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Wednesday, October 27, 2010



THE HONOURABLE NOËL A. KINSELLA
SPEAKER

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Debates Services: D'Arcy McPherson, National Press Building, Room 906, Tel. 613-995-5756
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THE SENATE

Wednesday, October 27, 2010

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

Prayers.

SENATORS' STATEMENTS

HOMAGE TO ACADIA

Hon. Donald H. Oliver: Honourable senators, last summer I attended the fifty-fourth reunion of the Wolfville High School graduating class of 1956. One of my classmates, who entertained us, served a special bottle of Pinot Noir in my honour, and I wish to relate its story to you.

My principal hobbies relate to food, cuisine and wine, having graduated from the Cordon Bleu school in London, England, and being a member of food and wine clubs in New York and France, the latter of which I chair as the Grand Pilier Général du Canada de la Confrérie des Chevaliers du Tastevin of Bourgogne. Many of these societies promote and celebrate the great wines, food and culture of France and continue to demonstrate the strong relationship between our two countries.

The wine served was a Pinot Noir, which is the principal grape for the red wines of Burgundy, France. It was produced by one of Burgundy's most respected winemakers, Labouré-Roi. The house was founded by Monsieur Labouré and Monsieur Roi in Nuits-Saint-Georges in 1832. Labouré-Roi has produced a special wine in honour of Canada's Acadian population by blending innovation with tradition.

[Translation]

The name of the wine is Hommage aux Acadiens. On the bottle is the motto of Acadia, *L'union fait la force*, or strength through unity, as well as the title of the Acadian anthem, *Ave Maris Stella*, or *Hail! Star of the Sea*, or *Salut, étoile de la mer*.

This wine is one in a series of wines called Labouré-Roi Histoire. As part of this series, the House of Labouré-Roi bottled a Pinot Noir to pay tribute to the history of the Atlantic provinces, as well as a Cabernet Sauvignon, a Beaujolais and a Chardonnay. Labouré-Roi wanted to honour the contribution Acadians have made to the history of Atlantic Canada and to society there today.

I want to share this with you, given how important this honour is.

On the bottle, there is an account of the history of this distinctive people.

[English]

Over 13,000 bottles were sold in Nova Scotia. The outside of the bottle reads as follows:

In 1604, Pierre du Gua de Monts and Samuel de Champlain founded the first French colony in the oriental part of Canada, known as Acadie. Families from France set

up house in this area. In spite of conflicts between France and England, the Acadians prospered for more than one century. In 1755, England chose to deport the Acadians from their lands. After the turbulent years of the Deportation (or Expulsion), many Acadians returned home, to their native lands. This vintage was matured in France in honour of the courage of the Acadians.

[Translation]

Honourable senators, what an honour it is for the Acadian community of this country to receive such a tribute by a respected French winemaker. All honourable senators know the cultural and historical significance of Acadia.

Today, Acadia has a population of half a million. Acadians make up one of the few francophone communities in North America. Acadia has its own culture, and we should all be proud of it.

[English]

POVERTY

Hon. Nick G. Sibbeston: Honourable senators, my statement is about poverty. On October 5 to 7, more than 80 participants from 20 Northern communities took part in an anti-poverty workshop, called "No Place for Poverty." Organized by the Yellowknife YWCA and Alternatives North, the workshop opened with a talk by our colleague the Honourable Art Eggleton. It also featured a presentation of the documentary film *Poor No More*, by actor, comedienne and social activist Mary Walsh. More importantly, the workshop brought together a wide range of Northern social organizations and community representatives to address the serious problems of poverty.

I have always been proud of the North and always felt that, with our strong economy and close-knit communities, poverty was a problem faced mainly by the South. Like many Canadians, I was not always aware of the depth and extent of poverty in our country or even in my own backyard. I always knew there were those who were less well off in NWT communities, but it is only in recent years that I have realized how many Northerners are impacted by poverty and homelessness, particularly in the bigger centres in the North, like Yellowknife.

The workshop participants recommended that the Government of the Northwest Territories develop an anti-poverty strategy similar to those already in place in a number of provinces. The strategy would focus on more affordable housing, debt reduction programs, accessible child care and community-based solutions.

I commend the work of these caring Northerners. I urge the federal government to follow their example by adopting their own comprehensive strategy to eliminate poverty. The North is no place for poverty, and neither is Canada.

AFGHANISTAN

Hon. Pamela Wallin: Honourable senators, this week your National Security and Defence Committee heard some encouraging words about our Afghanistan mission from Brigadier-General Jonathan Vance. Despite continued negative media reports, Brigadier-General Vance, who just returned from his second tour commanding Canada's Joint Task Force in Kandahar, echoed the comments of Canadian Brigadier-General Dean Milner and U.S. General David Petraeus, both of whom are on the ground in Afghanistan.

General Petraeus, NATO's top commander in Afghanistan, says that the operation, which began a month ago, is proceeding "more rapidly than was anticipated," and that senior Taliban leadership is being taken out in significant numbers.

• (1340)

Brigadier-General Vance reported that the NATO troop surge has hit its "high water mark" and has driven the insurgency down to a level that is "virtually inconsequential." He added that this has had the added benefit of galvanizing the Afghan people. For instance, 26 schools have been opened up in the Dand district, where Canada is now operating.

Brigadier-General Vance says that once the schools are operating, the villagers start to feel more confident and the situation becomes, for them, something more akin to what honourable senators and I would consider normal. He said, "Winning, for us, is that the Afghans are able to manage the emergency without there being a clear and present danger every day to their capacity to continue to govern."

"As for the naysayers," Brigadier-General Vance told the committee, "many who are not accountable for the words they utter say that it can never be done, that everyone has lost, that Afghanistan is a graveyard of empires, and that everything we do is bad and nothing is good. Generally speaking, those people have not been on the ground."

Others have suggested that the Taliban would just sit back and wait for NATO forces, especially the U.S., to withdraw. Brigadier-General Vance calls this an urban legend. He pointed out that the insurgents cannot afford to wait because the Afghan forces, the Afghan government and the Afghan people are getting stronger every day.

Finally, honourable senators, Brigadier-General Vance told the committee, "No one wants to lose this. We do not want to lose this. We ought not to, and it is entirely winnable. It just takes a lot of time, focus and patience."

Last week, in Saskatchewan, I stood with Saskatchewan families of fallen soldiers and heard their pleas that we show that patience and that we stay until the work is done so that Afghans can provide security to keep terrorism at bay.

Honourable senators, let us continue to support our troops so they can succeed in their mission in Afghanistan.

WALTER AND JULIA MANNING

CONGRATULATIONS ON FIFTY-NINTH ANNIVERSARY

Hon. Fabian Manning: Honourable senators, important milestones need to be celebrated and today is a time to do just that.

I feel privileged today to have the opportunity to stand in the Senate of Canada and extend my sincere congratulations and best wishes to two very special people on the occasion of their fifty-ninth wedding anniversary. Yes, 59 years ago today, almost to the hour, Walter Manning and Julia Careen walked into St. Patrick's Church in St. John's, Newfoundland and Labrador, and, following God's blessing on their marriage, began their new life as husband and wife.

From Cuslett on the Cape Shore to Schefferville, Quebec, until their decision to make their home in St. Brides, they worked hard, faced challenges together and seized every opportunity to make a good life for themselves and their family. I am sure there are days when they might argue when I say they were blessed with 9 children, 21 grandchildren and, up until today, 2 great-grandchildren.

Mostly known on the Cape Shore as the owners of their own family business for over 40 years, both Walter and Julia believed in giving back to their community. They were involved in all aspects of community and church organizations, and instilled in their children through example the importance of doing one's part. The example they have set with respect to overcoming obstacles has been a true inspiration, not only to their family, but also to all who know them.

Julia's health struggles over the past year, especially, have been extremely difficult, while at the same time being a true testament to the pillar of strength that she is. Walter's strongly-held belief that anything is possible if you work hard and never give up has been a guiding light to all those around him.

Today is a special day for Walter and Julia Manning of St. Brides on the Cape Shore of Newfoundland and Labrador. Congratulations, Mom and Dad!

Hon. Senators: Hear, hear.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I would like to draw your attention to the presence in the gallery of His Excellency Luis Federico Franco Gómez, Vice President of the Republic of Paraguay, who is accompanied by a parliamentary delegation including Senator Mario Cano Yegros of the Senate of Paraguay and Deputy Mirta Ramona Mendoza Diaz, a member of the Cámara de Diputados del Paraguay. They are accompanied by the distinguished Ambassador of Paraguay to Canada, His Excellency Manuel Schaerer Kanonnikoff.

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

Hon. Senators: Hear, hear.

QUESTION PERIOD

JUSTICE

REPORTS ON TRUTH IN SENTENCING ACT

Hon. James S. Cowan (Leader of the Opposition): Honourable senators, my question is for the Leader of the Government in the Senate.

Recently, The Canadian Press reported on a Department of Justice Canada study that looked at the impact of the so-called Truth in Sentencing Act. According to the article, the study lends:

. . . support to critics who warn Bill C-25, the so-called Truth in Sentencing Act, unfairly targets the poor, the illiterate and Canada's aboriginal community.

The study was done in July 2009, but it has never been made available to the public. It was obtained by a reporter only through an access to information request. It was a preliminary report.

My questions are very simple. Is the final report now available? Will the government table the report and make it available to Canadians and, if not, why not?

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, I am only aware of the study Senator Cowan speaks of via those reports which I have also read. As honourable senators know, the government has embarked on a series of changes to the justice system in response to a great need across the country.

The report the honourable senator refers to, according to his comments, was a preliminary report. As was the case yesterday, I will definitely ask for a report from the Department of Justice Canada.

However, I will say to Senator Cowan that the basis and the soundness of the truth in sentencing legislation work in the interests of all Canadians. No matter what walk of life Canadians are from, whether they are low income or high income, they all want our justice system to work properly, whether people are rich or poor.

Senator Cowan: I take it, then, that the leader will try to ascertain the status of that report and report to us when it is available and, if she is not prepared to table it, she will indicate why not. Is that correct?

Senator LeBreton: That is right.

Senator Cowan: As I understand it, the study was conducted as follows. In 2008, courts in different cities across Canada were asked to fill out a one-page form over a three-month period about offenders who spent time in remand and were subsequently convicted and sentenced. The cities studied were Winnipeg, Whitehorse, Toronto, Vancouver, Ottawa and Halifax. The interim report that we have been discussing presented final reports from Winnipeg and Whitehorse, and some results from Toronto and Vancouver, but nothing from Ottawa or Halifax.

That was two years ago. I am sure all honourable senators would agree that the results are obviously important in responsibly and objectively assessing the government's tough-on-crime agenda. I assume, and I will ask the leader to check this, that the government has these results in some form, preliminary or final. One would expect that a final report would be available by now.

In the interests of transparency and accountability, the hallmarks of this government, as the leader says — and in the interest of good public policy-making generally — will she tell us the results of these studies, even by releasing the raw data? After all, these studies were done at the expense of Canadian taxpayers.

• (1350)

Senator LeBreton: As the honourable senator is aware, the Minister of Justice has been dealing with matters to amend and strengthen our justice legislation. During this process, the Minister of Justice has worked in collaboration and with the full cooperation of the provincial attorneys general, many stakeholders in the criminal justice system, victims' groups and representatives of the Canadian Bar Association.

Honourable senators, it is obvious that, as we deal with all of the pieces of legislation that come before the Senate, the government wants all of the relevant information to be on the table. I do not see any conflict in that.

I will ascertain from the Department of Justice the status of the report. Often in this place, people ask me about reports that were neither solicited nor paid for by the government.

Honourable senators, I will have to clarify the source of the information. I will absolutely find out, if the report was commissioned by the Department of Justice, and any comments the department wishes to make on its status.

INDUSTRY

POTASH CORPORATION OF SASKATCHEWAN

Hon. Robert W. Peterson: Honourable senators, my question is for the Leader of the Government in the Senate.

For well over a month in this chamber and the other place, Liberals have been pressing the government for answers on Australia's BHP Billiton's takeover bid for the Potash Corporation of Saskatchewan. The Liberal Party is against this deal, the Government of Saskatchewan is against this deal and the people of Saskatchewan are against this deal. Premier Wall even seems to think Saskatchewan's Conservative MPs might be

against this deal, but of course they are afraid to express an opinion. In fact, the only person who appears not to be against this deal is Prime Minister Stephen Harper. Why is this Prime Minister waffling when he should be standing with Saskatchewan?

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, it would help if the honourable senator would discontinue attributing false motives to people.

The fact is, as I have said and I will repeat again, the Minister of Industry and his officials will take the time necessary to make a decision to approve only if it demonstrates that it is likely to be in the net best interest to Canada. Minister Clement is following a rigorous process that is outlined in the Investment Canada Act.

Under the Investment Canada Act, we are the only government to reject a deal, MacDonal, Dettwiler and Associates, in 2008, and to take a company to court, U.S. Steel in 2009. It is a verifiable fact, as I said yesterday to the honourable senator's colleague, Senator Hervieux-Payette, that in 13 years the previous Liberal government did neither.

Senator Peterson: Honourable senators, the leader has answered on many occasions and again today that her government would not support any initiative that was not a net benefit to Canada. The Premier of Saskatchewan has said repeatedly that this hostile takeover bid is not a net benefit to the people of Saskatchewan and therefore not to the benefit of Canada. Would the leader agree with that assessment?

Senator LeBreton: Honourable senators, the federal government has a responsibility under the Investment Canada Act. The Minister of Industry, Minister Clement, and his officials will take all the time necessary to make a decision to approve only if it demonstrates that it is likely to be of a net benefit to Canada. Minister Clement will follow this rigorous process as outlined in the Investment Canada Act.

Senator Peterson: Honourable senators, allow me to share a few numbers with the Leader of the Government in the Senate. September 23 is when we first started asking the government for a definition of "net benefit." The portion of the world's reserves of potash that are found in Saskatchewan is 53 per cent; \$38.6 billion makes this the biggest resource selloff in Canadian history; \$2 billion to \$6 billion is the total loss to Saskatchewan revenue identified by the premier; and four is the number of former Saskatchewan premiers across party lines to oppose this takeover.

When so much of a strategic Canadian resource is at stake, will this government just say no?

Senator LeBreton: Honourable senators, if the government did not look at all of these proposals or all of the matters brought before it under the Investment Canada Act, the honourable senator would be the first one criticizing the government for not performing its due diligence and looking into these matters and making decisions in the best interests of Canada.

Hon. Grant Mitchell: Honourable senators, the Leader of the Government in the Senate said that somehow she concludes that

the minister has the leeway, the authority and the power to make this decision. Could the leader tell me how exactly a minister in that particular cabinet under that particular Prime Minister would ever have any power whatsoever, particularly after the Prime Minister has thrown the thing aside, diminished it and said it is really nothing because it is just an American-controlled company being overtaken by an Australian-controlled company?

Minister Clement would be the first minister who ever stood up to this Prime Minister, unless the leader was the first to do so.

Senator LeBreton: Again, the honourable senator must stop reading people like Lawrence Martin, Jim Travers and Jeffrey Simpson.

As I have said before, the Prime Minister has every confidence in his cabinet ministers. He has expressed confidence in all of the ministers on many occasions in the past.

In this case, it is the Minister of Industry, the Honourable Tony Clement, who has carriage of this file. Mr. Clement will take the necessary time, with his officials, to make a decision to approve only if it is in the best interests of Canada and Canadians.

Senator Mitchell: Honourable senators, when the Prime Minister said that it was just an Australian-controlled company taking over an American-controlled company, does he really understand that the fundamental difference is that the American or offshore investors are widely dispersed now — they may be American, they may be others. They are widely dispersed; they do not hold a controlling interest; they cannot run that company.

There is a difference between that kind of company and an Australian-controlled firm that will actually buy that company outright and run it to its ends and maybe Australia's ends, but probably not to Canada's and Saskatchewan's.

Senator Tkachuk: We have a process.

Senator LeBreton: Senator Tkachuk is correct. All of a sudden, all of these processes are no longer valid.

Senator Tkachuk: This is not some tinpot dictatorship; this is not some South American dictatorship.

Senator LeBreton: I will only repeat the facts, and the facts are that the Minister of Industry, the Honourable Tony Clement, and his officials will take all of the necessary steps and they will take the time to make a decision to approve only if it demonstrates that it is likely to be in the best interests of Canada and Canadians. Those are the facts. That is the simple answer, but I am not surprised that the honourable senator has such difficulty in accepting a truthful, simple answer.

HUMAN RESOURCES AND SKILLS DEVELOPMENT

CANADIAN COUNCIL ON LEARNING

Hon. Catherine S. Callbeck: Honourable senators, my question is to the Leader of the Government in the Senate.

Last March, I asked the leader about the loss of funding for the Canadian Council on Learning, which is still one of Canada's foremost researchers in education. At that time, which was seven months ago, the leader stated the federal government was focusing on working with the provinces, the territories and other stakeholders to create this new labour market information.

I have yet to hear how the expertise of the Canadian Council on Learning has been replaced. What steps have been taken to create this new method of gathering labour market information?

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, when Senator Cowan asked the question last March, I believe I provided a written response. I will take this question as notice and I will be happy to update the honourable senator on the progress of this particular issue.

INTERNATIONAL COOPERATION

REPORT ON CANADIAN OFFICIAL DEVELOPMENT ASSISTANCE

Hon. Claudette Tardif (Deputy Leader of the Opposition): Honourable senators, in early October 2010, the government tabled in the House of Commons the second *Report on Canadian Official Development Assistance* as required by the Official Development Accountability Act. The government has once again opted for under-reporting and minimum implementation when it comes to Canada's new aid legislation.

• (1400)

The act requires all responsible ministers for official development assistance to confirm that assistance disbursements and programming under their authority meet the following three tests: reduction of poverty, taking into account the perspectives of the poor, and consistency with international human rights standards.

Similar to the 2008-09 report, the 2009-10 report fails to fulfill, once again, the spirit and intention of the act. The report provides only a listing of activities undertaken with official development assistance with no analysis or systematic reference as to how or why the activities undertaken with official development assistance resources meet the three tests.

Why does the leader's government refuse to provide any substantial analysis and systematic reference to substantiate the minister's opinion that compliance to the act is being met in these three areas?

Hon. Marjory LeBreton (Leader of the Government): I thank the honourable senator for the question. The Minister of Foreign Affairs, the Minister for International Cooperation, who is responsible for CIDA, and the Minister of State of Foreign Affairs (Americas) have fully complied over the past years with their responsibilities as ministers. With regard to Minister Oda and our funding, as honourable senators know, we follow a principled approach to our international commitments.

We have made Canada's international assistance more effective, targeted, accountable and result-driven. CIDA funding, in particular, goes toward programs that directly affect poverty alleviation in the developing world. This leaves more dollars available for development work on the ground which will result in greater outcomes and greater results. Canadians expect their aid dollars to be spent on projects that directly affect the world's most vulnerable.

With regard to the honourable senator's specific question and the details she requests, I will seek further information from the departments involved in our assistance packages.

Senator Tardif: I thank the leader for verifying the question that I asked.

As a supplementary question, under the provisions of this same act, CIDA and other departments involved in disbursing official development assistance funds must consult on the implementation of the act with civil society organizations, developing countries and multilateral institutions.

However, the minister responsible for CIDA decided to create the new 20-country focus for bilateral aid spending without any civil society consultation. This is but another example of this government not meeting the intent of its own laws. Why is this government not following its own consultation principles, and when will this government start providing Canadians with a transparent and accountable rationale for its development assistance policies, strategies and programs?

Senator LeBreton: I do not think there is any doubt about the programs and the intent of the minister responsible for CIDA, the Honourable Bev Oda. We have been clear all along that we would, as I mentioned a moment ago, be more targeted in the delivery of our aid dollars. We have been clear in outlining our countries of focus. We have been clear about our aid effectiveness strategy. All projects funded by CIDA, whether through geographic, multilateral or partnership programs, have been assessed against these standards and, after completing due diligence, CIDA makes the decisions on what projects proceed and what projects do not.

CIDA receives many applications. The agency cannot possibly fund every program for which they receive an application. That is why the minister has been up front and direct in clearly outlining Canada's policy, whether it is with regard to untying food aid or putting money directly into the country's most at need. We have significantly increased our contribution dollars, especially in Africa, but in other countries as well.

It is a different policy than was followed by the previous government, but it is the policy of this government. It is working. CIDA officials are ensuring that the hard-earned Canadian tax dollars allocated to these programs are getting down to the level where these dollars are needed, and that is very poor people and those included in the maternal health issue. The dollars are flowing to those people, rather than being distributed as they were before, with no sense at all of whether the money even got close to the people who most needed it.

Senator Tardif: Honourable senators, the issue is one of lack of consultation. The act requires that there be consultation; there was no consultation.

The report also found that CIDA's "do-no-harm" approach to human rights was minimalist, inadequate and offered a narrow approach to human rights obligations under the act. For its programs to be consistent with international human rights standards, the agency should be able to demonstrate that it can reasonably expect to do no harm. Merely stating that the agency meets its human rights obligations does not provide the Canadian public with how its programs and strategies go about meeting them.

What measures will be taken by the government to ensure that all ministers and agencies set exemplary standards on the aid reporting and implementation fronts?

Senator LeBreton: As a government, we are reporting to Canadians that we are managing their hard-earned tax dollars that we contribute in aid. As I have pointed out before, Canadians want results. They want to know that their tax dollars are making a difference. The honourable senator disagrees, but our plan includes focused bilateral aid on 20 countries; shifting more resources and authorities to the field, which is where it should be; establishing priority themes such as food security, children and youth, and economic growth; and, as I have mentioned before, completely untying all aid by 2013. As honourable senators also know, all food aid is untied.

At the United Nations recently, the Prime Minister announced our new commitment of \$540 million over three years to The Global Fund to Fight AIDS, Tuberculosis and Malaria. The global fund directs approximately 61 per cent of its resources towards HIV/AIDS, 24 per cent toward the prevention and treatment of malaria and 15 per cent to tuberculosis programming.

We are committed as a government and are proud of the commitment of doubling our aid to Africa in 2008-09, a full year ahead of the original commitment target, and Africa receives 67 per cent of our food aid.

The Canadian-led "Initiative to Save a Million Lives," launched by the Prime Minister in Africa in 2007, has trained 20,000 health workers and distributed 640,000 insecticide-treated bed nets. As well, about 80 per cent of the funding in the maternal and child care initiative will go to sub-Saharan Africa.

The honourable senator may have a different political or policy view. We happen to believe that as the government we have a responsibility to these nations and to the Canadian taxpayer, and I believe that the government is on the right track. We have been told by many countries that our significant efforts are indeed working.

• (1410)

RIGHTS & DEMOCRACY

Hon. Joan Fraser: Honourable senators, my question is for the Leader of the Government in the Senate. All honourable senators are aware of the sad story of what is happening at Rights & Democracy, though perhaps not as aware as we would like because we are still waiting for the results of the forensic audit commissioned seven or eight months ago.

We learned from their latest annual report that the government installed a new chairperson and new members of the board of directors, presumably to shake up the place — perhaps in their view to clean it up, although I think it was pretty clean in the first place. After that was done, what happened? Money started flowing like water. Professional fees tripled in a single year to \$960,000 for the year ending March 2010; and expenses of the board of directors tripled in the same time frame.

Senator Oliver: What about the meetings?

Senator Fraser: I will mention the meetings, Senator Oliver — it is an interesting point.

If this is the government's idea of sound management, on what do they base that idea? Is it based on advice from the Department of National Defence along the lines of how to buy helicopters?

Hon. Marjory LeBreton (Leader of the Government): If I were in the Liberal Party, I would never mention the word "helicopter," given the amount of money Canada had to spend after cancelling the contract, costing the Canadian aerospace industry thousands of jobs. The honourable senator knows that Rights & Democracy is an arm's-length, government-funded organization that is mandated to promote human rights and democracy internationally.

Our government is committed to Rights & Democracy and will work with the new President, Mr. Gérard Latulippe, to secure the organization's future. Mr. Latulippe will be expected to deliver positive results on governance and stewardship of the organization and to resolve internal issues in collaboration with all stakeholders.

Rights & Democracy is an arm's-length organization. The government has put people in place to ensure that the organization is run properly and that it fulfills the mandate it was intended to fulfill.

Senator Fraser: May I suggest to the leader to keep checking? When they take our money and reappoint their board, "arm's-length" is not quite as distant as one might think from the phrase.

Allow me to return to Senator Oliver's point about the extra meetings. There were two extra meetings of the board of directors in that fiscal year; and they cost \$200,000. That is \$100,000 per meeting. Honourable senators know that you do not have to spend \$100,000 to bring a group of people together and have a constructive and productive meeting. The Senate has long experience in doing just that. I am sure that the Standing Committee on Internal Economy, Budgets and Administration would be glad to supply advice, if asked.

In its annual report, why did the President and Chairman of the Board of Directors pay only lip service to the former President of Rights & Democracy, the late Rémy Beaugard? He was a highly respected man who died suddenly in difficult circumstances. Neither of the new gentlemen even mentioned Mr. Beaugard in

their personal little messages in the annual report; did not even mention his name. The reference was about as brief as possibly could be gotten away with. It said:

Mr. Rémy M. Beauregard was President of Rights & Democracy from his appointment in May 2008 until his sudden death on January 7th, 2010. He leaves to mourn his wife and his son. We offer to his family and all those who loved him our sincere condolences.

There was not a word about what he had done for the country or for Rights & Democracy. What kind of people is the government sending to Rights & Democracy who cannot even bring themselves to be decently courteous and gracious?

Senator LeBreton: The honourable senator will recall that at the time of Mr. Beauregard's untimely death I, on behalf of the government, expressed the sympathy of all of us. Sympathy and support to his family is a given.

In my capacity as the Leader of the Government in the Senate, I cannot answer for arm's-length boards who report to the government. As an arm's-length organization, Rights & Democracy writes its own reports.

The honourable senator initially asked about the organization's expenditures. The Board of Directors of Rights & Democracy approached Deloitte & Touche to request an audit of the books. We were given to understand that Deloitte has submitted or is about to submit its final report. This document falls completely within the purview of Rights & Democracy. At the appropriate time, I am sure they will respond to it.

However, far be it from me as the Leader of the Government in the Senate to stand and answer for or interfere in any arm's-length organization. Although Rights & Democracy is government funded, it is an arm's-length organization responsible for its own report.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I would like to draw your attention to the presence in the gallery of representatives of the Korean Women's International Network, including Katherine Um, Monica Kim, Susanna Park and Esther Choi.

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

Hon. Senators: Hear, hear.

[*Translation*]

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, I have the honour of presenting, in both official languages, delayed answers to three oral questions raised by Senator Sibbeston on May 11, 2010, concerning Infrastructure, funding for northern projects; by Senator Rompkey on May 11, 2010, concerning Infrastructure, funding for northern projects; and by Senator Sibbeston on June 8, 2010, concerning the Environment, hydroelectric power generation on the Taltson River.

INFRASTRUCTURE

FUNDING FOR NORTHERN PROJECTS

(*Response to questions raised by Hon. Nick G. Sibbeston and Hon. Bill Rompkey on May 11, 2010*)

Budget 2009 created the \$4-billion Infrastructure Stimulus Fund (ISF) that provides funding to provincial, territorial and municipal infrastructure projects. Through the Infrastructure Stimulus Fund, the Government of Canada has committed over \$12 million towards projects in the North (the Yukon, Northwest Territories and Nunavut) with a total value of over \$28 million.

Projects funded under the Infrastructure Stimulus Fund must be completed by March 31, 2011. When applying to the ISF, applicants were required to attest to the fact that their projects could be completed by the deadline. It should be noted that the Government of Canada will pay its share of eligible costs incurred on approved projects up to March 31, 2011.

The Government of Canada understands the difficulties of having to complete time-sensitive projects in the North where construction and acquisition of materials, among other factors, is impacted by seasonal circumstances. However, the main objective of stimulus spending under the Economic Action Plan is to support the Canadian economy during the economic downturn. In short, stimulus spending is intended to be timely, targeted and temporary in order to benefit Canadians when it is most needed.

It should be noted that Infrastructure Canada also has a wide range of other programs aimed at the improvement of public infrastructure, most of which are longer-term programs which allow for more flexibility in project timelines.

In Budget 2007, the Government of Canada announced the \$33 billion Building Canada Plan, a historic initiative that advances national priorities that are important to all Canadians: a stronger economy, a cleaner environment, and better communities, while addressing local and regional infrastructure needs over a seven-year period (2007-2014). The components of the Building Canada Plan that Infrastructure Canada manages include the \$8.8 billion Building Canada Fund (BCF) and the \$2,275 million Provincial-Territorial (PT) Base Fund.

The BCF was allocated to jurisdictions on a per capita basis. In recognition of the unique infrastructure challenges in Canada's North, each territory's Building Canada Fund allocation (a total of \$26.4 million) has been added to the Provincial/Territorial Base Fund.

The Provincial-Territorial (PT) Base Fund provides a total of \$175 million to each jurisdiction to address core infrastructure priorities. In light of the fact that the BCF funding was added to the PT Base allocation for the three territories, Yukon's allocation is \$182.9 million, the Northwest Territories' allocation is \$185.8 million and Nunavut's allocation is \$182.7 million.

In recognition of the unique infrastructure needs of the northern jurisdictions, eligible investments in the three territories also include Northern Infrastructure. In addition, up to three percent of all community-based initiatives submitted under a Capital Plan can be accessed for related administrative costs and up to one percent of each territory's PT Base Fund allocation is available for research, knowledge and feasibility studies, as well as capacity-building initiatives involving communities.

Under Budget 2009, all provinces and territories were offered the opportunity to take advantage of up to \$1 billion in accelerated payments. The funds originally planned for the 2011-12, 2012-13, 2013-14 fiscal years were offered during 2009-10 and 2010-11 to those provinces/territories that chose to accelerate and could demonstrate an ability to put these funds to work quickly.

ENVIRONMENT

HYDROELECTRIC POWER GENERATION IN THE NORTH

(Response to question raised by Hon. Nick G. Sibbeston on June 8, 2010)

The Government of Canada is making strategic investments in infrastructure that contribute to our economy, job creation, a cleaner environment, and strong and prosperous communities. In Budget 2009, the government announced almost \$12 billion in new infrastructure stimulus funding over two years. Significant new infrastructure investments include the Green Infrastructure Fund (GIF), which will provide \$1 billion over five years for the construction of new sustainable energy infrastructure and other green projects.

The GIF provides targeted investments in green public infrastructure that can improve the quality of the environment and will lead to a more sustainable economy over the long term. This fund supports green infrastructure projects on a cost-shared basis. Eligible projects are those that fall within any of the following categories: wastewater infrastructure; green energy generation infrastructure; green energy transmission infrastructure; solid waste infrastructure; and carbon transmission and storage infrastructure. Eligible recipients include provinces, territories, local or regional governments; public sector bodies, non-profit organizations and private companies, either alone or in partnership with a province, territory or a government. Projects are reviewed against assessment criteria such as eligibility, leveraging financial investments and project benefits. In general, this fund has focused on a few, large scale, strategic infrastructure projects.

The Government of Canada recognizes the important economic benefits of the Taltson Hydro Expansion Project to the long-term viability of existing mines and to attracting future mining exploration to the Northwest Territories. However, the project in light of the goals and intentions of the GIF need to be considered.

The focus of the GIF is to support public infrastructure with clear environmental benefits. Currently, the described project would primarily support existing and potential mining development in the Northwest Territories, with some additional benefits in terms of service reliability and potentially, reduced rates over the long term, to communities that are already connected to the transmission grid. While GHG emissions could be reduced, depending on the agreements reached with the mining developments, this project is not consistent with the criteria under the GIF for projects of this nature.

In addition, as proposed, the Government of Canada's contribution would be the only significant equity investment, while the rest of the funding would be borrowed against future earnings.

As a result of the above, the Taltson Hydro Expansion Project was not deemed to be a suitable candidate for funding under the GIF.

ANSWERS TO ORDER PAPER QUESTIONS TABLED

NATIONAL REVENUE— GOOSE BAY DIVERSIFICATION FUND

Hon. Gerald J. Comeau (Deputy Leader of the Government) tabled the answer to Question No. 29 on the Order Paper—by Senator Rompkey.

FISHERIES AND OCEANS—INCREASED AIR, LAND, AND MARINE ACTIVITY IN NORTHERN AREA

Hon. Gerald J. Comeau (Deputy Leader of the Government) tabled the answer to Question No. 30 on the Order Paper—by Senator Rompkey.

• (1420)

ORDERS OF THE DAY

FEDERAL LAW—CIVIL LAW HARMONIZATION BILL NO. 3

SECOND READING—DEBATE ADJOURNED

Hon. Claude Carignan moved second reading of Bill S-12, A third Act to harmonize federal law with the civil law of Quebec and to amend certain Acts in order to ensure that each language version takes into account the common law and the civil law.

He said: Honourable senators, I am pleased to speak today to Bill S-12, A third Act to harmonize federal law with the civil law of Quebec and to amend certain Acts in order to ensure that each language version takes into account the common law and the civil law.

Bill S-12 is the third bill to be introduced before Parliament in order to harmonize federal law with the civil law of Quebec. You will recall that Bill S-4, introduced in 2001, became the Federal Law—Civil Law Harmonization Act, No. 1, and that Bill S-10, introduced in 2004, became the Federal Law—Civil Law Harmonization Act, No. 2.

I would also like to point out that, since the first two harmonization bills were passed, Parliament has examined and adopted a number of harmonization amendments to different laws. For example, in the First Session of the Thirty-ninth Parliament, Bill S-6, An Act to amend the First Nations Land Management Act, was passed and became law on June 22, 2007, and came into effect on February 1, 2008. The sole purpose of this act was to amend the First Nations Land Management Act, to incorporate, to the extent provided for by the Framework Agreement on First Nation Land Management, the concepts and terminology of the civil law of the Province of Quebec.

Parliament has also passed a number of new laws that were drafted according to the principle of bijuralism, such as the Canada Not-for-profit Corporations Act which received Royal Assent on June 23, 2009.

Parliament is currently studying Bill C-20, An Act to Amend the National Capital Act and other Acts, which contains a number of harmonization changes. The House of Commons passed this bill at second reading on May 25, 2010 and referred it to the Standing Committee on Transport, Infrastructure and Communities.

I will now address three points that will help us in our study of Bill S-12, and I will begin by putting into context Canadian bijuralism and harmonization.

Honourable senators, to truly understand the origins of the harmonization initiative, it is important to understand that in Quebec, rights and obligations with regard to property and civil rights are primarily governed by the Civil Code of Quebec, while in the nine other provinces and in the three territories, they are primarily governed by common law. It was the Quebec Act of 1774 that enshrined the coexistence of the common law and civil law traditions in Canada.

The Constitution Act of 1867, which divided legislative powers between the federal Parliament and the provincial legislatures, did not change this situation. By giving the provinces jurisdiction over property and civil rights, the Constitution Act, 1867, enabled them to pass legislation in key areas. Some examples include the rules governing family, estates, property and contracts.

For its part, the federal Parliament, in exercising its legislative powers, regularly makes use of property and civil rights concepts. When it does, and it is necessary to interpret such a concept, it is the rules, principles and notions in effect in the province or territory where the federal text is applied that give the text meaning. In that way, provincial or territorial law complements federal law.

Honourable senators, this complementarity of provincial law requires each language version of federal laws and regulations to take into account the civil law tradition of Quebec and the

common law tradition or traditions of the other provinces or territories. That is precisely the purpose of Bill S-12.

In this way, the harmonization initiative also respects the duality of the Canadian legal system and the four legal audiences, namely, francophone users of civil law, anglophone users of civil law, anglophone users of common law and francophone users of common law.

Honourable senators, as you know, the Civil Code of Quebec came into force on January 1, 1994 and is a major landmark in the history of our country's legal system. The significant changes it has engendered in Quebec law are what prompted the federal government to take the harmonization initiative.

This third harmonization bill is an opportunity for the federal government to acknowledge, once again, the important impact that the civil law of Quebec has on the application of federal legislation in Quebec.

Harmonization allows better access to justice for all Canadians. In addition, it makes the application of federal legislation more efficient, which should improve the effectiveness of the administration of justice in general.

It is important to remember that all Canadians benefit from harmonization. Not only does harmonization enable Quebecers to identify more with federal legislation, but it also clarifies federal statutes, which become more respectful of institutions proper to the civil law and the common law. One of the objectives of the harmonization initiative is to ensure that all of the amendments made to federal legislation take into account the French common law terminology developed in Canada. This terminology is the result of extensive studies aimed at reflecting, in French, concepts that had been developed strictly for English-language common law. This is a huge improvement that makes Canada a world leader in the area of bijuralism.

Honourable senators, I come now to sections 8.1 and 8.2 of the Interpretation Act. I would remind you that these sections were added to the Interpretation Act in 2001 by the Federal Law—Civil Law Harmonization Act, No. 1. Section 8.1 recognizes the reality of Canadian bijuralism in the areas of property and civil rights and the fact that provincial laws complete federal legislation. Section 8.2 sets out a rule to facilitate the interpretation of federal laws and regulations, using civil law and common law terminology. This rule also clarifies the techniques for drafting bijural federal legislation.

Since they came into force in 2001, sections 8.1 and 8.2 of the Interpretation Act have been used by the courts to address issues of bijuralism. In 2001, in *St-Hilaire v. Canada (Attorney General)*, the Federal Court of Appeal applied the principles of bijural interpretation set out in sections 8.1 and 8.2. The Supreme Court of Canada did the same on many occasions, particularly in the recent case of *Caisse populaire Desjardins de l'Est de Drummond v. Canada*, in 2009.

In 2002, in *Schreiber v. Canada (Attorney General)*, the Supreme Court of Canada took into account the new bijural legislative drafting techniques.

I can also cite other rulings handed down by the Supreme Court of Canada in which the court had to resolve bijuralism issues, including *D.I.M.S. Construction inc. (Trustee of) v. Quebec (Attorney General)* in 2005, *Peoples v. Wise* in 2004, and the *Canada 3000* case in 2006.

It is evident, honourable senators, that harmonization amendments are having a real impact on the evolution of Canadian law.

It is important to note that sections 8.1 and 8.2 apply, as general rules of interpretation, to all federal enactments, even those not yet harmonized.

• (1430)

I will conclude my speech with the following comments about Bill S-12.

First, with regard to the method used to arrive at this third harmonization bill, it should be pointed out that key stakeholders and members of the legal community were consulted, as they were for the first two harmonization acts. Consultations were held from February 1 to April 30, 2008, specifically with regard to the Canada Business Corporations Act and the Expropriation Act.

Major stakeholders included the provincial and territorial attorneys general and their deputy ministers, the Barreau du Québec, the Chambre des notaires du Québec, the Canadian Bar Association, professors, civil law and comparative law experts, lawyers and judges.

The Justice Department posted a consultation paper on its website throughout the consultation process. This document was also mailed to more than 350 people: provincial and territorial justice ministers and deputy ministers, justices of the Supreme Court of Canada, chief justices of the federal courts and some provincial courts, provincial bars, law professors and legal advisors in private practice.

Let me quote some of the comments.

From Quebec's justice minister:

Once again, Quebec's Justice Department can only support the policy of legislative bijuralism underlying your new harmonization initiative. This policy recognizes the contribution that the civil law tradition makes to Canadian law, while also ensuring that the concepts and rules of civil law are applied in Quebec when there is a need to complete federal law. Certainly, it is desirable to harmonize federal and Quebec legislation in terms of the concepts, institutions and terminology of private law. In fact, it seems necessary in order to ensure that individuals and businesses do not lose rights because of gaps in the legislative approach or the uncertainties that it could produce.

From McGill University:

I am following the justice department's important work on bijuralism with great interest. I feel that this work will make a significant contribution to the advancement of law, and your department must be very proud.

[Senator Carignan]

From Ontario's Attorney General:

This is meticulous, time-consuming work . . . Keep up the good work!

In addition, a special issue (volume 42, numbers 1 and 2 — 2008) of the *Revue juridique Thémis*, produced in collaboration with the Justice Department as part of the harmonization initiative, was launched on February 20, 2008, at the faculty of law of the Université de Montréal. This special issue contained articles by corporate law experts who conducted an in-depth analysis of some of the harmonization proposals related to the Canada Business Corporations Act.

It was clear from these consultations that the harmonization initiative is considered to be important and that it is supported by interested members of the legal community.

I would like to draw your attention to the fact that Bill S-12 would harmonize the following 12 acts: the Boards of Trade Act, the Business Development Bank of Canada Act, the Canadian Business Corporations Act, the Canada Cooperatives Act, the Consumer Packaging and Labelling Act, the Electricity and Gas Inspection Act, the Expropriation Act, the Precious Metals Marking Act, the Public Documents Act, the Standards Council of Canada Act, the Textile Labelling Act and the Weights and Measures Act.

The bill would also make consequential amendments to four other acts.

Honourable senators, I want to point out that the changes resulting from harmonization are technical and terminological. They will not change the legislator's intent.

In closing, I would like to emphasize the fact that harmonization and legislative bijuralism will result in greater respect for our two legal systems and our two official languages. Furthermore, this is a clear indication of this government's desire to collaborate with the provinces and territories. By incorporating provincial and territorial private law terminology into federal legislation when necessary, the federal Parliament is respecting the role of the provinces and territories in the areas of property and civil rights.

Honourable senators, I thank you very much for your time and I urge you to fully support Bill S-12.

(On motion of Senator Tardif, debate adjourned.)

• (1440)

[English]

PARLIAMENTARY REFORM

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Cowan calling the attention of the Senate to the issues relating to realistic and effective parliamentary reform.

Hon. Joan Fraser: Honourable senators, I would like to thank Senator Cowan for launching this inquiry. Lord knows we have all spent a great deal of our time thinking about questions involving parliamentary reform; perhaps more about Senate reform, but Senator Cowan's point is vital, that we should think about the whole system.

We talk a lot about reform of the Senate, and we all have our own notions of how this place could be reformed in ways large and small. We all have our own views about the term that would be appropriate for senators, about the way in which senators should be appointed. One of my own areas where I would like to see work done is a way in which we could improve our regional role, our duty to represent regions within the Parliament of Canada.

I want to speak today because I want to utter a bit of a plea that when we talk about reform of the Senate, we bear in mind that the Senate is one part of an immensely complex and delicate mechanism. Honourable senators, any changes made to one part of this complex and delicate mechanism, no matter how simple and desirable they may appear on the face of matters, may have dramatic implications for the other parts of the mechanism and for the functioning of the whole.

In talking about what should be done to reform the Senate, I have always actually preferred the words to "modernize" or "improve" the Senate because "reform" sounds as if we are in an absolutely dreadful place, a pigsty that needs to be cleaned out. In fact, I think this is a wonderful institution. It can use some positive change, but I would rather avoid the word "reform."

Honourable senators, when we talk about change to the Senate, we need to think seriously about the implications of those changes for the House of Commons, for the provinces, for the regions we are supposed to represent and for the minorities that we have in recent years taken great pride in representing. When you start to think about those implications, it all becomes much more complicated. It is made even more complicated by the fact that so much of what is currently discussed and thought about this institution is based on myth rather than reality.

Honourable senators, for a long time I have thought that one of our starting points should be to look at how the Senate has evolved in the past 143 years. We should not look at just as it is on paper, or just as it was in 1867 when the Fathers of Confederation, as has been said in a broader context, built it better than they knew. We should look at how the Senate fits into the broader system. Lord knows, that is a vast subject and I will not have the time to cover it, but here are just a few thoughts.

Honourable senators, a great deal of what we are comes from two, almost clichéd, facts: we are not elected and we have job security until age 75. We cannot be fired for displeasing the boss. Sometimes we do not understand when we first get here — certainly I did not — what a profoundly important element that is of this place. We cannot be fired for displeasing the boss. We have, of course, because we tend to be here for quite a long time, a great collective institutional memory.

Senator Munson: I was fired.

Senator Fraser: You were not fired from the Senate.

Those facts have implications, which we know about, but which have implications for the whole system, not just for us.

We are the chamber that tends to be less partisan. We are not saints. We are a political institution and we are proud of it. We are proud of our loyalties to our parties, those of us who sit in party caucuses. However, we are, on a day-to-day basis, on average, less partisan than the other place. That means that our debates and committee work can focus less on scoring partisan points, because we do not have to worry about getting elected tomorrow. It means we can focus more on substance and on longer-term implications, and it means that we can tackle subjects that the House of Commons is reluctant to address for political reasons. Let me mention, for example, euthanasia, decriminalizing drugs, and mental health, all fields in which the Senate has done very important work and that the House of Commons did not dare to tackle.

Honourable senators, because we cannot be fired easily, we can speak truth to power, in public, in committees, outside the chamber and in private, particularly in our own party caucuses. I have often thought that one of the great rites of passage for a senator occurs the first day that the new senator says something to make his or her leader very angry. My first leader, the Prime Minister who appointed me, was the Right Honourable Jean Chrétien. Let me tell you, an angry Jean Chrétien was quite something, but I was able to tell him what I believed needed to be said because I did not have to be frightened — not because Mr. Chrétien is frightening, but because he is a strong, powerful personality and a man of great conviction.

We can, when our conscience calls for it, vote against our party line. That is much harder to do in the other place. Because of the nature of this place, our *Rules of the Senate* are and can afford to be more flexible than the rules in the other place, which means that we can go more deeply into subjects than the government of the day would frequently like to see us do. We are free to do that. No one can easily force us not to examine something.

As we have often noted, because we are appointed, our membership is wonderfully varied and many people who would not stand for election but who are ornaments of public life serve here in this chamber. Not to mention present senators, but I think back to past senators, people like Sister Peggy Butts, whom Senator Cowan mentioned; Lois Wilson, former moderator of the United Church of Canada; the artist Viola Léger; the television personality Betty Kennedy; the Metis elder Thelma Chalifoux; the journalist and Royal Commissioner Florence Bird. None of these people would have sought election. That is just a small sampling of the women. In case you noticed, with the exception of former Senator Wilson, they were all Liberals. I note that I did not mention any Conservatives largely because so many of my favourite Conservatives are still here, and I am confining myself to senators who are no longer serving in the Senate.

We all know of the massive contribution to Canadian public life that has been made by people like Senator Keon and Senator Gérald Beaudoin, to name just two recent members of this place.

It is true that since the Charter of Rights and Freedoms was adopted, we have increasingly been proud of our focus on our role as defender of human and minority rights. We are not beholden to

majorities of electors and are able to place our focus where we feel it is needed. I grant you, 143 years ago, Sir John A. Macdonald said, probably in jest, that the minority we were here to represent was the rich; but that is not who we have taken pride in standing up for in recent years, except very rarely. We have stood for minority rights, for the rights of women, and for the rights of other parts of the great Canadian population who are sometimes overlooked in the other place.

• (1450)

It is true that because we are not elected, we are cautious in the exercise of our quite vast powers. That is not a bad thing. We have tended to observe what is known in Britain as the Salisbury principle. If a government is elected with a specific, explicit element in its platform, the upper house will tend to respect that, at least in principle. Senator Murray is looking at me with a jaundiced air as I mention that. However, we do.

All these things I have just rhymed off, many of which are familiar to us, have tremendous value in the whole of our parliamentary system. I have tried to mention some of the things about this place that, at the moment, in the system we have, are less evident in the other portions of our system. That is doubly true, to mention just two factors, in the case of women and the fact that in Canadian politics, for reasons I cannot quite grasp, the glass ceiling seems to be thicker — “sturdier,” someone said the other day — than in so many other countries. The appointments process here has been able to help to right that balance, because we have proportionately more women than ever seem to get elected in the House of Commons.

Another thing that is important is that because we are the way we are, and we do not have to have such strict party discipline, we can perhaps cast a fresh eye on the regional tensions that are an eternal part of this country. A country that is as huge and as diverse as Canada has regional tensions. That is one reason there is so often such strict party discipline in the House of Commons. In order to achieve good government for all Canadians, one must sometimes make decisions that people in specific regions will not much like. In the House of Commons, they do that by party discipline.

We do it in slightly different ways. In other words, in ways that Sir John A. Macdonald perhaps may not have foreseen, we can, and do, provide sober second thought on a wide front.

I am not suggesting we are perfect. Lord knows we are not. We are a human institution. No human institution was ever perfect, and certainly not one designed 143 years ago.

When we set out to change ourselves, we have to think not only about what may be gained from the change. For example, it is clear that in the 21st century, electing members of a parliament tends to have more legitimacy in the public eye than appointing them. That could be in many ways a gain. However, we must think about what we would lose — not what *we*, the individuals who happen to be here right now, would lose, but what *we*, as a system and as Canadians, would lose: the existence of an island of rather more sober, rather longer-term, rather less partisan influence within the Parliament of Canada.

If we lose those things, how will they be replaced? Will they be replaced? If they are not replaced, how will we compensate for the loss? Canada needs an institution doing what this institution, at

its best, does. Whether it is this institution or someone else, those things need to be done. Who will do them if we do not?

I am just about out of time, so I will spare colleagues my own personal little wishlist of ways in which I think changes might be made. May I have just a few minutes, colleagues? I am nearly done.

Hon. Gerald J. Comeau (Deputy Leader of the Government): No more than five.

The Hon. the Speaker *pro tempore*: Honourable senators, is five more minutes granted?

Hon. Senators: Agreed.

Senator Fraser: I refer honourable senators to some of the suggestions that have been made by our former colleague Senator Hays, a man with more experience at more levels and in more elements of this institution than most of us. I do not agree with all of his suggestions, but they are thoughtful and they hang together.

Finally, I would urge honourable senators to take very seriously Senator Cowan’s repeated warnings that we need to look at the whole system. We need to think through a strategy for the whole system of which we are a proud part and we need to do that in the terms of the 21st century, without losing the better values that have helped us evolve by and large well in the 20th and the 19th centuries.

Hon. Bert Brown: Would the honourable senator entertain a question?

Senator Fraser: Yes.

Senator Brown: Is the honourable senator aware of the phrase at the top of page 7 of the Constitution Acts, 1867 and 1982?

Senator Comeau: It should be on the tip of her tongue.

Senator Fraser: Page numbers are not usually something I have at the tip of my tongue. Perhaps the honourable senator could read me the text.

Senator Brown: Can I suggest the phrase to the honourable senator?

Senator Fraser: Read it.

Senator Brown: It reads: “Representation of provinces in the Senate.”

Senator Fraser: Little does the honourable senator know that he touched upon one of the things that I can get really impassioned about. I will try not to.

I become impassioned because I believe there has been a terrible tendency in this country to assume that a provincial government is the province. The provincial government is not the province any more than the Government of Canada is Canada. From that fallacy flow a great many errors, in my view, in the way we contemplate public affairs.

[Senator Fraser]

More generally, in terms of the Senate, it has often been suggested, honourable senators, that we should essentially move away from the old regional division that was set up in 1867 and focus entirely on representation of provinces. Whether we call them regions or provinces, what matters more is the distribution of seats. That, I know I do not have time to address, but that is the nub of it. Whether we call it representation of provinces, representation of regions, or representation of the people of Canada, on these things, it seems to me, hang some decisions, but it is the content and not the labels that matter.

Hon. Lowell Murray: Honourable senators, in listening to the interesting contribution to the debate made by Senator Fraser, it had been my intention to try to bootleg a couple of thoughts in by way of questions. However, her time has run out. Instead of that, if honourable senators do not mind, I will make a few off-the-cuff remarks.

First, with regard to provincial representation in the Senate, I want to express my sincere regret that the initiative taken by our former colleague Senator Austin and me some years ago to provide a better balance of representation in this place by correcting the gross under-representation of Western Canada here has gone nowhere.

• (1500)

I hope, without giving offence, I can express my regret, in particular, that that initiative was opposed by honourable senators from parts of the country, including Atlantic Canada and Quebec, who have often sought and sometimes found, on the part of their colleagues from other parts of the country, sympathy and understanding for their special and particular needs. It grieves me somewhat that there was not more appreciation of the problem of underrepresentation of Western Canada in this place. However, I will not revisit that debate at the moment.

I might say that Senator Campbell was quite willing to join me in replacing Senator Austin as a sponsor. One of the reasons I have not presented the proposed amendment to the Constitution again is that there is already a bill in the House of Commons to change the representation to bring it more in line with representation by population in that body. That might have some impact on my thinking.

With regard to the operation of this place, let me begin by saying that after over 30 years here there is always a danger, however slight, that a bit of repetitiveness will creep into one's speeches. I try to avoid that. I may have said this before and, if I have, please do not stop me.

Senator Meighen: Don't worry, we won't remember.

Senator Murray: Senator Meighen says, "Don't worry, we won't remember." I am pained to hear that.

I have said, and I believe this to be true, that the more we look like or try to look like or appear to look like the House of Commons, the less credible we are. The thought occurs to me almost daily, and has occurred to me since I have been here in whatever role I happened to be playing, in connection with the oral Question Period that it does not accomplish very much and must be rethought. As Senator Fraser says, consideration of the reform of the Senate must be considered in connection with other parts of Parliament, the House of Commons, and other parts of the federation, the provinces. So, too, in connection with the oral

Question Period reform would have to be considered in light of how we conduct our business generally. There must be a better way for senators to seek and obtain information than we are now doing.

Goodness knows the Question Period in the House of Commons is an abomination, even with all those ministers sitting there supposedly to answer questions. I see no reason why we try to replicate that here.

I also wonder whether senators would not consider seriously, in terms of presenting a different face to the public, as we should and can do, a face different from that of the House of Commons, the proposition — I think by Senator Segal — to allow television cameras into this chamber.

Before doing that, I would suggest we take the desks out and make it a more intimate debating chamber — as in Britain in the House of Lords, as well as their Commons. The room we would save by doing that could be used for the television cameras. In making the chamber more television friendly, perhaps we could use the Committee of the Whole more frequently to hear witnesses from outside on important matters.

Those were the thoughts that went through my mind as I listened to Senator Fraser. I do not expect to be around to see any of those thoughts concretely realized, but I place them on the record for your future inspiration.

Hon. Tommy Banks: May I ask the honourable senator a question?

Senator Murray: Yes.

Senator Banks: Senator Murray will know that I have rarely, if ever, disagreed with him about anything. I seek instruction rather than argument.

The honourable senator and Senator Austin proposed a rejigging of seats in this place to take into account what you have characterized as under-representation of the West in the Senate.

I am a denizen of that part of the country that the honourable senator referred to specifically that is under-represented, but the basis on which it is under-represented is, as Senator Murray has just said, population. The whole point, as I have always understood it, of the distinction between the other place and this place — leaving aside Atlantic Canada and the fact that it now has 30 seats by virtue of Newfoundland having joined Confederation — is the equality of regional representation and that this place would be a bulwark against the tyranny of the majority.

In fact, I have always understood that the Confederation debates led to the creation of this place specifically because the provinces who did not have the big populations knew they needed to have, someplace in the three parts of Parliament, a clout that could staunch the tyranny of the majority.

Therefore, the instruction I seek from the honourable senator is how can we say that a population shift will result in changes in the number of seats of representation in this place?

Senator Murray: There are two matters. First of all, it is relevant to point out that population considerations were present almost from the beginning in that the Fathers of Confederation, and some succeeding generations, made provision that when particular provinces attained a certain population, their representation in the Senate would increase. That was done in respect of a number of provinces in the Constitution.

Second, the issue about regional equality I accept, of course. However, the issue there for me, and for many of us, is whether British Columbia is a region. I believe it is. The previous government believes it is because, in an important statute that they passed at some point — and here my short-term memory is deserting me — was a resolution to govern how Parliament would deal with resolutions to amend the Constitution that came forward under the 7/50 rule. My recollection is that we passed a resolution at the initiative of the then Chrétien government to the effect that Parliament would not exercise its role unless there was regional agreement in which British Columbia, as a region, would have a veto.

I believe British Columbia is a region in terms of its history, population and its distinctiveness, if you like. It is not simply to be lumped in with the three Prairie provinces. I speak of the initiative by Senator Austin and me that sought to provide regional representation to the three Prairie provinces and regional representation to British Columbia.

• (1510)

We did not go all the way — that is to say, 24 Senate seats for British Columbia and 24 for the three Prairies. However, I think there was an amendment or suggestion to that effect made by at least one of our colleagues, Senator Tkachuk, and more vociferously by one of our former colleagues, Senator Carney.

(On motion of Senator Hubley, debate adjourned.)

IMPORTANCE OF CANADA'S OIL SANDS

INQUIRY—DEBATE ADJOURNED

Hon. Nicole Eaton rose pursuant to notice of October 19, 2010:

That she will call the attention of the Senate to the benefits of Canada's oil sands.

She said: Honourable senators, I rise with great enthusiasm to commence a Senate inquiry into Canada's oil sands, the world's most ethical source of oil. I am enthusiastic because, by the nature of public affairs, the attention of Parliament is often directed to bad news, problems or shortcomings. Like any human endeavour, the oil sands come with their share of challenges. However, when measured by our national values, the oil sands are a good news story — a story that all of us can be proud of, and one that shows our Canadian identity and can shape our industries in a way that makes us an ethical role model for the world.

The oil sands are a national project that reflects Canadian values like environmental conservation, peace, fair treatment of working men and women, respect for minorities and scientific

excellence, all done on a scale as big as Canada itself. It is a story of the world's most conscientious country becoming a reliable energy source for the world in a way that has never been done before.

Canada's oil sands are a bold, moral counterpoint to the brutal manner in which OPEC countries produce oil. In other words, the oil sands are a Canadian success story.

Honourable senators, before I go further, I would like to start with a basic question that so many Canadians and observers around the world ask: What is the difference between oil sands and tar sands? They both refer to the same thing, namely, the vast oil reserves found in Northern Alberta and Saskatchewan. Unlike conventional sources of oil, though, the oil is mixed with sand and clay. The technical term for the mixture is bitumen, which has the colour of oil but the texture of peanut butter. That has been the technological challenge that Canadian scientists have worked so hard to overcome: how to separate the oil from the sand and clay in an economical way, while protecting the environment.

It is oil and sand, not tar. Tar is a chemical substance derived from pine wood or coal. There is no tar in the sand in Fort McMurray. It sounds like a simple point, but calling them the "oil sands" rather than "tar sands" is more than being geologically accurate; it is about being politically accurate, too.

The made-up phrase "tar sands" sounds just a little dirtier and uglier than "oil sands" does, which is why so many critics of the oil sands use it. It is pejorative and also just plain inaccurate. Therefore, it is a useful warning sign when you hear someone say "tar sands" in that it is a sign they do not mind bending the scientific facts in the name of politics. When I hear an oil sands activist say "tar sands," especially someone who knows there is no tar, it immediately makes me ask: What else are they exaggerating just to score a political point?

The oil sands were used historically by Aboriginal people to waterproof their canoes, because some of the oil sands are at ground level. The first recorded instance of Europeans seeing the oil sands was in 1719 when a Cree guide named Wapasu brought a sample to Henry Kelsey, a trader at Fort York. It would be another 150 years before an attempt was made to produce oil when scientific experiments began in earnest in the 1920s.

In 1942, the International Bitumen Co. was named Oil Sands Limited and today that company is known as Suncor. It is the second largest company in Canada, smaller only than the Royal Bank.

Canadians have been working on the oil sands for a century, but we have only won the world's attention in the past 10 years as the industry moved from the small-scale experiment to what it is now: The number one source of U.S. oil imports. In fact, it was not until a few years ago that the U.S. government officially recognized the oil sands as legitimate. They were skeptical, feeling that the technology was just too unproven to be relied on.

There are an estimated 1.7 trillion barrels of oil in the oil sands. Current technology makes about 10 per cent of that economically recoverable. That makes the oil sands the second largest reserve in the world next to Saudi Arabia. In 2004, the growth of the oil sands led to an important milestone. That was the year Canada edged out Saudi Arabia as the number one source of U.S. oil imports. After decades of being at the mercy of OPEC dictatorships, our American friends and allies finally had a local, ethical, secure supply of oil.

Today we export 1.4 million barrels of oil sands oil to the U.S. through pipelines. At current world prices, that is more than \$100 million every single day. Most of Canada's oil sands oil is made into gasoline for U.S. cars, and that final product is no different from gasoline made from oil that comes from more conventional sources, like Saudi Arabia, Nigeria, Venezuela and other OPEC countries. It all burns the same in the car and because of global commodity prices, it all costs the same.

However, there is an important moral difference: The way we go about producing oil in Canada is superior to any other major oil producer in the world. As author Ezra Levant outlines in his new book, *Ethical Oil*, our oil is in keeping with the values that make Canada great. He lists four values that include environmentalism, peace, economic justice and respect for minorities. On each of these criteria, Canadian oil is better than other countries' oil. We have become the fair trade coffee of the world's oil industry.

Take the first measure, "environmentalism." Respect for our natural environment is a Canadian value as old as Canada itself. That is reflected not only in our environmental laws and regulations but also in the culture of our oil companies.

Oil sands mines, like all mines, have tailings, which is the sand and clay left over after the oil has been removed. Unlike most mines around the world, our laws require that tailing ponds be fully reclaimed once the mine is exhausted. So far, 65 square kilometres of mines have been fully rehabilitated, replanted with native grasses and trees and repopulated with wildlife, including bison.

Pictures of these mines are a staple in the fundraising letters of anti-oil sand groups because they are unattractive. However, just like the use of the phrase "tar sands," they are misleading because only 2 per cent of the land area of the oil sands can be mined. In most areas, the bitumen is just too deep. Ninety-eight per cent of the oil sands land will never be dug up that way. It will be recovered by other in situ technologies like steam assisted gravity drainage. These technologies have a very modest footprint on the surface, and forests and wildlife can continue undisturbed. However, the oil sands critics never let the truth get in the way of asking for money.

• (1520)

Canada's ethical approach to the oil sands applies to water use, too. All the oil sands companies combined are only permitted to use just under 2 per cent of the flow of the mighty Athabasca River, a limit that is further reduced during periods of low water flow. New underground or in situ oil sands technologies do not even need river water at all.

Such rigorous conservation is unthinkable in other oil producing countries. In Nigeria, for example, there are roughly 2,000 toxic oil spills simply sitting there, with no cleanup even contemplated.

In recent years, concerns about carbon dioxide have been added to traditional pollution. Even by this measure, oil sands oil is ethically superior to many other oil producers.

The Obama administration's full life-cycle approach to measuring CO₂ from well to wheels — taking everything into account, from the environmental footprint of Saudi supertankers to Canadian recycling of natural gas — shows that our oil sands oil has a lower carbon footprint than Venezuelan oil, for instance, and an even lower carbon footprint than the oil industry in California — which is often regarded as an environmentally forward thinking state. Remember Nancy Pelosi coming up here criticizing us?

Here is a one-question moral test for the oil sands critics: Would they rather have the United States import crude oil from countries like Venezuela, which have a higher carbon footprint than Canadian oil?

Americans will be buying their oil from somewhere. Should not good faith environmentalists who care about carbon dioxide prefer our Canadian oil sands oil over higher carbon oil from Venezuela? That is a real life choice. Oil sands oil versus OPEC oil: Whose side are we on?

Being the world's environmental leader is an important Canadian value, but it is not the only one. We are also the world's peacekeepers. At first that might sound irrelevant to the issue of the oil sands, but it is not. Most of the world's large oil producers are brutal dictatorships who threaten their neighbours with war and fund terrorists.

Saudi Arabia, the world's largest oil producer, is a medieval-style theocracy. It is a hothouse for Islamic fundamentalism, where 15 of the 19 hijackers on 9/11 came from.

Iran is another one of the world's largest oil producers and it is now the chair of OPEC. Iran is the leading financier of terrorist groups like Hamas and Hezbollah, giving them money, weapons and training. It is also actively pursuing a nuclear weapons program and has threatened to use those weapons against Israel and the West.

Russia and Venezuela are not full-blown dictatorships, but they are belligerent countries, too. In 2008, Russia attacked the neighbouring country of Georgia and Venezuela has threatened its neighbour, Colombia.

None of this warmongering would be possible without the enormous government revenues that these countries derive from oil.

Canada just does not do that. We are the country that invented peacekeeping.

It is not a small point. Most of the world's oil is conflict oil. Our oil profits are used for foreign aid, not foreign invasions. Would one rather buy oil from an environmentally sensitive country that funds peacekeepers or from a polluting dictatorship that funds Hamas? It is a pretty easy ethical question to answer.

Canada's oil is environmentally superior to OPEC oil. It is more peaceful than OPEC oil, and it is more respectful of working men and women than OPEC oil, too.

Saudi Arabia's oilfields are worked by foreign migrant labourers with no citizenship rights and working conditions that can border on slavery. Despite its massive oil reserves, Nigeria is still one of the world's poorest countries, with half the population earning less than a dollar a day and a life expectancy of just 47.

In Saudi Arabia, the oil wealth is pocketed by the royal family. In Nigeria, it has been embezzled by 50 years of dictatorships and bureaucrats.

In Canada, by contrast, an entry-level worker driving a truck in the oil sands can earn in excess of \$100,000 a year. That is fair trade oil.

Some critics even here in Canada want us to slow down the oil sands' growth or even put a moratorium on new projects. Some, like Greenpeace and a radical fringe within the NDP, actually want us to shut it down.

Honourable senators, by what moral code is it acceptable to throw hundreds of thousands of Canadians out of work, killing high-paying jobs here, just to give more work to countries where the dictators skim off all the profits and low-paid workers with no labour rights just get the scraps? It would be immoral for our government to punish Canadian families by exporting our energy jobs to OPEC. It is even more immoral given the abusive manner in which those OPEC countries treat their workers.

There is one more ethical measure that I would like to talk about, and that is one we take for granted in Canada: human rights and respect for minorities. It is such a natural part of the way we live that we do not even notice it, but we should.

Take the mayor of Fort McMurray, a young woman named Melissa Blake. In Canada, it is completely unremarkable that she is a young woman mayor. It is normal; it is how we live. However, in Saudi Arabia, there are no young women mayors. It is against the law. Women are not allowed to vote. They are not even allowed to drive a car.

Canada protects gay rights, too. In Iran and Saudi Arabia, gays are executed.

The oil sands are Canada's largest employer of Aboriginal people. In Venezuela, Aboriginals who do not get out of the way of Hugo Chavez are killed.

The human rights abuses in OPEC countries rival that of apartheid in South Africa. In fact, one could say that Saudi Arabia practises gender apartheid, where women are treated like second-class citizens.

In the 1980s, our country spearheaded the drive to sanction South Africa to free its people. Surely the least —

The Hon. the Speaker *pro tempore*: I am sorry to interrupt, but I must advise that the honourable senator's time has expired.

Is five minutes granted, honourable senators?

Hon. Senators: Agreed.

Senator Eaton: I will not finish. That is fine. Thank you.

Senator Fraser: Keep going. We want to hear it.

Senator Eaton: Canada's oil sands are an enormous economic engine for our whole country. They are a secure, strategic source of energy for our allies. These things speak to our Canadian values of entrepreneurialism, technological achievement and our strong trade relationship with the United States; but there are so many other aspects of the Canadian character that are evident in the oil sands.

For many people, the only thing that matters is how much oil costs, and that is fair. However, for me and for so many Canadians, living ethically, living up to our Canadian ideals, is important, too.

Canada's oil sands are the most environmentally conscious source of oil in the world. They are the most peaceful source of oil in the world. They are the source of oil that is most economically fair to men and women. Like everything else we do in Canada, it is all done with a deep respect for minorities that makes us the envy of the world.

For me, as someone who deeply cares about our Canadian identity, I remain focused on the moral qualities of Canadian oil. It is truly the embodiment of our national character.

Canadian ethical oil has one last element in our national character, though — our excessive modesty. However, our deferential spirit is actually a problem when it comes to the oil sands, because if we are not bold and proud about the true nature of the oil sands, we risk having them demonized by critics who have their own agenda.

The result of that could be less oil from Canada and more oil from OPEC. When the alternative to Canadian ethical oil is oil from Saudi Arabia that supports terrorism, or oil from gay-bashing Iran that subsidizes that country's nuclear weapons program, or oil from toxic Nigeria where the profits are embezzled by corrupt officials, our reticence is no longer harmless.

We should always want to improve our standards and be open to constructive criticism. That is part of the Canadian character, too. I am proud that the industry is constantly improving itself. For example, since 1990, the carbon emissions from the average barrel of oil sands oil have fallen by 38 per cent.

[Senator Eaton]

One of the things that make us different from OPEC countries is that we are open to opposing views and we protect the freedom of people to have dissenting opinions. When Greenpeace breaks into a Canadian oil sands refinery, we do not kill them. When journalists criticize the oil sands, we do not assassinate them or censor them. I love the fact that we are so tolerant of criticism and dissent.

• (1530)

Ironically, that is why the “Greenpeaces” of this world are so active here and so silent about the butchers in Saudi Arabia, Iran, Sudan, Nigeria and Venezuela.

It is precisely because we are the world’s ethical leaders that it is safe for them to attack our industry and to kill our jobs. It is a paradox. Greenpeace lays off the world’s worst countries precisely because they are the world’s worst countries. They criticize the world’s gentlest country because we are just that. You would think they would focus on the real carbon emitters and the real peace abusers; but that is too hard and too dangerous, and they have their fundraising quotas to fill. That is why so few Canadians today set their moral compass by Greenpeace. When viewed through an ethical lens, there is only one conclusion: Canadian oil is the most ethical oil in the world.

Hon. Bill Rompkey: Honourable senators, I do not want to make a speech, so I will ask a question, if I may.

The Hon. the Speaker *pro tempore*: Honourable senators, there is 1 minute and 10 seconds remaining in Senator Eaton’s time. Will Senator Eaton undertake to respond to a question?

Senator Eaton: Yes.

Senator Rompkey: In her research, did the honourable senator identify how many Newfoundlanders are working in Fort McMurray? Does she appreciate the economic impact that this has on the province of Newfoundland? Does she know that in some cases 50 per cent of the economy of a relatively large Newfoundland community depends on Fort McMurray? Newfoundlanders who work in Fort McMurray have homes in Newfoundland; they commute. Does that not speak to the point that she was making?

Senator Eaton: I thank Senator Rompkey for that wonderful question. I know that Premier Danny Williams has wanted to

annex Fort McMurray and collect some of the taxes, which he does when Newfoundlanders go home and build their houses.

Fort McMurray employs more people from Ontario than the car industry employs. It employs, directly or indirectly, some 275,000 people in Alberta, of whom I am sure many are ex-Newfoundlanders. That equates to one half the population of Newfoundland and twice the population of Prince Edward Island. It is of huge benefit to Canada, and Canadians should be proud of our oil sands. We should stop apologizing when Congress woman Nancy Pelosi and Secretary of State Hilary Clinton talk about dirty oil. In Ms. Pelosi’s own backyard, the carbon footprint of California crude is heavier than that of the oil sands.

In the Ohio Valley, some of the coal-powered generating plants emit singly as much carbon as the combined oil sands emit in one year. We should become more aggressive in fighting back.

(On motion of Senator Comeau, debate adjourned.)

STUDY ON ISSUES RELATED TO NATIONAL AND INTERNATIONAL HUMAN RIGHTS OBLIGATIONS

FOURTH REPORT HUMAN RIGHTS COMMITTEE— DEBATE ADJOURNED

Leave having been given to revert to Reports of Committees, Item No. 8:

The Senate proceeded to consideration of 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*, tabled in the Senate on June 22, 2010

Hon. Claudette Tardif (Deputy Leader of the Opposition): Honourable senators, this is day 15 for Item No. 8, to which Senator Jaffer wishes to speak another day. I therefore move the adjournment of the debate in her name.

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

(On motion of Senator Tardif, for Senator Jaffer, debate adjourned.)

(The Senate adjourned until Thursday, October 28, 2010, at 1:30 p.m.)

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