disclosure, and access to information is the exception to the rule that governments should make their information available to their citizens as a matter of course.

There are two issues. First, what amount and type of information should government and public sector institutions in general make available to their citizens? Second, the Access to Information Act provides them the mechanism to ensure that the right balance is struck between transparency and the necessity for keeping some information confidential, such as personal information or national security information. The structure of the Access to Information Act allows us to strike that balance.

I am not sure if I have answered the honourable senator's question.

Senator Andreychuk: In relation to other jurisdictions, you indicated that we need to be updated. Is it in this area, or is it in technology?

Ms. Legault: In terms of what is going on internationally, we know that the U.K., the U.S. and Australia have started major initiatives in matters of open government. That leads to the proactive disclosure of more information from public sector institutions in a reusable format, using technology and allowing the users of the information to use the technology and various technological platforms to analyze the data.

In that respect, although in Canada we do have some initiatives that are closely related to open government, we do not have an open government strategy in Canada.

In terms of the Access to Information Act, we are now, in my view, lagging behind in some of the tenets of the legislation, both nationally and internationally. We have some regimes in Canada, such as the Quebec legislation, which is more recent, which has adapted some of the international standards, such as proactive disclosure embedded in the legislation, injury tests, public interest tests and order making powers.

Senator Stratton: Welcome to the chamber, Ms. Legault. What strikes me about this access to information business is that people are always complaining about the lack of access. It does not matter which government is in power; it is the same thing.

Can you tell me how you have improved that access, where we are today and where you would like to be a year from now, 18 months from now or a couple of years from now? You spoke about access that is more open to government. How do we get there? Where have you been? Where are you going?

Ms. Legault: Mr. Chair, no single actor in access to information holds the golden key to improving the regime. The golden key lies in all of the stakeholders working to improve the system. For instance, from my office's perspective, one of the key issues in terms of access to information is that I still have a large caseload, and it takes too long for our investigations to reach results. I am completely responsible for that issue. I have made some strides this year, and I will continue to improve on that next year and in the following years.

When we began a year ago, we had 2,500 cases in our inventory, and now we have about 2,000 cases. We have dealt with our influx of cases this year and reduced our inventory by about 500 cases. We need to reduce that number significantly again this year to get to a point where we would carry over only about 300 to 500 cases per year.

We have reduced our turnaround time significantly in terms of our new cases by 66 per cent, and the cases that we resolved within three months has improved by 66 per cent. It needs to get better. The cases that we resolve between three and six months have improved by 44 per cent. It needs to get better, but that is my office. I am at the forefront of that in terms of responsibility.

• (1510)

Second, I believe that we need to improve access to information legislation. I have shared that view with the Minister of Justice, and I will assist Parliament in that endeavour should they decide to do so.

Third, I need to work more closely with all institutions and central agencies to improve systemic issues that we have identified in the report cards with the 13 institutions at the centre of where performance needs to improve. It is important to remember that the 13 institutions are amongst 250 institutions. The report card this year basically allowed us to focus on those 13 institutions. Next year, we will follow up with these institutions.

We are preparing a report card this year on the new institutions that have been covered recently under the legislation, following the Federal Accountability Act. We have 10 institutions on the report cards this year because we have identified that institutions are experiencing growing pains. That area is another one for improvement.

In terms of open government and the use of technology, work is ongoing with the Chief Information Officer and the Secretary of the Treasury Board. We will continue to work on that aspect because Canada must join its counterparts internationally in this endeavour. That work is closely related to the efforts of the Clerk of the Privy Council to renew how public servants work with Canadians. Where do we want to be on that score in a year or two? We want to have made significant strides in the information made available to Canadians in a proactive manner. That work has started in our office. It is a micro-way of proceeding but it shows leadership.

We have read that the RCMP and the Department of National Defence are now disclosing their Access to Information requests. We need to increase that disclosure to a larger component of institutions.

My last point, Mr. Chair, is that in terms of improving access to information, I believe in advocacy in Canada so that Canadians will become more aware of their rights under the legislation and their rights to public sector information. We must work with all stakeholders: the institutions; the requesters; the complainants; groups not developed in Canada in matters of access to information; non-government organizations; and the academic sector. There will be great improvements if we have more debate and more scholarly writings about access to information in Canada. Those are the multi-components of where we are and where we want to be.

Senator Stratton: Ms. Legault, are you satisfied with the progress? You stated that it should happen more quickly, but are we moving in the right direction, albeit slowly?

Ms. Legault: Mr. Chair, I am not an easily satisfied person. Do I think it is going fast enough?

Senator Stratton: I did not expect you to be that easy to deal with. My question is: Are we making progress, albeit slowly?

Ms. Legault: We are making progress but there is a lot of work to be done. I would add a caveat to that and perhaps a clarification of my previous answer. I am concerned about one thing when I look at the statistics: Our performance is declining year after year. We used to respond to 69 per cent of requests within 30 days, but that rate has decreased to 57 per cent. During my seven-year mandate, I hope to be instrumental in changing that trend so we can return to a better performance. The work of information management should bear fruit but it will take a little longer.

Senator Nancy Ruth: I will follow up on these same questions and ask you to describe what you mean by "open government." What countries other than Australia are engaged in open government? Who are the models that we want to look at?

Ms. Legault: Mr. Chair, three key initiatives are happening in terms of open government. Australia's major task force issued their report in December 2009. The Government of Australia recently responded to the report about two weeks ago in support of their open government initiative. Under the leadership of President Obama, the United States has started a comprehensive open government initiative, as the United Kingdom has done as well. When I appeared in the other place before a committee, I talked about what we did in our office this year. We extracted from the international experience some of the key principles of open government that make them successful, in our view, or that have a chance of making them successful. There are five key components. First, there needs to be a government commitment to lead a cultural change that is conducive to open government. It must come from the top of the government and the public service. In the United States, they made a declaration on open government with clean objectives, coming from President Obama. There is clear responsibility and accountability for coordination and guidance of deliverables, and there are specific time frames. That first component is a clear commitment.

Second, open government is also based on the ongoing concept of broad-based public consultations that maximize the use of technology to gain insight from citizens.

Third, it is important to identify what we refer to as "high value information," because open government or proactive disclosure is not useful if it becomes a dump of information. We want to ensure that the information has high value for citizens. That information should be free, based on open technological standards so it can be used with other technological platforms, easily discoverable, easily understandable and machine readable.

Fourth, in Canada we need to give due consideration to various concerns: privacy, confidentiality, security, Crown copyright and official languages.

Fifth, an open government strategy has to be embedded in statutory and policy anchors for principles and institutions.

Essentially, that is what we mean by "open government," which is distinct from the administration of access to information legislation. It is a culture shift in terms of how we view public sector information, how we use it to interact with our citizens and how we use it to lead to innovation and better policy development.

Senator Nancy Ruth: I have a particular interest in gender-based analysis. As you may know, the Auditor General reviewed five departments in her 2009 spring report. Given your fourth principle of privacy concerns, security concerns, et cetera, I find it virtually impossible to obtain the information I want from Treasury Board or the Privy Council Office. How do you suggest I obtain that information?

Ms. Legault: There is the Access to Information Act. If you are not satisfied with the response you receive from the institution, I suggest that you make a complaint to my office. My role is to try to strike the right balance between your interest as a parliamentarian in obtaining information and having adequate protections for these other considerations.

Senator Munson: Ms. Legault, do you have enough money in your budget to do your job properly?

An Hon. Senator: What a loaded question!

Ms. Legault: Mr. Chair, in the last two years we received a significant increase of 57 per cent in the budget allocation to the Office of the Information Commissioner of Canada. We received an allotment of $1.4 million and an additional $3 million last year. That being said, I appeared before a committee in the other place in relation to the current fiscal restraint initiative. I said there that I fully support this initiative of fiscal restraint.

• (1520)

At the same time, I testified about the impact of fiscal restraint on small institutions, such as mine. Most of my budget is allocated to salaries, so the fiscal restraint initiative has a significant impact on our operations. We are currently reviewing all of our operations to seek efficiencies within our institution. I have not discounted the possibility of having to go back to Treasury Board Secretariat this year to obtain additional funding, but it would not be significant additional funding. I am now fully operational compared to where we were two years ago. We are fully staffed and are using all of our budget allocation.

Senator Munson: What is your budget?

Ms. Legault: My budget, including employee benefits, is $12 million.

Senator Munson: With the 57 per cent increase, how do you explain that there have been more complaints about the lack of access to information than ever before? Can you explain that?

Ms. Legault: When the Federal Accountability Act came into effect, the number of institutions increased by about 70 additional institutions. In that year, we had an 80 per cent increase in the number of complaints, but most of those complaints were directed to the CBC, with in excess of 500 complaints. If we discount those complaints, we basically were at a normal number of complaints and normal percentage of complaints year-over-year historically. The following year, 2007-08, there was a decrease in the number of complaints, and this year the complaints have decreased as well. This past fiscal year, we had 1,600 complaints, which is more of a normal ratio of complaints to the total number of requests. Historically, those two years were a blip, and the complaints were directed at the CBC.

Senator Munson: Who would complain about the CBC and why?

An Hon. Senator: Do you want a list?

Senator Munson: Thank you.

Senator Di Nino: Congratulations, Ms. Legault, and welcome to the Senate.

Ms. Legault: Thank you.

Senator Di Nino: It is delightful to see you here. From your answers, it sounds like your challenge is a satisfactory one. I, too, was intending to pursue the issue of resources, particularly because of the increase in the number of institutions that you are now covering. I believe you have answered quite clearly that the financial resources, at least at this point, as far as you can see, are sufficient. Are there any other obstacles or any other types of resources, such as space or other impediments, that would not allow you to do the job that you want to do?

Ms. Legault: I am happy to say that, in the last two years, we have secured the funding and the space, and I spent the last year staffing the organization. Essentially, we are in good shape. The fiscal restraint is creating a concern, but it is not a huge concern. I want to complete my analysis before deciding whether I will go back to Treasury Board Secretariat. If I do, I expect that it would be to seek a temporary allotment to deal with the current inventory of cases, to reduce it more quickly to a more appropriate number of cases.

The idea is that if we carry 2,000 cases year-over-year, then we are not as efficient as we should be. That is my concern. The business model under which we are operating now sees us achieving the level we want to be at in 2013-14. I think that is too long and I am looking at it. If we need to seek additional funding, it would be short-term funding to reduce that backlog, because the number of complaints is actually decreasing back to normal levels. We will see what it is like this year. That will be part of our assessment.

I am also looking at the type of personnel that we have and their classification level within the government. I am looking at that carefully specifically for those investigators, and we have eight under our legislation, who have special delegation under the legislation and who deal with more complex matters, such as national security matters. I am concerned about the level that these people are classified at. This summer, I am studying that issue to see if they are classified at the right level and category. I need to have top-notch professionals to do this very complex work. Aside from those issues, we are in pretty good shape.

Senator Di Nino: We should give you kudos as well for reducing that backlog. That is quite an accomplishment, particularly in the short time you have been there.

You also indicated in your opening remarks that you believed the number of institutions should be increased as time goes on. What is it that you are referring to exactly?

Ms. Legault: In terms of coverage of the Access to Information Act, I am a proponent of a principle-based approach, which means that wherever taxpayers' money is being spent, at least on

the administrative side of the operations of these public institutions, there should be some level of disclosure of information.

Senator Di Nino: Is there a preferential pecking order in the requesters, which is the term you used before, or those who submit requests? Is a Canadian who wants to find out about an issue just as likely to get a response as a corporation or the news media? Is there some fair and balanced approach in the way you handle it?

Ms. Legault: I deal with the complaints side. On the request side, certainly the principle of the legislation is that the requester is entitled to anonymity, and the request should be treated objectively, based on the principles of the legislation.

In terms of my office and dealing with the complaints, I can say that, historically, it was more of a first-in-first-out type of approach. It is significantly different now. I segregate the cases.

This year, in order to be more efficient, we gained a more in-depth knowledge of our inventory of cases. What does that do? It does a few things. We deal with the administrative cases separately. They are simpler cases, and our goal is to close 85 per cent of those cases within 90 days. They are simpler and should be dealt with more quickly. They do not deal with the substantive issues of access to information, but rather with delays, so we try to get those out more quickly. There is a difference there.

We have developed a prioritization system for cases that are of national importance or urgent. We deal with those differently, in a more urgent manner. Are we there yet in terms of efficiency? Not yet, to be honest with you.

Looking at our portfolio of cases, we developed different approaches with different institutions. If an institution has a large component of complaints dealing with either the same issue or the same complainant, we try to deal with those in bulk so we gain efficiencies, but we also assign investigators so they develop more knowledge of the institutions and the complainants. That is essentially the way we deal with them now, as opposed to just first-in-first-out.

Senator Di Nino: Thank you for that, and good luck.

Ms. Legault: Thank you.

The Chair: Honourable senators, at this stage I would advise that we have 17 minutes left, and I have four senators on the first round and two waiting to see if there is a second round.

[*Translation*]

Hon. Claudette Tardif: I am interested in knowing how you address the requirements of the Official Languages Act in your work as Information Commissioner.

Ms. Legault: That is an excellent question. Our director of human resources looks after official languages matters. Furthermore, I work closely with the Commissioner of Official Languages who, as an officer of Parliament, is part of my usual work group.

For example, information posted on our website meets all official languages requirements. As I mentioned, when speaking of an open and much more proactive government strategy for disclosure of information, we believe it must be done with respect for the official languages.

Personally, I am bilingual and am working on activities for Information Rights Week. In the first two years of my mandate, I worked with francophone universities such as Université de Moncton, Université de Fredericton and Université de Saint-Boniface.

• (1530)

That is the type of work that the Information Commissioner can do. There may not be much glory in it, but it enables us to promote official languages issues. This year we attended the conference of the Association des professionnels en matière d'accès à l'information in Quebec for the first time and it was the start of a useful partnership for us.

Mr. Chair, I hope that answers Senator Tardif's question

Senator Tardif: Thank you.

[*English*]

Senator Mercer: Welcome and congratulations.

Are you aware of the recent report of the Standing Senate Committee on Transport and Communications that was tabled last week in this chamber? It is entitled: *Plan for a Digital Canada.ca*.

After a lengthy study, we made a number of recommendations, some of which I suggest you look at. Given you might not have read the report, you might want to comment on it at some future date. It talks about calling for a digital strategy for Canada. That likely creates a bunch of new issues and problems for you.

In our study, we also discovered that, as we move down this road towards a digital Canada, we may be in a situation where all of us will need digital signatures and identification so that, as we go to a paperless society, and in interacting with commerce or government, we will be able to identify ourselves and present some type of signature to confirm that we are who we say we are.

Are you familiar with the report?

Ms. Legault: I am not aware of the report but I will follow up on the recommendation to have a look at it.

Senator Mercer: Some of the recommendations are based on a short visit we made to Estonia. We discovered a country, government and people light years ahead of us in terms of working in a digital society; indeed, 95 per cent of commerce is conducted digitally in Estonia. We were told that it is virtually impossible to write a cheque there because things are done electronically, including buying bus fare or a newspaper at the corner box. Those are things that I suggest you might want to look at.

One particular item I suggest you should have an opinion on is the possibility that we might implement e-voting. There is the question of the information and identification of voters. It has always been a particular problem, since we went to the permanent voter registry. We all have an identification number. Most of us do not know what our number is because it is not a number that we use often. It is only a one-off number used for identification.

Regardless, if we reach a point where we vote electronically, there will be the need to make information available to the political parties and to candidates who will want to interact with people.

The Chair: Ms. Legault, do you have a response to that situation?

Ms. Legault: Mr. Chair, as I said, I am not familiar with the report. Having said that, many improvements can be made using technology to maximize the amount of disclosure and also the timeliness of disclosure in terms of access to information, which is closer to the area of my responsibility.

In terms of what the honourable senator refers to — which is a new or emerging economy using digital economy for its commerce — a similar phenomenon is occurring in the new jurisdictions that are implementing access to information legislation. One needs only to look at Mexico, where they are using a technological platform that is different from Canada but allows for searchable databases of all access to information requests, for example. All access to information requests are conducted through the Internet and responded to via the Internet. The complaints are conducted via the Internet. The hearings of the commissioners are broadcast on the Internet.

There are many improvements that can be made in access to information using technology.

[*Translation*]

Senator Fox: Welcome to the Senate, Ms. Legault, and congratulations on the ratification vote that is sure to follow. I am delighted by your nomination, and even though I am not given to congratulating the government, I have to say it has made a good choice. You will make a major contribution in a position that I feel is vital to the exercise of democracy in Canada.

To my way of thinking, the ultimate sign of success for the person in your position is that there are no more complaints and everything runs almost automatically. Getting to that point or making the current situation better will take a major change in the culture of the federal government.

Do you believe that there is a way to instill openness and a culture of access to information in the federal government, which is central to this act?

Ms. Legault: Mr. Chair, we are asked that question all the time. How can the culture in public institutions be changed to promote disclosure? I recently had a long discussion with Professor Thomas about this, and he said it is very difficult to bring about a radical change of culture.

We have seen that, and we are seeing it with what is happening in the United States with President Obama's executive directive and the open government initiative. There were clear expectations in terms of institutional disclosure.

At this point, opinions are mixed as to the success of this initiative. As I said earlier, here we have to work with all the access to information stakeholders. We cannot work just with institutions, parliamentarians, requesters and academics.

I believe that one of the main roles of the Information Commissioner of Canada is to act as a catalyst and bring together all these different viewpoints to reach the common goal of maximizing information disclosure.

In terms of the culture of access to information and more rapid change, I find that what works best is to work with each institution. We have worked with the Canada Border Services Agency for the past two years, and we have noted a major improvement in disclosure. They had a supposed refusal rate of 60 per cent, which is down to 40 per cent now. We are really seeing a commitment on the part of this institution.

We did the same thing with the Department of Justice and it had an impact on the entire system. The Treasury Board Secretariat has worked very hard with them because it plays a central role in training in all the institutions.

Can we change the culture completely and quickly? Sweden, for example, began in 1700 and now has a real culture of transparency. I believe we have a lot of work ahead of us.

The way to go about it is to work with the institutions. As far as parliamentarians are concerned, they will have to work hard on political commitment to the disclosure of information.

• (1540)

Senator Fox: My next point is more of a suggestion than a question.

At some point when you are with the Prime Minister, I would like you to talk to him about putting more emphasis on this sector during his regular meetings with the deputy ministers. I think that would go a long way to changing the culture.

Furthermore, given the society we live in, I would like to see a system where all deputy ministers would be evaluated on their performance with regard to certain criteria under the Access to Information Act. For example, the end of year bonus should include a performance review of the deputy minister and how he or she handles requests, the number of requests, the deadlines, etc. You know all about these issues. That would help change things greatly. It would require a commitment from all deputy ministers and it would be in their democratic and financial interest.

Ms. Legault: Thank you, Mr. Chair. I agree. At this time, performance evaluations related to access to information are undertaken in the context of the Treasury Board's management evaluation. Unfortunately, in my opinion,

access to information is just one element of information management on which deputy ministers are evaluated. We are working on that.

[*English*]

Senator Duffy: Thank you, Ms. Legault, for coming here today. I am intrigued and heartened by your news of budget increases for your office. That is very important, and I think a sign of the government's overall commitment to transparency.

I am intrigued by the revelation, from Senator Munson's question, about the CBC. Can you tell me what the problem is there? What is their refusal rate?

Ms. Legault: Mr. Chair, it is difficult for me to speak specifically about complaints from institutions until they are completed. I do not have the annual report with me, but in the annual report of this year, we have a special section on the new institutions, which provides the actual record on the complaints in relation to the CBC.

They had a high refusal rate. That being said, they received in excess of 400 requests as soon as they became subject to the act, within the span of a month. It took them over a year to respond to those requests for information. They were obviously not in a state of readiness to manage this workload. We worked with them in their first year and continue to do so, still to this day.

We are also in court with the CBC, because there is a provision in the act in relation to the CBC that there is exclusion for their journalistic and creative material. The CBC is taking the position that the Information Commissioner does not have the right to review these documents. We are in court at this point over this issue.

Senator Duffy: Does that include the salaries and the other financial aspects of the news operation?

Ms. Legault: The provision in the legislation allows for the disclosure of information for administrative matters. I have around 130 cases where I have not been in a position to review the documents.

I sent subpoenas to the CBC — that is in the public domain — for these documents. That subpoena led to us to Federal Court over this issue of disclosure of documents, to allow me to review. Therefore, at this point, I cannot answer this question because I have not been in a position to review most of the documents.

Senator Banks: Ms. Legault, I congratulate you on your nomination. You may have noticed that this place is more civil than the other place. We are also much less formal. In this place, we speak directly to each other — meaning no disrespect — rather than through His Honour.

I will ask you a question that we omitted to ask of an officer of Parliament in exactly the same situation not many years ago. If we had asked this question, it would have obviated a large subsequent problem.

Is there anything about you, in your background and in your history that we ought to know that you have not disclosed to anyone and that would be appropriate?

Ms. Legault: Not that I know of.

The Chair: Senator Duffy, could you put your final question?

Senator Duffy: Thank you, Mr. Chair.

My question was, simply, are you telling us that the CBC is refusing to disclose the salaries of their journalists — yes or no?

Ms. Legault: I do not know that I have a specific case in relation to that specific question. If I did have such a case, it would have to be resolved before I could disclose information concerning the case. I cannot disclose that information at this point.

Senator Munson: Just to set the record straight, and to have it on the record, the majority of these questions to the CBC are coming from Sun Media and Quebecor.

Senator Comeau: So?

The Chair: Honourable senators, I know that you will want to join me in most sincerely thanking Ms. Legault for appearing before us in the Committee of the Whole today.

Thank you very much. You are now excused.

Some Hon. Senators: Hear, hear!

The Chair: Honourable senators, is it agreed that the committee rise and that I report to the Senate that the witness has been heard?

Hon. Senators: Agreed.

The Hon. the Speaker: Honourable senators, the sitting of the Senate is resumed.

REPORT OF THE COMMITTEE OF THE WHOLE

Hon. Donald H. Oliver: Honourable senators, the Committee of the Whole, authorized by the Senate to hear from Ms. Suzanne Legault respecting her appointment as Information Commissioner, reports that it has heard from the said witness.

[*Translation*]

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, pursuant to rule 27(1), I wish to inform the Senate that, when we proceed to Government Business, the Senate will begin with Item No. 16 under Motions, followed by other items as they appear on the Order Paper.

INFORMATION COMMISSIONER

MOTION TO APPROVE NOMINATION ADOPTED

Hon. Gerald J. Comeau (Deputy Leader of the Government), pursuant to notice of June 16, 2010, moved:

> That in accordance with section 54(1) of the *Access to Information Act*, Chapter A-1, R.S.C. 1985, the Senate approve the appointment of Suzanne Legault as Information Commissioner.

(Motion agreed to.)

• (1550)

SUPREME COURT ACT

BILL TO AMEND—SECOND READING—
DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Tardif, seconded by 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. Pierre Claude Nolin: Honourable senators, I am very excited to have this opportunity to speak to Bill C-232 today.

At the outset, I want to say how impressed I am by the quality of the debates that have taken place with respect to this bill. Clearly this house can be reasonable, effective and thorough in holding productive debates in the interest of all Canadians.

I particularly admired Senator Carignan's speech. Unfortunately, I do not have 45 minutes, as he did, so I will be much briefer. Nevertheless, I want to pick up on some of the main points of his speech.

First, he provided a lot of specifics in his discussion of Supreme Court decisions relating to section 133 of the Constitution Act, 1867, as well as sections 16 and on of the Charter of Rights and Freedoms.

In reviewing the text of his speech, and to adequately prepare myself, I sought out an expert whose knowledge of the subject, while perhaps not as great as Senator Carignan's, specifically encompassed the evolution of case law in this area. I found Warren J. Newman's 2002 paper entitled *La progression vers l'égalité des droits linguistiques par voie législative et judiciaire*. This paper on language rights equality was presented at an Ontario Bar Association conference on the Charter of Rights and Freedoms.

Mr. Newman has been with Justice Canada since 1985. He was senior counsel or assistant counsel for the Attorney General of Canada in the following cases: *Bilodeau*, the *Reference re Manitoba Language Rights* in 1984 and 1992, the *Reference re Public Schools Act (Man.)*, the *Reference re Secession of Quebec*, *Arsenault Cameron* and *Montfort*, among others. Given the number of cases he has been involved in, his opinion seems valid to me.

Senator Carignan based part of his argument on a decision, or rather three Supreme Court of Canada decisions, dating back to 1986. In the jargon of language cases, we call them the "1986 trilogy." The trilogy is made up of three Supreme Court decisions: *Bilodeau*, *MacDonald* and *Société des Acadiens*.

Without going into detail, observers later described these three decisions as "restrictive." Some even said they represented a setback compared to Supreme Court decisions such as the ones in the *Blaikie* cases, which had come in the wake of the passing of Bill 101 in Quebec.

In this trilogy — and Newman says this — the guarantees in section 133 could almost be described as "narrow and minimal," when one uses the ruling by Justice Beetz, who spoke on behalf of the majority of the court, because Chief Justice Dickson and Justice Wilson dissented in this ruling. That may be why observers talked about a setback. I would even say, honourable senators, that they talked about a perhaps slightly pedestrian analysis of the evolution of case law and language rights in Canada, but that word is mine and certainly does not reflect the opinion of Mr. Newman, who was more respectful of the late Justice Beetz's decisions.

I would like to quote part of what Mr. Newman wrote:

> The late Mr. Justice Beetz, speaking on behalf of the majority in *MacDonald*, ruled that section 133 of the *Constitution Act, 1867*, included only a narrow, minimal guarantee regarding the use of French and English before the courts, a right that imposed no correlative duty on the state to accommodate the individual's choice of official language. According to Justice Beetz, section 133 is a constitutional minimum that could be complemented by federal and provincial legislation. But it was not open to the courts, under the guise of judicial interpretation, to improve upon the constitutional guarantees with respect to language rights.

In *Société des Acadiens*, referring specifically to subsection 16(3) of the Charter of Rights and Freedoms, which substantively repeats section 133 of the Constitution Act, 1867, Justice Beetz ruled that — as Newman put it:

> While "language rights belong to the category of fundamental rights", these rights "are based on political compromise", unlike the legal rights in the Charter, which "tend to be seminal in nature because they are rooted in principle.

You will understand, honourable senators, that the Supreme Court had made an important point. That was in 1986. In the years that followed, the Supreme Court made an effort to distance itself from this trilogy. As I have little time left, I will skip over some decisions and talk about the *Reference re Secession of Quebec*. In a major decision in 1998 with respect to a reference by the federal government, the Supreme Court ruled on the secession

of Quebec and on the rights of the parties in this potential unilateral action by the Government of Quebec. I quote Newman:

> In the *Reference re Secession of Quebec*, the Supreme Court of Canada identified four fundamental principles applicable to the issues submitted to the Court, including the principle of the protection of minorities.

This very important principle underlies the whole Canadian constitutional framework. Newman retained this principle, as it was used again later in a very well-known Supreme Court case, the 1999 *Beaulac* ruling, the year after the *Reference re Secession of Quebec*.

I again quote Newman:

> "Existing" language rights must be applied based on the "true meaning" of the principle of equality, that is, "substantive equality," which becomes the "correct norm to apply". Institutional bilingualism in the courts "refers to equal access to services of equal quality for members of both official language communities in Canada."

Newman was referring to paragraph 22 of the *Beaulac* ruling. Justice Bastarache, writing on behalf of the majority in *Beaulac*, wanted to ensure that all analysts and readers of his decision would note the distinction the Supreme Court decided to make with respect to the 1986 trilogy and therefore stated the following:

> . . . [l]anguage rights must in all cases . . .

He went to the trouble of emphasizing that it means in all cases.

> . . . be interpreted purposively, in a manner consistent with the preservation and development of official language communities in Canada . . . To the extent that *Société des Acadiens du Nouveau-Brunswick*, *supra*, stands for a restrictive interpretation of language rights, *it is to be rejected.*

• (1600)

I would now like to talk about Mr. Newman's conclusions, which are very interesting:

> If there is a *leitmotif* in Canadian case law regarding the interpretation and application of language rights, it is the desire of the courts to protect and promote the concept of equality between French and English, which respects the legal, constitutional and legislative framework, the history of the country, the demographic realities, the vulnerability of minorities and the remedial role these rights play.

As Justice Betz and Justice Bastarache encouraged us to do, let us take a quick look at that political compromise that led to section 133.

Between 1841 and 1861, the demographics of Canada saw a shift in plurality. I will repeat, because I want to be sure that you all understand. In 1841, there were 650,000 people in Canada East, Quebec, Lower Canada. In Canada West, Ontario, there were 450,000 people. Over the following 20 years, between 1841 and 1861, there was a shift in that plurality.

In the Act of Union, which preceded the Constitution Act we are all familiar with, the two united Canadas had parity. In other words, there were as many members of Parliament from Ontario as there were from Quebec. Unfortunately, that led to some instability.

Take, for example, the period from 1854 to 1864, when 10 successive governments were formed and there was political instability and demographic change. In 1864, for obvious reasons, the leader of a political party in Ontario, George Brown, started calling for proportional representation. He proposed a coalition to John A. Macdonald and George-Étienne Cartier, who accepted. The only condition Brown set was that there be a new Constitution based on a more equal sharing of jurisdictions. Cartier accepted that condition.

Today it seems irrefragable that in 1864, George-Étienne Cartier never would have accepted the coalition with Macdonald and Brown had it not been for his strong conviction and his plan to obtain better representation for Lower Canada in Parliament in the new Canada, as well as recognition of the language rights of French Canadians. This political compromise would later give rise to Canada and a true synallagmatic partnership.

In one of his truculent allegories, Senator Segal was right to remind us of the importance of the great Canadian compromise, given that many historians, especially francophone historians — and secessionists at that, unfortunately — have only nasty things to say when we should be talking about how vitally important this is to building our Constitution.

I would like to read what is written in clause 1 of Bill C-232, which proposes amending section 5 of the Supreme Court Act. Subsection 2 states:

> In addition, any person referred to in subsection (1) may be appointed a judge who understands French and English without the assistance of an interpreter.

So what does this clause propose?

First, it proposes the principle of an additional qualification, the linguistic qualification of understanding English and French, and prohibits the assistance of an interpreter.

Honourable senators, my 15 minutes have expired and I would like to request another five minutes.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Senator Nolin: Honourable senators, I think we need to accept the principle that Supreme Court judges should understand both official languages, as required in Bill C-232.

Instead of amending the Supreme Court Act, I believe that subsection 16(1) of the Official Languages Act should be amended. The committee that studies the bill should be asked to assess the possibility of abandoning the Supreme Court amendment and transferring it to the Official Languages Act.

The reference to the absence of interpretation also needs to be eliminated, given that even people who understand both languages very well sometimes rely on the services of an interpreter, and I do not see any point in prohibiting this practice. Only the principle should be maintained.

One other principle needs to be kept in mind as the committee examines Bill C-232. I will once again refer to something Senator Segal said.

The laws we create are not meant to cause chaos. That is not our goal. We must accept the principles that come out of all the evolving case law that the Supreme Court gives us. As we know, the Supreme Court shifts the responsibility of advancing the equality of French and English onto Parliament, as subsection 16(3) of the Charter of Rights and Freedoms states.

We have to accept that there will be a transition period. Senator Champagne made reference to that in her speech, and it will be up to the Official Languages Committee to decide, after hearing testimony from representatives of the various bar associations, whether the period will be 5, 10 or 15 years. The most important thing is to accept the principle that Supreme Court justices understand both languages.

Then we shall see whether we want the principle to apply in 15 years. We have to have a transition period, and the committee must decide how long that period will be in order to avoid the chaos to which Senator Segal was referring.

Why am I making these recommendations? First, I want to make things clear. We are not talking about bilingualism in the bill. We are talking about understanding. There is a very important difference. Ask public servants who have their language skills assessed and they will tell you there is a difference between category A, "bilingual," and category B, "understanding."

Second, I believe that the case law is clear despite the fact that I summed up Mr. Newman's paper too quickly. I could have taken a paper by Claude Ryan, who did an extraordinary study on the matter, but I do not have enough time.

Third, I think we have to accept the principle of protection of minorities that the Supreme Court refers to in the *Reference re Secession of Quebec*. If you do not accept the principle of advancement, I submit that section 133 talks about "pleading." What does pleading mean?

I consulted *Le Petit Robert* to find that "plaider" means "to defend with justifications or excuses." As you can see, pleading is not just about talking, but also about being understood.

In closing, for the past decade or so we have been passing legislation that accepts the principle of bijuralism. We are now asking that legislation respect both English and French and also the principles of common law and civil law, all in the same legal document.

• (1610)

I would like all Supreme Court justices — not just the three justices from Quebec, but all Supreme Court justices — to understand the importance of bijuralism.

[Senator Nolin]

My apologies to the interpreters but, through no fault of their own and without them having known it, in my 20-minute speech I used some words that honourable senators may not have heard correctly interpreted. One of those French words was *synallagmatique* — "synallagmatic" or "reciprocal" in English. I would be surprised if that were the word chosen. I also used the word *irréfragable*, which may be "irrefragable" or "indisputable" in English. And when I spoke about Senator Segal, I spoke of his "truculent allegory." I was not talking about a truck or a lorry; I was referring to the vehemence he displays. I hope that those who were listening to me in English were able to understand what I was trying to say. That is the problem. That is why we must have nine judges who understand both of Canada's official languages, whether or not they are fully bilingual.

Hon. Fernand Robichaud: Honourable senators, today I will be speaking in support of Bill C-232, in the belief that we need to support this bill in 2010 in order to take another step towards equality and equity in the use of our country's official languages.

I am always surprised when some people say they are tired of hearing about this bill, which would allow those pleading their case before the Supreme Court to be heard and understood by the justices without the assistance of an interpreter. That is the scope of this bill.

We cannot forget that this issue was discussed at length in 1988 as part of the studies surrounding the adoption of Bill C-72, which made significant amendments to the Official Languages Act.

The honourable senators in this chamber will not be convinced of this bill's merits by reason alone. I think that we also need to appeal to the same sense of justice and generosity shown by those who succeeded in having Bill C-72 debated and adopted in 1988.

When rereading the debates from this chamber and the other place, as well as the committee reports, it is clear that the Progressive Conservative government of the time showed a great deal of generosity as well as steadfast courage in defending and adopting these amendments to the Official Languages Act.

Generosity, courage in the face of adversity and tolerance are intrinsically Canadian characteristics.

In 1988, the justice minister who sponsored the bill, Ramon Hnatyshyn, said:

> This bill reflects Canadians' openness and tolerance with respect to language and culture. One of the most cherished characteristics of our national identity is our generosity to one another.

While talking about official languages and the Supreme Court, Mr. Hnatyshyn said:

> . . . those who observe the workings of the Supreme Court will say that someday — I think we will get there in time — all Supreme Court justices will have to be bilingual.

He went even further, suggesting that they needed to do more than understand:

> This is not about being able to converse in both languages. This is about really knowing the legal terminology in order to understand the arguments and the principles.

On July 20, 1988, Mr. Hnatyshyn said:

> Just think of the progress we have made in this area in the past 10 years. Just imagine how things will be in 20 years.

That is what he said just 22 years ago. The Honourable Senator Lowell Murray, then government leader in the Senate, also stated that the C-72 amendments would, among other things, "advance the equality of status and use of English and French."

To my mind, this means that the equality of status and use of English and French had not yet been achieved, but was in progress.

In addition, during an appearance before the committee in 1988, and in response to a question from MP Jean-Robert Gauthier on the exclusion of the Supreme Court from the provisions of Bill C-72, Yvon Fontaine, the president of the Fédération des francophones hors Québec — known as the association at the time — and dean of the Université de Moncton's law school, a guy from my parish, from my town of Saint-Louis, who is now the university rector, said:

> We believe that no court should be excluded, including the Supreme Court of Canada.

More recently, former Supreme Court Justice Claire L'Heureux-Dubé stated last April in an interview for the newspaper *Le Devoir*:

> I believe that Supreme Court judges must be bilingual. The bilingualism legislation creating an exemption for Supreme Court judges is an anomaly in 2010, and should have been eliminated a long time ago.

Therefore, some legal experts find it completely logical, appropriate and fair that Supreme Court judges must understand the language of a litigant without the assistance of an interpreter.

In fact, the objective of Bill C-232 is not a recent concern and 22 years later we are still debating whether Supreme Court judges should be required to understand the other official language without the assistance of an interpreter.

Honourable senators, we must realize that the bill is a logical step, a progression toward greater justice and equality in the use of the official languages in the Supreme Court of Canada.

This bill will allow those who plead cases in the court to be heard and understood by the justices without the assistance of an interpreter.

It also means that the justices of the highest court in the land will have to have sufficient knowledge of the other language to understand the pleadings and the nuances of the arguments.

I do not need to repeat all the arguments in favour of this bill, as they have already been eloquently presented.

However, I believe it is necessary to make the intention of the bill perfectly clear and to make a few comments in that regard.

Contrary to what Senator Carignan suggested in his speech, in my opinion, Supreme Court judges will retain their right to express themselves in the language of their choice.

Nothing in this bill eliminates the right of Supreme Court judges to choose which language they will use to express themselves. That is not the intention.

The judges of the court must have the ability to understand both official languages without the assistance of an interpreter. That is all.

Evaluation of the linguistic proficiency of judicial applicants was raised and in that regard I must say, as we all know, the federal administration has been assessing that qualification for other federal courts since 1988. It does not seem to pose a major problem.

Let us ask ourselves just one question: in a country that has chosen to have two official languages, is it too much to ask that Supreme Court judges be able to understand the other official language? Some say yes, others say no, and still others are unsure.

I firmly reply that it is not too much to ask.

• (1620)

Some senators feel that legislation is not always the best way to solve such a problem. To that argument I would simply reply that sometimes, although it may not be ideal, legislation is the only solution.

Consider the context in which the Official Languages Act was passed in 1969. The bureaucracy of Canada operated entirely in English. The main idea was to allow French-speaking Canadians to be able to deal with federal institutions in the language of their choice and to receive services in their mother tongue. At the time, the Official Languages Act was needed in order to guarantee the rights of French-speaking Canadians and to maintain consistency across the country. As we know, the act was amended in 1988. The 1988 amendments to the Official Languages Act brought about by Bill C-72 incorporated linguistic duality into Canada's institutions, promoted the development of Canada's official language minority communities and guaranteed equality of status and equal rights and privileges as to their use in all federal institutions.

An entire section dealt with the administration of justice. The amendments required the courts to ensure that any person could be heard in the official language of his or her choice and, when required, to provide simultaneous interpretation into the other language. Judges had to listen to and understand the French or English without the assistance of an interpreter. However, judges of the Supreme Court of Canada were exempt.

At the time, there were long discussions in committee about an amendment to include the Supreme Court in the provisions of this bill. In 1988, the government authorities believed that it was best to wait and not move too quickly. It was best not to add constraints on the Supreme Court's operations at that time.

It is understandable that this step would have to be taken eventually. Although it may have been considered too difficult to require judges to understand the pleadings without an interpreter, it seems to me that an inability to understand without an interpreter must also create difficulties in the operations of the court.

When Bill C-72 was being studied in the other place, I was an MP and I participated in the debates. This is what I had to say about Bill C-72. It is rather odd to be quoting myself, but I will risk it:

> Yet, there is a deficiency in this bill in view of the fact that the Supreme Court will be excluded. When we deal with this bill in committee, Madam Speaker, we will have to see whether these provisions could not apply also to the Supreme Court.

I would like to point out that the woman I addressed was the Honourable Senator Champagne, who was the Deputy Speaker of the House of Commons.

When I participated in the debates on Bill C-72 in 1988, the Honourable Senator Champagne was in the chair and I voted — of course, I was a member of the Liberal Party — with the Progressive Conservative members, including Ms. Champagne, Mr. Campeau, Mr. St. Germain and Ms. Fortin-Duplessis who, at that time, sat in the other place.

Senator Champagne: We are not getting any younger.

Senator Robichaud: Exactly, time is marching on and I believe, Madam Senator, that we must take action. Today, it is time to take action, especially since it was clearly understood at that juncture that the time would come to do so. The time has come to take action. After four decades, one would have thought that bilingualism would be accepted and implemented in all federal institutions. Unfortunately, that is not the case.

The members of the Standing Senate Committee on Official Languages know what I am talking about, and you also know the difficulties and hurdles that have to be overcome day after day, month after month, year after year, to ensure that bilingualism is respected in this country. It is a never-ending fight to ensure the rights of French-speaking people in this country. In an ideal world, the government would present measures similar to the one that is before us to help advance the equality of official languages within our justice system.

However, that is not the case. It is the same every time — once again, we have to set out on another long journey to have our linguistic rights respected. I think that it is important to understand that justices do not need to be perfectly bilingual but, rather, they need to know legal terminology and understand the legal principles and arguments without the help of an interpreter.

I am aware that there is still a lot of sensitivity about the question of bilingualism in Canada today. Those who are opposed to this bill have rehashed the same concerns and arguments. The objections raised seem to me to be similar to those raised in 1969 and 1988. This hesitation and concern that we are seeing is the same each time we try to make the Official Languages Act fairer and more equal.

Could I request an extension of my time, honourable senators?

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Senator Robichaud: Thank you, honourable senators. I think that Bill C-232 is the next logical step in this trend towards greater equality and more justice in our country's legal institutions. Yes, it is a question of equality, but it is especially a question of common sense. If judges in a number of courts are already required to understand both languages, why would we not expect the same of the judges of the highest court of the country?

As Senator Rivest so eloquently said, when speaking about the Supreme Court:

> . . . I would find it hard to understand, precisely because it is one of our country's most important institutions, if linguistic duality were not fully realized there. It would be ridiculous, or at least peculiar, if we said that the Supreme Court of Canada is such an important institution that there is no need for those seated on its bench to know both of the country's official languages. This would be complete nonsense.

For those of you who think this bill raises some issues that are insurmountable, I will share with you this quote from the Commissioner of Official Languages, Graham Fraser. He blew the argument that it is impossible to find bilingual candidates in western Canada right out of the water when he said:

[*English*]

> It is worth noting that Chief Justice Beverley McLachlin was born and raised in Pincher Creek, Alta.; studied at the University of Alberta; practised in Edmonton, Fort St. John and Vancouver; taught at the University of British Columbia; and served as a judge in British Columbia. Yet she, and seven others of the nine Supreme Court judges, can hear cases both in English and French.

[*Translation*]

Eight of the nine justices now serving on the Supreme Court are able to hear pleadings in both languages. Why ignore Canada's linguistic duality when appointing judges to the Supreme Court? With some political will, a government can find brilliant people in every region of the country to sit on the Supreme Court; competent people who can understand the litigant's own voice rather than through the voice of an interpreter.

I also think that by making bilingualism a requirement to sit on the Supreme Court, we are sending a clear message to the legal community across the land about the importance and equality of

both our official languages. Whenever it is possible to achieve greater equality and fairness, our leadership must take the necessary measures to do so.

Honourable senators, in the most non-partisan spirit, I urge you to support Bill C-232.

• (1630)

Parliamentarians have always had the ability to rise above partisanship to address the language issue.

When the Leader of the Government in the Senate asked senators to adopt Bill C-72 in 1988, Senator Murray used these terms:

> That is essentially what I am asking honourable senators today: to take another step forward in respecting the commitment made by the federal government with regard to official languages.

He went on to say:

> The bill before us takes us further down the path that the Fathers of Confederation laid out for us, a path that if followed properly traces out the principles of justice, tolerance and respect for our fellow citizens.

That is not unlike what is happening today. We can take a step forward in the spirit of the Fathers of Confederation.

For those who often say that we must respect the will of the elected members of the other place, now is our chance to do so.

With a non-partisan attitude, an open mind and in a spirit of generosity, we can, by passing Bill C-232, show leadership and demonstrate full support for our French-speaking citizens.

[*English*]

Hon. Dennis Glen Patterson: Honourable senators, I want to take a different angle on Bill C-232. I will explain where I am coming from, which might be a different place from the author of this bill. My perspective on bilingualism comes from my experience working in the North. I know what it is like to work in an environment where the working language is not one's first language or even a language that one can speak — the perspective of a majority indigenous population, whose first languages were spoken for thousands of years before the Portuguese, Spanish or Scottish tongues were heard in the North.

The whalers, missionaries, merchants and government officials came in waves. Their working language was not the language of the population, which, in my region, was Inuktitut. The Aboriginal languages were overwhelmed. When I was in government, we worked hard to respect the rights of Aboriginal peoples to speak and receive services, including education, in their first languages. We were acutely sensitive to the need to communicate clearly with our Aboriginal majority. Fundamentally, communication is the aim of this bill. We made massive efforts to preserve and enhance the Aboriginal languages of the indigenous residents of the North while ensuring that French first language programs were also made available to our significant francophone population in some communities.

We welcomed the enhancement of French language services in the North but we insisted that it should not be offered without parallel efforts for the first language of the original residents. I am proud to say that we tackled the heart of the justice system in Canada, which is what this bill addresses. An even more sensitive issue, but perhaps as important as the qualification of justices, is the qualification of jurors. We believed in the principle of the English Common Law that an accused was entitled to be tried by a jury of peers. An accused unilingual Inuk should be given the right not only to have the trial conducted in Inuktitut but also to amend the Jury Act to specify that an ability to speak French or English as well as an official Aboriginal language should be a qualification for serving as a juror. We changed the law to ensure that an inability to speak English or French would no longer bar a person from serving on a jury where the language of the community was Aboriginal.

How did we make this law work? We did not make this law work by training jurors, honourable senators. We knew this law would work because we had full confidence in the professional interpreters, of the interpreter corps, who were authorized to sit in the jury room during deliberations and who accompanied the court party on its circuits throughout the North.

Honourable senators, I believe interpretation is the key to addressing the mischief that this bill addresses. I have experienced many times the marvellous privilege of having a skilled interpreter become a party to a meaningful dialogue on issues of vital importance that overcome barriers of language and, yes, even barriers of culture due to the familiarity of the interpreter with each party's language and culture. In the North, I have seen many marvellous cultural and technical exchanges with people of the circumpolar world where languages could have been huge barriers. However, there were no communication barriers amongst people of goodwill, who had so much more in common due to their living in an Arctic environment than what could keep them apart. This is what we want to see in a justice of the Supreme Court of Canada when conducting the trial of a litigant whose first language is French. We want that justice to understand every nuance and meaning, direct or indirect, every word and gesture. I ask myself: What if a lawyer with a good legal mind and a lifetime of distinguished experience with the law was not good with languages? Some people have facility and some do not. I fear I fall into the latter category.

I worked in a territory that was roughly two thirds Aboriginal people. Happily for many of those indigenous people, their first languages were alive and well. In my community of Iqaluit, we still operate routinely in English, Inuktitut and French, acutely conscious of the importance of language as a carrier of culture across a cultural divide. The linguistic and cultural divide might be greater between Aboriginal peoples in Canada and the dominant anglophone and francophone populations in various regions of our country.

I studied Inuktitut in several immersion courses. I studied dictionaries and manuals and practiced Inuktitut which, at its origin, is basically a hunting language. I learned the language on the land. While I loved speaking Inuktitut on the land and trying

to learn it, I quickly realized that I could never hope to master the subtleties and nuances of a language replete with archaic words that only the elders knew. It is a language with distinct and different dialects and, most importantly, it is a language based on a world view that was ultimately unfamiliar to me. I became resigned to the fact that I would never master the language in applying it to issues such as constitutional development, land claims and other highly complex legal issues.

That was not my only challenge because seven Dene languages were spoken in the Northwest Territories at that time. Our official language policy was to recognize every one of those languages, even those that were not strong. We gave official recognition to those languages.

• (1640)

In fact, this year, the Nunavut legislature went even further and elevated the Inuktitut language to the status of English and French for the purposes of the Nunavut Legislative Assembly proceedings and in Nunavut's courts and government services.

I cite this background of mine, honourable senators, not to qualify myself as an expert in languages but to share my experience and to provide some common sense based on that experience. My simple message today is this: We succeeded in eliminating significant barriers of language and culture — English to Inuktitut to Chipewyan to Cree and any other combination or permutation of those seven languages — by the quality of interpreters and translation.

We did not do this by training our legislators. We did this by securing the most experienced, capable interpreters available, qualifying them, training them and setting high professional standards. They helped us to tackle difficult and sensitive political issues, public policy issues of the day, including the constitutional evolution of the Northwest Territories and the surrender of Aboriginal rights in return for a land claim agreement. These weighty issues were dealt with across huge language barriers. Again, I say that we did that by training our interpreters and showing respect for their independence and professionalism.

Honourable senators, I have carefully read Senator Tardif's concern, as I understand it, that translators at the Supreme Court of Canada may not always be adequately performing their task in translating not just the words and phrases but the nuances and legal subtleties. Let us examine if this is really and truly a problem. An anecdotal example is of a man named Mr. Saint-Coeur who was cited as Mr. Five O'clock in one court hearing. Frankly, honourable senators, I am not sure that this is a widespread problem. I have worked with many professional interpreters over the years in the North, and I believe that skilled interpreters can bridge these barriers. Amazingly, they can do it simultaneously. It is exhausting and challenging work, whether it is in a courtroom, during negotiations, in a legislature, or for diplomatic missions, but if we pay our interpreters well, respect them and ensure that they are well trained, they can move between the two cultures with ease and detachment. They understand their solemn responsibility and allow elements in a diverse society to work in harmony and peace.

Honourable senators, I want to support the work of the interpreters because, if you think it is easy to be a simultaneous interpreter, try to repeat to someone what a person is saying into your ear on a telephone, or try to repeat what is being broadcast on a radio to someone through a telephone. I find that exercise almost impossible and it exhausts my patience and energy the longer I try. Honourable senators, our professional interpreters do simultaneous interpreting from one language to another. The mental gymnastics and cultural journeys, especially when you add the nuances of the cross-cultural dimension I referred to earlier, makes their skill unique and valuable.

Honourable senators, I believe that the interpreters in the Supreme Court of Canada and the professional interpreters in this chamber are equally qualified to those I have worked with in the North and, perhaps, possess superior qualifications. They have years of experience. They understand the nuances of one culture to another. I found it unfortunate one example was cited, perhaps inferring that there are often huge errors in communication arising from poor interpretation. With all due respect, I do not believe that this is the case. If it is, and if we do really have a problem with the quality of interpretation provided in the Supreme Court, then let us deal with that problem. Let us look at the training, experience and qualifications of the interpreters.

I believe that the reason for this bill, or the mischief that the bill seeks to address, which is what we learned in studying legislation, is to ensure that there is improved communication and understanding among litigants and judges. I think there is a simple fix to this problem that will not diminish the talent pool in this great country of ours and that will not inflame existing divisions based on language or culture in Canada, especially among our francophone friends and fellow citizens. I fear this bill is fanning those divisions. All we need do is ensure that the communication and understanding that takes place takes into account these nuances and subtleties. Honourable senators, the simple way to ensure success is to hire the best, highly trained, experienced, certified translators and interpreters. These people can ensure that these tiny gaps, based on culture and familiarity with the subtleties of language, are understood. These highly skilled people are so good that they can do this and interpret simultaneously.

Honourable senators, I would not ascribe the accusation that our interpreters are not up to standard to the authors of the bill. I have not heard them say that directly and perhaps they would not want to say that our interpreters are incapable of doing their jobs. However, if that is a problem, then let us look at that issue. Let us stiffen the requirements, institute rigorous quality monitoring and fix that problem, without inflaming tensions in this great country around language.

Some Hon. Senators: Hear, hear.

Senator Patterson: We are a bilingual country, and we should be proud of that. Let us be sensitive about inflaming passions around language, which can lead to divisions and resentments in this great land. We need to find and cultivate public policy discussions in areas that can bring us together in this great country.

Honourable senators, I see no reason for this bill. The problem its proponents seek to address, as I understand it, can be solved by good translating services, including people who understand and love languages. They are the best people to take on this job. Leave judging to the judges. Leave interpreting to the professionals. All of us in this chamber know how excellent they are. For all these reasons, I will not support this bill.

Hon. Claudette Tardif (Deputy Leader of the Opposition): Honourable senators, may I ask a question?

The Hon. the Speaker: We had reached the point where the honourable senator's 15 minutes had expired, and there was no request for an extension of time.

Senator Patterson: May I seek another five minutes, Your Honour? I would be happy to answer a question.

The Hon. the Speaker: Is it agreed?

Hon. Senators: Agreed.

• (1650)

Senator Tardif: Honourable senators, I want to begin by saying I am sympathetic to the presentation and to the situation in the North. I am supportive of the efforts that have been made to move forward the Inuktitut language, all the Aboriginal languages and the languages in the North.

This bill deals with Canada's two official languages. In that sense, it is not a question of translation. There has never been any intention in the bill to criticize the professional work of the translators and interpreters. The question here is one of equality and justice.

I suggest to the honourable senator that the comments made today by Senator Nolin and Senator Robichaud speak to the heart of the matter of equality of status for our two official language groups, and of the political history and the compromise addressed by Senator Nolin.

Does the honourable senator feel that the question of equality is not at the core of this bill?

Senator Patterson: First, I want to express my gratitude to Senator Tardif for her support for Aboriginal languages, and also to honourable senators in this chamber for the support given to the Inuktitut language. It thrills me to hear that language spoken in this chamber, and it thrills my constituents, as well.

To answer the honourable senator's question, I have characterized this bill as being about communication and the quality of communication. The honourable senator asked if I do not agree that the bill is about the equality of status of languages. With the greatest of respect, I think that if one can equip the Supreme Court or this chamber with skilled interpreters, then the equality is preserved between a unilingual speaker of any language and another language that the person must understand. The equality comes from the quality of communication, rather than the ability to speak a language.

I agree there is a question of equality that we are concerned about, honourable senators. However, I think it is equality from the point of view of understanding and communication rather than from the status of the language itself. The issue of equality can be addressed through communication and understanding.

Senator Tardif: The question here is not of equality of language but equality of the two official language groups and the communities of people who use those languages. It is a question of the equality of the people who choose not only to use either official language but to be understood in either of the two official languages.

Senator Tkachuk: Do you have evidence that they are not?

Senator Tardif: That equality is not there in its current incarnation.

Can I perhaps ask the honourable senator if he feels that, with what has been presented in all of the discussions held today —

The Hon. the Speaker: Honourable senators, I must interrupt. The extra five minutes have expired.

(On motion of Senator Meighen, debate adjourned)

[*Translation*]

BUSINESS OF THE SENATE

Hon. Claudette Tardif (Deputy Leader of the Opposition): Honourable senators, I have a question for Senator Comeau. Bill C-232 has been before the Senate since April 13, for 70 days now. A number of senators on both sides of the chamber have spoken eloquently as part of this debate. The Leader of the Government in the Senate even said, in a *La Presse* article on April 21, 2010, that she thought Bill C-232 should be sent to committee, and I quote, "probably before the summer."

Could Senator Comeau tell us when the government plans on moving forward with this bill, especially since it was passed by a majority of parliamentarians in the other place?

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, if I remember correctly, Bill C-232 is a private member's bill. Unlike the approach taken by your side with the firearms bill in the other place, where members of Parliament were ordered by their leader to vote against the bill, on our side, we respect private members' bills, and have not received any orders from our leader on how to vote on this bill.

So a private member's bill from the House of Commons will be handled the same way in this chamber. If other senators wish to speak at second reading before endorsing the principle of this bill, that is their right. You should also support that. We must all have that opportunity.

A number of senators on this side of the chamber have not yet had the opportunity to speak. They are carefully examining the bill and we will give them the time they need.

The Hon. the Speaker: Honourable senators, I wish to review the procedure used and set things straight. I classified the Honourable Senator Tardif's comments as a point of order. It was an exchange of information on the process. Since that question is now resolved, we will proceed.

[*English*]

CRIMINAL CODE

BILL TO AMEND—SECOND READING—
DEBATE SUSPENDED

On the Order:

> Resuming debate on the motion of the Honourable Senator Banks, seconded by the Honourable Senator Moore, for the second reading of Bill C-464, An Act to amend the Criminal Code (justification for detention in custody).

Hon. Anne C. Cools: Honourable senators, I rise to speak in support of Senator Banks and Bill C-464. This bill will amend the Criminal Code's interim release, that is, bail provisions, regarding the necessity to detain an accused for the protection of the public. It will add to paragraph 515(10)(*b*) the words "or any person under the age of 18 years."

These words will support the judges to weigh the safety of children when considering bail for accused persons. It will also fill the lacunae in the criminal law made apparent by the murder of 13-month-old Zachary Andrew Turner by his mother, Dr. Shirley Turner, on August 18, 2003. She simultaneously killed herself. Having drugged him and herself with high-potency Ativan, she strapped Zachary to her body and waded into the Atlantic Ocean off Newfoundland. Dr. Turner had recently returned there from the United States from where she had fled to avoid criminal charges for the murder of Dr. Andrew Bagby, her former boyfriend and the father of Zachary. Zachary was the last of her four children by three different fathers.

Honourable senators, this murder gave us all pause. Bill C-464 will amend the Criminal Code. It will script the protection of children into the relevant provisions — those before the court — as the court considers bail for accused persons whose crimes are violent, when those children are affected by the crime. This bill will support judges and child protection agencies to be attentive to children in these circumstances.

• (1700)

I would like to thank the Honourable Senator Banks, the Senate sponsor of this bill. I would also like to thank the Newfoundland Liberal Member of Parliament for Avalon, Mr. Scott Andrews, for his work on this bill in the other place.

Honourable senators, I have spoken by telephone with Mr. David and Mrs. Kathleen Bagby, the parents of Andrew Bagby, their only child, and also the grandparents of Zachary Andrew Turner. They telephoned me. They knew of my extensive work in family violence and family conflict. I returned their call and spoke with them at some length. Since then, my office has had many exchanges with them.

Honourable senators, in 2001, sorrow knocked at their door. The Bagbys lost their only child, Andrew, to murder. The greatest tragedy that can visit a parent is the loss of their child to death, and this is enlarged when it is to murder.

When I spoke with them, their love and depth of feeling for their son was touching and total. The loss of both their son Andrew and their grandson Zachary is a sorrow and seems to be more than they can bear. This has been an unspeakable and incalculable grief for them and their friends. After learning that Dr. Turner, the accused murderer of their son, was pregnant with his child, the Bagbys moved at great expense from California to Newfoundland to be closer to their grandson, Zachary.

Honourable senators, the crime that Dr. Turner was accused of was not one of impulse, spontaneity or sudden uncontrollable fury, as some crimes of passion are. It was calculated, premeditated and required much thought, planning and determination in its execution.

On November 5, 2001, Andrew Bagby was shot five times and, in addition, received blunt trauma to the back of his head.

He had ended his relationship with Shirley Turner, who was 10 years older than he, because of her personality problems, including aggression and rage. Two days later, she drove 16 hours from her home in Iowa to his home in Pennsylvania, after which Dr. Bagby was found dead near his car in a park close to his home. In fact, his friend, Dr. Clark Simpson, a few hours before Dr. Bagby was to meet her, pleaded with him not to meet her alone.

Honourable senators, Shirley Turner had fled to Newfoundland, her home province, where, in December 2001, she was arrested and charged with Andrew Bagby's murder. Thereafter, she was subject to many judicial proceedings, including extradition. Throughout these proceedings, it seems that the safety of Zachary, this little person, was not given the attention it deserved.

On April 29, 2010, here in the Senate, Senator Elizabeth Marshall, a Newfoundland senator and a former Minister of Health and Community Services, spoke on this bill. She is very informed. She told us about Zachary's child death review by Dr. Peter Markesteyn in 2006, called the *Turner Review and Investigation*. She said:

> A lengthy report came out of that review. It was very critical of child welfare people in the province. . . .
>
> The report concluded that young Zachary should not have died. While child welfare people had been concerned about Zachary's mother, it seemed that Zachary did not get the attention he deserved. More focus should have been on Zachary and his protection. . . .

Senator Marshall said that the child welfare people had been concerned with Zachary's mother and that he did not get the attention he deserved. This is noted time and time again in these cases.

Honourable senators, I come now to Shirley Turner and the judicial decision to release her from custody on bail. The conditions for granting judicial interim release, bail, are codified in the Criminal Code, section 515 (10)(b), which this bill will amend. As always, the court must weigh the necessity to ensure the accused's attendance in court. In addition, the court must also heed subsection 10(b). The court must also consider that the

detention of the accused may be needed for the protection or the safety of the public, with regard to the likelihood that the accused, if released on bail, will commit a further criminal offence.

Honourable senators, a determination of such likelihood is a grievous and difficult matter for any court, and would demand any court's most serious and measured attention.

Pending an appeal in her extradition case, the Newfoundland and Labrador Supreme Court of Appeal, on January 10, 2003, presided by Madam Justice Gale Welsh, allowed Shirley Turner's application for interim release and granted her bail. It seems that the Crown prosecutor did not convince the court that it was necessary for public protection to detain Shirley Turner in custody. It seems that the court concluded that her crime, though violent, was specific in nature, directed to a specified victim.

Madam Justice Welsh, in her ruling granting bail said at paragraph 35:

> . . . I am satisfied that Dr. Turner's detention is not necessary in the public interest. The question of public interest involves an assessment of public protection, in the sense of whether public safety would be compromised if Dr. Turner is released from custody, and public perception, in the sense of public confidence in the administration of justice.

She added at paragraph 36:

> Regarding the public safety issue, while the offence with which she is charged is a violent and serious one, it was not directed at the public at large. There is no indication of a psychological disorder that would give concern about potential harm to the public generally.

Honourable senators, the court did not order a psychiatric examination. Dr. Turner's history of depression, aggression, manipulation, a previous suicide attempt and several restraining orders against her did not seem to inform the court's decision. It appears that the court had no worries, no concerns, for Zachary's safety. It appears that the words "public safety" did not include this little person. That he could be at risk seemed not to cross anyone's mind, except Mr. and Mrs. Bagby, his grandparents.

Honourable senators, despite all the evidence and data on the role of women and mothers in severe and lethal child abuse, many maintain a belief — a stereotype, a myth, an illusion — that women are incapable of harming their children. Some choose to uphold the moral superiority of women; that is, that women are morally superior to men, that men are morally inferior to women and that somehow men are naturally morally defective and naturally violent. For some, this is a shibboleth; for others, a closely held ideology.

The pernicious notion that women are incapable of aggression and murder is a gargantuan obstacle in the business of protecting children, particularly from their parents — and I could give you case after case after case. The literature and data on child abuse informs that the perpetrators of child abuse and neglect against children are often their parents, and more often their mothers.

We must understand, honourable senators, that most mothers and fathers will never harm their children; yet too many children still perish because, despite all the evidence to the contrary, persons in positions of power decline to admit and refuse to see that women are capable of aggression, violence and murder.

Honourable senators, this disinclination, this refusal to admit is a gigantic obstacle and problem in the protection of children. In fact, this denial of female violence compromises the protection and safety of children. I add that this disbelief is a tool in the hands of those unscrupulous and manipulative women who perpetrate serious harm against their children. These women are crafty, cunning and guileful. They often possess unusual and exceptional capacity to manipulate and deceive. Meanwhile, they affect a posture of innocence, pureness and sometimes fragility. They are adept and skilled at deceiving professionals, police, prosecutors, child protection workers, even their own family members, friends and neighbours.

Honourable senators, these cases often involve tangles of pathologies — many pathologies, not merely one. These offenders, malefactors, are able to evade detection and investigation because they exploit other people's disbeliefs and denials of their real potential for violence. These women work those disbeliefs to their wicked purposes. This deserves a study all by itself.

Honourable senators, I raise the Canadian case of the 1992 death of five-year-old Matthew Vaudreuil at his mother's hands. This little boy suffered her persistent abuse. I believe there were at least 60 reports on record. He suffered this abuse until she killed him by asphyxiation. The Commissioner, Judge Thomas Gove, who inquired into Matthew's death, said in his 1995 *Report on the Gove Inquiry into Child Protection in British Columbia*:

> Although the ministry's legal and financial authority was to provide services to protect Matthew, services were in fact directed more to the benefit of his mother. The ministry, its employees and contractors lost sight of why a child protection service exists, and who they were supposed to be protecting.

• (1710)

Here again we note the recurring theme of mother first, child last. I thank God that these events are rare, but still too common, when we consider the billions of dollars spent on child protection, unlike eras past.

Honourable senators, I come now to the most notorious American case in the 1990s of a woman killing her children; that of Waneta Hoyt and her five children. The authorities treated these deaths as natural deaths related to Sudden Infant Death Syndrome. Consequently, they were not properly investigated. No autopsy was even performed on some of these infants. In the 1997 book, *The Death of Innocents*, authors Richard Firstman and Jamie Talan wrote:

> The notion of Waneta, or any mother, hurting her own children — much less killing them — was so horrendous that few could let themselves articulate it.

Honourable senators, the notion is unspeakable. Few can contemplate it. This fact assists these offenders. We are talking about a small number of women. Years later, Waneta Hoyt was tried and convicted in the murders of two of her five children. She killed her children because she craved for, and thrived on, the attention and sympathy that she received by their deaths. Some called this the Münchausen Syndrome by proxy. She so captivated a particular doctor that he wrote and published scholarly articles for medical journals on Sudden Infant Death Syndrome, citing her case and claiming that it was genetic and ran in families, occurring multiple times.

Honourable senators, I turn now to the muses, in particular the Greek Euripides. In 431 B.C., he wrote the famous Greek tragedy *Medea,* a play about Medea and Jason, and Medea's murder of their two sons. Medea, the Greek enchantress, had helped Jason to obtain the Golden Fleece. When Jason deserted her for another woman, Medea planned and carried out the murder of their two sons. Medea mused that the cruelest way to hurt her husband, Jason, was to kill their children. She said:

> Let no man think I am a feeble, frail-hearted woman who sits with folded hands: no, let them know me for the opposite of that — one who knows how to hurt her enemies. . . .

In pledging her maid to silence about this deed, she said:

> Say nothing of the plans I have prepared; don't say a word, if you are loyal to your mistress and loyal to the race of woman!

Euripides articulated a modern problem and its attendant silence on female aggression, particularly towards their children.

Honourable senators, the interface between the criminal law and the provincial administration of child protection is rarely before us. I thank Senator Tommy Banks for that. I hope that the Senate committee will call coroners, child protection workers, criminal lawyers and prosecutors to appear.

Violence and aggression, like altruism and kindness, are human characteristics, not gendered ones. Men and women are equally capable of doing good and doing evil and are equally capable of virtue and vice. Men and women are equally capable of being good parents and bad parents. Men and women are equally capable of violence. In fact, the scholarship on family violence in the United States and Canada shows that in violence between spouses, there is symmetry and reciprocity. In short, men and women initiate violence and hit each other as often and at the same rates. Yet, many insist that spousal violence is gender based. In violence against children, women's violence exceeds that of men. The false notion of female innocence does not stand up in the face of these horrific events.

Honourable senators, the goddess Themis is blind and holds the scales of justice because justice is blind. Innocence and guilt are not clothed in female or male garb. The *Old Testament* King Solomon —

(Debate suspended.)

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, it being 5:15 p.m., pursuant to the order adopted by the Senate on June 21, 2010, I interrupt the proceedings for the purpose of putting the deferred vote on the motion in amendment of the Honourable Senator Jaffer to Bill S-4. Pursuant to agreement, the bells to call in the senators will be sounded for 15 minutes so that the vote can take place at 5:30 p.m.

Call in the senators.

• (1730)

FAMILY HOMES ON RESERVES AND MATRIMONIAL INTERESTS OR RIGHTS BILL

THIRD READING—MOTION IN AMENDMENT NEGATIVED—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Nancy Ruth, seconded by the Honourable Senator Nolin, for the third reading of Bill S-4, An Act respecting family homes situated on First Nation reserves and matrimonial interests or rights in or to structures and lands situated on those reserves, as amended.
>
> On the motion in amendment of the Honourable Senator Jaffer, seconded by the Honourable Senator Dyck, that the bill be not now read a third time but that it be amended:
>
> (*a*) on page 5, by adding after line 17 the following:
>
> "**2.1** For greater certainty, nothing in this Act shall be construed so as to abrogate or derogate from any existing aboriginal or treaty rights of the aboriginal peoples of Canada under section 35 of the *Constitution Act, 1982*.";
>
> (*b*) on page 43, by adding after line 10 the following:
>
> "REVIEW AND REPORT
>
> **57.1** (1) Within five years after the day on which this Act receives royal assent, a comprehensive review of its provisions and operation shall be undertaken by any committee of the Senate, of the House of Commons or of both Houses of Parliament that may be designated or established for that purpose.
>
> (2) The committee referred to in subsection (1) shall, within a year after a review is undertaken under that subsection or within any further time that may be authorized by the Senate, the House of Commons or both Houses of Parliament, as the case may be, submit a report on the review to that House or both Houses.".

The Hon. the Speaker: Honourable senators, the question before the house is as follows. In amendment on Bill S-4, it was moved by the Honourable Senator Jaffer, seconded by the Honourable Senator Dyck, that the bill be not now read a third time but that it be amended —

Senator Carstairs: Dispense.

The Hon. the Speaker: Shall I dispense?

Hon. Senators: Agreed.

Motion in amendment negatived on the following division:

YEAS
THE HONOURABLE SENATORS

Baker
Banks
Callbeck
Carstairs
Chaput
Cordy
Dawson
Day
De Bané
Downe
Dyck
Eggleton
Fairbairn
Fox
Fraser
Furey
Hervieux-Payette
Hubley
Jaffer
Joyal
Lapointe
Losier-Cool
Lovelace Nicholas
Mahovlich
Massicotte
McCoy
Mercer
Merchant
Munson
Pépin
Peterson
Poulin
Poy
Ringuette
Robichaud
Rompkey
Smith
Tardif
Zimmer—39

NAYS
THE HONOURABLE SENATORS

Andreychuk
Angus
Boisvenu
Braley
Brazeau
Brown
Carignan
Champagne
Cochrane
Comeau
Demers
Di Nino
Dickson
Duffy
Eaton
Finley
Fortin-Duplessis
Frum
Gerstein
Greene
Housakos
Johnson
Kinsella
Kochhar
Lang
LeBreton
MacDonald
Manning
Marshall
Martin
Meighen
Mockler
Nancy Ruth
Neufeld
Nolin
Ogilvie
Oliver
Patterson
Plett
Poirier
Raine
Rivard
Rivest
Runciman
Segal
Seidman
Stewart Olsen
Stratton
Tkachuk
Wallace
Wallin—51

ABSTENTIONS
THE HONOURABLE SENATOR

Cools—1

The Hon. the Speaker: Are honourable senators ready for the question?

Hon. Sandra Lovelace Nicholas: Honourable senators, I want to speak to this bill. It is close to my heart and affects the people in my communities, but I have not had a chance to collect all of my research. Therefore, I move to adjourn the debate in my name.

The Hon. the Speaker: It was moved by the Honourable Senator Lovelace Nicholas, seconded by the Honourable Senator Cordy, that further debate be continued at the next sitting of the Senate. Is it your pleasure, honourable senators, to adopt the motion??

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

Senator Comeau: On division.

(On motion of Senator Lovelace Nicholas, debate adjourned, on division.)

CRIMINAL CODE

BILL TO AMEND—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Banks, seconded by the Honourable Senator Moore, for the second reading of Bill C-464, An Act to amend the Criminal Code (justification for detention in custody).

The Hon. the Speaker: Honourable senators, we now return to where we were before the vote was called.

Hon. Gerald J. Comeau (Deputy Leader of the Government): Five more minutes.

Hon. Anne C. Cools: Thank you. Let the record show that honourable senators agreed to five minutes.

Honourable senators, the goddess Themis is blind, holding the scales of justice, because justice is blind. Innocence and guilt are not clothed in female or male garb. In the *Old Testament*, the biblical King Solomon settled a quarrel between two women about the motherhood of the remaining living child. Solomon's scheme to identify the true mother by cutting the child in half revealed his wisdom. His true wisdom was to discern which of the two women had already killed her child by overlaying it, smothering it.

• (1740)

Senator Cordy: Order.

Senator Rompkey: Order.

Senator Cools: Honourable senators, I close now by offering to Mr. and Mrs. Bagby, and like parents, the scriptures. I will cite the New Testament book, *Ephesians*, Chapter 3, verses 14 to 19:

> For this reason I fall on my knees before the Father,
> From whom every family in heaven and on earth receives its true name.
> I ask God from the wealth of his glory to give you power through his Spirit to be strong in your inner selves,
> And I pray that Christ will make his home in your hearts through faith. I pray that you may have your roots and foundation in love,
> So that you, together with all God's people, may have the power to understand how broad and long, how high and deep, is Christ's love.
> Yes, may you come to know His love . . . and so be completely filled with the very nature of God.

Senator Cordy: Order.

Senator Cools: The problem that faces every parent in these circumstances is to yield to sorrow, not to vindictiveness, bitterness and anger.

Honourable senators, it is an extremely difficult business to protect children from their own parents, as anyone who has worked in the field would know. In addition to this, I want to make the point that every single superior court judge and every single section 96 judge possesses inherent powers to protect children. It is called the doctrine of the parens patriae. In point of fact, no judge needs this additional power to protect children. However, the intention of this bill is to strengthen judges in their resolve to use those powers and also to make them top of mind.

Honourable senators, I wish to say in closing that, as this bill will strengthen the natural inherent powers of parens patriae, it is important that this bill receive good and serious study. As I began by saying, it is a rare moment in the history of these places when the interface of the Criminal Code meets the protection of children. It is a rare thing, honourable senators, to have the protection of children before us in any bill. Not many honourable senators may have noticed this but there are few bills that come before us like this bill because the "protection of children" falls within provincial jurisdiction. Other than the old Juvenile Delinquents Act and the Divorce Act, children are rarely mentioned in federal legislation.

Having said all of that, I urge honourable senators to support this bill. This matter has needed a serious study since the report of the Standing Senate Committee on Social Affairs, Science and Technology called *Child at Risk*. We have not done a serious study on this matter since then.

Again, I urge honourable senators to support Bill C-464 if only to give the matter the study and consideration it deserves. This little boy perished because no one thought it was possible.

The Hon. the Speaker: Are honourable senators ready for the question?

Is it your pleasure, honourable senators, to adopt the motion?

(Motion agreed to and bill read second time.)

REFERRED TO COMMITTEE

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

(On motion of Senator Banks, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.)

MUSEUMS ACT

BILL TO AMEND—EIGHTH REPORT
OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY
COMMITTEE PRESENTED

Leave having been given to revert to Presentation of Reports from Standing or Special Committees:

Hon. Art Eggleton, Chair of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Tuesday, June 22, 2010

The Standing Senate Committee on Social Affairs, Science and Technology has the honour to present its

EIGHTH REPORT

Your committee, to which was referred Bill C-34, An Act to amend the Museums Act and to make consequential amendments to other Acts, has, in obedience to the order of reference of Thursday, June 17, 2010, examined the said bill and now reports the same without amendment.

Respectfully submitted,

ART EGGLETON,
Chair

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

(On motion of Senator Eggleton, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.)

[*Translation*]

THE ESTIMATES 2010-11

SUPPLEMENTARY ESTIMATES (A)—FIFTH REPORT
OF NATIONAL FINANCE COMMITTEE PRESENTED

Hon. Joseph A. Day, Chair of the Standing Senate Committee on National Finance, presented the following report:

Tuesday, June 22, 2010

The Standing Senate Committee on National Finance has the honour to present its

FIFTH REPORT

Your committee, to which were referred the Supplementary Estimates (A), 2010-2011, has, in obedience to the order of reference of Thursday, May 27, 2010, examined the said Estimates and herewith presents its report.

Respectfully submitted,

JOSEPH A. DAY,
Chair

(*For text of report, see today's* Journals of the Senate, *Appendix, p. 654*.)

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

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

STUDY ON APPLICATION OF OFFICIAL LANGUAGES ACT AND RELEVANT REGULATIONS, DIRECTIVES AND REPORTS

THIRD REPORT OF OFFICIAL LANGUAGES COMMITTEE AND REQUEST FOR GOVERNMENT RESPONSE—DEBATE ADJOURNED

The Senate proceeded to consideration of the third (interim) report of the Standing Senate Committee on Official Languages, entitled *Implementation of Part VII of the* Official Languages Act*: We can still do better*, tabled in the Senate on June 17, 2010.

Hon. Maria Chaput: Honourable senators, I move, seconded by Senator Mercer:

> That the third report of the Standing Senate Committee on Official Languages entitled *Implementation of Part VII of the* Official Languages Act*: We can still do better*, tabled in the Senate on June 17, 2010, be adopted and that, pursuant to rule 131(2), the Senate request a complete and detailed response from the government, with the Minister of Canadian Heritage and Official Languages, the Minister of Justice and the President of Treasury Board being identified as ministers responsible for responding to the report.

Hon. Andrée Champagne: Honourable senators, I am very pleased to support this report, and I strongly urge you all to read it carefully. All members of the committee worked very hard to prepare and draft the report. Implementing Part VII of the Official Languages Act put many of our institutions in the hot seat. They had to think about the scope of the positive measures they had to take as a result of the new sections of the act. Many institutions have found innovative ways to improve the lives of Canadians who live in official language minority communities.

In our report, we wholeheartedly congratulate them. Nevertheless, we are all well aware of the fact that even more can be done, which is why we gave our report the title *We can still do better*.

So I invite you all to read it carefully and, more important, to adopt the report as quickly as possible.

• (1750)

Senator Chaput: Honourable senators, I agree with the remarks made by Senator Champagne, the Deputy Chair of the Standing Committee on Official Languages.

Honourable senators, this report is based on the testimony heard since May 28, 2007. The committee held 34 sessions and heard 53 witnesses over the course of this study. I sincerely want to thank all the members of the Standing Senate Committee on Official Languages for their contribution and the Deputy Chair in particular for her support and commitment to the development and vitality of official language minority communities.

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, I would like to move the adjournment of the debate because I want to re-examine the issue. The honourable senator has asked three departments to respond to this report. A few weeks ago we discussed the idea that we would like one department to respond to the committee's questions, in consultation with the other departments. I simply want to reread the way the motion was drafted. This situation was raised three or four weeks ago with the Standing Senate Committee on Fisheries and Oceans.

We have to understand that it is the government that answers the questions, and not necessarily the departments. However, in the end, we want a certain number of ministers to get involved in the answers. We will re-examine the way the motion has been worded. It is not a matter of us not wanting an answer, but a matter of how the motion was drafted.

I move the adjournment of the debate for the balance of my time. I will speak again as soon as possible.

(On motion of Senator Comeau, debate adjourned.)

[*English*]

ABORIGINAL PEOPLES

BUDGET—STUDY ON FEDERAL GOVERNMENT'S RESPONSIBILITIES TO FIRST NATIONS, INUIT AND METIS PEOPLES—FOURTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the fourth report of the Standing Senate Committee on Aboriginal Peoples (supplementary budget—study on the examination of federal government's constitutional and legal responsibilities to Aboriginal Peoples), presented in the Senate on June 17, 2010.

Hon. Lillian Eva Dyck, for Senator St. Germain, moved the adoption of the report.

(Motion agreed to and report adopted.)

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

BUDGET AND AUTHORIZATION TO ENGAGE SERVICES—STUDY ON CURRENT STATE AND FUTURE OF ENERGY SECTOR—SIXTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the sixth report of the Standing Senate Committee on Energy, the Environment and Natural Resources (*budget—study on Energy Sector—power to hire staff*), presented in the Senate on June 17, 2010.

Hon. W. David Angus moved the adoption of the report.

(Motion agreed to and report adopted.)

FOREIGN AFFAIRS AND INTERNATIONAL TRADE

BUDGET AND AUTHORIZATION TO ENGAGE SERVICES AND TRAVEL—STUDY ON RISE OF CHINA, INDIA AND RUSSIA IN THE GLOBAL ECONOMY AND THE IMPLICATIONS FOR CANADIAN POLICY—FIFTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the fifth report of the Standing Senate Committee on Foreign Affairs and International Trade (*supplementary budget—study on Russia, China and India—power to hire staff and to travel*), presented in the Senate on June 17, 2010.

Hon. A. Raynell Andreychuk moved the adoption of the report.

(Motion agreed to and report adopted.)

STUDY ON ISSUES OF DISCRIMINATION IN HIRING AND PROMOTION PRACTICES OF FEDERAL PUBLIC SERVICE AND LABOUR MARKET OUTCOMES FOR MINORITY GROUPS IN PRIVATE SECTOR

SECOND REPORT OF HUMAN RIGHTS COMMITTEE ADOPTED

The Senate proceeded to consideration of the second report of the Standing Senate Committee on Human Rights entitled: *Reflecting the Changing Face of Canada: Employment Equity in the Federal Public Service*, tabled in the Senate on June 15, 2010.

Hon. Janis G. Johnson moved the adoption of the report.

(Motion agreed to and report adopted.)

STUDY ON RISE OF CHINA, INDIA AND RUSSIA IN THE GLOBAL ECONOMY AND THE IMPLICATIONS FOR CANADIAN POLICY

FIRST REPORT OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE COMMITTEE—DEBATE CONTINUED

On the Order:

> Resuming debate on the consideration of the first report (interim) of the Standing Senate Committee on Foreign Affairs and International Trade, entitled: *Canada and Russia: Building on today's successes for tomorrow's potential*, tabled in the Senate on March 31, 2010.

Hon. Consiglio Di Nino: Honourable senators, this has been around for a while, but I have not had a chance to complete my notes. It is an important component of a study that the Standing Senate Committee on Foreign Affairs and International Trade has undertaken on the relationship between certain countries and Canada, particularly on trade and investment. This one is on the Russian study.

I would like to adjourn the debate under my name for the remainder of my time.

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

[*Translation*]

THE SENATE

MOTION TO ESTABLISH NATIONAL DAY OF COMMEMORATION AND ACTION—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Dallaire, seconded by the Honourable Senator Robichaud, P.C.:
>
> That in the opinion of the Senate, the government should establish a National Day of Remembrance and Action on Mass Atrocities on April 23 annually, the birthday of former Prime Minister Lester B. Pearson, in recognition of his commitment to peace and international cooperation to end crimes against humanity.

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. I have not yet concluded all of my research so I would like to move the adjournment of the debate for the remainder of my time.

(On motion of Senator Comeau, debate adjourned.)

[*English*]

WOMEN'S CHOICES

INQUIRY—DEBATE ADJOURNED

Hon. Vivienne Poy rose, pursuant to notice of April 27, 2010:

> That she will call the attention of the Senate to the choices women have in all aspects of our lives.

She said: Honourable senators, I rise to speak on the inquiry into the choices that women around the world have today. Whether we are black, white, yellow or brown, we are all linked by our gendered experience.

Our gender imposes certain limitations on us; and in order for us to be able to make choices in our lives, we need to overcome those limitations. We are the ones who give birth to and nurture the next generation, and progress in women's lives can only be achieved by such control of nature which is, at this time, scarcely available to women in many parts of the world.

Men and women are not so different, except for our hormones. One would think that the group which procreates and brings forth future generations should be protected. In nature, it is. Unfortunately, in human societies, it is often not the case.

I came to Canada more than 50 years ago to go to university. After I got married in 1962, my husband and I remained in Montreal because of his training. To my horror, as a married woman in Quebec in 1962, overnight, I turned from a responsible adult into a minor, meaning all legal and financial matters, including medical treatments, would need the consent of my husband.

Knowing what it is like being a person without legal rights of determination, I would not wish that on anyone. The fact that my husband has never exercised his rights was beside the point. That is why I am extremely sympathetic to women in many parts of the world today who are living under the power of others.

Honourable senators, I ask you to remember the women's movement and what it has achieved for us. Canadian women have fought for and won the right to make choices. One of the keys to our freedom is family planning through contraception, safe abortion and the right to choose when and how many children we wish to have — and the choice not to have any children at all, if we so wish. This has made it possible for us to participate fully in society.

Many of us would not be in this chamber today if we did not have the right to choose. However, these choices are an unreachable dream at the moment for women in many parts of the world.

• (1800)

The women in my grandmother's generation were homebound because they had huge families. Throughout their reproductive years, married women were like baby factories, having one a year or two every three years. Death from childbirth was commonplace.

My mother's generation was much better off because of birth control and, when birth control did not work, women were able to access medical abortions. I remember so well that the health of the mother and the survival of her existing children were primary considerations. That was the way it was in Hong Kong and in China.

When I was young, I used to listen to the older generation of women talk about the dehumanizing experiences they and their women friends suffered during the Second World War from the Japanese Imperial Armed Forces as conquered people and refugees.

The Hon. the Speaker: Honourable senators, I am sorry to interrupt but it is six o'clock.

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, there have been discussions and both sides have agreed not to see the clock.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Senator Poy: These acts are well illustrated in the Massacre Museum in Nanjing. The men and boys were rounded up and murdered, but the women, and the girls, continued to suffer violations and pregnancies resulting from acts of violence.

Unfortunately, not much has changed in areas of conflict and in areas suffering from natural disasters. What happens in times of war is often condoned by the conquering armies and, for that reason, we now have the International Criminal Court in The Hague. Men suffer horribly, but it is sometimes much worse for the women. Rape used as a spoil of war as well as a method of terrorizing the population is not new.

In a country such as the Democratic Republic of the Congo, there were more than 8,000 reported cases of rape during the conflict last year. Goma prison, built for 150 inmates, houses more than 900 prisoners, mostly men. The women are jailed because of aborted pregnancies, mostly from rapes, or for manslaughter involving the killing of their assailants or their abusive spouses. Their children, who would otherwise be stigmatized or abandoned by the community, stay with them in the prison.

When there is pandemonium, lawlessness prevails. In Haiti, in the aftermath of the earthquake, a young woman who needed to use the toilet in the darkened tent camp said, "They grabbed me, put their hands over my mouth and the three of them took turns . . . I am so ashamed. We are scared people will find out and shun us." This 21-year-old woman, who gave birth to a baby girl three days before the earthquake, is suffering from abdominal pain and itching, probably from an infection contracted during the attack. It is unbelievable that women who are raped should feel shame instead of the rapists feeling shame.

In the hilltop suburb of Petionville, where plush mansions look out over slums on hillsides and in ravines, a seven-year-old rape victim is being treated in a tent hospital and a two-year-old rape victim is receiving antibiotics for gonorrhea infection of the mouth.

Alison Thompson, a volunteer medical coordinator for a relief group created by Hollywood actor Sean Penn, said, "When the lights go down is when the rapes increase and it's happening daily in all camps in Port-au-Prince." Besides sexually transmitted diseases and pregnancy, victims face possible HIV infection. Haiti has the highest infection rate in the Western hemisphere: 1 in 50 people.

What can the Western world do for these women and children to alleviate their suffering? The world's leading general medical journal *The Lancet* pointed out that in 2008, the availability of antiretroviral drugs would have helped to save 60,000 lives lost to HIV/AIDS, out of 342,900 maternal deaths worldwide. Antiretroviral drugs are in short supply in countries where they are most needed.

The problem of control over unwanted pregnancies, in particular those resulting from violence, is a major concern to women worldwide. We just have to look at Ngaliema Clinic in Kinshasa, Congo, where rape victims often turn up after botched abortions, resulting in a perforated uterus, hemorrhage, peritonitis or sepsis. Abortion, like prostitution, is as old as human history. Today, the main difference is whether it is performed by a medical practitioner or a quack.

Abortion is forbidden in 14 African countries and 90 per cent of the rest restrict abortion. Yet, in a country like Tanzania, where abortion is taboo, it takes only a few minutes to find a man in the back room of a slum neighbourhood pharmacy to perform an illegal abortion for $18. The spokeswoman of NGO Marie Stopes International, Laila Abbas, said that in Africa, "The unsafe abortion market is huge. They kill at least 25,000 women and injure 1.7 million each year. Others are maimed and killed by horrific home remedies that include catheters, roots and herbs placed in the vagina to induce bleeding. That is why one seventh of African deaths in pregnancy and childbirth are caused by complications from unsafe abortions."

If the girls and the women who have been raped cannot get rid of their fetuses, they often kill or abandon their babies at birth because these infants are progenies of the assailants. Despite the fact that abortion is illegal in many countries, safe abortion, if available, would give these violated women and girls a slim chance to return to a life of normalcy.

Another limitation of being female is that in some societies, and in many poor countries, women are often treated as chattels to be bought and sold, used and abandoned. The practice of female feticide has resulted in a great gender imbalance in many developing Asian countries. On March 8 this year the UN announced that in India and China alone, some 85 million women have died from discriminatory health care, neglect and feticide.

Female feticide is also the main reason for older men, often farmers and labourers, to buy young brides from impoverished regions because they cannot find local brides. Many North Korean women refugees who cross into China are sold to old farmers as wives by their traffickers. These traffickers are supposed to help them to escape across the border. Today, in desperately poor countries, little girls are often sold as brides. In Yemen, Fawzia of Hadramout recently died of childbirth complications at the age of 12. She was married at the age of 11. When girls at that age give birth, their babies are often too large for their pelvic openings. In areas such as remote villages, where there are no maternal health services, let alone services to perform a Caesarean section, which most girls at that age need when they give birth, these preteens spend days in excruciating labour. They are fortunate if they and their babies survive the ordeal.

The availability of modern birth control could be a great help for these child brides. According to the Guttmacher Institute, meeting the world's need for modern birth control would reduce maternal deaths by 70 per cent. Family planning through contraception can eliminate two thirds of unintended pregnancies and three quarters of unsafe abortions.

Reading about the story of Fawzia in Yemen brought to mind my own experience in Canada. I would not be standing here today if I had not received timely reproductive health care. My obstetrician was surprised because he expected an easy delivery because it was my third child. All women know that every time we give birth, our mortality is on the line. What hangs in the balance is the availability of appropriate medical assistance, which is not available in many parts of the world.

• (1810)

Canada, being the host of this summer's G8 and G20 summits, needs to remember that the Millennium Development Goal 5, which aims at reducing maternal deaths, has been the most neglected of all the MDGs. Eighty per cent of pregnant women who die every year do so from five entirely preventable or treatable causes, such as hemorrhage and botched abortions. Statistically, when the mother dies, more than half of her children under five will also perish.

I quote from the editorial of the *Lancet*:

> Canada and the other G8 nations could show real leadership with a final maternal health plan that is based on sound scientific evidence and not prejudice.

Honourable senators, it is easy for women in the west to feel complacent since we have control over our lives because we have choices. Women less fortunate than we are have none. As a G8 nation, Canada has a responsibility to help the less fortunate by first focusing on their reproductive health.

(On motion of Senator Losier-Cool, debate adjourned.)

NATIONAL SECURITY AND DEFENCE

BUDGET AND AUTHORIZATION TO TRAVEL—STUDY ON NATIONAL SECURITY AND DEFENCE POLICIES—THIRD REPORT OF COMMITTEE ADOPTED

Leave having been given to revert to Other Business, Reports of Committees, Item No. 3:

The Senate proceeded to consideration of the third report of the Standing Senate Committee on National Security and Defence (*budget—release of additional funds (study on national security and defence policies)—power to travel*), presented in the Senate on June 17, 2010.

Hon. Pamela Wallin: Honourable senators, I move the adoption of the third report of the Standing Senate Committee on National Security and Defence.

Hon. Terry M. Mercer: Honourable senators, I have a couple of questions for Senator Wallin with respect to this motion. It is unusual in this particular Parliament that we would see a motion like this coming from a committee because travel of committees has been curtailed significantly. I think it is only appropriate that, at this point, we ask a few questions. First, where is the committee going? Second, how many senators are travelling, what is the breakdown from one party to another, and how many staff are travelling?

Senator Wallin: The trip that was approved was to Washington for the Standing Senate Committee on National Security and Defence. I think the total allocation was $48,000. We have no indication at this point of how many senators will travel because the details of the trip have not yet been confirmed. It will be not until later in the fall.

Senator Mercer: However, if the committee put $48,000 in the budget, it must have had a number in mind of the number of senators who will go and how long they will stay. Is it a day trip or are they staying overnight? Those are things that have to be calculated. The committee did not pull the number of $48,000 out of the air.

Senator Wallin: All trips are funded to include all committee members and appropriate staff.

Senator Mercer: I have one further question. I go back to previous days. When this committee travelled, there was always a good deal of questioning by certain members opposite. How many staff of this committee will travel with the committee?

Senator Wallin: There are no additional staff other than the clerk and the two Library of Parliament researchers, one of which will probably travel.

The Hon. the Speaker *pro tempore***:** Are honourable senators ready for the question? Is it your pleasure, honourable senators, to adopt the motion?

(Motion agreed to and report adopted.)

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, the Standing Senate Committee on Energy, the Environment and Natural Resources has some important witnesses who are waiting to be heard. I seek leave that the committee be permitted to sit even though the Senate may now be sitting.

The Hon. the Speaker *pro tempore***:** Is leave granted, honourable senators?

Hon. Senators: Agreed.

[*Translation*]

THE SENATE

MOTION TO URGE GOVERNMENT TO REVISE TWENTY DOLLAR BANKNOTE—DEBATE ADJOURNED

Hon. Serge Joyal, pursuant to notice of June 17, 2010, moved:

> Whereas the $5, $10 and $50 Canadian banknotes represent Sir Wilfrid Laurier, Sir John A. Macdonald and W.L. Mackenzie King respectively, and whereas each of these bills clearly mention in printed form their name, title and dates of function;
>
> Whereas the $20 banknotes represent a portrait of H.M. Queen Elizabeth II but without her name or title;
>
> The Senate recommends that the Bank of Canada add in printed form, under the portrait of Her Majesty, the name and title of H.M. Elizabeth II, Queen of Canada, to the next series of $20 Canadian banknotes to be printed.

Senator Joyal: Honourable senators, I am sure that seeing this motion at this time of day, before dinner this evening, will surprise some of you, but I wanted to bring your attention to an element of Canada's constitutional reality that I feel is very important, because Her Majesty is one of the constituent parts of our chamber.

As you know, the Parliament of Canada comprises three integral parts: the House of Commons, the Senate and Her Majesty. Bills are issued by Her Majesty, in her name, on the advice and with the counsel of the Senate and the House of Commons.

[*English*]

We all know that in 2012 we will celebrate the Diamond Jubilee of Her Majesty Queen Elizabeth II. The government, in the Speech from the Throne that we heard in this chamber earlier this year, proposed that a committee be put together to celebrate the Diamond Jubilee of Her Majesty. In fact, Her Majesty will be here in Ottawa in two weeks time. She is due to be here at Rideau Hall and participate in various ceremonies. She will be here, of course, for July 1, and she will participate also, as I read in the program that was published last week in the *Ottawa Citizen*, in the inauguration of the new Canadian Museum of Nature and other celebrations at Rideau Hall.

• (1820)

Last week, with Senator Segal, I had the privilege to co-chair a seminar which brought to Ottawa a number of experts who are learned in the understanding of the elements of a constitutional monarchy, which Canada is. We still have Her Majesty, Queen Victoria, presiding over the Speaker's Throne. Of course, we all

know that the portraits of the queens and kings in the foyer of the Senate are a reminder to Canadians that we are a constitutional monarchy, governed by the rule of law.

In that context, I was looking at the $5 bill. I saw quite clearly that the name of Sir Wilfrid Laurier was printed under the portrait of the prime minister. I will read for honourable senators what is on the banknote: "Sir Wilfred Laurier, Premier Ministre / Prime Minister, 1896-1911."

The same goes for the $10 bills, which present a portrait of Sir John A. Macdonald. The banknote reads: "Sir John A. Macdonald, Prime Minister / Premier Ministre 1867-1873, 1878-1891."

It is the same for the $50 banknote with W.L. Mackenzie King, Prime Minister / Premier Ministre 1921-1930, 1935-1948."

It is also the same for the $100 banknote, which presents the portrait of Sir Robert Borden: "Robert L. Borden, Premier Ministre / Prime Minister 1911-1920."

In other words, all the banknotes clearly identify the name, the title and the dates of holding office. Therefore, any Canadian could draw out his wallet or put his or her hand in a pocket or purse and know immediately who the famous Canadian is who appears on the banknote.

Surprisingly, in the case of Her Majesty, the $20 bill is the only banknote on which her portrait appears, although her portrait appears on all our coins. If honourable senators put their hands in their pockets or purses, they will notice that all of the coins bear not only Her Majesty's portrait, but also her name, Elizabeth II.

I have a couple of coins here in my pocket, which I did not take out of a church box, I would note. On many of the coins, it also states "D. G. Regina," which means "Queen, by the grace of God." In Latin, it is "*Dei Gratia Regina*."

On all the coins, Her Majesty is properly and very well identified. However, on the banknote, there is no identification at all. Moreover, the portrait of Her Majesty that appears on the Canadian banknote is, according to the description on the official site of the Bank of Canada, "one of the most informal portraits of Queen Elizabeth."

If honourable senators look again at the banknote, you will notice that Her Majesty does not wear any regalia; she does not wear a tiara, important jewels or any of the Royal Order of which she is the commander. As the website says, it is the most informal portrait of Her Majesty. In fact, she is just wearing a necklace of three ranks of pearls.

According to the description, Her Majesty has appeared on 26 different banknotes — not in Canada but in some of the many countries where she is the sovereign — with 26 different portraits through her reign since 1953. Of all those banknotes from around the world, the Canadian banknote is one of the most informal.

My first reaction was to check how she appears on the British pound. On the British pound, Her Majesty appears on the five, ten and twenty pound notes with regalia. In other words, she wears a crown and the garter, which is one of the highest orders in the kingdom. Aside from her portrait is her cipher, E. R. II, which is Elizabeth Regina II.

Even in England, where Her Majesty is resident, the British banknote clearly identifies Her Majesty. On our banknote, where she appears in the most informal attire, there is absolutely no identification. This means that if one takes the Canadian banknote, one cannot immediately recognize that this is the person who is at the highest level of the land, who is the Queen. She is the head of state of Canada. There is no identification in terms of either her name or her title.

Surprisingly, the $20 banknote is the most circulated Canadian banknote among the $5, $10, $20, $50 and the $100 bills. The $20 bill is the banknote that has the highest circulation. It is not hard to understand why: All automated teller machines give out $20 bills. Since there are bank machines all over the country, as soon as one types in one's personal identification number, one will get $20 bills.

It is also surprising that Canada used one of the simpler portraits on our banknote. In comparison, on New Zealand's banknotes, the Queen appears with all her regalia and the cipher, so one knows immediately who that person is.

It occurred to me that we ought to honour Her Majesty in two years for her Diamond Jubilee and recognize her contribution to Canada. I think her interest in Canada needs to be underlined; during all the years of her reign, Canada has been her favourite country. She has visited Canada 22 times since she was crowned Queen of Canada in 1953. According to an act of the Canadian Parliament, which is entitled An Act respecting the royal style and titles, which was assented to on February 11, 1953, her Majesty wears the title of Queen of Canada. Since she has been the Queen of Canada, she has come to visit our country more than 22 times. That is more than any other Commonwealth country.

In other words, Canada represents for Her Majesty a particular country in the group of Commonwealth countries. I would not say "something special," though, because she is the Queen in so many different countries.

It seems to me it would be proper that the next $20 Canadian banknote should be printed with the name of Her Majesty, H.M. Elizabeth II, Queen of Canada, so that her title would be known. Everyone thinks she is the Queen of England and that she is a foreign head of state. She is not a foreign head of state. Again, according to that act of Parliament, she specifically bears the title, Queen of Canada.

I think it is just fair to tell Canadians that Her Majesty is our sovereign; as much ours as she is the Queen of England or as she is the queen of other Commonwealth countries.

If we want to honour Her Majesty in a special way for the Diamond Jubilee, it is fair that we signal to the Bank of Canada that the next printing of $20 banknotes should identify Her Majesty properly, with her title, the same way as we have the prime ministers of Canada noted. It should say her name and her proper title she holds when she is in Canada. That would distinguish her role in Canada in comparison with the role she has in other countries.

• (1830)

Honourable senators, again, that might seem surprisingly secondary in terms of interest. However, when the Standing Committee on Internal Economy, Budgets and Administration decided some years ago to hang in the Senate foyer all the portraits of the monarchs that presided over Canada as a constitutional monarchy since 1763 — but much earlier than that, since the exploration of Canada in 1534 by Jacques Cartier under King François I — and where we have all the other portraits of the French monarchs during the colonial regime, I think it is only fair that visitors to the Parliament of Canada have an opportunity to understand our regime and our history.

This house of Parliament, in my opinion, is an important house to express to Canadians how we are governed and by whom we are governed. I think it is fair that the money that Canadians carry in their pocket bears the name and the title of the head of state of Canada. Honourable senators, that is all I propose that we recommend to the Bank of Canada in its next printing. It does not cost any more at the next printing to have the name and the title of Her Majesty.

I hope, honourable senators, even though it is late in the afternoon, that we reflect on that proposal. It might be one way for the Senate to contribute to the Diamond Jubilee; by having the Bank of Canada issue a banknote for 2012 that will bear the right name and title of Her Majesty.

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

HUMAN RIGHTS

COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY OF ISSUES OF DISCRIMINATION IN HIRING AND PROMOTION PRACTICES OF FEDERAL PUBLIC SERVICE AND LABOUR MARKET OUTCOMES FOR MINORITY GROUPS IN PRIVATE SECTOR

Hon. Janis G. Johnson, pursuant to notice of June 21, 2010, moved:

> That notwithstanding the order of the Senate adopted on March 23, 2010, the date for the presentation of the final report by the Standing Senate Committee on Human Rights on issues of discrimination in the hiring and promotion practices of the Federal Public Service be extended from June 30, 2010, to March 31, 2011.

The Hon. the Speaker *pro tempore*: Is your pleasure, honourable senators, to adopt the motion?

(Motion agreed to.)

COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY OF ISSUES RELATED TO NATIONAL AND INTERNATIONAL HUMAN RIGHTS OBLIGATIONS

Hon. Janis G. Johnson, pursuant to notice of June 21, 2010, moved:

> That notwithstanding the order of the Senate adopted on March 23, 2010, the date for the presentation of the final report by the Standing Senate Committee on Human Rights on issues relating to human rights and, inter alia, to review the machinery of government dealing with Canada's international and national human rights obligations be extended from June 30, 2010, to March 31, 2011.

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion?

(Motion agreed to.)

COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY OF INTERNATIONAL OBLIGATIONS REGARDING CHILDREN'S RIGHTS AND FREEDOMS

Hon. Janis G. Johnson, pursuant to notice of June 21, 2010, moved:

> That notwithstanding the order of the Senate adopted on March 23, 2010, the date for the presentation of the final report by the Standing Senate Committee on Human Rights on the implementation of recommendations contained in the committee's report entitled *Children: The Silenced Citizens: Effective Implementation of Canada's International Obligations with Respect to the Rights of Children,* tabled in the Senate on April 25, 2007, be extended from June 30, 2010, to March 31, 2011.

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion?

(Motion agreed to.)

COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY OF ISSUE OF SEXUAL EXPLOITATION OF CHILDREN

Hon. Janis G. Johnson, pursuant to notice of June 21, 2010, moved:

> That notwithstanding the order of the Senate adopted on March 23, 2010, the date for the presentation of the final report by the Standing Senate Committee on Human Rights on the issue of the sexual exploitation of children in Canada be extended from June 30, 2010, to March 31, 2011.

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion?

(Motion agreed to.)

(The Senate adjourned until Wednesday, June 23, 2010, at 1:30 p.m.)

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