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**OFFICIAL REPORT**
**(HANSARD)**

## Tuesday, December 14, 2010

**THE HONOURABLE NOËL A. KINSELLA**
**SPEAKER**

**CONTENTS**

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

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# THE SENATE

**Tuesday, December 14, 2010**

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

Prayers.

## SENATORS' STATEMENTS

### PRINCE EDWARD ISLAND ADVISORY COUNCIL ON THE STATUS OF WOMEN

PURPLE RIBBON CAMPAIGN

**Hon. Catherine S. Callbeck:** Honourable senators, last week, I was honoured to take part in a memorial service in my home province of Prince Edward Island to recognize the anniversary of the Montreal Massacre. Twenty-one years ago, 14 young women were murdered. They were, in fact, singled out at their engineering school in Montreal because they were women.

I am sure that none of us will ever forget where we were and what we were doing on December 6, 1989. It was a senseless tragedy that left the whole nation in deep mourning.

During this memorial service in Charlottetown, candles were lit, each candle representing a woman who had been killed in violence. There were 14 candles for the young women in Montreal, and 8 more for the Island women who have been killed since 1989. Dr. Michael Kaufman was the guest speaker. He is the co-founder of the White Ribbon Campaign, the largest effort of men working to end violence against women in the world.

This memorial service was part of the Purple Ribbon Campaign in my province. The Prince Edward Island Advisory Council on the Status of Women organized it. This campaign, aimed at commemorating all women who have died violently or live with abuse, asks Islanders to wear purple ribbons between November 25, the United Nation's International Day for the Elimination of Violence Against Women, and December 6, Canada's National Day of Remembrance and Action on Violence Against Women.

Honourable senators, each year, volunteers from across the Island pin purple ribbons to over 20,000 information cards, in English and French, for distribution to schools, churches, government employees and the general public. The Women's Institute, which plays a very active role in the Purple Ribbon Campaign, pinned more than 7,000 cards.

The theme for this year's campaign was "Face the Facts." It asked Islanders to think about what groups are more at risk of violence and why. Some people are simply more vulnerable than others: women, children, youth, older persons, persons with disabilities, Aboriginal women and children are all more at risk of violence.

Honourable senators, I would like to commend the PEI Advisory Council on the Status of Women on organizing this Purple Ribbon Campaign and the awareness it has created. I would especially like to commend Sandy Kowalik, who for years has been coordinating the campaign with great skill and tremendous dedication.

Honourable senators, we can all do our part. We must do what we can to assist women who live with violence every day, and spread the message that violence everywhere must stop.

[*Translation*]

### LISE WATIER PAVILION

**Hon. Suzanne Fortin-Duplessis:** Honourable senators, yesterday, the Government of Canada, the Government of Quebec and the City of Montreal opened the Lise Watier Pavilion, a facility that, once complete, will offer 29 additional housing spaces for women who are going through a difficult time. I am very proud to have had the privilege of participating in this important event in Montreal and to have been there to see this project through.

This is excellent news for these women who are experiencing difficulties and who need a helping hand. By improving access to decent housing for at-risk women, the Lise Watier Pavilion is contributing to the social well-being of the entire community.

Our government is committed to helping out those in need. That is why we are proud to have invested in this initiative in Montreal. This new housing represents more than just an affordable roof over their heads; it will become a real home, a key to a better life for women in trouble.

Every year, our government helps over 620,000 households in Canada. In 2008, we committed more than $1.9 billion over five years for housing programs and the fight against homelessness. This investment adds two more years to the Affordable Housing Initiative and to the renovation programs for low-income households.

• (1410)

The Canada-Quebec Shelter Enhancement Program provides financial assistance to repair and rehabilitate emergency shelters and second stage housing for victims of family violence.

The Lise Watier Pavilion will receive more than $1.1 million in federal funding under the Canada Mortgage and Housing Corporation's Shelter Enhancement Program. Making this wonderful initiative a reality required a total investment of nearly $3.6 million. This investment gives hope to area women who need shelter.

Creating a shelter such as this one also required the involvement and leadership of organizations like the Old Brewery Mission, which carries out projects to set up shelters complete with support services. Our government is proud to work with the Old Brewery Mission to help vulnerable women get safe, appropriate housing and build a better future for themselves.

I am very proud of our government's involvement in such an inspiring project. It shows our commitment to the well-being of the people of Quebec and Canada, especially those who are in difficulty.

## LITERACY DEVELOPMENT

**Hon. Rose-Marie Losier-Cool:** Honourable senators, last week, the OECD, the Organisation for Economic Co-operation and Development, released the results of its latest triennial report on education in 65 countries around the world.

As a former teacher, I always read this report with a great deal of interest, particularly when it pertains to my home province of New Brunswick. I learned this year that Canada now ranks fifth in the world in reading, seventh in science and eighth in mathematics.

I was interested but not surprised to learn that girls still outperform boys in reading skills across the country and around the world. I was also not surprised to learn that francophone students in minority situations have more difficulties than anglophone students.

[*English*]

While Canada's current scores may seem enviable, honourable senators, I am concerned that our country has slipped in its ranking since the year 2000. I urge our government to pay attention to this trend and to address it. After all, today's children are tomorrow's leaders, and we want the best for them now and for us later.

[*Translation*]

New Brunswick has made some progress in reading skills since 2000, seeing that we are now ranked eighth in the country. We advanced from ninth to seventh place in math, and from tenth to ninth place in science. Thus, some progress has been made, but I would like to see more. I truly hope that the budget cuts imposed by the New Brunswick government, including cuts to education, will not affect the progress made thus far.

[*English*]

Honourable senators, a good reading ability is the key to all scholastic success. No matter the subject, if someone cannot read properly, they will not learn the subject well. I urge all parents and schools from New Brunswick, and those in the rest of Canada, to help our children acquire superior reading skills, which will give them access to stores of other knowledge. Moreover, reading well usually translates into writing well, something we all want our kids to do, if only to save us from cringing when we read their Christmas cards.

[*Translation*]

During this holiday season, why not give the gift of reading? As gifts this year, we should all give our children or grandchildren a book, a magazine or newspaper subscription, a dictionary or even private reading lessons.

To all honourable senators, my wish for you is the pleasure of reading each and every day.

[*English*]

## CANADIAN NAVY

### ONE HUNDREDTH ANNIVERSARY

**Hon. Hugh Segal:** Honourable senators, as we near the end of this centennial year for Canada's navy, I want to express the appreciation we all have for the remarkably ambitious events, plans, commemorations and historic moments that were successfully achieved during this once-in-a-lifetime Canadian Naval Centennial.

We all know the events of national character, like fleet reviews on both coasts, the presence of Her Majesty at the Atlantic Fleet review, the unveiling of the special dollar naval coin by the Queen while she was in Halifax, and the Naval Bell ceremony in this very chamber were all deeply moving and of singular and historic import. However, honourable senators and Canadians should know that naval reserve ships across Canada conducted a myriad of events in their regions involving special monuments and bell ceremonies in communities where ships bearing their communities' names had served as part of His or Her Majesty's Canadian fleets in times of peace and war and, in some cases, where ship and crew had made the ultimate sacrifice.

[*Translation*]

Throughout the centennial celebrations, the Canadian Navy remained fully committed to serving Canada's strategic, humanitarian and diplomatic interests, as always. During this historic year, the Canadian Navy took part in a number of exercises and core deployments to Haiti and was there to help Newfoundlanders after Hurricane Igor. HMCS *Fredericton* intercepted a suspected pirate attack while patrolling the Gulf of Aden as part of NATO's Operation Ocean Shield. Canada's navy also carried out Operation Nanook for the fifth time in Canada's far north. Canadian Navy personnel were directly involved in security for the Vancouver Olympic Games and the G8 and G20 summits, and they were deployed to Kandahar alongside the other branches of the Canadian Forces.

[*English*]

The HMCS *Cataraqui* reserve ship in the Kingston-Frontenac-Leeds area had 31 members of the ship's company under the command of Lieutenant-Commander Susan Long-Poucher who were deployed in training and operations on board ship, serving at the Olympics, the G8 and G20 conferences; and participating in international exercises for security at the Panama Canal and at a North Atlantic Treaty Organization anti-piracy engagement. They also provided supply and support in the Afghanistan theatre.

Among the centennial events that took place in the Kingston area were the touching "namesake presentation" ceremonies in 13 communities around Kingston to recognize the ships named for these communities; Fort Henry hosted a naval tattoo; a monument was unveiled in Navy Memorial Park; and the naval reserve began its first annual 5K run in Kingston in which this senator did not participate.

Other naval ships did the same thing nationwide. There was a well-founded tradition in the Royal Canadian Navy during wartime of using biblical quotations as shorthand for sending coded messages. For example, when one ship took leave of the fleet, it would flash to another ship Acts 21:6: "And when we had taken our leave of one another, we took ship; and they returned home again."

As we bid farewell to the centennial year, we express our appreciation to all those who worked so hard as naval officers and sailors, volunteers, reserve, family members and locally supportive communities to make it a year of celebration, commemoration and dedication that will inspire and serve for centuries to come. I wish only for these dedicated men and women to return home again proudly to the communities, families and neighbours who have never taken the Canadian navy for granted.

## MILITARY AND VETERAN HEALTH RESEARCH

**Hon. Roméo Antonius Dallaire:** Honourable senators, the unique physical, mental and social context of military service intimately defines how military personnel, veterans and their families deal with health throughout their lives. Currently, the number of Canadian Forces casualties and the breadth of their health problems arising from military operations are greater than those at any time since the Korean War.

Pre-1997, the Canadian Forces and Veterans Affairs Canada had no capability for handling operational stress injuries. The impact on the Gulf War veterans is a prime example of how we were not able to sustain those casualties or to try to attenuate the impact of their injuries and ultimately treat them in a manner I would consider to be fair.

Since then, the Department of National Defence and Veterans Affairs Canada have been building and putting together a series of clinics across the country to meet the pressing demand of operational stress injuries.

• (1420)

For the first time, a national network of researchers from universities across all provinces of Canada has been launched to advance military and veteran health research aimed at addressing the unique health and OSI needs of military personnel, veterans and their families.

A jointly led initiative of Queen's University and the Royal Military College of Canada, the Canadian Institute for Military and Veteran Health Research will include all interested Canadian universities in facilitating new partnerships, collaborations, funding and access to data and studies of the population. The announcement follows the highly successful Canadian Military and Veteran Health Research Forum hosted recently by Queen's University and RMC, and attended by more than 250 delegates and special guests.

Representatives from 20 Canadian universities, Canadian Forces Health Services, Veterans Affairs Canada, Defence Research and Development Canada and other military and veterans organizations met recently and reached consensus on the need to work together to establish a coordinated, sustainable, pan-Canadian academic military and veteran health research program. The universities and government representatives are committed to working collaboratively to build a national research institute.

Honourable senators, this institute means that we will not stumble into the next generation of casualties blindly as we stumbled into the post-Cold War 1990s era of conflict and conflict resolutions with the vast numbers of casualties in the thousands that have not been treated. This institute has the potential to benefit numerous Canadians, including first responders like police, humanitarian workers, people employed with non-governmental organizations and journalists. The network will facilitate collaboration with both industry and the international partners to provide solutions to operational stress injuries.

## NEW7WONDERS OF NATURE CAMPAIGN

### BAY OF FUNDY

**Hon. Donald H. Oliver:** Honourable senators, the Bay of Fundy needs your vote. It is one of 28 finalists vying for one of seven spots in the New7Wonders of Nature campaign. This worldwide campaign is organized by the New7Wonders Foundation, whose founder is Swiss-born Canadian filmmaker, author and adventurer, Bernard Weber. The online campaign began in 2007 with some 440 candidates from more than 200 countries. The Bay of Fundy was selected as one of the top 77 and is now in the third and final round of 28 finalists.

The official declaration and announcement of the New7Wonders of Nature is scheduled for November 11, 2011. It is estimated that more than 1 billion online votes will be compiled during the thrilling global election. The Bay of Fundy is indeed a natural treasure that deserves to be in the final stages of this worldwide vote. It has one of the world's most dynamic coastlines stretching for more than 270 kilometres between the provinces of Nova Scotia and New Brunswick. It is home to the highest tides in the world at 53 feet. It takes 6 hours and 13 minutes for the tides to go from high to low, and the tides are five to ten times higher than any other tide in the world.

Each day, 100 billion tonnes of seawater flow in and out of the bay during one tide cycle. The bay is also a critical international feeding ground for migratory birds and a vibrant habitat for rare and endangered right whales and one of the world's most significant plant and animal fossil discovery regions. It is comparable in marine bio-diversity to the Amazon rainforest.

The Bay of Fundy is home to the world's most complete fossil record of the Coal Age, the world's oldest reptiles, and Canada's oldest dinosaurs. The Bay of Fundy is also one of the world's best sites for green tidal energy. It generates environmentally sustainable electricity.

The New7Wonders Foundation and Campaign seek to protect our planet's heritage, both manmade and natural. It has the express aim of undertaking documentation and conservation of monuments worldwide under the motto, "Our heritage is our future." The foundation fosters respect for our planet's diversity and sensitizes the citizens of the world to the natural beauty that surrounds us, such as the Bay of Fundy.

Honourable senators, Canada has a unique opportunity to have one of its natural treasures recognized as one of the seven wonders of the natural world. The Bay of Fundy is not only an ecological and biodiversified natural wonder, but also a breathtaking, quaint and picturesque location. I invite all honourable senators and Canadians from coast to coast to go online at www.new7wonders.com and cast their vote for the Bay of Fundy.

**Senator Mercer:** Vote early and vote often.

# ROUTINE PROCEEDINGS

## SCRUTINY OF REGULATIONS

SECOND REPORT OF JOINT COMMITTEE TABLED

**Hon. Yonah Martin**: Honourable senators, I have the honour to table, in both official languages, the second report of the Standing Joint Committee for the Scrutiny of Regulations, entitled: *Report No. 86 — Indian Estates Regulations.*

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

## STUDY ON PROGRESS MADE ON GOVERNMENT'S COMMITMENTS SINCE THE APOLOGY TO STUDENTS OF INDIAN RESIDENTIAL SCHOOLS

SEVENTH REPORT OF ABORIGINAL PEOPLES COMMITTEE TABLED

**Hon. Lillian Eva Dyck**: Honourable senators, I have the honour to table, in both official languages, the seventh report of the Standing Senate Committee on Aboriginal Peoples, entitled: *The Journey Ahead: Report on progress since the Government of Canada's apology to former students of Indian Residential Schools.*

[*Translation*]

## TRANSPORT AND COMMUNICATIONS

BUDGET AND AUTHORIZATION TO TRAVEL— STUDY ON EMERGING ISSUES RELATED TO CANADIAN AIRLINE INDUSTRY— FIFTH REPORT OF COMMITTEE PRESENTED

**Hon. Dennis Dawson,** Chair of the Standing Senate Committee on Transport and Communications, presented the following report:

Tuesday, December 14, 2010

The Standing Senate Committee on Transport and Communications has the honour to present its

FIFTH REPORT

Your committee, which was authorized by the Senate on May 12, 2010 to examine and report on emerging issues related to the Canadian airline industry, respectfully requests funds for the fiscal year ending March 31, 2011 and requests, for the purpose of such study, that it be empowered to travel inside Canada.

Pursuant to Chapter 3:06, section 2(1)(c) of the Senate Administrative Rules, the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that committee are appended to this report.

Respectfully submitted,

DENNIS DAWSON
*Chair*

(*For text of budget, see today's* Journals of the Senate, *Appendix, p. 1142.*)

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

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

[*English*]

## FIGHTING INTERNET AND WIRELESS SPAM BILL

SIXTH REPORT OF TRANSPORT AND COMMUNICATIONS COMMITTEE PRESENTED

**Hon. Dennis Dawson**, Chair of the Standing Senate Committee on Transport and Communications, presented the following report:

Tuesday, December 14, 2010

The Standing Senate Committee on Transport and Communications has the honour to present its

SIXTH REPORT

Your committee, to which was referred Bill C-28, An Act to promote the efficiency and adaptability of the Canadian economy by regulating certain activities that discourage reliance on electronic means of carrying out commercial activities, and to amend the Canadian Radio-television and Telecommunications Commission Act, the Competition Act, the Personal Information Protection and Electronic Documents Act and the Telecommunications Act, has, in obedience to the order of reference of Thursday, December 9, 2010, examined the said bill and now reports the same without amendment.

Respectfully submitted,

DENNIS DAWSON
*Chair*

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

**Hon. Donald H. Oliver:** Honourable senators, with leave, later this day.

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

**Some Hon. Senators:** Yes.

**Some Hon. Senators:** No.

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Not now.

**The Hon. the Speaker:** Honourable senators, I would like to hear from the Deputy Leader of the Opposition.

**Hon. Claudette Tardif (Deputy Leader of the Opposition):** Honourable senators, is leave requested for third reading of Bill C-28 later this day?

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

**Hon. Senators:** Agreed.

(On motion of Senator Oliver, with leave of the Senate and notwithstanding rule 58(1)(g), bill placed on the Orders of the Day for consideration later this day.)

[*Translation*]

## STUDY ON COSTS AND BENEFITS OF ONE-CENT COIN

EIGHTH REPORT OF NATIONAL FINANCE COMMITTEE TABLED

**Hon. Joseph A. Day:** Honourable senators, I have the honour to table, in both official languages, the eighth report of the Standing Senate Committee on National Finance, entitled: *The Costs and Benefits of Canada's One-Cent Coin to Canadian Taxpayers and the Overall Economy*.

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

• (1430)

## SUSTAINING CANADA'S ECONOMIC RECOVERY BILL

NINTH REPORT OF NATIONAL FINANCE COMMITTEE PRESENTED

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

Tuesday, December 14, 2010

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

NINTH REPORT

Your committee, to which was referred Bill C-47, A second Act to implement certain provisions of the budget tabled in Parliament on March 4, 2010 and other measures, has, in obedience to its order of reference of December 9, 2010, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

JOSEPH A. DAY
*Chair*

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

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

[*English*]

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

EIGHTH REPORT OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE COMMITTEE TABLED

**Hon. A. Raynell Andreychuk**: Honourable senators, I have the honour to table, in both official languages, the eighth report of the Standing Senate Committee on Foreign Affairs and International Trade, entitled: *Seizing Opportunities for Canadians: India's Growth and Canada's Future Prosperity*.

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

# QUESTION PERIOD

## PUBLIC SAFETY

CORRECTIONAL SERVICE OF CANADA

**Hon. Catherine S. Callbeck:** Honourable senators, my question is directed to the Leader of the Government in the Senate. This government's recent changes to the Criminal Code are expected to cost my province a considerable sum of money. In fact, the Parliamentary Budget Officer estimated that the Truth in Sentencing Act alone would cost more than $100 million over five years to build and run the additional space required.

Prince Edward Island is in a unique position when it comes to corrections facilities. The Island does not have a federal facility, so the provincial system provides the services that the federal system does not provide. These services include using our provincial facility as a halfway house and providing housing for federal transfers, pre-parole inmates or parole violators.

The impact of this legislation will hit the province twice: because there will be more inmates in the provincial system, and there will be more federal inmates who stay in provincial facilities.

When will the government announce funding to help my province cover the costs associated with this new federal legislation?

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, I thank the senator for her question. As I said before, the government is committed to keeping Canadian families safe in their homes and in their communities. We believe that measures must be taken to put dangerous criminals behind bars and out of our communities. There is, of course, a cost attached to this commitment. We believe that Canadians are quite willing to pay this cost. The provinces have been part of the discussions all along. The provinces and the attorneys general have been most supportive of the federal government's initiatives in this regard.

Prince Edward Island is unique in terms of accommodation of prisoners and I will take that question as notice and get an answer for the honourable senator from the department.

**Senator Callbeck:** Honourable senators, I thank the minister for that response. I would appreciate getting an answer to this question because the impact on provincial finances will be huge. It will be tremendous.

Gerard Mitchell, former Chief Justice of the Supreme Court of Prince Edward Island and the province's new police commissioner, recently noted that these changes to the Criminal Code will add a major stress to Prince Edward Island's already tight financial situation.

Honourable senators, I also have concerns about the time needed to prepare for these legislative changes. For example, the provincial facility in Prince Edward Island often operates at capacity. It will probably take three years to increase that capacity. However, this new legislation comes into force immediately. For example, the Truth in Sentencing Act came into force in February. There has really been no time for the provinces to make sure they have the physical infrastructure and the human resources in place.

What will the federal government do to ensure that provincial correctional facilities across the country are ready to deal with the influx of inmates?

**Senator LeBreton:** Honourable senators, I believe that the situation in Prince Edward Island is unique, but I think it is important to point out that the senator focuses on the costs of putting dangerous offenders behind bars and the cost to accommodate them. I have never once heard Senator Callbeck mention the cost to society, the cost to the victims and the cost to all levels of government for the seriousness of these crimes.

I know that Prince Edward Island is a unique situation and, as I indicated in my first answer, I will take the question as notice and provide a written response.

**Hon. Sharon Carstairs:** Honourable senators, the government leader in the Senate refers to the cost to society of these dangerous offenders within the community, but those dangerous offenders presumably will return to the community. If we know anything about incarceration in this country, we know that the vast majority of inmates frequently come out of correctional institutions and back into the community much worse than they were before they were incarcerated.

I presume that as the government is building prisons, it has considered the enormous sums of money that will be needed to provide programs in those institutions to ensure that those dangerous criminals become less dangerous criminals.

Can the honourable senator tell this chamber the amount of money that the federal government has committed to programming within the prison institutions?

**Senator LeBreton:** Honourable senators, as Senator Carstairs is aware, through the Correctional Service of Canada and the Department of Justice Canada, there have been significant sums of money committed to rehabilitation and retraining in our prison systems. I hope Senator Carstairs is not suggesting that not putting these people behind bars would somehow or other lessen the cost.

• (1440)

Many crimes are committed by people who never get into the prison system. They are charged; they are let out on bail; they receive a light sentence; they are back out; and then they repeat the crimes over and over again.

Honourable senators will know, and I have put it on the record here many times, the significant amount of money that the government is expending for retraining, rehabilitation and assistance to our prison population. I do not have the exact figure, but I will be happy to provide it to Senator Carstairs.

**Senator Carstairs:** On a further supplementary question, the Correctional Service of Canada has indicated in a recent report that there will be a 250 per cent increase in the number of women in prisons as a result of Bill S-10 alone. The concern I have is that many of these women have children and those children will be turned over to social services.

What kind of cost estimates has the federal government done as to the social service costs that will be incurred as a result of the incarceration of these women?

**Senator LeBreton:** Honourable senators, again, people can estimate all they want. We will see when the laws come into effect what the actual numbers are. Obviously, with women who have committed crimes, society would expect that those women be properly dealt with by the criminal justice system. By the same token, concerning women with children, the safety and security of the child is paramount for the government. Again, I will take Senator Carstairs' question as notice and provide her with more information.

**Senator Carstairs:** Honourable senators, my question is primarily focused less on women than on children. These children, many of whom are Aboriginal, have, according to the Wen:de report, consistently received less money in funding for their support than non-Aboriginal children.

Since these children, if they live on reserve, are within the direct responsibility of the federal government, what resources have been given to the Department of Indian Affairs to take care of these additional social costs of raising these children?

**Senator LeBreton:** Again, honourable senators, I will attempt to provide complete information, but the safety and security of children always needs to be first and foremost. Obviously, no child should ever be inadvertently put at risk when their mother is incarcerated. We will continue to ensure that the mother-child relationships are fostered at all times, without endangering the safety of the child. With regard to the specific question about the funds available, I will take that as notice.

**Hon. Bill Rompkey:** Honourable senators, I bring to the attention of the minister the fact that there is not now and has not been a federal penitentiary in the province of Newfoundland and Labrador, although several attempts were made over the years to get one. This has not only put a strain on the province, which I think has approached the federal government recently with a request on that subject, but it also means that those prisoners who are convicted of federal crimes have had to serve their sentences in Dorchester, including Aboriginal people, who make up an unduly large portion of the prison population.

It means, for example, that an Inuit in Nain, Labrador has to serve his sentence in Dorchester with no cultural support, no chance for family to visit, and no form of rehabilitation.

Can the minister look into that situation and see what the federal government plans for the province of Newfoundland and Labrador?

**Senator LeBreton:** I thank the senator for that question. I think I read in the newspaper about the specific request by the Government of Newfoundland and Labrador. Along with the other questions with regard to this area, I will be happy to take it as notice and provide a written response.

## INDUSTRY

### LONG-TERM DISABILITY BENEFITS— NORTEL EMPLOYEES

**Hon. Art Eggleton:** Honourable senators, my question is directed to the Leader of the Government in the Senate. I have a message from Jim Barber, a Nortel employee.

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

**Senator Eggleton:** You mean you do not care?

**Senator Mercer:** That is pretty obvious.

**Senator Eggleton:** The letter states:

> Both my wife and I have MS and neither of us are capable of working. The loss of benefits and wages would have a huge impact on our family. First our home is still mortgaged so we would have to sell our home. Secondly, the drugs that I take are around $2400 per month and my wife requires about $500 per month. I would have to stop taking the drugs against the advice of my neurologist and risk advancing my symptoms. We also provide partial support for one of our sons who has a medical condition that requires additional financial support.

If Mr. Barber lived in the United Kingdom, he would have some cause for relief because last week, a U.K. court ruled in favour of the U.K. Pensions Regulator to force Nortel in that country to prop up their underfunded U.K. pension and disability funds, making payments totalling $3.6 billion, which is far in excess of what people are looking for here.

Judge Michael Briggs said in his judgment:

> Parliament has legislated to create financial obligations applicable to and payable by a company in an insolvency process.

This shows that governments can act to protect their workers when they are facing an unjust and dire situation.

I ask the Leader of the Government in the Senate: When will this government act to help the over 400 Nortel disabled who are being cut off at the end of this month?

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, my answer is unchanged. There are no other words to describe it; the situation of these individuals, who are the unfortunate victims of the Nortel situation, is indeed very sad. I did read the media reports and the fact is that Great Britain has a slightly different system. Honourable senators also know that in this country pensions of this nature fall basically within the jurisdiction of provinces.

Having said that, the government is still seeking solutions that will work. Other than that, I cannot add anything further to what I have said before. Obviously, this matter has been dealt with by Parliament. With regard to the honourable senator's legislation that was defeated, as he and everyone else knows, it would not have helped the unfortunate pensioners of Nortel.

**Senator Eggleton:** That is totally untrue. There were ample witnesses and people of expertise who put together that piece of legislation. The government did have an option to adopt it; it could have put it in place.

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

**Senator Eggleton:** However, it chose not to do that. In fact, it has chosen not to do anything.

I brought this matter to the attention of the minister back in the spring. What has happened since the spring? All we keep hearing is, "Oh, it is being looked at to find a workable solution."

This has been a problem for 18 months. It has been known and nothing has come. However, the U.K. and just about every other country in the OECD have some way of dealing with this matter. Most of them, in fact, do have better bankruptcy protection than ours.

I will try something that the government is quite familiar with, because it did it itself, and it is a good thing. In 2007, this government passed the Wage Earner Protection Program Act,

which provides guaranteed payments of wages, vacation, severance and termination pay if employers become bankrupt. It moved them actually up into the super-priority classification.

For these Nortel disabled, their wages are all they have to live on, plus their medical benefits.

• (1450)

Why can that not be moved up into the same kind of category? Why has the government not added them into this Wage Earner Protection Program Act?

**Senator LeBreton:** Honourable senators, as the Honourable Senator Eggleton is aware, the situation that these Nortel employees face is a direct result of a court-approved settlement agreement between all parties under the legislation in effect at the time.

I read an article in this morning's *Ottawa Sun* in which former Nortel employees commented that one of their negotiators had not given them proper representation. That does not change the fact, honourable senators, that this was a court-approved settlement between all parties. No amount of questions or concern, which is deeply felt by all of us, will change that simple fact.

**Senator Eggleton:** Honourable senators, what the leader says is not true. If Bill S-216 had an amendment at the end that said "and notwithstanding any judgment or order of any court during those proceedings," it would have made it retroactive within the confines of this particular court decision. The court decision was only based on the law and the facts that existed at the time. This would have made the difference in terms of retroactivity, which the Supreme Court says we have every right to do and which this government included in at least three bills in this particular Parliament, namely, Bill C-37, Bill C-33 and Bill S-7. That is just wrong.

Honourable senators, let me focus on another aspect that was contained in Bill S-216, namely, dealing with people in the future. Bill S-216 dealt with not only the Nortel people in terms of the current condition but also with people who get into this situation in the future because there have been cases in the past. About 1 million people out there are working with companies in a situation where they are self-insured. If any of those companies go bankrupt, we will face this situation again. Why does the government not do something to protect those people in the future?

**Senator LeBreton:** To follow the honourable senator's logic, we would be retroactively rewriting laws for every court judgment in the country.

In his speech, I think Senator Greene put on the record the argument for retroactivity and retrospective legislation.

With regard to the future, I wish to inform the Honourable Senator Eggleton that is precisely why we made a commitment in the Speech from the Throne to better protect workers when their employer goes bankrupt. That commitment deals with the future. We are currently looking at ways to better protect employees who are on long-term disability also. That is why we made the commitment to seek solutions, as Minister Clement correctly stated — and I think Senator Eggleton pointed that out— that we are looking for solutions that work.

## HEALTH

### TOBACCO PRODUCTS

**Hon. James S. Cowan (Leader of the Opposition):** Honourable senators, yesterday I asked the Leader of the Government in the Senate questions about a meeting which took place between the Minister of Health and her provincial counterparts. I had it on good authority that certain things were said by that minister at that meeting. When the leader rose to reply yesterday, she said, at page 1598 of the *Debates of the Senate*:

> I was not at the meeting, and I will not answer questions about a meeting that I did not attend.

I suggest, honourable senators, that that puts us in a difficult position and perhaps puts the Leader of the Government in the Senate in a difficult position and raises some issues about that role.

We all appreciate that government is complex and that no single individual can be expected to know everything that goes on every day in the complexity of the government. In the other place, as we know, ministers are responsible to answer for their portfolios and to answer questions about their actions, and that is the way it works. However, we only have one minister in the Senate. We had two briefly, but at the moment we have one. The government leader is expected to answer questions on behalf of the government.

Obviously, no person, even someone of the leader's experience, could possibly know everything that might be asked and be able to be aware of everything that is going on in every department. In those circumstances —

**Senator LeBreton:** I can hear you.

**Senator Cowan:** Oh, we are multi-tasking again. Good.

The issue, honourable senators, is that here there are normally some things that the leader is prepared for and is able to stand and to answer those questions. At other times, the leader is obviously not able to answer those questions and she takes questions as notice.

When I asked that question yesterday, which was very clear, I expected that the leader would have either confirmed what was in the public domain or would have been able to deny it or say, "I will take the question as notice and will get back to you and answer the question."

In that context, let me repeat that same question. Did the Minister of Health tell provincial ministers at the September meeting that the initiative on new cigarette warning labels was being shelved? Yes; no; I will take it as notice and I will respond?

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, as a colleague of Minister Aglukkaq, the Minister of Health, I stand by the minister's recollections of the meeting as she reported it in the other place.

Honourable senators, I believe that we are still dealing with speculative comments coming out of that meeting. I can only tell the honourable senator what the minister has informed the other place and what I have been informed as the Leader of the Government in the Senate, namely, that additional health warning labels are still under review and an announcement will be made soon on the government's intentions.

**Senator Cowan:** Honourable senators, the reports from two provinces, Manitoba and Nova Scotia, were that the federal minister told her provincial counterparts at that meeting that this program was being shelved. That is not what the leader is saying today.

Honourable senators, the leader has had conversations with the minister and, presumably, discussed the issues with her. I simply need to have an answer. Are the labels being shelved or not? Are those provincial ministers mistaken in what they understood from the minister, namely, that the program was being shelved? That is the question.

**Senator LeBreton:** Honourable senators, I have not personally spoken to Minister Aglukkaq about this. I was simply standing by the statements that she made in answer to similar questions in the House of Commons.

Clearly, and the honourable senator just repeated it, Senator Cowan seems to believe that the minister has made a definitive decision on this issue. I have indicated that that is not the case and I will repeat again that additional health warning labels are still under review and an announcement will be made soon.

**Senator Cowan:** To be clear, honourable senators, I did not say that I understood. I was not at the meeting, obviously, and the leader was not at the meeting. However, we have, from two provinces, a clear understanding from people who were at the meeting that that is what the minister said. She either said it or she did not say it. It is pretty clear.

**Senator LeBreton:** Honourable senators, I am taking the words of the minister as she stated them in the House of Commons. However, in order to satisfy the desire of Senator Cowan for an answer, I will be happy to provide him with one.

**Hon. Grant Mitchell:** Honourable senators, it seems like such an easy decision. It saves lives of Canadians, it improves the health of some Canadians, it would diminish the number of young Canadians who would start smoking, and it costs the taxpayer of Canada absolutely nothing. It seems like such an easy decision and yet the leader's government has been thinking about it for 10 months.

Could the leader tell us why the government is not be able to make this slam-dunk decision in about 15 seconds — and maybe mention how long you take to make a really tough decision?

**Senator LeBreton:** Honourable senators, thank God Christmas is coming!

**Senator Comeau:** And the honourable senator is no gift!

**Senator Di Nino:** That won't change him!

**Senator LeBreton:** I wonder if Santa will come to him because it is either naughty or nice.

Honourable senators, we are doing a great many things, as Senator Mitchell knows, with regard to tobacco cessation. We have provided $15.7 million in anti-tobacco strategy funding. The Cracking Down on Tobacco Marketing Aimed at Youth Act recently came into force. It is making it harder for the industry to entice young people to use tobacco products.

• (1500)

The minister is looking at many ways of reaching young people, through social media and other forms of communication.

Some people would argue that the warning on the cigarette package is a little late because consumers are at the point of buying the cigarettes. Having said that, additional health warning labels on cigarette packages are under review and an announcement will be made soon. I again point out that the whole concept of health warning labels on cigarette packages was started by a Conservative government.

**Senator Mitchell:** The government is clearly spending taxpayers' money on these important projects. That is good. However, the government seems so reluctant, on the other hand, to spend tobacco companies' money to help reduce smoking, with the same kind of result and objective in mind.

Could the leader tell us what it is that the tobacco lobbyists told her government that made it so beholden to their interests, ahead of Canadians' health interests?

**Senator LeBreton:** Honourable senators, the government is not beholden to the tobacco industry. The honourable senator and I both know that. That is an irresponsible statement.

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[*Translation*]

# ORDERS OF THE DAY

## BUSINESS OF THE SENATE

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

[*English*]

## THE ESTIMATES, 2010-11

### SUPPLEMENTARY ESTIMATES (B)—SEVENTH REPORT OF NATIONAL FINANCE COMMITTEE ADOPTED

The Senate proceeded to consideration of the seventh report of the Standing Senate Committee on National Finance (*Supplementary Estimates (B), 2010-2011*), presented in the Senate on December 9, 2010.

**Hon. Joseph A. Day** moved the adoption of the report.

He said: Honourable senators, it is my pleasure, as Chair of the Standing Senate Committee on National Finance, to present this Seventh Report of our committee on behalf of the deputy chair, Senator Neufeld, and all the other members of the committee who worked so hard to complete this work. We typically have a rush of business at the end of the year, just before the end of the fiscal year, and then again in June, and this year was no exception.

We are dealing with the report of our study of the supplementary estimates, of which all honourable senators should have a copy. If honourable senators want to follow the comments I will make, the entire report appears in the *Journals of the Senate* for Thursday last, and that report may be of help.

Honourable senators, Supplementary Estimates (B) were tabled in Parliament on November 4 of this year and were referred to the Standing Senate Committee on National Finance shortly thereafter. The Supplementary Estimates (B), 2010-11 are the second set of supplementary estimates tabled in this fiscal year that ends on March 31, 2011. Honourable senators will recall that the first set of supplementary estimates, Supplementary Estimates (A), were filed in May/June and we dealt with those before we broke for the summer break.

I want to correct one point of the report at page 1, line 4. It states: "Once this report has been tabled," which it has now been, "the Estimates must then be approved by the Senate." It is not our practice in this particular chamber to approve the estimates. We approve the report, and that is the way this excerpt should read, that once filed, it should be debated and approved, because that forms the basis for dealing with Bill C-58, which is the supply bill that runs parallel to the supplementary estimates. Bill C-58 and the supplementary estimates go hand in hand.

If honourable senators understand that, then they will understand this process, which is somewhat different than most of the bills we handle in this place.

The committee held four meetings, honourable senators. The first meeting was with Treasury Board. We normally start with Treasury Board. They are the primary area of government that we deal with. The Treasury Board Secretariat is the group that prepares the supplementary estimates, in consultation, of course, with all the departments and agencies of government. Treasury Board officials come and explain to us the work they have prepared.

We had a good session with Treasury Board, followed by a meeting with the Privy Council officials. This is the first opportunity we have had to invite the new Clerk of the Privy Council, Mr. Wayne Wouters, to appear before our committee, accompanied by other officials. Mr. Wouters explained to us the work of the Privy Council Office and its role in government.

The Department of Indian and Northern Affairs appeared before us, as well as Atomic Energy of Canada Limited, and then we had a final session, honourable senators, on the Canada Account.

I will explain the Canada Account further. It is important for us to understand that it is managed by Export Development Canada, but it deals with riskier loans than Export Development Canada normally involves itself in. Export Development Canada basically says to the government: You direct us to make this loan, and we will do so, but you back us up and indemnify us if the loan goes wrong.

A number of different departments are involved in the Canada Account. The Department of Foreign Affairs and International Trade, Industry Canada, and the Department of Finance all appeared before us to explain their role with respect to the Canada Account, as well as Export Development Canada. We focused on a real-life situation, that being the loans to General Motors and Chrysler Corporation. That was an informative session.

I encourage honourable senators to review the report for more detail, because in the time I have available, I will touch only on some of the highlights.

The figure that honourable senators would normally see published in Supplementary Estimates (B) is an amount of $2.3 billion. However, the voted appropriations are $4.4 billion. There are statutory appropriations that are also referred to in the supplementary estimates but not in the supply bill.

One interesting point we discovered in the statutory estimates is that there is a significant saving, which reduces the amount roughly by half that is being requested in the supplementary estimates under voted appropriations.

• (1510)

On page 55 of the supplementary estimates, senators will see a saving of $2.9 billion reflected in the estimates. We asked where this saving came from. It is under the consolidated Specified Purpose Accounts. You will not be expected to remember all these names, but the Specified Purpose Accounts have certain items included, including the Employment Insurance account and the Canada Millennium Scholarship Foundation Excellence Award fund. We know that part of that saving would come from the millennium scholarship funds because they were cancelled, so that is a saving.

There is apparently a significant saving in the Employment Insurance account. Honourable senators will recall that two years ago we extended by five weeks the Employment Insurance that was running out. The estimate as to how much that would likely cost the government turns out to be quite a bit more than in fact was needed. That is where the majority of that savings comes from, honourable senators, and I thought it was important for you to understand that saving.

Total estimates to date are $266.6 billion. That includes $261.6 billion that we approved back in March of this year, Supplementary Estimates (A) of $1.9 billion and then these supplementary estimates of $3.1 billion. That compares fairly closely to the budget that we all looked at in February-March of last year of $280.5 billion.

Honourable senators, I will go over a few of the highlights from those various entities that appeared before our committee. Atomic Energy of Canada Limited appeared again because they are back asking for another $294 million. They talked about many different expenses, but one of the large ones is the work they are doing on refurbishment of their CANDU reactor in Point Lepreau, New Brunswick. That is a significant drain on their revenue because it was a fixed-cost contract, and they are well beyond the fixed cost in their actual expenses.

AECL admitted to us that they are having cash-flow issues. Treasury Board has a vote 5 contingency fund, and they provide money to government departments on an emergency basis if they believe that department will get money later on. AECL received $100 million through that particular program.

AECL stated to us that they overestimated their preparedness and ability and underestimated the technical demands and difficulties of the project. They entered into a fixed-price contract, and they have learned some lessons from that with respect to other contracts including Gentilly and Hydro-Québec and a number of others in Ontario, but their main problem is with respect to the New Brunswick CANDU reactor.

The other point with respect to AECL, honourable senators, is that they said without doubt they will be back for Supplementary Estimates (C). They will be back for more money. They have been told not to enter any contracts and should finalize no major agreements during this restructuring, and as a result, as some honourable senators were very concerned about, it affects the revenue they might be able to generate when they cannot do business. They have indicated there will be an increase in appropriations and we should anticipate that increase.

Honourable senators, the next group I will discuss is Canadian International Development Agency, $265 million, including $173 million to foreign aid for maternal, newborn and child health programs, but very specifically excluded from the wording was "sex education and birth control" for these foreign entities looking for foreign aid. We know that very important part of the package has been excluded.

Honourable senators, the next group is $833 million for the Department of Indian Affairs and Northern Development, and part of it is for specific settlement claims. We were told the government has booked $5 billion in contingent liabilities to deal with settlement claims and they have settled 848 of the claims thus far and there are 557 claims left to be settled. Also brought to our attention was the Alternative Dispute Resolution in the Indian Residential settlements. They set aside $960 million for a period of six years, and in one year, they have already spent $455 million, almost one-half of what they had set aside. They have paid 2,500 claims already, and that is much heavier than they had anticipated.

They also indicated for the North that the Food Mail Program has been discontinued. They are back for another $10 million for that program, but it will be discontinued next year and a more efficient program called Nutrition North Canada will be implemented. We will follow that new program.

The final area with respect to Indian Affairs and Northern Development is the concern we had of major amounts allocated to that department which were then transferred out to various other departments; $17.1 billion was transferred out to other departments. We asked why those other departments did not ask for that money directly so we could follow it and see how it was administered, and that is a concern that we will want to follow up on further. We will follow the transferring of money from one department that appears to have an easier time raising funds and then that department acting as a banker for a number of other departments.

Office of Infrastructure Canada, the information in this particular report is somewhat outdated because it anticipated refunding a lot of the older programs — Municipal Rural Infrastructure Fund, Canada Strategic Infrastructure Fund, Gas Tax Fund, et cetera — believing the infrastructure stimulus program would be coming to an end with all of the promises of no extensions. Therefore, people were working over the winter to try and get jobs done before the program came to an end. It has now been extended to the end of September.

The Department of National Defence is an area with which we had some concerns.

Honourable senators, I wonder if I might have five more minutes to finish up my report.

**Hon. Senators:** Agreed.

**Senator Day:** Thank you. The Department of National Defence has a number of funding issues, and they will be back undoubtedly for Supplementary Estimates (C) which will probably be coming in February. One of their areas of funding is for procurement of equipment of course and the interim payments that they have to make, but they are coming to us and asking us to approve $650 million in supplementary estimates to a $21 billion budget, and they are expected to save $80 million from expenditures. They save $80 million but then come and ask for half a billion dollars in supplementary estimates, so I wonder if that program of saving is really working the way it should.

Canada Account, honourable senators, we are still working on. One of the good things about the Finance Committee is that we can continue to be charged with this. This is an interim report, and we will continue our work. The Canada Account is a difficult one with respect to these loans. Honourable senators heard Senator Marshall provide an undertaking yesterday to try and help us with this.

• (1520)

In general terms, in round figures, it looks like approximately $11 billion was loaned to General Motors, with two thirds from Canada and one third from Ontario. Shortly after that, $9.7 billion was converted into shares. Those shares were booked at one value, and then the value went up with the recent offering. We sold some of our shares for a higher amount, so that will go

into the Consolidated Revenue Fund, but we want to find out how these various funds are being booked. We still hold many shares; the figure is over 58 million. There is also a loan that is outstanding to Chrysler Corporation.

We have been doing this for many years, but we learned for the first time that National Defence has a different type of carry-forward, which is money they have left in their budget that they can carry forward to the next year. They can carry forward 2.5 per cent from operating and 2.5 per cent from capital. For all other departments, it is 5 per cent from operating only and nothing from capital.

The issue of transfers, honourable senators, is an area I mentioned earlier and it is a matter of concern. We saw the Green Infrastructure Fund reduced by $16.5 million, and that was transferred over to Infrastructure Canada and Natural Resources Canada. We want to follow these transfers more closely.

Honourable senators, those are the major features of this report. I commend the report to you. I would hope that if and when this report is adopted — I am assuming it will be — that it will form the basis for dealing with Bill C-58, which will follow shortly.

**The Hon. the Speaker** *pro tempore***:** Further debate?

[*Translation*]

**Hon. Fernand Robichaud:** May I ask Senator Day a question?

**Senator Day:** Certainly.

**Senator Robichaud:** Speaking of the Millennium Scholarship Fund, Senator Day said there was a savings of $150 million. To me, the word "savings" is not the right word because the funds were not handed out to the students. Can the senator explain this to me?

**Senator Day:** The honourable senator is right. There was a savings of $2.9 billion in five or six categories.

[*English*]

— the Employment Insurance account, the Canadian Millennium Scholarship Foundation, the Civil Service Insurance Fund, et cetera.

[*Translation*]

We do not have the exact amount for the Millennium Scholarship Fund, but the money was not spent because the program was cancelled. It is too bad.

**Hon. Roméo Antonius Dallaire:** Would the honourable senator agree to answer a question?

**Senator Day:** Certainly.

**Senator Dallaire:** In the Department of National Defence estimates, there is vote 5 and vote 1. In vote 5, we find the purchase of capital equipment.

The Department of National Defence used to be able to transfer sums from vote 5 to vote 1 in order to boost needs in O&M and that money came from large contracts that had not been finalized on time because the contractor could not meet the deadline or it was too late.

We are talking about roughly $450 million for this year. Did this money stay in the Department of National Defence's budget or did it go back into the general fund?

[*English*]

**The Hon. the Speaker** *pro tempore***:** I regret to inform the Honourable Senator Day that his time has almost expired. I just wanted to remind him that his answer must be short.

[*Translation*]

**Senator Day:** If the Department of National Defence holds back 2.5 per cent of vote 5 and vote 1, that money could be transferred to the following year, but it cannot be transferred from vote 5 to vote 1 without permission from Parliament.

[*English*]

**Senator Dallaire:** Are we not allowed time extensions to be able to ask more questions?

**The Hon. the Speaker** *pro tempore***:** There was an extension granted for five minutes and the five minutes is up. However, there is time for further debate. Is there further debate, honourable senators?

It has been moved by the Honourable Senator Day, seconded by the Honourable Senator Moore, that the report be adopted now. Are honourable senators ready for the question?

**Hon. Senators:** Question.

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

**Hon. Senators:** Agreed.

**Senator Ringuette:** On division.

(Motion agreed to and report adopted, on division.)

[*Translation*]

## FEDERAL LAW— CIVIL LAW HARMONIZATION BILL, NO. 3

### THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Carignan, seconded by the Honourable Senator Demers, for the third 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;

And, on the motion in amendment of the Honourable Senator Watt, seconded by the Honourable Senator Lovelace Nicholas, that Bill S-12 be not now read a third time, but that it be amended, on page 1, by adding after line 5 the following:

"ABORIGINAL RIGHTS

**1.1** For greater certainty, nothing in this Act shall be construed so as to abrogate or derogate from the protection provided for existing aboriginal or treaty rights of the aboriginal peoples of Canada by the recognition and affirmation of those rights in section 35 of the *Constitution Act, 1982*.".

**Hon. Serge Joyal:** Honourable senators, first, I would like to mention that I am very happy about the government's initiative in introducing Bill S-12. I will certainly give it my full support.

I would also like to mention to honourable senators that I support the amendment proposed yesterday by our colleague, Senator Watt, and I will quickly explain why.

First, in terms of the actual content of Bill S-12, I find it somewhat unacceptable that its sponsor — who proved to be a very diligent worker when this bill was studied by the Standing Senate Committee on Legal and Constitutional Affairs, which heard numerous witnesses, including experts from the University of Ottawa and representatives from the Canadian Bar Association — did not summarize the nature of the bill in this chamber. Despite the daunting technical title, the fact remains that this bill touches on an extremely important aspect of Canada's identity — the fact that our country has different legal traditions that stem from different historical sources. Every time this chamber passes bills, the language of these bills draws on these different legal traditions and tries to reflect the same reality and the same content, so that litigants — that is, Canadians, the courts, lawyers and anyone who represents the country's people — interpret the same elements of the law in the same way.

Essentially, this bill aims to reconcile different legal traditions in the same legal text. There are a number of legal traditions in Canada, the first of which is the Aboriginal legal tradition.

[*English*]

First, there is the Aboriginal common law tradition. When the European settlers first arrived in Canada in the 17th century, Aboriginal people already existed in this country and they were ruling themselves. They had customs, and those customs were in fact recognized by the Supreme Court in 2004 in a very important and seminal judgment, *Haida Nation v. British Columbia*. I would like to quote what the court said in that judgment. The Supreme Court said the following:

> Put simply, Canada's Aboriginal peoples were here when Europeans came, and were never conquered.

[*Translation*]

When the Europeans arrived here, the Aboriginal tradition already existed, and that tradition was not eclipsed by the European legal tradition because the Aboriginals were not conquered.

[*English*]

There were settlement arrangements in order to allow the Europeans to take root in Canada and to manage their affairs in full respect of the way Aboriginal people ruled their own family law, trade law, commercial law and political law.

[*Translation*]

When the French arrived here, they took note of the way Aboriginals organized their legal relationships and they accommodated it.

• (1530)

That is why Canada's French law, which was brought from the home country through French customary law, the Coutume de Paris, and imposed in 1674, was a legal tradition that existed in symbiosis with the Aboriginal legal tradition until the country was handed over in 1763, when British common law took its place alongside the French and Aboriginal legal traditions.

[*English*]

For over 100 years, those three sources of law have lived together, borrowing from one another but living peacefully together. Of course, with the colonialist policy of the 19th century, when Aboriginal peoples were pushed progressively onto their own reserve land, they were forced through the Indian Act to adopt more and more the British common law, but not to yield their own traditional, legal common law system.

[*Translation*]

The Supreme Court of Canada thus clearly recognized the existence of an Aboriginal legal tradition. Do honourable senators remember the Royal Commission on Aboriginal Peoples initiated by former Prime Minister Brian Mulroney?

[*English*]

The Royal Commission on Aboriginal Peoples was co-chaired by George Erasmus, an eminent leader of the First Nations people, and Justice René Dussault. Included among its membership were learned and distinguished Canadians, among them former Premier of Saskatchewan Allan Blakeney, former Justice of the Supreme Court of Canada Bertha Wilson, and former Aboriginal leaders Mary Sillett, Viola Robinson and Paul Chartrand.

The commission tabled its report in 1993 and came to some conclusions about the existence of Aboriginal legal tradition.

[*Translation*]

The commission had this to say:

> In the Aboriginal experience "the organizing and regulating force for group orders and endeavour. . .was custom and tradition." "Customs were derived from the Creator", and because they were spiritually endowed and through history had withstood the test of time, they "represented the Creator's sacred blueprint for the survival of the tribe".

In other words, the common law legal tradition among Aboriginal peoples — what they did among themselves — was sacred, and they respected that tradition. Why? Because it was a promise they had made. We all know that the Aboriginal legal tradition was not passed down through legislation or court rulings. It was passed down from one generation to the next orally, through the clan elders. The elders were responsible for interpreting the tradition.

This is especially important, honourable senators, because Quebec francophones in particular, who had to accommodate this Aboriginal tradition in their development for more than 150 years, recognized it in 1994 when they adopted their new Civil Code, which redefined the legal tradition of civil law, the written law in Quebec.

In 2004, nearly six years ago, on the tenth anniversary of the adoption of the Civil Code in Quebec, the National Assembly presented an exhibit for which a catalogue was prepared. In that catalogue celebrating the tenth anniversary of the Civil Code, this is what was said about the Aboriginal legal tradition:

> In the territory of New France, the customs of the Amerindians coexisted for a long time with the legal traditions of the mother country, each one based on centuries-old rules handed down through the generations. The Amerindian people lived according to the customs and instructions taught by their clan elders. These customs, often varying from one nation to another, constituted the legal standards applied to life in society. For instance, although monogamy was not obligatory, it was generally practised. Spouses were considered each other's equals. Women had some authority within the family and the community, and the education of children was a collective responsibility.

You will understand, honourable senators, that the Aboriginal legal tradition differed from the legal tradition of French origin, but they coexisted side by side. In 1763, another legal tradition arrived.

[*English*]

That one was from the common law source; however, all those traditions had to live side by side.

This bill gives the capacity to us, as legislators, to adopt a statute that will become the law of the land and will express those two legal traditions in two different languages. We adopt the principle of British common law, or English common law, expressed in both French and English. We also adopt principles and concepts of civil law in both the French language and the English language.

Besides those two main traditions expressing themselves in four different languages, we have the Aboriginal legal tradition, which might sound new to some honourable senators, but it is an element that the Law Reform Commission of Canada fully recognized in 2004, and it proposed ways to manage the progressive adaptation of that Aboriginal tradition into our own linguistic and juridical reality.

In fact, in the North, in Iqaluit, Nunavut, there is a law school that teaches Inuit legal traditions, in Inuit, to the Inuit people and, of course, to others. This school is called Akitsiraq Law School in Iqaluit, and it is important because it is there that that legal tradition will be progressively expressed and integrated into our legal language. That might appear technical to honourable senators, but the process of adopting statutes and legislating for Aboriginal people in the North is the reality of today.

I especially mentioned Nunavut, where there are three official languages. My colleagues who were here last year will remember when we adopted a bill to recognize three official languages in Nunavut, namely, English, French and Inuktitut. In the Northwest Territories, there are 12 different official languages besides English and French. There are many other Aboriginal languages. In the Yukon, there are English, French and other languages that are used and promoted.

In other words, we live in a more complex reality than having only one source of law, the British common law tradition, that is expressed in the bill; hence it is the responsibility of Parliament and the government to ensure that those concepts are well reflected in its legislation.

That objective was adopted in 2001 by a bill that added to the interpretation law of Canada the responsibility of Parliament to legislate according to the expression of two main traditions in four different languages.

It is important, honourable senators, to be concerned about the progress of our initiative and efforts to reflect that reality and to keep that in mind. In this bill, the amendments of Senator Watt signal that, besides those two legal traditions, the Aboriginal peoples have their own reality. There have been the official apologies that have been given to the Aboriginal peoples through the initiative of the government, and we have commended the government for that in this chamber, so that progressively this reality is restored to its status and integrated into the juridical reality of Canada.

• (1540)

Among the experts we have heard at the committee, Professor Aline Grenon sent us last week — Thursday, December 9 — the introduction of her work, entitled —

[*Translation*]

*Le droit comparé au Canada à l'aube du XXI^e siècle* is a book written by Professors Aline Grenon and Louise Bélanger-Hardy. In the introduction, the professors state quite rightly that comparative studies of law used to be limited to analyzing the various facets of civil law and common law, but now they have to take into account the ramifications of Aboriginal law, among others.

[*English*]

It is recognized among the experts and the professors in the law schools of Canada that this is the reality; and progressively, we will take steps to ensure that this reality is integrated at various levels according to the reality of the Aboriginal tradition. It is complex, because there are words in the Aboriginal Inuktitut language — although I am not an expert in Inuktitut — to express a reality that we need a long phrase or long sentence in French or English to explain.

[*Translation*]

There are concepts in our English and French languages that have to be paraphrased in Inuktitut because there are no words in that vocabulary to express this type of reality. It is complex from a legal standpoint but, honourable senators, not only is it feasible, it is desirable.

[*English*]

I think we have to hope for this because that is the only way that the Aboriginal people will be restored in their rights to recapture their identity, to recapture their language, to recapture their modus vivendi, to recapture their capacity to take part in the Canadian dream of making sure that, as they say in the other language —

[*Translation*]

— there is always a place in the sun for everyone. I believe that in order to integrate the Aboriginal peoples, we must recognize their legal traditions —

[*English*]

— their Aboriginal common law and our capacity to integrate it in our own Canadian law.

**The Hon. the Speaker** *pro tempore*: On debate.

[*Translation*]

**Hon. Claude Carignan:** Will Senator Joyal answer a question? I understand that his time has run out.

[*English*]

**The Hon. the Speaker** *pro tempore*: Your time has expired, but do you want to ask for more time to respond to a question?

**Senator Joyal:** With pleasure.

[*Translation*]

**The Hon. the Speaker** *pro tempore*: Five minutes.

**Senator Carignan:** Senator Joyal spoke about the sponsor of the bill. We are dealing with the motion in amendment and, if I understand parliamentary procedure correctly, I still have the floor and will continue by speaking about some of the witnesses, those who impressed me.

This is the third harmonization bill. We have had Federal Law-Civil Law Harmonization Bill, No.1, and then No. 2. Senator Joyal sponsored the second one in 2004 and this type of derogation clause existed. It was more important before 1982, and after that it was used sporadically because it was integrated into the Constitution, in section 35 of the Constitution Act, 1982, when the need was not as great, but it did occur sporadically.

I looked at Bill No. 2. Despite the passion that I felt Senator Joyal rightfully showed, this type of clause is not found in the bill he sponsored. May I know why?

**Senator Joyal:** I thank Senator Carignan for his question. Honourable senators, this will allow me to refer again to the work of the Standing Senate Committee on Legal and Constitutional Affairs. When harmonization bills No. 1 and No. 2 were adopted by Parliament in 2001, the Standing Senate Committee on Legal and Constitutional Affairs was chaired by retired Senator Lorna Milne. She chaired the committee for many years. The committee was studying the nature and the impact of the derogation clauses. I would like to highlight the remarkable contribution to our work at that time of Senator Pierre-Claude Nolin. In other words, the committee was given a mandate by this chamber to assess the impact of derogation clauses and, eventually, recommend to the government that it make a decision on the use of these derogation clauses.

In 2004, when the second harmonization bill was introduced, the Legal and Constitutional Affairs Committee had not completed its study of this issue. We did not complete our report until a few months later. Our report has since been tabled. The government of the day made its position clear. Now, we are more or less at the same stage as before, given that no official decision has been made regarding the government's use of derogation clauses.

However, Aboriginal people, particularly the Aboriginal senators who were part of our work at the time, expressed concerns that their reality would be excluded from consideration by the Canadian majority when we passed legislation on matters about which they have particular convictions, for instance, regarding the protection of endangered species. Senator Adams was extremely concerned about this matter. Any time we were examining a bill to protect endangered species, we wanted to include a derogation clause to ensure that Aboriginal peoples could continue to exercise their right to express an opinion regarding the reality of hunting and fishing, which could affect endangered species.

In the present case, we are facing a similar situation. The law included in Bill S-12 is not only perfectly acceptable, but we must continue in that direction — not, however, to the detriment of the ability of Aboriginal people to continue reclaiming their own laws, affirming them and ensuring that they eventually become part of the Canadian legal reality. It is in this context that this derogation clause now has meaning.

[*English*]

**The Hon. the Speaker** *pro tempore*: Is there further debate?

[*Translation*]

**Senator Carignan:** I would like to take part in the debate on Senator Watt's motion in amendment.

[*English*]

**The Hon. the Speaker** *pro tempore*: Are you on debate or are you asking a question?

**Senator Carignan:** On debate.

**The Hon. the Speaker** *pro tempore*: Senator Fraser, do you want to speak on debate as well?

**Hon. Joan Fraser:** On debate. I will take maybe 30 seconds, Your Honour. It follows directly from Senator Joyal's truly excellent speech. He said what I believe more eloquently and more learnedly than I could ever hope to do.

There was, however, I think, a factual error in his response to Senator Carignan when he suggested that our former and, by me, much beloved colleague, Senator Milne, had been chair of the committee at the time when we made our report on derogation clauses. If memory serves, honourable senators, it was the Deputy Speaker, Senator Oliver, who was then the chair of the committee.

**Senator Joyal:** With humble respect, I will try to correct my mishap, Your Honour.

Your Honour will remember, of course, that when you assumed the chairmanship of Standing Senate Committee on Legal and Constitutional Affairs, the committee had already had many hearings and many witnesses from all walks of the legal community. You were able to come and pick up the crop of all those contributions. It was not intended to overlook your personal merit to have chaired our committees and our studies at that time. My humble respect, Your Honour.

[*Translation*]

**Senator Carignan:** Honourable senators, I did my homework this morning, even though I did not have much time. Of course, I reread the Senate report Senator Joyal mentioned, the one produced in 2007, which was further to an earlier report.

• (1550)

The first report from November 25, 2004, recommended that Harmonization Act, No. 2 be passed. The then chairman, the Honourable Lise Bacon, made various observations, including the following one, in which the committee urged that:

> . . . a way should be found to integrate Aboriginal legal traditions into Canadian law alongside the civil and common law in a manner that will better reflect Canada's diversity.

In 2004, various reference requests were made of the Standing Senate Committee on Legal and Constitutional Affairs to study this question in more detail.

A thorough study was done in 2007, and it was followed by a report in December 2007, under the chairmanship of the Honourable Senator Fraser. The report was titled *Taking Section 35 Rights Seriously: Non-derogation Clauses relating to Aboriginal and treaty rights*.

This report by the Standing Senate Committee on Legal and Constitutional Affairs was very detailed and it presented the issue's historical context.

I would like to draw your attention to certain pages of this report as well as to some of the issues that were raised. An issue was raised through Bill C-33, the Nunavut Waters and Nunavut Surface Rights Tribunal Act; consequently, another discussion took place concerning the implication of using a non-derogation clause. On page 3 it says:

> When [the senators] and the Minister of Justice were unable to reach a solution acceptable to all, the government leader in the Senate introduced a motion in June 2003 to have the matter referred to committee.

In October 2003, the Senate instructed the committee to examine and report on the implications of including, in legislation, non-derogation clauses relating to existing Aboriginal and treaty rights of the Aboriginal peoples of Canada under section 35 of the Constitution Act, 1982. Subsequent orders of reference were submitted in November 2004, June 2006 and November 2007.

The question obviously came up because there were diverging arguments. Some said that section 35 of the Constitution Act, 1982, was considered to be adequate protection, and that the non-derogation clause was useless and should therefore be avoided. Others, including representatives of the Congress of Aboriginal Peoples, recommended that the non-derogation clause be present in all federal legislation.

Page 10 of the report contains the title of the clause suggested by Senator Watt, and I quote:

> For greater certainty, nothing in this Act shall be construed so as to abrogate or derogate from the protection provided for existing aboriginal or treaty rights of the aboriginal peoples of Canada by the recognition and affirmation of those rights in section 35 of the *Constitution Act, 1982*.

This non-derogation clause is a new and different formulation than some past non-derogation formulations and was also the subject of discussion.

During his testimony, a legal advisor from Nunavut's Executive Council Office commented on the exact formulation Senator Watt noted:

> In the view of Nunavut witnesses, however, deletion of the non-derogation clause in Bill C-33 was preferable to maintaining it as drafted, particularly since the legislation was implementing a constitutionally protected modern treaty. They found the new wording confusing and ineffective, and were concerned about possible deleterious interpretations that it might attract. The Government of Nunavut took the position that
>
> > . . . not only does the present language not provide assurances that Parliament does not intend to impair existing Aboriginal treaty rights through this legislation. . . . By limiting the protection of the clause to just the protection provided for Aboriginal treaty rights, by the recognition and affirmation of those rights in clause 35, the provision incorporates the common-law authority to infringe Aboriginal and treaty rights. . . .

This was a legal advisor for the Government of Nunavut who was opposed to that formulation in a clause that, I will admit, had to do with government recognition in Nunavut.

As well, on page 18 of the report, the committee said:

> The Committee agrees with both government and non-government witnesses that the current *ad hoc* approach to legislated non-derogation clauses is unsustainable.

Because the derogation clause is included in some cases and not others, this could give rise to contradictions and questions as to how legal experts would interpret the clause.

The committee members went on to say the following:

> It has resulted in different clauses based on one of two main variations in some, but not all, federal statutes with potential impacts on Aboriginal rights and interests. This approach appears to us to accentuate the government's concern about the courts assigning an unintended scope to any such clause, if only to distinguish its purpose from that of another differently worded one.

To avoid these contradictions as to the presence or absence of derogation clauses, the committee recommended putting an end to this practice and repealing all the non-derogation provisions in legislation. Instead, they recommended including a specific provision in the Interpretation Act to cover all the laws of Canada.

Honourable senators, since the committee already expressed an opinion on this and said that the ad hoc approach was not a good idea because of the possible negative legal impact on Aboriginal rights, I would suggest that you reject this amendment and instead propose that the Minister of Justice amend the Interpretation Act to include a specific provision and also reiterate the content of the report tabled in the Senate in December 2007.

**The Hon. the Speaker** *pro tempore***:** Is there further debate? Are honourable senators ready for the question?

**Some Hon. Senators:** Question.

**The Hon. the Speaker** *pro tempore***:** Honourable senators, the vote is on the motion in amendment moved by the Honourable Senator Watt, seconded by the Honourable Senator Lovelace Nicholas, that Bill S-12 be not now read a third time, but that it be amended, on page 1, by adding after line 5 the following:

"ABORIGINAL RIGHTS

> **1.1** For greater certainty, nothing in this Act shall be construed so as to abrogate or derogate from the protection provided for existing aboriginal or treaty rights of the aboriginal peoples of Canada by the recognition and affirmation of those rights in section 35 of the Constitution Act, 1982."

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

**Some Hon. Senators:** Yes.

**Some Hon. Senators:** No.

**The Hon. the Speaker** *pro tempore***:** Will those honourable senators in favour of the motion in amendment please say "yea"?

**Some Hon. Senators:** Yea.

**The Hon. the Speaker** *pro tempore***:** Will those honourable senators who are opposed to the motion in amendment please say "nay"?

**Some Hon. Senators:** Nay.

**The Hon. the Speaker** *pro tempore***:** In my opinion, the nays have it.

(Motion in amendment defeated, on division.)

**The Hon. the Speaker** *pro tempore***:** Are honourable senators ready to vote on the main motion? Further debate?

If Senator Carignan speaks, that will close the debate.

• (1600)

**Senator Carignan:** Honourable senators, I am pleased to speak to you at third 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.

Honourable senators will remember that I gave a speech on October 27, at second reading of this bill, which is the third in a series of harmonization bills introduced before Parliament. I closed my speech by inviting all members of this chamber to give this bill their full support.

You will also remember that, on November 18, Senator Hervieux-Payette rose in this chamber to recommend that we fully support Bill S-12. During her speech, she noted, in particular, that all Canadians would benefit from the harmonization of federal legislation with the civil law of Quebec and that this is a necessary, unavoidable process that enriches both our legal systems and helps strengthen Canadian unity while respecting each province's cultures and institutions.

My motion for the second reading of Bill S-12 was put to a vote immediately following Senator Hervieux-Payette's remarks and the motion was adopted without opposition.

My motion to refer Bill S-12 to the Standing Senate Committee on Legal and Constitutional Affairs was also adopted without opposition.

I had the pleasure of meeting with my colleagues on the Standing Senate Committee on Legal and Constitutional Affairs on December 1, 2, 8 and 9 to hear witnesses on Bill S-12. The statements made by the witnesses and heard by the committee clearly indicate that the legal community strongly supports Bill S-12 and the harmonization initiative.

Honourable senators, I would like to mention in this place, as I did in committee, that I have rarely seen such a consensus about a bill since being appointed a senator. I would like to quote the Association des juristes d'expression française de l'Ontario as well as the Fédération des associations de juristes d'expression française de common law who, in their evidence, said:

> ...we firmly and unequivocally support a harmonization process that includes the four legal languages of our country... the FAJEF and Ontario consider it essential to state that they strongly support full respect for Canadian bijurilism and bilingualism within federal legislation.

As honourable senators probably know already, Canada has four legal languages: the French-language civil law, the French-language common law, the English-language civil law and the English-language common law. The federation and the association believe that these four legal languages, including the French-language common law, must be respected and acknowledged in all federal legislation.

Over the past 30 years or so, a great deal of effort has been made in Canada to make the common law more accessible to francophones living in a minority situation outside Quebec. Through great effort by jurists, universities, researchers and governments, despite the common law's centuries-old English origins, it has opened up to the French language. The integration of French-language common law terms into harmonized federal legislation further recognizes and legitimizes the role played today by French-language common law in Canada.

Furthermore, by integrating the French-language common law into federal legislation, it becomes more accessible to francophone jurists who work in provinces with a common law tradition and to the francophone clientele. For these reasons, the federation and its network, including the Association des juristes d'expression francophone de l'Ontario, would like to thank federal legislators for all efforts made to harmonize federal legislation.

Professor Stéphane Rousseau from the law Faculty at the Université de Montréal told us:

> This program and the work associated with it are extremely important and relevant in at least two respects — first of all, because they allow us to gradually develop legislation that reflects our two legal systems, the common law and the civil law, in all federal legislation and in both official languages. In so doing, they ensure that federal legislation is accessible to everyone throughout the country, based on both legal systems and in their preferred official language. I believe that to be extremely important.

Therefore, considering this unequivocal support and the fact that no witnesses raised any particular concerns regarding any of the provisions in Bill S-12, the Standing Senate Committee on Legal and Constitutional Affairs unanimously passed the bill without amendment.

I would like to thank my colleagues on the Standing Senate Committee on Legal and Constitutional Affairs for their serious and prompt consideration of Bill S-12, and I urge all senators to pass the bill with a unanimous vote.

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

**Hon. Senators:** Question.

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

**Hon. Senators:** Agreed.

(Motion agreed to and bill read third time and passed.)

• (1610)

[*English*]

## FIGHTING INTERNET AND WIRELESS SPAM BILL

### THIRD READING

**Hon. Gerald J. Comeau** moved third reading of Bill C-28, An Act to promote the efficiency and adaptability of the Canadian economy by regulating certain activities that discourage reliance on electronic means of carrying out commercial activities, and to amend the Canadian Radio-television and Telecommunications Commission Act, the Competition Act, the Personal Information Protection and Electronic Documents Act and the Telecommunications Act.

**The Hon. the Speaker** *pro tempore*: It is moved by the Honourable Senator Comeau, seconded by the Honourable Senator Meighen, that this bill be read the third time now.

Are honourable senators ready for the question?

**Some Hon. Senators:** Question.

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

**Hon. Senators:** Agreed.

(Motion agreed to and bill read third time and passed.)

## SAFE DRINKING WATER FOR FIRST NATIONS BILL

### SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Brazeau, seconded by the Honourable Senator Lang, for the second reading of Bill S-11, An Act respecting the safety of drinking water on first nation lands.

**Hon. Sharon Carstairs:** Honourable senators, I read with great interest Senator Brazeau's comments on this bill at the second reading stage in which he over and over again talked about the amount of consultation with First Nations communities that went on in the preparation of this bill. Yet, honourable senators,

I received the following letter addressed to the Honourable John Duncan, PC, MP, Minister of Indian Affairs and Northern Development, House of Commons, Ottawa, Ontario:

> Dear Minister Duncan,
>
> RE: MANITOBA FIRST NATIONS OPPOSITION TO BILL S-11 SAFE DRINKING WATER FOR FIRST NATIONS ACT
>
> In a previous letter to your predecessor Minister Strahl in September 2009, we outlined our concerns with the federal government's breach in its duty to consult and accommodate First Nations on the overall water management strategy.
>
> The introduction of Bill S-11 will negatively impact our Inherent Treaty Rights. We request clarification on why it was introduced into the Senate and not in the House of Commons, as bills requiring resources are first introduced in the House of Commons. Is there a commitment from the federal government to ensure sufficient resources for the development of regulations and as recommended by the Expert Water Panel "to bring all First Nations water systems to comparable operation standards as the rest of Canada"?
>
> The language in Bill S-11 was drafted without First Nations input. We call your attention to some of the serious issues:
>
> The Bill seeks to determine authority to provide for the relationship between the regulations and aboriginal treaty rights referred to in section 35 of the Constitution Act, 1982, including the extent to which the regulations may abrogate or derogate from those aboriginal and treaty rights.
>
> The Bill will "prevail over any laws and by-laws made by a First Nation" undermining powers of First Nations under the Indian Act;
>
> The Bill says Canada had the authority to force First Nations into agreements with third parties to operate First Nation water systems;
>
> The Bill says Canada has the authority to give judicial legislative and administrative power to "any person" to carry out the Bill and regulations passed under it.
>
> As it stands the Assembly of Manitoba Chiefs do not support Bill S-11 and demand that it be halted and amended to include the participation of First Nations in the drafting of future legislation that does not erode or negatively impact our Inherent and Treaty Rights.
>
> We look forward to your response on this timely issue.

It has been signed by Ron Evans, the Grand Chief of the Assembly of Manitoba Chiefs.

In light of that particular statement, I cannot possibly support this bill.

**Hon. Grant Mitchell:** Honourable senators, I would like to mention a few points on Bill S-11, which has been debated in detail. Certainly I concur with the presentation made by my colleague, Senator Banks, but I would like to emphasize several points, because this is a fundamentally important issue on many levels, certainly for First Nations communities in my province of Alberta and First Nations peoples across the country. To the extent that First Nations people are not being adequately treated, it is an issue not just for First Nations people, but for all Canadians.

My initial reaction is that at second reading we are debating this in principle and, of course, this is a difficult principle at one level not to concur with. The fact of the matter is that it is a bill about safe drinking water and so, at face value, one would appreciate it might be supported relatively easily, but it depends on how one parses the principles.

There are principles that affect First Nations' rights to self-governance and fundamental rights, and there are principles of capacity-building in Aboriginal communities so that they can perform the kind of functions that would be called for in this act and be penalized if they were not fulfilled.

There is a serious problem and we have heard it many times. Once again, I wish to emphasize that as of 2009 there are still 49 First Nations water systems classified as high risk and, as recently as August 31 of this year, 117 communities were under drinking water advisories.

To emphasize Senator Carstairs' point, I would also like to point out that it is instructive in this debate that there is very little support among First Nations peoples for this piece of legislation, despite the fact that the government spins it continuously as something that will actually be to their advantage.

The devil is, of course — as is usually the case — in the details. There are two broad problems. First, in several, if not many ways, this legislation offends rights, it can lead to the abrogation of rights for Aboriginal people, and it raises self-governance issues.

The preamble sets out an assumption quite clearly — and in quite a startling fashion — that somehow First Nations do not have the authority necessary to govern water on reserves, and this implicitly demonstrates a lack of respect for First Nations governance systems. The fact of the matter is that in many ways they do in fact have these powers.

• (1620)

Clause 6 of Bill S-11 is a direct affront to Aboriginal fundamental rights and self-government in that it states, among other things, that the regulations of Bill S-11 will prevail over the land claim agreements or self-government agreements. By definition, this will allow the federal government to abrogate or derogate from the terms of modern treaties and to diminish the authority, the powers that First Nations do exercise and have every right to exercise right now over administrative mechanisms that they have for, among other things, dealing with the quality of their water.

This abrogation and self-governance issue is further compounded by the provisions set out in clause 4(1)(*b*) of the bill, which states that under this act the government may make regulations to —

> . . . confer any legislative, administrative, judicial or other power on any person or body . . .

— to carry out what is called for under this bill. There is no provision for that to be done in concert with Aboriginal peoples, with Aboriginal governance parameters, in consultation to utilize the structures that exist already in some cases and actually can function quite well. It is, in fact, with these three provisions — preamble, clause 4(1) and clause 6 — that there is a profound affront to Aboriginal rights and to their self-governance rights as well more specifically.

Honourable senators, in short, in order for this bill to be acceptable in any way, shape or form, there must be provisions that ensure that there is no abrogation of these rights under any circumstances once this bill, or one that would be amended, would be put into law.

The second problem is that while this bill lays out a legislative structure of sorts, it in no way addresses the issue of capacity-building. There are tremendous demands on Aboriginal communities to be met under this bill in order to meet the standards, high as they will be, that will be set under this bill, and in fact they can be punished for not meeting those standards.

Honourable senators, it brings one to recollect the adage that you cannot legislate certain problems away. Legislating standards in this case will not legislate the problem of water quality away because many First Nations communities will not have the resources to meet these standards in any event.

It may, however, be that the government thinks it can legislate away — read spin away — its political problem, because it can say, "Look what we are doing. We have brought in legislation. It is substantive." They can carry off that somehow they have made some kind of commitment to First Nations communities that will really solve a desperately severe problem, when in fact it simply will not.

I will conclude by saying that earlier this year we considered the Aboriginal matrimonial properties bill, which shares much in concept with the nature of this bill. When I say that, I mean that it was implicitly condescending in the way that it structured its relationship to matrimonial property changes on First Nations. It was condescending in the fact that it applied a legislative structure, a legislative attitude, a legislative philosophy that simply did not meet the traditions of First Nations Aboriginal peoples. The same applies here. The Aboriginal matrimonial property bill was consistent with this bill as well to the extent that it required a great deal and does require a great deal of effort, expense and expertise on the part of First Nations communities, and they simply do not have the capacity, nor was there any provision for them to have the capacity or the resources, in either of these bills to do what needs to be done under these bills.

It seems to me that this may be becoming a very bad and unproductive habit. It is a habit, an attitude, a way of condescending to First Nations people that simply will not work. These pieces of legislation, this one in particular, will not solve the problem the government would say it is designed to solve. In fact, in many ways it just compounds the problem and it certainly raises expectations that simply will not be met.

For that reason, honourable senators, I think this is not a particularly good piece of legislation. It needs a lot of work. Maybe it will get some of that in committee, but if it does not, it is not worth passing.

**Hon. Tommy Banks:** Would the honourable senator accept a question?

**Senator Mitchell:** Yes.

**Senator Banks:** Honourable senators, I responded to Senator Brazeau's proposal of this bill by saying that I would vote against it at second reading because of the fact that second reading is on the matter of the principle. If we pass a bill at second reading, we are agreeing with the principle of the bill, and I have suggested in previous words that the principle is beyond saving.

Senator Mitchell has now had a chance to look at the bill. Does he think the bill is susceptible of being made workable by amending it and would he therefore vote for sending it at second reading on principle to committee for study?

**Senator Mitchell:** That is a trick question from my own colleague.

Honourable senators, there are two different remedies required of this bill before it would be in any way acceptable. I am not a lawyer, but I know that probably the question of abrogation of rights could be solved by an amendment at committee. There is something to be said for allowing a committee review of this bill to be explored to see whether that kind of amendment can be made or could be made.

The problem, however, of resources to be committed to allowing this bill to be enacted and pursued fully and properly is a different issue because, while we could amend the bill to say that there should be resources, perhaps, there is no guarantee and, in fact, given our experience with this government, they can say they will put money into something and then they do not.

It is Christmas. I think I would allow it to go to committee so we could review it and pursue it further and see if it can be improved to a point where we might just vote on it.

**The Hon. the Speaker** *pro tempore***:** Is there further debate? Are honourable senators ready for the question?

**Some Hon. Senators:** Question.

**The Hon. the Speaker** *pro tempore***:** It was moved by Honourable Senator Brazeau, seconded by Honourable Senator Lang, that the bill be read the second time now. Is it your pleasure, honourable senators, to adopt the motion?

**Some Hon. Senators:** Agreed.

**Some Hon. Senators:** On division.

**The Hon. the Speaker** *pro tempore***:** Adopted, on division.

(Motion agreed to and bill read second time on division.)

REFERRED TO COMMITTEE

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

(On motion of Senator Brazeau, bill referred to Standing Senate Committee on Aboriginal Peoples.)

## APPROPRIATION BILL NO. 4, 2010-11

THIRD READING

**Hon. Elizabeth (Beth) Marshall** moved third reading of Bill C-58, An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2011.

**Hon. Joseph A. Day:** Honourable senators, I was giving the Honourable Senator Marshall, as the sponsor of the bill, the opportunity to speak first with, but I am not certain that Senator Marshall will speak.

I believe there are two or three points that should be made so that honourable senators can understand the relationship between the report that we dealt with extensively a short while ago, the report on Supplementary Estimates (B), and this bill, which is a supply bill, Bill C-58, based on the supplementary estimates.

We have just adopted the report, honourable senators. That in effect is our study. This bill was not referred to committee, and that was not a mistake; that was our intent, because we had studied the supplementary estimates, as I indicated yesterday, like a subject matter study prior to even receiving Bill C-58.

The only exercise that I go through with respect to Bill C-58 at third reading is to ensure that the schedule that we studied in the supplementary estimates is the schedule attached to the supply bill.

• (1630)

Honourable senators, this is a supply bill. On your behalf, I have compared the proposed schedule that we have studied to the schedules that are attached hereto and I find them to be the same. That is not always the case and it is nice when we are able to find a difference.

The other point I want to make, honourable senators, is that this schedule is for expenditures authorized to the end of March 2011, except for those few items that appear in Schedule 2. There are certain entities, or agencies, that are authorized to have expenditures approved for two years. They must spend the money that is authorized by March 31, 2012. An example of those agencies appears at page 56 of Bill C-58, namely, the Canada Revenue Agency and Parks Canada. They receive authorization for two years as opposed to all other government departments that receive one year.

I find the bill is in order according to the supplementary estimates that we have studied and the report that you have adopted.

**The Hon. the Speaker:** Is there further debate?

Are honourable senators ready for the question?

**Some Hon. Senators:** Question!

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

(Motion agreed to and bill read third time and passed.)

[*Translation*]

## OFFICIAL LANGUAGES ACT

BILL TO AMEND—SECOND READING—
DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Chaput, seconded by the Honourable Senator Mahovlich, for the second reading of Bill S-220, An Act to amend the Official Languages Act (communications with and services to the public).

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, I am very pleased to speak today at second reading of Bill S-220. First, allow me to congratulate Senator Maria Chaput on the tremendous research and consultation that went into introducing this bill.

This is a comprehensive and far-reaching bill that addresses a number of issues that are important to official language minority communities. I want to acknowledge the passion, sincerity, perseverance and dedication that Senator Chaput has shown and continues to show regarding Canada's official language minority communities.

When you come out of a meeting with Senator Chaput, you have a true sense of her conviction. I can attest to the fact that she believes strongly in the development of official language minority communities. Rarely a week goes by without her stopping by my office to talk, not only about Bill S-220, but also about a host of projects she is working on for a cause that means so much to her. I encourage her to continue in her chosen role of promoter and defender.

As the chair of the Official Languages Committee, she is known as someone who seeks consensus. She is always prepared to work with both sides in order to reach it. That is why I recommended that she keep the position of chair of the committee the last time committee chairs were shuffled.

Above all else, she is very endearing. She is a sincere woman whom you would want as a neighbour and a friend. In her speech, Senator Chaput spoke of her children and grandchildren. They can all be proud of their favourite senator. She has a good reputation among us here in Ottawa, on both sides of the chamber. We are happy that they shared her with us.

Partisanship is a fact of life in Parliament, but I sincerely believe that Senator Chaput does not bend to any political agenda. She would never take advantage of her position or dedicate her efforts to benefit a political agenda.

In fact, it is amusing to see her embarrassment when she is sitting next to Senator Mercer as he launches into his partisan rants, which is basically any time he opens his mouth.

**Some Hon. Senators:** So true!

**Senator Comeau:** For all these reasons, I do not believe that her bill involves partisan politics. Her work on Bill S-220 has been an honest and sincere effort to help her cherished minority language communities flourish.

That is why we need to recognize that the countless hours she has put into working on and researching this bill have been given sincerely. Her work must be appreciated and should not be criticized for the wrong reasons. Therefore I will try to be as positive as I can when raising the points that concern the government. I will be recommending that the bill ultimately be sent to committee so that it can be studied seriously, as should happen with a serious bill.

Senator Chaput knows that I do not support private members' bills that propose major amendments to legislation or significant changes to public policy, unless the government consents.

Unlike the separation of powers in the United States, in Canada there is a clear separation of the parliamentary and executive functions in our parliamentary system. By getting involved in the government's executive role and proposing major legislative initiatives, the Senate is changing, and even weakening, the very nature of our government system, which is a system based on trust.

The primary role of individual members of Parliament in Canada is to examine the government's bills, not to govern. Our legislative responsibility is of the utmost importance, and there is no reason for parliamentarians to get involved in the executive role, which is the government's responsibility.

The involvement of individual members works in the United States because, unlike Canada, the American republic is not based on the confidence-centred Westminster system of government. Under our confidence-based system, the role of the government is to govern and the role of the opposition is either to oppose or to propose alternatives for the consideration of the government and the electorate. If Parliament does not have any confidence in the government's programs, it can take appropriate action.

This is the best way to make governments accountable when they seek re-election. When important legislation, like the bill that is now before us, is proposed and passed by the opposition in a minority government, it becomes impossible to hold the government accountable under our confidence-based system.

How can voters hold government accountable if the opposition is governing through private members' bills?

Another problem with these bills is the fact that the government must authorize any new expenditures. Our parliamentary system, which has been in place for centuries, is based on conventions that seriously limit the power of backbenchers and opposition parties when it comes to introducing bills and amendments that involve significant expenses.

Legislating is a matter of choice. Expenses associated with Bill S-220 must be paid for out of existing programs. This will result in funds being reallocated from other high-priority programs to our official language minority communities.

• (1640)

Which programs from the roadmap should be abolished or cut back in order to finance Bill S-220? Should we limit assistance to schools for minority language groups, assistance to language groups in the provinces, literacy programs, cultural programs, improvements to health care services? Are the priorities set out in Bill S-220 the new priorities of our minority language communities?

Before talking about the provisions of Bill S-220, I want to confirm the government's commitment to official languages. As Senator Chaput noted in her speech last June, we recently celebrated the fortieth anniversary of the Official Languages Act. We took that opportunity to provide an update on the progress made so far regarding the promotion of French and English across Canada. The evidence is rather strong. We have accomplished a lot in the last four decades and we are eager to keep moving forward.

Forty years ago, most communities in Canada had to use the language of the majority to communicate with federal institutions. Government services in French were very limited. Today, over 90 per cent of official language minority communities have access to federal services in their language through various means, for example, 1-800 numbers, websites, one-on-one conversations, as well as telephone services and publications.

In 40 years, we have transitioned from a nearly unilingual public service to a bilingual public service in which the official languages are part of everyday life. Before the Official Languages Act was passed, less than 10 per cent of jobs were bilingual, while now over 40 per cent are. In the National Capital Region, 65 per cent are bilingual.

We need not look hard to find other examples of the major progress being made by federal institutions. We need only look at our government's latest annual report on official languages. This report shows that an increasing number of federal institutions have taken action to ensure that their employees can take training in their second language to maintain or improve their level of bilingualism.

Our government's efforts in this regard have been criticized in some newspaper articles. However, we will proceed with our work and continue to offer this training to public servants.

We also see that the number of public servants who meet the language requirements of their positions has increased significantly.

We have made considerable efforts over the years. A great deal remains to be done, but we can be proud of our accomplishments. Were we to list the measures implemented to date, we would be here all day as it is an impressive list. Over the years, the people who have shown a firm commitment to promoting linguistic duality in Canada have been supporters of positive change. A

good number of them are here with us in this chamber today. I would like to thank them for their support in this matter. Their passion for their communities and for the principle of linguistic duality, not to mention their honesty in light of current challenges and issues, are both inspiring and appreciated.

I would add that, in our chamber, differences of opinions do not give rise to personal attacks, contrary to what we saw last week when a member in the other place resorted to a vicious personal attack against me rather than just criticizing my ideas.

Getting back to the contributions of engaged citizens, I am thinking of the excellent work of Bernard Lord, who oversaw the government consultations on linguistic duality and official languages held in December 2007 and January 2008. Mr. Lord was tasked with speaking to people and organizations throughout Canada to gather various ideas and opinions. Everyone shared their unequivocal passion for and their commitment to official languages. Following these consultations, Mr. Lord developed a strategy for the next phase of the Action Plan for Official Languages, the basis for the government's Roadmap for Canada's Linguistic Duality. This document recognizes the great support linguistic duality enjoys across Canada.

The roadmap charts the course for a strong future and a more united Canada. It is based on two pillars: the participation of all Canadians in linguistic duality, and support for official language minority communities.

The roadmap is an unprecedented government-wide investment of $1.1 billion over five years. It targets five priorities: health, justice, immigration, economic development, and arts and culture. The roadmap embodies our government's commitment to linguistic duality and to both official languages.

As the Prime Minister said when he was announcing the Roadmap, linguistic duality is a cornerstone of our national identity and a source of immeasurable economic, social, and political benefits for all Canadians.

The roadmap outlines the course we plan to follow over the next five years in order to build on Canada's strong foundations. It invests in many important initiatives, several of which support official language minority communities. I know that Senator Chaput, who introduced this bill, cares deeply about those communities.

They include minority language communities such as the French Canadians of Northern Ontario. Our government has committed to providing up to $4.5 million to promote their economic well-being. These funds were disbursed through the economic development initiative, a key aspect of the roadmap. The roadmap also gave our government the means to help francophone immigrants in provinces such as Manitoba, New Brunswick and Prince Edward Island to improve their literacy and other essential skills to allow them to contribute fully to their communities.

The roadmap also includes steps to improve services in both languages for linguistic minorities. For example, Health Canada has improved its investment in retaining, educating and training health care professionals who work in the official language of the minority. For Canadians, that means increased access to health care services in the official language of their choice and the ability to communicate with health care providers.

Countless achievements like that have been made across Canada thanks to the roadmap. I am sure that this is the type of initiative Senator Chaput could get behind and promote. I say that with confidence because the bill she has introduced perfectly captures the spirit and intention of the roadmap initiatives to improve the vitality of significant minority groups.

Nonetheless, although the spirit and intention of Senator Chaput's bill are admirable, the effect of its proposals and their application would have major repercussions likely to produce negative results.

[*English*]

It is interesting to note that, in her speech at second reading, Senator Chaput spent very little time discussing the eight amendments proposed in her bill. She went so far as to call them minor amendments.

Honourable senators, the amendments in this bill are far from being minor. In fact, it is a significant rewrite of the Official Languages Act. The amendments would significantly impact the private sector, as well as provincial and municipal levels of government.

Let me discuss just a couple of the amendments to give honourable senators an idea of what we are dealing with.

One amendment, subsection 22(2), would require the RCMP to provide services in both official languages on all parts of the Trans-Canada Highway that it serves. We are talking about every single part of the Trans-Canada Highway.

• (1650)

Honourable senators can imagine what this would mean for a country the size of Canada. It would create an obligation to provide bilingual services in areas where there is little or no demand. Moreover, the RCMP estimates that it would cost millions of dollars to comply. These are costs that would have to be absorbed not only by the federal government but also by the provinces and the municipal levels of government, which have to pay for the contract policing.

I imagine that some jurisdictions might even consider contracting out the service to other non-federal police forces. As noted earlier, private members' bills cannot authorize new spending from the treasury. Therefore, the federal funding would have to be diverted from existing services.

The bill would also impose official language requirements on a new category of private organizations. Proposed subsections 23(1) and 23(1.1) include for the first time companies that provide rail, maritime and transportation services. These provisions mean that for the first time the Official Languages Act will apply to private organizations without ties to government. Currently, only Crown corporations and former federal institutions, such as Air Canada, are subject to the act, and these institutions were made subject to the act when, for example, Air Canada was privatized. A special

law was made that they would be subject to the Official Languages Act in order to become a Crown corporation, and obviously there were monies that went along with this requirement from the federal government.

As a result, we could find ourselves imposing a heavy financial and administrative burden on companies that have no previous official language requirements. These companies would have to recruit and train bilingual staff, which, in turn, could have a significant impact on their performance and competitiveness, all in a time when the passenger transportation sector has been hard hit by the global recession.

Interestingly, the bill does not apply to bus companies, which would give them an unfair advantage over other modes of transportation. Perhaps even more troubling is that this amendment could create the precedent whereby the Official Languages Act could be applied to other industries in the federal jurisdiction. This application could include major companies such as in the banking and telecommunication sector. Such a massive change cannot be undertaken lightly. Is this what we want to do?

Senator Chaput's bill proposes changes to address the issue of significant demand. This has been a long-standing issue of concern to minority language communities for a long time.

I have talked to Minister Stockwell Day, and he is also very much aware of the debate on significant demand. He indicates to me he is open to listen and learn more on Senator Chaput's proposal, and would like to hear more detail on her proposal, as well as other ideas on the subject. He is indeed prepared to listen.

The bill proposes a fundamental change in the way bilingual federal offices are designated. Her proposed amendment would change the criteria for what constitutes significant demands, which, as I noted, is the formula used to determine when services must be provided in both official languages. Her proposal would establish new criteria based on vitality of linguistic communities. As a result, there would be a significant increase in the demand for services in both official languages.

A preliminary analysis has been undertaken on this provision as written and it shows — I note as written — that the number of offices designated as bilingual would increase significantly. For Canada Post alone, the number would increase from 650 to more than 1,500. In Quebec, the impact would be considerable; 95 per cent of federal offices would be designated bilingual. The impact would be in the millions of dollars.

Proposed paragraph 22(1)(b) would make the federal languages obligation subject to provincial and territorial obligations rather than the current and real needs identified by our minority language communities. I may be missing something, and I will follow the debate at committee, but unless I am missing something, this could be an alarming amendment to the Official Languages Act, but I am prepared to listen to more detail on it. As I say, I may be missing something.

I am told it could increase disparity in federal services offered in different provinces and territories, and would require bureaucracy to monitor, assess, plan, budget and implement changes to match what the provinces are doing, based on whatever rationale the provinces are using, rather than what the federal government should be doing to respond to communities' identified needs.

In other words, we would be looking at the provinces in order to match what they are doing but we may not know the provinces' rationale entirely, so we will set up a whole bureaucracy to try to find out what they are doing but will have to implement it because they are doing it.

These are only a few of the amendments. There are others in this bill, some of which are complex and far-reaching. These types of amendments that we have before us today are far from minor. They are not humble, nor would they amount to a small change in the way the Official Languages Act is applied.

The bill will require complete reform of the regulations of the official languages that deal with communications and with services to the public. There are many legitimate issues that oblige us to reflect carefully. I have discussed only a few of them today.

The bottom line is that the government is committed to providing bilingual services. These needs are constantly assessed and adjusted based on the information gathered, although the government will continue to assess and adjust. The responsible management of public funds demands that federal services respond to communities' needs based on stable and measurable data.

Honourable senators, English- and French-speaking Canadians have come a long way together. It is a journey that can be traced back to the founding of Acadie and then Quebec City. Notice the order, Acadie and then Quebec City. That is the order, and some people tend to rewrite the order. I have the correct order. Those events took place over 400 years ago, events that in recent years we celebrated with much fanfare and good cheer, and I think all Canadians applauded.

There have been countless efforts to build on this foundation over the years to ensure that Canada's official languages continue to be a strong part of our national identity. The government is committed to build on this legacy, and this is being done through the *Roadmap for Canada's Linguistic Duality*.

Let me stress again that the road map was developed after listening to Canadians and working with minority language communities to address their identified needs.

We recognize that we have a responsibility to play a leadership role with respect to official language communities, and the government takes that role seriously. We look forward to continue addressing the concerns of linguistic minority communities, but it is the responsibility of the government under our parliamentary system to use a measured approach. This is the responsible way to go about doing the nation's business.

The electors give a mandate to the party with the most seats to enact legislation and implement major policy decisions, and the electors will render a decision at election time. If the opposition parties are not happy with the government's programs and

initiatives, it is their duty to defeat the government, propose an alternative platform to the electorate and obtain a mandate to implement these proposals.

Backbenchers are increasingly trying to circumvent the Royal prerogative powers of government to enact legislation, which commits the treasury. However, the evasive approaches, creative though they may be, are foreign to our parliamentary system. Backbenchers have to go through the back door to accomplish what government is mandated and obligated to do openly in their budget documents.

Senator Chaput refers to the quasi-constitutional status of the Official Languages Act. She said it is not an ordinary law, and I agree with her completely. This reason is another one that massive amendments to the Official Languages Act cannot be taken lightly.

The question must be asked: Is a backbencher's bill the most appropriate means to bring significant amendment to a quasi-constitutional act of Parliament?

Senator Chaput proposes amendments to the Official Languages Act that are extremely ambitious. In fact, they are massive. I suggest that her proposal be evaluated eventually at committee stage for its impact and possible reductions of existing services to our minority communities, the impact of these services on the treasury, the impact on the private sector that would be brought under the provisions of the Official Languages Act, and the impact on provincial and municipal levels of government. Obviously, parliamentarians would need to seek the views of these parties affected by the amendments.

• (1700)

The government does not support the bill, but there is no reason why the bill should not eventually be referred to committee for study. There are a number of provisions in the bill that I have not addressed, because I simply could not measure the impact and I am not quite sure I understand some of them.

To conclude, Senator Chaput has put a great deal of work into this bill. I commend her for her work. She has given us a document that can form the basis of a profound reflection on services for minority language communities. I am convinced that it is not a partisan endeavour, and I stress this. I am thoroughly convinced this is not a partisan endeavour or what we sometimes refer to as a "wedge issue." I do not believe in any way that she would bring this as a wedge issue. Her work is done for the right reasons and, because of that, it is our duty to treat it seriously.

**The Hon. the Speaker:** Questions and comments?

[*Translation*]

**Hon. Maria Chaput:** Would the Honourable Senator Comeau agree to answer a question? Thank you very much, Senator Comeau. I was eager to hear your ideas and suggestions about the bill, as well as those of your colleagues.

[ Senator Comeau ]

I like to remind myself that when I arrived in the Senate, one of your colleagues, the Honourable Senator Beaudoin, came to talk to me, and I will never forget what he said: as a western francophone and a member of an official language minority community, never forget, and say to yourself when you speak: equal status, equal rights. If you say that to yourself every time you speak, you will never again speak as someone who is part of a minority, but as someone who is fully involved in what is happening in Canada. There you have it.

We are talking about an amendment to Part IV of the Official Languages Act. I understand that you will want to discuss it, and if I understood correctly what you told me, some of your colleagues would also like to take part in the debate.

I have told Senator Comeau and Senator Mockler several times that my goal is to bring this whole issue before a committee of the Senate for debate and that I am very open to changes and amendments, because all I want is a bill that really meets the needs of Canada's francophone and Acadian communities.

So in that spirit, Senator Comeau, am I to understand that the debate will continue, that some of your colleagues want to take part and that eventually — as soon as possible, I hope — this bill could be referred to a Senate committee for discussion and debate?

**Senator Comeau:** I make you that promise. I will also encourage my colleagues to refer the bill to committee, but I cannot promise you that they will agree. I will encourage them to send this bill to committee. Your committee wants to take a very serious look at this bill.

You have contributed to the debate by raising some very important issues that people are not aware of, specifically the issue of "significant demand." That issue alone could be dealt with more thoughtfully and in greater detail. You and other people might suggest a better approach. There may be other solutions.

I will encourage all of the honourable senators on my side to send the bill to committee, and I hope that the senators from your side will do the same.

As you know, we allow free votes on private members' bills. Senators are not forced to vote with one side or the other, but I would encourage them to send this bill to committee.

I am pleased that you mentioned the comments made by our former colleague Senator Beaudoin. He knew the issue and the technical aspects very well. Linguistic duality and the right to equality for both communities are all equally important concepts. French and English are two official languages with equal rights. That is very important. That is the foundation for language rights progress in Canada.

Newspapers often mention the fact that Chinese will be the most widely spoken language in British Columbia. In fact, I read something similar in yesterday's *Quorum*. It is possible, but it is not important. The fact is that there are two official languages in Canada.

[*English*]

Maybe there is more Ukrainian than French spoken in Saskatchewan. That is possible. However, that is irrelevant because Canada has two official languages: French and English. Let us remember that and stick to the basics.

Both languages are equal under the law. They are both equal if I go before a judge; the law written in French is just as good as the law written in English. That is very important. Very few countries have that. We are blessed to be in a country with two official languages. One can revert to the laws in French.

[*Translation*]

I do not know if that answers your question, but yes, we will send the bill back as quickly as possible.

**Hon. Roméo Antonius Dallaire:** I thank Senator Comeau for moving forward with the debate on this bill, which is no doubt complex. I will not start to debate the issue of whether 1604 counts more than 1608, but as Senator Dawson said, in those years, we stayed all winter.

I have a question about two points that you raised: the issues of measured approach and significant demand. Was the introduction of the bilingualism act in 1968 motivated by a measured approach, or did it turn out to be a revolutionary measure that was considered as such for years in many areas?

The bill that Senator Chaput is sponsoring is perhaps not on the same scale as the 1968 legislation, but it is still rather significant and governments should be prepared to study it. The argument for a measured approach should not indicate a refusal, but should instead show the government's desire to respond to a need.

Now for my second point, which has to do with "significant demand." I was one of the first graduates of the military college after the new bilingualism legislation was passed in 1969. I worked for 36 years in the Armed Forces.

My friends on the show *Tout le monde en parle* often laugh at my accent, which seems to be very anglicized. Why? Because I worked for 36 years in a department that, according to the law, was bilingual but where, in reality, English was the primary language. If you could not write in English, you would not get anywhere. Documents are always handed out with the note, "French version later." And "later" is a long time. That is what happens in our departments.

To get back to my point about significant demand, French-speaking soldiers clearly said that they would no longer go into combat and put their lives in danger in the language of the officers, as was done during both world wars and the Korean War. From now on, it will be done in the language of the troops. That is significant demand, but it is possible to circumvent the application of the act in the Department of National Defence. We now have unilingual officers commanding French troops.

What has been brought up is important and deserves to be studied carefully in committee. We must stop dancing around the issue.

• (1710)

**Senator Comeau:** Senator Dallaire taught me something today. I always understood significant demand to mean the demand where there was a geographic community, within certain boundaries, in which a certain number of the minority were living, whether it was anglophones living in Quebec or francophones living outside Quebec. I always understood significant demand to be a geographic issue related to the number of people living in a particular geographic area.

Senator Dallaire taught me today that significant demand applies to the military. This is new to me. I am very impressed to learn this. However, I do not know how it applies to the military since we are talking about an institution rather than a geographic region.

This is how the concept of significant demand can become complicated. Will the suggestions made by Senator Chaput, who I believe was speaking about a geographic community, apply to the military community? These are good questions that could be raised in committee.

**Hon. Fernand Robichaud:** Honourable senators, before I ask Senator Comeau my question, I would like to respond to Senator Dallaire's question. The answer is 1604.

**Senator Dallaire:** Absolutely. We humbly look to you.

**Senator Robichaud:** I also deduce that Senator Dallaire did learn to write in English, as proven by his excellent advancement in the ranks of the Canadian Forces. Bravo!

I would like to come back to Senator Comeau's statement, which at the beginning skilfully extolled all the virtues of Senator Chaput, as we know her. He spoke about her good intentions, which I also praise.

I know that Senator Comeau has great influence over the honourable senators on his side of the chamber and that he clearly indicated that he is prepared to see this bill sent to committee so that it can be examined and, more specifically, so that witnesses from the various language communities can come and speak to us.

Is Senator Comeau prepared to use his great influence among his honourable colleagues to ensure that this bill is sent to committee now? We could save some time.

**Senator Dallaire:** Absolutely. Go for it. Go right ahead.

**Senator Robichaud:** We could move forward and consult communities to round out this bill. I am begging Senator Comeau to use his great influence so that we can take action immediately.

**Senator Comeau:** There is a man who knows how to sing the praises of others and to flatter me.

We will try to send the bill to committee as quickly as we can. I am extremely interested in the bill. Senator Chaput raised some important points. We should give ourselves the opportunity to examine the principle of the bill at second reading in the Senate.

As you can see, I support the principle of the bill and I will suggest to my colleagues that it be sent to committee. I believe it is important to have further debate at second reading so that senators can ask questions of one another. We will hear from witnesses who come from all over. I believe that Senator Chaput will provide a complete list of witnesses. We will get there before too long.

(On motion of Senator Marshall, debate adjourned.)

## SUPREME COURT ACT

### BILL TO AMEND—SECOND READING—DEBATE CONTINUED

Leave having been given to revert to Commons Public Bills, Item No. 1.

On the Order:

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

**Hon. Francis Fox:** Honourable senators, I thought Senator Meighen was going to speak to this bill this afternoon, which is why I am a little confused.

I would like to begin by saying that I want to participate in this debate because it pertains to some very crucial issues that are extremely important to the Canadian federation. I do so with the full knowledge that the party in power plans to make sure this bill is rejected, and what is more, plans to use delaying tactics to prevent the bill from being referred to committee.

Others will be better positioned to analyze the significance of the term "parliamentary democracy" in the context of a minority government that has an absolute majority in the upper chamber and can therefore determine, at its sole discretion, the fate of bills that are passed against its will in the House of Commons by the elected representatives of this country.

My intention here today is to put forward a few ideas and notions that, I believe, argue in favour of passing this bill.

The Senate is really a forum for political ideas and not the appropriate place to conduct an in-depth legal analysis of section 133 of the Constitution or section 19 of the Charter. That is the judiciary's responsibility, but after reading the broad trends that have emerged in the jurisprudence since the *Beaulac* decision, it is entirely possible that the judiciary would reach a similar conclusion to what the bill is seeking.

It is truly unfortunate that by refusing to send the bill to committee, the government is making it impossible to enrich the debate through the presentation — by experts, stakeholders or senators themselves — of possible amendments that could help build a consensus around this bill.

Through the debates in this chamber, we have already seen that certain senators would have made key suggestions in committee. Senator Champagne, for example, spoke about the possibility of delaying appointments to allow for language training, and in Senator Carignan's speech we heard about the possibility of potentially innovative and interesting approaches. We know that the customary contribution of Senators Fraser, Joyal and Baker would also enhance the debate, but these suggestions will never be considered because the government intends not just to enforce a gag order but to take the guillotine to this bill.

Let us get back to the main issue. We are talking about the Supreme Court of Canada, and let us focus on the word "supreme." It is the court that has the final say in cases between individuals, between an individual and a province, between an individual and the federal government and, finally, between the federal government and the provinces.

The final arbitrator in civil, commercial and criminal matters, the final arbitrator in administrative and constitutional law, this court is not like any other. It is an institution of the federation, an institution that must reflect the values of the federation in its composition and operation. Who today would deny that the Official Languages Act — and I did enjoy Senator Comeau's remarks — is one of those values?

• (1720)

How can this government deny today, after recognizing that Quebec is a nation — and I must give credit to Mr. Harper, and to Mr. Ignatieff who proposed that motion — that the highest court in the land, the final arbitrator of the federation, does not reflect our linguistic duality in its enabling legislation? Giving French the right to be interpreted is clearly not enough and, honourable senators, it borders on insulting to take such a position. It is a shame that, after 40 years of progress, the government wants to make such a situation permanent.

Let us talk briefly about the federal legislation that this court is called on to interpret. I would like to quote a constitutional expert from Montreal who said the following recently in *Canadian Legal Newswire*. René Cadieux from Montreal said the following:

[*English*]

> The Official Languages Act is a quasi-constitutional statute that supersedes all federal statutes, including the Supreme Court of Canada but not the Canadian Human Rights Act. It is designed to implement section 16 of the Canadian Charter of Rights and Freedoms, which is itself a constitutional provision that is not subject to the notwithstanding clause. Under section 133 of the Constitution Act, 1867, all federal statutes are to be bilingual. That means that the law is in two languages. It does not mean that the English version is for English Canadians and that the French version is for French Canadians. It means that both versions are for all Canadians. In order to apply federal law, one must therefore be able to read both versions. This is a requirement of the job of being a judge of federal law.

[*Translation*]

I would like to say a few words about the right of citizens to be heard and understood by federal institutions in the official language of their choice. The basic principle of the Official Languages Act is to grant every citizen the right to address any federal institution in the official language of their choice. As the distinguished Commissioner of Official Languages pointed out in the House of Commons on June 17, 2009:

> The nature of Canadian linguistic duality means that Canadians have a right to be served by the state in the language of their choice; it is, in effect, a right to be unilingual. The state is officially bilingual so that the citizen does not have to be. And citizens can live full and prosperous lives in Canada speaking only one official language, with no need to learn the other. This puts the burden of bilingualism on the state, and more particularly, on those who play national leadership roles.

Institutional bilingualism in the Federal Court means that panels must be constituted so as to ensure that the individual can be heard and understood without the use of an interpreter. The principle is recognized at that level. How can we justify the highest court in the land being held to a lower standard? The main argument against recognizing this right is the fear of reducing the number of judges able to sit on the Supreme Court of Canada.

Is there a conflict between two rights: the right of the individual to speak and be understood and the right of a limited number of jurists to be appointed to the Supreme Court?

I remember one debate that took place in the other house when I had the honour of sitting as a member there. I listened with a great deal of interest as the Honourable Robert Stanfield explained the difference between a privilege and a right. It seems clear to me that a right must take precedence over a privilege.

It is a privilege to be appointed to the Supreme Court of Canada or any other court in Canada and to be called on to do an important job for the benefit of the community. In appointing a jurist to high judicial office, the Governor in Council is not recognizing that this individual had the right to be appointed, but that, for a series of reasons, he possesses the necessary qualifications to be called to the bench.

What the bill says is that one of the necessary qualifications must be the ability to understand both of the country's official languages.

France Kenny, president of the Fédération des communautés francophone et acadienne, has put her finger on the problem. She recently said:

> Bill C-232 is being presented as a choice between judicial competence and bilingualism, but it's a false choice — having the Canadian Charter of Rights and Freedoms makes bilingualism one of the essential judicial skills one has to possess to become a Supreme Court justice.

Would it be impossible to find qualified jurists if this additional criterion were adopted? Eight of the nine sitting Supreme Court judges have the necessary professional and linguistic qualifications. Is it really impossible to imagine that we can find nine out of nine? In a federation such as ours, knowledge of both official languages is an additional qualification that should be required of those who aspire to be members of the highest court in the land.

Sometimes, honourable senators, I think we are going over old ground because we do not recognize the progress that has been made in Canada. We are ignoring Canada's youth, who are already more open to the world than their predecessors and who show a great deal of promise. People no longer talk about learning a second language, but about the importance of learning a third language in this global village. The bill before us is a sign, an encouragement to future generations, especially the jurists of this generation, telling them that it is time to modernize the Supreme Court of Canada Act.

This bill will not be passed or studied in detail in committee because the Conservative government has decided it will not be, but this bill will be a beacon to light the way for future generations of jurists who aspire to be justices of the Supreme Court.

[*English*]

Adopting this bill will send a message from coast to coast reaffirming that Canada is a bilingual nation, a nation where linguistic duality is not an obstacle but part of who we are as a country. It sends a clear message; it sends the right message.

**Hon. Elaine McCoy:** Would the honourable senator accept a question?

**Senator Fox:** Yes.

**Senator McCoy:** As you know, I have spoken against this bill, and for the reasons I gave before, I would not support its passing at third reading.

However, I am a great supporter of the traditions in the Senate, which do encourage all bills to go to committee so that we can have Canadians come and express their views, pro and con. There is no doubt that there are many Canadians passionate on this subject. It is an important one for our country, and I am eager to see it proceed to committee.

I am concerned, however, that it go to the most proficient committee. I would think that would be the Standing Senate Committee on Legal and Constitutional Affairs, particularly in view of the honourable senator's comment that he would like to hear from a constitutional expert. Would the honourable senator consider referring it to that committee or supporting that recommendation?

**Senator Fox:** I thank the honourable senator for the question. I think the Standing Senate Committee on Legal and Constitutional Affairs would be the appropriate place to refer this bill. I very much hope that in the spirit of what I heard Senator Comeau say before on Senator Chaput's bill, that one would realize that it is important that this bill be debated in depth; that it be recognized that many senators in this house would have the opportunity to make representations and also make comments and recommendations as to how we could proceed and have greater progress in this area.

I would very much hope to see the bill go there and that Senator Comeau, in the spirit of what he was saying before and in the spirit of Christmas, would find the same generosity of spirit and say, yes, this bill must go to that committee.

**Hon. Michael A. Meighen:** Would the senator accept a question?

[*Translation*]

**Senator Fox:** Yes.

**Senator Meighen:** In your remarks, Senator Fox, you said that seven out of nine Supreme Court justices already meet the requirements.

**Senator Fox:** Eight.

**Senator Meighen:** Eight out of nine, excuse me, that is even better. Is there not a philosophical difference here? You want to have legislation that, in and of itself, has a certain inflexibility because it is a law. Personally, I lean towards flexibility. If Bill C-232 were adopted, there would no longer be any flexibility. There would no longer be flexibility for the First Nations, perhaps. There would no longer be flexibility for Canadians who are not of English or French stock, or at least there would be less flexibility.

As we are close to attaining the goal you seek, would it not be preferable to leave things as they are and to put our trust in the opinions and knowledge of our young people, who are very different from what we were like when we were of university age?

• (1730)

**Senator Fox:** It will not come as a surprise to you that I disagree with Senator Meighen. As he pointed out, we have already come a long way. Eight out of nine judges can hear a case in French and understand the people appearing before them.

Think, for example, of a constitutional case in which the Government of Quebec has an extremely serious position to put forward. Imagine that the chief justice decides that this requires a panel of nine judges and one of the nine does not understand the oral arguments. This is the nation's highest court. The Conservative government itself recognized Quebec as a nation, which was a huge step forward, and now you are refusing to take just a small step. If Quebec is a nation, would the federal institution that interprets the Constitution and interprets the relationship between the two levels of government not be completely bilingual? It is rather difficult to understand how it comes down to this.

[*English*]

**Senator Meighen:** I move the adjournment of the debate in my name.

**The Hon. the Speaker** *pro tempore***:** It has been moved by the Honourable Senator Meighen, seconded by the Honourable Senator Wallace, that further debate on this matter be adjourned until the next sitting of the Senate.

**Senator Tardif:** No.

**Some Hon. Senators:** No.

**Some Hon. Senators:** Agreed.

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

**Some Hon. Senators:** Agreed.

**Some Hon. Senators:** No.

**The Hon. the Speaker** *pro tempore***:** All those in favour of the adjournment motion please say "yea."

**Some Hon. Senators:** Yea.

**The Hon. the Speaker** *pro tempore***:** All those opposed please say "nay."

**Some Hon. Senators:** Nay.

**The Hon. the Speaker** *pro tempore***:** In my opinion, the yeas have it.

*And two honourable senators having risen:*

**The Hon. the Speaker** *pro tempore***:** Call in the senators.

Whips, please decide on the length of the bell.

**Senator Di Nino:** It will be a one-hour bell.

**The Hon. the Speaker** *pro tempore***:** Is it agreed, whips, that the bell will be one hour?

**Senator Munson:** I have no choice. I wanted 30 minutes.

**The Hon. the Speaker** *pro tempore***:** The vote will be at 6:30 p.m.

Do I have permission to leave the chair?

**Some Hon. Senators:** Agreed.

• (1830)

Motion agreed to on the following division:

YEAS
THE HONOURABLE SENATORS

| | |
|---|---|
| Andreychuk | LeBreton |
| Angus | MacDonald |
| Ataullahjan | Manning |
| Boisvenu | Marshall |
| Braley | Martin |
| Brazeau | McCoy |
| Brown | Meighen |
| Carignan | Mockler |
| Champagne | Nancy Ruth |
| Cochrane | Neufeld |
| Comeau | Ogilvie |
| Cools | Oliver |
| Demers | Patterson |
| Di Nino | Plett |
| Dickson | Poirier |

Duffy
Eaton
Finley
Fortin-Duplessis
Frum
Greene
Housakos
Johnson
Kinsella
Kochhar
Lang
Raine
Rivard
Runciman
Segal
Seidman
Stewart Olsen
Stratton
Tkachuk
Wallace
Wallin—51

NAYS
THE HONOURABLE SENATORS

Baker
Banks
Callbeck
Campbell
Carstairs
Chaput
Cordy
Cowan
Dallaire
Dawson
Day
De Bané
Downe
Dyck
Eggleton
Fairbairn
Fox
Fraser
Furey
Harb
Hubley
Jaffer
Joyal
Losier-Cool
Lovelace Nicholas
Mahovlich
Massicotte
Mercer
Merchant
Mitchell
Moore
Munson
Pépin
Peterson
Poulin
Poy
Ringuette
Robichaud
Rompkey
Tardif
Watt
Zimmer—42

ABSTENTIONS
THE HONOURABLE SENATORS

Nil

## BUSINESS OF THE SENATE

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, I ask that we not see the clock. I know honourable senators have other priorities in life and, therefore, I take it upon myself to ask my colleagues on this side to keep any remarks they might have to an absolute minimum. I have been given fairly good assurances on that, so I wonder if we could not see the clock.

• (1840)

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

**Hon. Senators:** Agreed.

## INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

**Hon. David Tkachuk:** Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(a), I move:

> That the Standing Committee on Internal Economy, Budgets and Administration have power to sit at 3 p.m. on Wednesday, December 15, 2010, even though the Senate may then be sitting, with the application of rule 95(4) being suspended in relation thereto.

**The Hon. the Speaker:** Honourable senators, is leave granted to allow the senator to move the motion?

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** Leave having been granted, the motion is made.

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

**Hon. Senators:** Agreed.

(Motion agreed to.)

## NATIONAL SECURITY AND DEFENCE

MOTION TO ENCOURAGE THE MINISTER OF NATIONAL DEFENCE TO CHANGE THE OFFICIAL STRUCTURAL NAME OF THE CANADIAN NAVY— FIFTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the fifth report of the Standing Senate Committee on National Security and Defence (*Motion No. 41 — official structural name of the Canadian Navy*), presented in the Senate on December 13, 2010.

**Hon. Pamela Wallin** moved the adoption of the report.

**The Hon. the Speaker:** Is there any debate on this item?

Are honourable senators ready for the question?

**An Hon. Senator:** Question.

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

**Hon. Senators:** Agreed.

(Motion agreed to and report adopted.)

## THE SENATE

### MOTION TO RECOGNIZE DECEMBER 10 OF EACH YEAR AS HUMAN RIGHTS DAY—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Jaffer, seconded by the Honourable Senator Mercer:
>
> That the Senate of Canada recognize the 10th of December of each year as Human Rights Day as has been established by the United Nations General Assembly on the 4th of December, 1950.

**Hon. Consiglio Di Nino:** Honourable senators, I wish to take just a few moments of your time to add some brief comments in support of this motion.

Senator Jaffer's motion seeks to make December 10 of each year Human Rights Day. This was established by the United Nations General Assembly on December 4, 1950. This day has been recognized by the international community to commemorate the Universal Declaration of Human Rights.

The Universal Declaration of Human Rights sets out 30 basic principles that provide inalienable human rights to every man, woman and child on the globe. No one is exempt and human rights have no borders. However, while the universal declaration has been successful in promoting the issue of human rights worldwide, it does have its limitations. Some of these limitations are highlighted by Senator Jaffer in the several well-documented examples of individuals who have had these inalienable rights denied by their governments.

Honourable senators, there are many initiatives and events in Canada which regularly celebrate human rights, including the John Humphrey Award to honour one of the creators of the Universal Declaration of Human Rights, a Canadian.

Canada has been a world leader in the promotion and protection of human rights. It is fitting that December 10 be declared Human Rights Day.

(On motion of Senator Andreychuk, debate adjourned.)

### MOTION TO ESTABLISH NATIONAL DAY OF REMEMBRANCE AND ACTION ADOPTED

On the Order:

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

**Senator Tardif:** Question.

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

**Hon. Senators:** Question.

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

(Motion agreed to.)

### MOTION TO SUPPORT THE ESTABLISHMENT OF A FEDERAL PUBLIC SAFETY OFFICERS' SURVIVORS SCHOLARSHIP FUND ADOPTED

On the Order:

> Resuming debate on the motion, as amended, of the Honourable Senator Runciman, seconded by the Honourable Senator Stewart Olsen:
>
> That in the opinion of the Senate, the government should consider the establishment of a tuition fund for the families of federal public safety officers who lose their lives in the line of duty and that such a fund should operate along the lines of the Constable Joe MacDonald Public Safety Officers' Survivors Scholarship Fund, in place in the province of Ontario since 1997.

**Senator Tardif:** Question.

**Senator Comeau:** Question.

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

**Hon. Senators:** Question.

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

(Motion, as amended, agreed to.)

[*Translation*]

## ABORIGINAL AFFAIRS

### INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Brazeau calling the attention of the Senate to the issue of accountability, transparency and responsibility in Canada's Aboriginal Affairs.

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, with respect to Inquiry No. 10, I would like to inform you that I have not yet finished preparing my notes. I would like to adjourn the debate in my name for the remainder of my time.

(On motion of Senator Comeau, debate adjourned.)

[*English*]

## THE SENATE

### MOTION TO URGE GOVERNMENT TO REVERSE ITS DECISION TO REPLACE THE NATIONAL LONG-FORM CENSUS—DEBATE ADJOURNED

**Hon. James S. Cowan (Leader of the Opposition),** pursuant to notice of October 28, 2010, moved:

> That the Senate, recognizing that the National Long Form Census is an irreplaceable tool for governments and organizations that develop policies to improve the well-being of all Canadians, urge the Government of Canada to reverse its decision to replace the long form census with a more costly and less useful national household survey.

He said: I do have my remarks ready and know honourable senators are anxious to stay this evening and hear me on this, but I will tantalize honourable senators just a little longer and would like to reserve my right to speak at the next sitting.

(On motion of Senator Cowan, debate adjourned.)

## FISHERIES AND OCEANS

### COMMITTEE AUTHORIZED TO DEPOSIT REPORT ON STUDY OF ISSUES RELATING TO FEDERAL GOVERNMENT'S CURRENT AND EVOLVING POLICY FRAMEWORK FOR MANAGING FISHERIES AND OCEANS WITH CLERK DURING ADJOURNMENT OF THE SENATE

**Hon. Bill Rompkey,** pursuant to notice of December 13, 2010, moved:

> That, the Standing Senate Committee on Fisheries and Oceans, which was authorized on Thursday, March 25, 2010 to examine and report on issues relating to the federal government's current and evolving policy framework for managing Canada's fisheries and oceans, be permitted, notwithstanding usual practices, to deposit with the Clerk of the Senate an interim report, on Canadian lighthouses, by December 23, 2010, if the Senate is not then sitting, and that the report be deemed to have been tabled in the Senate.

**The Hon. the Speaker:** Is there any debate on this item? Are honourable senators ready for the question?

**Hon. Senators:** Question.

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

(Motion agreed to.)

## SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

### COMMITTEE AUTHORIZED TO MEET DURING ADJOURNMENT OF THE SENATE

**Hon. Art Eggleton,** pursuant to notice of December 13, 2010, moved:

> That, pursuant to rule 95(3)(*a*), the Standing Senate Committee on Social Affairs, Science and Technology be authorized to sit on Thursday, December 16, 2010, even though the Senate may then be adjourned for a period exceeding one week.

He said: Senator Ogilvie, the deputy-chair of the committee, has an amendment that I support.

**Hon. Kelvin Kenneth Ogilvie:** Honourable senators, I will follow the lead of the distinguished leader opposite and stifle the speech that I had prepared on this important matter and will take it up with honourable senators at a later date.

### MOTION IN AMENDMENT

**Hon. Kelvin Kenneth Ogilvie:** Therefore, honourable senators, I move the following amendment:

> That the motion be amended by replacing all the words "Thursday, December 16, 2010" with the following:
>
> "Wednesday, December 15, 2010 at 5:00 p.m. and on Thursday, December 16, 2010 at 9:00 a.m."

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

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** Is it your pleasure to adopt the motion as amended?

**Hon. Senators:** Agreed.

(Motion, as amended, agreed to.)

(The Senate adjourned until Wednesday, December 15, 2010, at 1:30 p.m.)

CONTENTS

Tuesday, December 14, 2010

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