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Thursday, March 3, 2011



THE HONOURABLE NOËL A. KINSELLA
SPEAKER

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THE SENATE

Thursday, March 3, 2011

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

Prayers.

SENATORS' STATEMENTS

THE LATE DR. ROBERT HENRY THORLAKSON, O.C.

Hon. Sharon Carstairs: Honourable senators, it was a great honour yesterday for both my husband John and me to attend the ceremony of the celebration of the life of Dr. Robert Henry Thorlakson, a distinguished citizen of Winnipeg, Manitoba and Canada.

By profession, Robert was a colorectal surgeon and an associate professor of surgery. However, he was also a superior diagnostician and saw 15 patients the day he died on February 23, 2011, at the age of 87.

His professional life in and of itself was enough to recognize him as an accomplished man, but his professional life was only a small part of his exemplary life. Being a lover of art, music — particularly opera — literature and sport led him to be engaged in numerous ways in his community. Robert was a founder and past president of Manitoba Opera and the Federation of Professional Opera Companies of Canada.

The Manitoba Conservatory of Music and Arts, the Winnipeg Chinese Cultural and Community Centre, and the Aquatic Hall of Fame and Museum of Canada all benefited from his participation on their boards, as did the Winnipeg Art Gallery, St. John Ambulance, the Manitoba Theatre Company, Winnipeg Habitat for Humanity and the Leo Mol Sculpture Garden.

A veteran of the Second World War and a graduate of Royal Naval College of Canada, Robert retired from the naval reserves as a surgeon commander. He received the Canadian Forces Decoration, the first of his many honours while serving in the military. There were many more to come, including the Canadian Centennial Medal, the Silver Jubilee Medal, the Golden Jubilee Medal and the Golden Dragon Award from the Chinese community. He was a Knight of Justice of the Order of St. John and an Officer of the Order of Canada.

Robert leaves a legacy of dedication to his patients and community. He leaves to remember him his twin brother Dr. Ken Thorlakson, his sister Tannis Richardson, many nephews, nieces and their families. He leaves many friends, of whom I count John and myself among.

Above all, Robert leaves his wife Deborah, to whom he has entrusted his torch of community service, knowing as she has done so well in the past that she will carry it high and with equal brilliance. Theirs was a marriage of the mind, the heart and the soul. The world is a better place because of Robert Thorlakson and will continue to be because of his wife Deborah.

DEMOCRATIC REPRESENTATION ACT

Hon. Lowell Murray: Honourable senators, permit me to draw your urgent attention, and not for the first time, to a government bill that is decorating the Order Paper of the House of Commons without much, if any, effort to proceed with it.

I speak again of Bill C-12, which would add 30 additional seats to the House of Commons, of which 18 are for Ontario, 7 for British Columbia, and 5 for Alberta, after the decennial census of 2011.

This bill is the successor to Bill C-56 in 2007 and Bill C-22 in 2008, both of which were allowed to die on the Order Paper.

Bill C-12 has been on the Order Paper of the House of Commons since April 1, 2010, almost a year ago. Last December 3, John Ibbitson reported in *The Globe and Mail* that the government and opposition parties had quietly agreed to “sink” the bill, in other words, to let it die again.

• (1340)

This newspaper report seemed to embarrass briefly, if not galvanize, the government house leader, Mr. Baird, who brought the bill forward for debate on December 16, the last sitting day before Christmas. Following debate, and supposedly by way of demonstrating the government's seriousness, he gave notice of a time allocation motion to be moved at the next sitting.

Parliament adjourned for Christmas and resumed on January 31. Since Christmas, there have been 18 sitting days, but nothing has been heard of the allocation of time motion or of any debate on the bill. On February 3 and again on February 10, Mr. Baird told the house that it would be brought forward during the following week, but it has yet to surface.

All bills dealing with representation in the other place cause some political inconvenience to some members of Parliament in all parties. However, that is no excuse for repeated postponements of this bill. Bill C-12 will go some distance to correcting the present disproportionate allocation of seats among the provinces.

Timing is vital. Exactly a year from now, Statistics Canada will convey to Elections Canada the data from the 2011 decennial census, whereupon the redistribution process will begin. If this bill has not been passed into law, the redistribution will take place on the basis of the present law, in which case Ontario would receive not 18 additional seats, but 4; British Columbia not 7, but 2; and Alberta not 5 more seats, but 1.

This injustice, affecting the faster growing provinces, would be aggravated and would probably not be up for correction until after the 2021 census. This situation would be an unconscionable abuse of our representative parliamentary democracy.

There is no excuse — none — for further delays. Tender political feet in the other place should be kept to the fire until the bill is passed.

[*Translation*]

CBC/RADIO-CANADA

Hon. Nicole Eaton: Honourable senators, I rise to speak about a serious issue that drew the attention of both Houses of Parliament. I am referring to the complaint from the Prime Minister's communications director regarding a report that was carried on the CBC in early December 2010. Honourable senators, 76 days and eight pages later, we have an explanation.

In his report, Kirk Lapointe, the CBC ombudsman, worked hard to define and interpret the words "seem" and "shelved." He finally concluded that the CBC had used these two key words in an unfair manner in a report regarding health warning labels on cigarette packages.

I would like to congratulate Mr. Lapointe on understanding his role as an independent body that represents the public and examines concerns regarding the quality of journalism at the CBC.

[*English*]

The conclusions reached are a first for the CBC. It is truly unprecedented to read such a report in which our national broadcaster comes clean and explains their reporting rationale and the journalistic standards and practices by which they are guided. This is why I was so pleased to read in Mr. Lapointe's conclusion that the CBC holds itself to a journalistic standard and scrutiny that is unique, and I commend the CBC for acknowledging its error.

I am especially gratified there was an apology extended by the editor-in-chief. I am confident this high standard will be maintained and that our national broadcaster will continue to provide Canadians with news in a timely manner and with accurate, balanced and ethical reporting.

Today, the fourth estate strives to deliver news almost in real time. Delivering the message has taken on a life of its own. Deadlines are tight in a 24-hour news cycle, yet however stressful the demands of getting the scoop fast and first, journalistic integrity must always prevail. This necessity is particularly true of the CBC, which is funded by the taxpayer. All in all, the fourth estate has a pivotal obligation within our democratic system.

POLITICAL ENGAGEMENT OF WOMEN

Hon. Mobina S. B. Jaffer: Honourable senators, I rise today to shed light on the protests that are occurring around the world in the name of democracy.

[Senator Murray]

Over the past few months, newspapers, magazines and other mediums have documented the various rallies and protests that have been taking place in countries such as Egypt, Libya and Sudan. This coverage has shown the world that men and women, both young and old, have come together to fight for what they believe in.

What is often left unnoticed, however, is the unique role women play in these protests and the vulnerable positions they have placed themselves in. During a recent visit to the region, I learned that women played key roles not only as protesters, but also as writers, organizers and funders.

Their engagement, however, has come at a horrendous price. Only last week, while I was travelling in the region, I came across a number of women who had been arrested for their involvement in the protests. Not only were the women detained, they were also tortured and raped. Not only were these women emotionally and physically wounded, they were also robbed of their dignity and the only hope they had of being wed.

One young lady, whose name was Safia, shared a story with me about how she was mistreated by the security forces. Her story is one that haunts me at night.

Safia was a university student who helped organize and document numerous protests. Once word was out about her involvement, security forces immediately arrested her. While detained, Safia was the victim of both physical and emotional abuse.

She told me about how her head scarf fell while she was being beaten, and how security men mocked her for having short hair and questioned her virginity. Safia then proceeded to discuss how she was raped brutally and inhumanely by several men.

I urge honourable senators to help women like Safia obtain asylum in our country. I feel strongly that we have a responsibility to reach out to these women and give them an opportunity to lead a dignified life.

This week, I will return to Africa, where once again I will meet with Safia, who has now moved to another country. Although I am aware we may not have the capacity to rewrite Safia's past, I sincerely believe we have the ability to ensure she has a brighter future.

I ask honourable senators to help support women like Safia who fight so diligently for democracy.

[*Translation*]

• (1350)

ROUTINE PROCEEDINGS

INTERNATIONAL TRADE

OFFICE OF THE EXTRACTIVE SECTOR CORPORATE SOCIAL RESPONSIBILITY COUNSELLOR— FIRST ANNUAL REPORT TABLED

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, I have the honour to table, in both official languages, the first annual report on the activities of the Office of the Extractive Sector Corporate Social Responsibility Counsellor, for the period from October 2009 to October 2010.

EXPORT DEVELOPMENT CANADA— 2011-15 CORPORATE PLAN SUMMARY TABLED

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, pursuant to subsection 125(4) of the Financial Administration Act, I have the honour to table, in both official languages, the Export Development Canada Corporate Plan summary for the period from 2011 to 2015.

CRIMINAL CODE NATIONAL DEFENCE ACT

BILL TO AMEND—SIXTEENTH REPORT OF LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE PRESENTED

Hon. Joan Fraser, Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, March 3, 2011

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

SIXTEENTH REPORT

Your committee, to which was referred Bill C-48, An Act to amend the Criminal Code and to make consequential amendments to the National Defence Act, has, in obedience to the order of reference of Tuesday, March 1, 2011, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

JOAN FRASER
Chair

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

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

AERONAUTICS ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-42, An Act to amend the Aeronautics Act.

(Bill read first time.)

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

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

[*English*]

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTING OF THE SENATE

Hon. David Tkachuk: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(a), I give notice that, later this day, I will move:

That the Standing Committee on Internal Economy, Budgets and Administration have power to sit at 2 p.m. on Wednesday, March 9, 2011, even though the Senate may then be sitting, with the application of rule 95(4) being suspended in relation thereto.

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

Hon. Senators: Agreed.

QUESTION PERIOD

PUBLIC SAFETY

COST OF ADDITIONAL PRISONS

Hon. Tommy Banks: Honourable senators, my question is to the Leader of the Government in the Senate.

First, I ask that the minister convey to the government my thanks for making it patently clear to Canadians where its values and priorities are by increasing expenditures for the building of prisons on the one hand, and reducing expenditures on the environment and culture on the other.

To paraphrase Mr. Scrooge before his rehabilitation: Are there no prisons? Are there no workhouses?

One hopes that her government is visited by spirits of the past, present and future and will be made to see that retribution is not always the solution to our social problems.

Mr. Toews once said, if I remember correctly, that the cost to Canadians, in terms of longer and harsher prison sentences, would be about \$90 million. We now find that it is about \$520 million; nearly six times as much.

My question to the minister is: When may we expect the next shoe to drop?

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, there are interesting statistics I will put on the record for Senator Banks before he frets too much about the cost of building new prisons. Senator Banks forgets a major component in this whole story about longer sentences and keeping dangerous people away from society, and that is the cost to society of the acts of these people who commit these crimes, most particularly in the unnamed cost to victims of these crimes.

Honourable senators, in 2008 the total tangible social and economic costs for Criminal Code offences in Canada were approximately \$31 billion, amounting to a per capita cost of \$928 per year. These costs were borne by the criminal justice system, victims of crime and third-party costs.

Before Senator Banks runs around wringing his hands and worrying about the cost of providing more prisons to put criminals in, he should start worrying about the cost to society as a result of their crimes, particularly to those victims.

Senator Banks: The problem is that, although the problem occurs a little later, those people are released from prison, and they come out better schooled in their business than when they went in.

ENVIRONMENT

CLIMATE CHANGE POLICY

Hon. Tommy Banks: Honourable senators, Environment Canada programs and climate change initiatives, according to numbers we have seen, will decline by nearly 60 per cent: a reduction in that spending of about \$150 million. Those reductions are from programs that, according to the department's own words:

. . . enhance Canada's visibility as an international leader in clean energy technology.

At least some of those programs had to do with getting our own federal government house in order with respect to our direct responsibilities of reducing our own operating environmental footprint.

How can we admonish, urge, cajole and sometimes penalize Canadians and Canadian enterprises about their effect on the environment? How can we claim to be world leaders in clean

energy if we are not prepared to take care of our own backyard, our own direct responsibilities? How can we reconcile those things?

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, with regard to the cost of prisons, Senator Banks mentioned people coming out. Another thing he failed to acknowledge is the significant efforts invested in our prison systems by various departments of government in the area of retraining and rehabilitation of prisoners. It is incorrect to state that people go to prison and that every effort is not made to rehabilitate these people and have them emerge as better citizens of the country.

With regard to the environment, Environment Canada remains committed to initiatives and investments to ensure the health and safety of Canadians and their environment. The Main Estimates, which is obviously what the honourable senator is referring to, represent the basic funding required to sustain the federal government in this area. These figures are part of the estimates; they are not the budget.

Many environmental programs, as Senator Banks will understand, are up for renewal. The government is looking closely at the programs that are up for renewal, and other applications, as we plan the next phase of *Canada's Economic Action Plan*.

Senator Banks: We look forward to hearing about those plans. As to the efficacy of rehabilitation and education in prisons, I have a different view than the minister, and that is a discussion for a different time.

PARKS CANADA

Hon. Tommy Banks: Honourable senators, my last supplementary question is about Parks Canada. The Senate, in the past, has made clear in its many reports, both here and to the public, and in urgings to the government — the previous government and this one — that funding to Parks Canada is inadequate to ensure they can do their job properly, a job to which all Canadians subscribe. We see now that Parks Canada is to receive \$114 million less in the coming year.

I know the leader's government has gotten us into the glue before the economic meltdown happened, and I know we are further into it now — the glue is thicker and we are more deeply into it. I know we have to make reductions. I know it is a mug's game to choose between whether to build one less hospital or buy one less airplane, but is the leader's government convinced that Parks Canada is the place to start cutting?

Hon. Marjory LeBreton (Leader of the Government): If Senator Banks would check the records — I do not have the figures before me — this government has vastly expanded the jurisdiction and territories that fall within Parks Canada. We have done more to profile Parks Canada and we have provided access to more lands for Parks Canada.

As I want to ensure this information is on the record, I will take that question as notice. I think all the excellent work this government has done with regard to Parks Canada bears repeating.

Senator Banks: I hope the leader will provide that information, because she has identified the problem precisely. It is an admirable thing to create more national parks, but creating more national parks requires a commensurate increase in the resources with which to manage them. Both the previous government — my government — and this government, have failed to provide those resources. The result is that the amount of land in national parks and the number of people who visit them is increasing exponentially, and we are all to be congratulated for that, including the leader's government. However, the money to manage and husband those places properly has not kept pace. I hope the leader will refer to that in her answer to the question of which she has taken notice.

• (1400)

Senator LeBreton: As the honourable senator acknowledged, there are many spending pressures on the government in a host of areas, including our commitment on transfers to provinces for health and education, a commitment that we have made, kept and increased year by year. Therefore, there will be a great deal of pressure on the government from all fronts. However, I will be happy, in my request, to have as much information as possible from Parks Canada, and will ask them to address this issue as well.

[Translation]

FOREIGN AFFAIRS

FINANCIAL SUPPORT FOR INTERNATIONAL CRIMINAL COURT

Hon. Roméo Antonius Dallaire: Honourable senators, my question is for the Leader of the Government in the Senate. Yesterday, questions were raised about the government's responsibility to protect and to respond quickly to the humanitarian crisis in Libya.

It was with energy and pride that the leader announced yesterday that the international community had congratulated Prime Minister Harper on taking significant measures to exert pressure on Colonel Gadhafi by freezing his assets.

Yesterday, we also learned that the International Criminal Court in The Hague had issued a formal demand in order to bring Colonel Gadhafi before the court. It is interesting because, yesterday, we learned that Canada, one of the signatories of the Rome Statute, which led to the creation of the International Criminal Court, will cut its funding for the court by 64 per cent at a time when it is believed that Colonel Gadhafi must be brought before the court.

Can the leader explain why, when the government wants to make further use of the International Criminal Court, it is preparing to cut its funding for the court by 64 per cent?

[English]

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, I do wish sometimes that the honourable senator would not rely on newspapers for the basis of his questions. Those allegations are absolutely false.

Last year's estimates reflect the one-time contribution toward the construction of a new permanent location for the International Criminal Court. That amount was on the books for its construction. Since it has been constructed, obviously the money would fall off the books. That is what it was. We paid money to build this building. The building has been built. Obviously, they do not need money to build a building that no longer needs to be built.

I wish to assure the Honourable Senator Dallaire that the premise of his question is false. Our funding to the International Criminal Court is on a fixed scale and it has not been reduced.

[Translation]

Senator Dallaire: The Leader of the Government is quite right with respect to the construction period. However, I would like to remind her that funding from Canada is crucial.

Furthermore, the prosecutor himself recommended that the court's infrastructure capacity be increased so that it can prosecute more people who commit crimes against humanity. In so doing, the court would be able to fulfill its international role.

The Leader of the Government said that funding to the court is stable, but we know that there are calls for increased funding in order to maximize the capacity of the infrastructure that has been built.

[English]

Senator LeBreton: Honourable senators, it is clear that Canada supports the work of the International Criminal Court in its mandate to bring justice to those responsible for the most serious crimes of concern to the international community. Canada's support for the International Criminal Court is grounded, and has always been grounded, in our commitment to the rule of law and the principle that those who are responsible for serious international crimes should be held accountable. Obviously, our commitment is strong. That is why — and I will repeat my answer to the honourable senator from a few moments ago — our funding to the International Criminal Court is on a fixed scale and has not been reduced.

Senator Dallaire: My question was that we invested that \$18 million. We have cut it back to where we were, but they have asked for more in order to maximize their capability. The leader is saying that we will stay on a fixed budget. That is not necessarily reinforcing our position with regard to the use of the International Criminal Court.

To bring the matter closer to home, the international investigation unit of the Department of Justice, which is our home-grown dimension of the international law and rule of law, is suffering significant budget restraints, if not cuts, because it cannot prosecute génocidaires who are identified in this country. It cannot bring them to justice because it does not have enough money to undertake the investigations and bring these individuals to court.

Can the leader tell me whether or not that section of the Department of Justice will be increased in its capacity to prevent Canada from becoming a haven for extremists because we cannot bring them to court and apply a law to do so that we have instituted in our own country?

Senator LeBreton: Honourable senators, it really does not matter what the government does. It is never enough, even though it has done more than was ever done in the past. It is never enough. Of course, that is to be expected. That is always their standard approach.

The honourable senator's specific request concerning the Department of Justice, the Canadian judicial system, the Department of Public Safety and all of the organizations that are mandated to keep Canadians safe and prosecute people who break our laws is to be commended. I will refer the honourable senator's question to the Department of Justice to see if there is anything further they wish to add.

FINANCE

AFFORDABLE HOUSING INITIATIVE

Hon. Art Eggleton: Honourable senators, last evening the National Finance Committee started its examination of the estimates for the coming fiscal year. One of the lines that I noted was the termination of the Affordable Housing Initiative, which is the main housing program of the government in terms of new housing.

Honourable senators, there are over four million people across this country who are in need of decent, affordable housing. Most of them are paying more than the 40 per cent CMHC guideline or rule of thumb.

We all understand intuitively the importance of shelter. A home anchors a person and a family. It provides the foundation for higher educational attainment and leads to greater stability in the workplace. Health experts also tell us that adequate housing is a key determinant of health and long-term outcomes.

With sound moral and economic arguments for affordable housing construction in Canada, why is the government terminating the Affordable Housing Initiative?

Hon. Marjory LeBreton (Leader of the Government): I thank the honourable senator for the question and I also would like to thank him for giving notice that he would ask a question in this regard.

As the honourable senator was a member of the government and a member of cabinet, I am sure he knows that just because something does not appear in the Main Estimates, it does not mean we are no longer committed to this program. Furthermore, it does not mean that it will not appear in other estimates later in the year.

We have made major investments in affordable housing that are creating thousands of jobs and improving the quality of life for a great number of Canadians. Over 12,000 projects are completed

or are under way. Our significant investment of \$2 billion over two years to repair and build social housing includes \$600 million for housing on reserve and in the North, \$400 million for housing for low-income seniors, and \$75 million for people living with disabilities.

• (1410)

It is fair to say that the government is firmly committed to the issue of providing Canadians with affordable housing.

Senator Eggleton: Honourable senators, I thank the leader for her response and hope that we see that in the budget. This particular program, though, is an ongoing program. Much of what the leader cited came in the stimulus package, and that is fine, but when the stimulus package ends, as we see it will, we will continue to have extensive housing needs in our country.

Honourable senators, I know the leader cannot tell me definitively if this will be in the budget, but I am encouraged by her words. No one — the leader's government, our previous government — can continue to turn this tap on and off with such regularity, as doing so interrupts the ability of local and provincial governments and local community organizations that build affordable housing to establish long-term planning. You cannot just turn affordable housing funding on and off every fiscal year.

Will the government make a commitment to long-term affordable housing development in Canada?

Senator LeBreton: Honourable senators, we have made significant investments in affordable housing. Since the honourable senator has mentioned the provinces and territories, he would know, I am sure, that we further improved funding by providing the provinces and territories with greater flexibility, which is exactly what they asked for.

We recognize that each province and territory faces different challenges. Obviously, the provinces and territories are the better judge of these issues, because they are closer to the ground and have a greater knowledge of the ability to deal effectively with these issues in their respective communities. We are also increasing accountability measures to ensure maximum value for taxpayers' money.

Honourable senators, it is important to underline that we kept our five-year funding commitment for our Homelessness Partnering Strategy, and in November, we announced funding through to 2014. We are currently investing in more than 1,200 projects across the country to prevent and reduce homelessness. We are engaged in comprehensive nationwide consultations, and have used that feedback to improve funding post-2011.

The honourable senator has done a great deal of work in this area and deserves credit for his continuing commitment to this issue. Our government recognized this serious problem and has acted accordingly and made a significant contribution to this area. We have been working much more closely with the provinces and territories than the previous government.

[*Translation*]

NATIONAL REVENUE

CHURCH OF SCIENTOLOGY

Hon. Céline Hervieux-Payette: Honourable senators, my question is for the Leader of the Government in the Senate.

In light of the February 25, 2011, broadcast of the TV program *JE* on the topic of the Church of Scientology on the French-language network TVA, it would appear that this not-for-profit organization has nothing to do with any church, charitable organization or religion. It is quite clearly a cult that is putting Canadians' physical and mental health in danger.

In the broadcast, hidden cameras showed how this organization extorts huge amounts of money from its victims. For instance, in the guise of some kind of therapy, one of the 40 organizations known as Narconon operates a detox centre using techniques from the Scientology movement, without the patients' knowledge. These techniques have nothing to do with any recognized medical treatment methods.

Consequently, I would like the Leader of the Government to assure us that her government will look into this matter in order to protect Canadians from this cult, which is exploiting and abusing our tax system and benefiting from its status as a non-profit corporation, thereby avoiding paying income tax that the Minister of Finance, Mr. Flaherty, really needs.

[*English*]

Hon. Marjory LeBreton (Leader of the Government): I thank the honourable senator for the question. I am not familiar with the report to which she refers. I am unfamiliar with the Church of Scientology, other than the little bit I have read and seen. I am not in a position to comment. I will take the honourable senator's question as notice.

Senator Hervieux-Payette: Honourable senators, about six months ago I asked a question concerning the purpose of this organization.

As the government prepares to table its budget on March 22, the media reports that there will be provisions demanding that our country's budget for public safety be increased by 10 per cent. Since the Scientology movement has openly declared its desire to expand its activities and increase its membership base in Canada, can the leader tell us, or at least find out for us, if the budgetary increase for public safety will be allocated to combat sects such as Scientology, as well as many others, and stand up for the ever-increasing number of victims of their wrongdoings?

Senator LeBreton: Honourable senators, if my memory serves correctly, the honourable senator did ask a question on this very subject a year or so ago, and the honourable senator received an answer to her question. I do hope that the honourable senator is not suggesting that she did not receive an answer. I have a good memory and I remember providing the honourable senator with an answer.

This is a bizarre question. To be perfectly honest, I am not particularly familiar with the Church of Scientology. I am not particularly familiar with a lot of religions. Quite frankly, unless I am missing something, I do not really know what I can say in answer to the honourable senator, as Leader of the Government in the Senate. I cannot say that we have any direct say over various organizations in Canada, whether they are deemed religious or otherwise.

Honourable senators, if there is any particular light I can shed upon this subject, I will certainly make every attempt to do so.

Senator Hervieux-Payette: Honourable senators, the leader did send me an answer to my question.

The Church of Scientology is a sect that does not operate transparently. This time we have more information about the headquarters in the United States. We have seen a film that illustrates that they do not pay income tax. The activities had to be filmed in a way that the people involved did not know they were being filmed. In the film, they said exactly what I am telling the leader, that they do not pay income tax. Members of the church are able to deduct income under "training" in order to avoid paying tax. They are able to do this under the Income Tax Act.

Honourable senators, I am talking about the integrity of our tax system. It is our responsibility, as parliamentarians, to protect people from these false treatments and ensure that every taxpayer, according to the law, pays his or her income tax. This situation requires an inquiry by the leader's government.

Senator LeBreton: Honourable senators, I will make the Minister of National Revenue aware of the honourable senator's comments.

[*Translation*]

OFFICIAL LANGUAGES

BILINGUALISM IN THE PUBLIC SERVICE

Hon. Claudette Tardif (Deputy Leader of the Opposition): Honourable senators, today Graham Fraser, the Commissioner of Official Languages, released a study on the importance of leadership in the public service to create a bilingual workplace.

The commissioner found certain shortcomings that the government needs to focus on and stated that even though linguistic duality is a fundamental value within Canadian society, creating a public service that reflects Canada's linguistic duality remains a challenge.

Commissioner Fraser also noted that it is imperative that managers in the public service consider federal employees as individuals with a specific culture, identity and language. Managers must also work towards a better recognition and attainment of their linguistic obligations under the Official Languages Act.

• (1420)

Can the leader tell us whether her government is committed to working with the commissioner and the minister in order to implement the five recommendations and, if so, how will it do so?

[English]

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, the government is always most appreciative of the work of the Official Languages Commissioner. We are always mindful of the recommendations that he makes to government. In many cases, he has been very supportive of certain efforts of the government; in other areas, we realize there is some work to be done.

As is always the case, the Commissioner of Official Languages, Mr. Fraser, is an officer of Parliament. He is very dedicated to his work and the government would obviously want to ensure that we fully take into account all of his recommendations because this government, as the honourable senator knows, fully supports Canada's Official Languages Act.

[Translation]

ORDERS OF THE DAY

ELECTRICITY AND GAS INSPECTION ACT WEIGHTS AND MEASURES ACT

BILL TO AMEND—THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Greene, seconded by the Honourable Senator MacDonald, for the third reading of Bill C-14, An Act to amend the Electricity and Gas Inspection Act and the Weights and Measures Act;

And on the motion in amendment of the Honourable Senator Harb, seconded by the Honourable Senator Merchant, that the bill be not now read a third time, but that it be amended by replacing the short title with the following:

“Fairness in Weights and Measures Act”.

Hon. Céline Hervieux-Payette: Honourable senators, I would like to add a few comments to the excellent speech by Senator Harb, who is responsible for this file, to explain to you why we felt that the short title did not reflect the rest of the bill. Not only is there nothing in the wording of the bill itself, according to Senator Harb, but there are 39 other sectors covered by this legislation and this is the sector that is the most compliant when it comes to weights and measures.

I will begin by addressing the honourable senators. In the Standing Senate Committee on Banking, Trade and Commerce, of which I am a member and where we studied this bill, we did not hear any rational explanation for this title. No one explained why the title did not include any of the other sectors where statistics clearly show there are more errors. Some sectors have a compliance rate of less than 90 per cent.

One of the things that concerns me the most — and keep in mind that we are talking predominantly about small businesses throughout Canada and therefore about hundreds of thousands of locations — is when the inspector and installer of the equipment is the same person. I assure you I do not understand the wisdom behind that.

Another thing that concerns me greatly has to do with monitoring. If you live in Abitibi or the Lower St. Lawrence, where will the inspector come from to check the scales? Will he arrive from Montreal by plane? Assuming the legislation will respect the rights of Canadians, especially when we are talking about a government that favours simplifying regulation, does this not amount to having the private sector enforce the rules? There is a clear conflict of interest for people with the skills to install scales or any weights and measures instruments, which are more electronic than anything else these days. I doubt an electronics expert can travel from town to town and bill the small business owner. This inspection is supposed to be done regularly. We are dealing with a system that has been a bit lax about the number of inspections. We are talking about gas stations, entrepreneurs, business owners; we are talking about 16,000 businesses across the country. Think of all the convenience stores, all the fruit and vegetable vendors throughout Quebec and across Canada.

Honourable senators, in my opinion, Bill C-14 was not studied closely enough in the other place and, what is more, they have the nerve to give us a title that has nothing to do with the bill itself and everything to do with petty politics.

I want someone to give us good reasons for supporting such a bill. I have not seen or heard any, and I do not see how such a law, especially with such a title, would protect the interests of Canadians. On the contrary, the other 39 sectors affected by this bill are not mentioned, which means that Canadians will likely not be adequately informed, even less so if the famous line about being very concerned about fairness at the pumps is used.

I think that it is just as important to know whether there is a litre of milk in a bag or a litre of orange juice in a carton as it is to know whether there is a litre of gas in my gas tank. The last time I checked, orange juice cost more than a litre of gas.

The substance of the bill is important, but so is the title, which does not accurately describe the bill.

Honourable senators, I am asking you to support the amendment moved by my colleague. We need to be honest with Canadian taxpayers, particularly if they have to pay in order to comply with this new legislation.

I am therefore waiting for an explanation and, when we vote, I hope that my honourable colleagues will take into account the arguments I just presented.

[English]

Hon. James S. Cowan (Leader of the Opposition): Honourable senators, I want to add my voice to those of my colleagues in support of Senator Harb's proposed amendment to Bill C-14.

Everyone supports taking reasonable steps to ensure the accuracy of measurements and measuring devices. Our problem is with the unfair and misleading short title of this bill.

An article on legislative drafting in Canada, published in 2007 by two Department of Justice lawyers, began: "Good government requires that laws be expressed clearly."

I believe any legislative drafter, indeed any fair-minded Canadian, would agree that an even more fundamental principle is that good government requires that laws be expressed honestly and fairly. We are talking about the laws of Canada, the foundation of our system of justice. It follows, I should have thought obviously, that injustice has no place in legislative drafting. Yet that is exactly what the government has done with Bill C-14.

The government's short title of the bill is "Fairness at the Pumps Act." That tells Canadians a couple of things. First, it tells Canadians that the bill is about gas pumps. Second, and more important, it tells Canadians that it is about ensuring fairness at the pumps. Since one does not usually legislate something that is not needed, it is reasonable for a Canadian to conclude that there is a problem at the pumps, and that this bill will fix it.

• (1430)

Honourable senators, neither of these assertions is true. The bill is not about, or even primarily about, gas pumps. The facts are clear that there is no significant problem with unfairness at the pumps. What is this bill really about? The government officials who testified before the Standing Senate Committee on Banking, Trade and Commerce said that gas pumps are only one of a number of sectors covered by the bill. Indeed, initially the bill will cover about eight sectors; and this number is expected to be expanded by regulation over time to cover as many as 40 sectors. They include the retail food industry, fishing and fish products, logging and forest products, grain and field crops, mining and metals industries, livestock and poultry products, dairy products, textiles, laundries and cleaners, fruits and vegetables, waste disposal, scrap metal, quarries and sandpits, tobacco, alcoholic beverages and, of course, the retail fuel sector.

The short title of the bill easily could have been the "Fairness at the Laundromat Act"; but that is not the title that this government chose. Why? Is there such a glaring problem with fairness at the gas pumps that this sector should be singled out from the other 40 sectors? No. In fact, as the Honourable Senator Harb and the Honourable Senator Hervieux-Payette said, amongst all these sectors, one of the highest compliance rates has been in retail fuel. In 2007, this industry had a 97-per-cent compliance rate. Senator Harb pointed out the other day that when there were aberrations, some were in favour of the consumer and some were in favour of the retailer. This compliance is not an aberration. Over the past 10 years, the compliance rate for gas pumps in the retail petroleum sector has been 94 per cent. Of course, honourable senators, 100 per cent would be ideal, but 94 per cent to 97 per cent is a solid "A," in my experience. This impressive record is even more striking when compared to other sectors that will be covered by this bill, now or later. The logging, forest and forest products sector has 62 per cent compliance. The metal scrap sector has 56 per cent

compliance. The quarry and sandpit sector has 50 per cent compliance. The laundry and cleaner sector has 56 per cent compliance.

Honourable senators, why is the title of this bill the "Fairness at the Pumps Act"? Why is this sector, which has one of the highest compliance rates, made the target of such an inflammatory statute title? The only possible explanation is politics — a cheap political stunt. Once again, this government cannot and will not address the real problems facing Canadians. Instead, it chooses to create an imaginary problem and then puff itself up with a bill like this one, "Fairness at the Pumps Act," telling Canadians that they have solved this non-existent problem.

Senator Bryden used to speak about his brief career as a life insurance salesman. He was told by those coaching him first to roll out the casket before prospective clients, and then to make his sales pitch for life insurance.

Honourable senators, even that pitch was more honest than what the Harper government is doing. At least the insurance salesmen were telling the truth: that their clients were mortal, and that everybody dies someday. With this bill, this government creates the spectre of a problem where there is no problem. There is no unfairness at the pumps now.

Honourable senators, calling this bill the "Fairness at the Pumps Act" is wrong. It is inaccurate, unfair and unjust to the thousands and thousands of honest small business people who own and operate gas stations across this country. As Senator Harb told this chamber the other day, the overwhelming majority — 72 per cent — of the 13,000 gas stations across this country are privately owned. They are small businesses owned and operated by individuals. This government is telling Canadians that these independent small business owners are cheats preying upon Canadians so they can steal their money and give them less than they paid for. Honourable senators, that picture is simply untrue. How can honourable senators stand in this chamber and vote for a bill that, by its very name, unjustly impugns the integrity of thousands of honest Canadian small business people?

Evidently this government does not care about justice, only about politics. In its grasping for votes, clearly nothing is out of bounds. We have seen this grasping with the supposed "tough on crime" agenda, and with building bigger and bigger prisons justified to Canadians by the spectre of hordes of perpetrators of unreported crimes, even though, as unreported, the perpetrators stand zero chance of ever seeing the inside of those prisons.

The government has not been subtle about its planned political use of this unjust bill. Minister of Labour Lisa Raitt recently made use of it in a "householder" that she distributed in her riding. Honourable senators will remember that this minister is the same minister who described the isotope crisis as having opportunities because it was sexy. This paragon of Conservative politics distributed a document in her riding that angrily declares:

Faulty gas pumps cost Canadian consumers millions of dollars every year. That's not right. Our Conservative Government is taking action to protect Canadian consumers. That's why we introduced the Fairness at the Pumps Act.

Honourable senators, this document is inexcusable. It is demonstrably untrue and an undeserved and unwarranted smear on the reputations of thousands of small business persons from coast to coast to coast. Will this bill improve the 94-per-cent, recently 97-per-cent, compliance rate of gas pumps across the country? I doubt it. I doubt that this government with its record deficit will invest the money needed to send out enough inspectors to find and correct those few inaccurate pumps.

We have seen repeatedly that the Harper government is not concerned with real results. Those results will come only long after Mr. Harper has left office. What counts is winning votes now at any cost in any way. The reputations of honest Canadian business owners are only so much collateral damage.

Honourable senators, Bill C-14 covers a broad swath of sectors, including many with far worse compliance records than pumps at gas stations. The title of a law should reflect what the law says; and it should not be used for unjust reputation smears for political stunts. It may not be beneath the standards of the Harper government, but it is beneath my standards as a Canadian parliamentarian. For those reasons, honourable senators, I will support Senator Harb's amendment.

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

[*Translation*]

Hon. Fernand Robichaud: Honourable senators, I would like to say a few words on this subject. I think that the current title is misleading. With respect to fairness at the pumps, we can see that prices are different from one province to the next and that could be explained in part by different tax systems.

However, the slightest hint of disorder in a producing country becomes a reason for speculators to increase the price of a barrel of oil. We heard Saudi Arabia, a producing country, say that the crisis in Libya should not affect prices because it can produce as much as Libya. However, nothing stopped speculators from saying that there was a crisis and that oil would cost more. Of course, when the price of a barrel goes up, the price at the pumps automatically goes up the following morning. When the price of a barrel goes down, though, the price at the pumps does not go down as quickly.

I do not want us to send a message that speculators can increase the price of a barrel for reasons that are more or less artificial, making the price at the pumps increase, meaning that consumers must pay, and that this system is fair.

• (1440)

We need to think about people who have below-average incomes. These people have little money left at the end of the month. The money they have left is what remains after they pay their rent or mortgage, buy food and cover expenses for their children. Some families have very little left. When speculators predict an increase and the price at the pumps increases, these people with below-average incomes must find money elsewhere.

For these reasons, I think that we should support the amendment before us and not remain indifferent to what is going on with speculation and prices at the pumps.

[Senator Cowan]

Some Hon. Senators: Question.

[*English*]

Senator Comeau: Question.

The Hon. the Speaker: It was moved by the Honourable Senator Greene, seconded by the Honourable Senator MacDonald, that Bill C-14, An Act to amend the Electricity and Gas Inspection Act and the Weights and Measures Act, be read the third time, and a motion in amendment moved by the Honourable Senator Harb, seconded by the Honourable Senator Merchant, that the bill not be now read a third time, but that it be amended by replacing the short title with the following:

“Fairness in Weights and Measures Act.”

The question before the house is on the motion in amendment.

Those in favour of the motion in amendment will please say “yea.”

Some Hon. Senators: Yea.

The Hon. the Speaker: Those opposed to the motion in amendment will please say “nay.”

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the “nays” have it.

Some Hon. Senators: On division.

The Hon. the Speaker: The motion is negatived, on division.

(Motion in amendment negatived, on division.)

The Hon. the Speaker: The question before the house is on the motion of the Honourable Senator Greene, seconded by the Honourable Senator MacDonald, for the third reading of Bill C-14.

Those in favour of the motion will please say “yea.”

Some Hon. Senators: Yea.

The Hon. the Speaker: Those opposed to the motion will please say “nay.”

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the “yeas” have it.

Some Hon. Senators: On division.

The Hon. the Speaker: The motion is carried, on division.

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

**BILL PROTECTING CHILDREN
FROM ONLINE SEXUAL EXPLOITATION**

THIRD READING

Leave having been given to revert to Government Business, Bills, Item No. 1:

On the Order:

Resuming debate on the motion of the Honourable Senator Runciman, seconded by the Honourable Senator Stewart Olsen, for the third reading of Bill C-22, An Act respecting the mandatory reporting of Internet child pornography by persons who provide an Internet service.

Hon. Jim Munson: Honourable senators, I would like to speak on third reading of Bill C-22, and I will get to that in a moment.

It is hard to speak when one has been informed of the death of a very close friend, in this case, Jim Travers, my buddy at *The Toronto Star*. I must speak about my friend Jim, whom I have known since 1974. We worked on many election campaigns together. I travelled around the world with Jim. We were the three Jims — Jim Travers, Jim Munson and Jim Maclean of Newsradio.

Jim passed away, I understand, due to complications from an operation. It is difficult to speak about this. Jim was a very sweet man. We had a lot of fun together, and he will be missed.

I will speak to third reading of Bill C-22, An Act respecting the mandatory reporting of Internet child pornography by persons who provide an Internet service.

I believe that this bill will have a positive impact and will enhance Canada's capacity to identify and prosecute child pornographers. When I addressed senators last month for the first time as critic of this bill, I outlined my particular concerns.

The Standing Senate Committee on Legal and Constitutional Affairs conducted a thorough examination of the bill, and I am grateful to the chair, the deputy chair and all members for listening and responding to these concerns.

The committee invited a solid group of witnesses representing the key issues and posed the necessary questions. I attended some of the hearings and appreciated the opportunity to ask a few questions myself.

With the committee's work complete and the bill now at third reading stage, some of my initial concerns linger. I still wonder, for instance, about the rationale for the two distinct reporting requirements described in clauses 3 and 4 of the bill. To refresh the memories of honourable senators on the content of these clauses, depending on the circumstances, reports are to be made to either the police or an agency that will be designated by regulation. I still wonder why the police would not be notified in all cases, as is typically done.

Also, I remain convinced that it would be preferable to designate the agency democratically by parliamentarians rather than by regulation. Beyond simply naming the agency that will

carry out the work, there is a great deal at stake in the related decisions. A crucial issue is how this agency will collect, manage and store personal information included in reports.

Once Bill C-22 is passed, Internet service providers will essentially be required to act as agents of the state in police investigations or they will be prosecuted. This is a new law, so we must be watchful and careful that it does not impinge on the rights and freedoms of those impacted by it.

Finally, even before taking steps to prevent privacy breaches and civil liberties infractions, those responsible for implementing the bill will have to work out all important practical matters, such as meeting funding and human and technical resource needs.

According to a news release issued this week by the Standing Senate Committee on Legal and Constitutional Affairs — this is scary and hard to believe — an estimated half million people worldwide are actively involved in the trafficking of child sexual abuse images on the Internet. The mind boggles at those figures. I think of the victims of these monstrous criminals and, like all honourable senators, instinctively want to protect them.

At the end of the day, though, Bill C-22 has been created to better equip Canada to protect children — our children, your children — from those who prey on their vulnerability. As such, it is another positive step in the right direction.

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.)

CRIMINAL CODE

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Angus, seconded by the Honourable Senator Lang, for the second reading of Bill C-30, An Act to amend the Criminal Code.

Hon. George Baker: Honourable senators, I have been asked to say a few brief words on this bill. Before I do, I want to congratulate Senator Frum and Senator Raine who attended the Legal Affairs Committee last night with government members and did an excellent job of questioning government officials. The minister was there as well. I believe it illustrated the function of the Senate, which is to make sure that the intent of the legislation is understood.

• (1450)

The reason why I say that at the beginning, honourable senators is that I think Bill C-30, the bill we have before us now should be passed. In fact, I think the bill we have before us should have been passed years ago. I think it is an excellent piece of legislation. However, let me read and put on the record how the bill came here, keeping in mind the changing role of the Senate.

Children in school learn that bills are introduced at first reading when the title is read. At second reading the bill is debated in principle. The bill then goes to committee to be examined, and then it comes back for third and final reading in the House of Commons. That is not what happens these days. I will put on the record how this bill came here to the Senate. It is in one sentence.

Honourable senators, here is how the bill was dealt with in the other place — and this is not an exception these days. This is from the official version of the debates report, No. 115, Friday, December 10, 2010 at 10:40 in the morning.

The Speaker: That concludes the debate on this bill.

Pursuant to order made Tuesday, December 7, 2010, Bill C-30, An Act to amend the Criminal Code, is deemed read a second time, deemed referred to a committee of the whole, deemed reported without amendment, deemed concurred in at report stage and deemed read a third time and passed.

All stages, one motion.

I am not objecting to that, Your Honour.

Senator Day: I am.

Senator Baker: Honourable senators, I think that is the way Parliament has evolved. Anyone who wants to do away with the Senate had better give it a second thought because that is how things have evolved. Perhaps that is the way it should be because the other place is concerned more with politics, is tied up with Question Period and accountability of the government, while the legislative function is left to the Senate.

What would a researcher do if he or she wanted to find out what this bill means?

Senator Banks: What would a judge do?

Senator Baker: What would a judge do in finding out the purpose of this bill? This is a complicated bill we have before us. It is a great bill and I agree with it, but it is complicated. What would a judge do?

Honourable senators, the judge would say there was no second reading, there was no committee stage and there was no third reading. That is the point. The Senate is the legislative function of the Parliament of Canada these days and we should keep that in mind.

[Senator Baker]

Honourable senators, the mover of this motion is Senator David Angus — W. David, as we called him years ago. He used to be a great litigator, so far be it from me to be critical of W. David. In the mid-1960s, when I was a law clerk at a provincial table, he was before the Supreme Court of Canada. When I arrived on the Hill in 1974, Senator Angus was before the Supreme Court of Canada.

Senator Day: Same case?

Senator Baker: In the 1980s, he was before the Supreme Court of Canada as a litigator. He has appeared before the Quebec Court of Appeal and the Federal Court of Appeal.

Senator Mercer: There is a cash cow.

Senator Baker: Senator Angus even goes back to the Exchequer Court, Your Honour, and you will recall that from reading history, it was prior to the Federal Court. Senator Angus was the mover of this motion.

What is the foundation of this complicated bill that the other place has placed on the shoulders of the Senate to interpret and to pass at all stages? Your Honour, it all goes back to the Canadian Charter of Rights and Freedoms.

Honourable senators, today in Canada, everyone who is out on bail — or judicial interim release, as His Honour would call it, being a former professor of law — who has a condition that says that he or she is not to consume illegal drugs or drink alcohol cannot be tested. It no longer applies that a judge is able to give an order for a parole officer or officer of the law to ask for a breath, urine or blood sample from a person on parole. Why does it no longer apply? It no longer applies because the Supreme Court of Canada ruled that it was a violation of section 8 of the Charter of Rights and Freedoms. That is why the Government of Canada is introducing this bill today.

Honourable senators, let me put on the record why we are here with Bill C-30. At paragraph 4 of the Supreme Court of Canada decision *R. v. Shoker* is the person involved. It says:

Shortly after midnight on September 7, 2003, the complainant was awakened when a naked stranger was getting in her bed. The intruder, Harjit Singh Shoker, followed her when she fled to the kitchen to phone the police but he did not attempt to leave. On arrest, he told the police that he had been using a narcotic the previous day. Mr. Shoker did not testify at trial. He was convicted of breaking and entering a dwelling-house with intent to commit sexual assault.

The next paragraph examines the testimony of a Dr. Whittemore, who performed the psychological assessment on Mr. Shoker. Dr. Whittemore said that Mr. Shoker blamed his drug use for his behaviour, stating that he had been on speed at the time of the offence. The report described a history of substance abuse, including heroin, speed, cocaine and marijuana.

Honourable senators, the report also referred to a similar incident that had occurred a few months earlier. Mr. Shoker was charged and was awaiting trial for that offence. At the time of the earlier incident, Mr. Shoker said he was under the influence of drugs.

Here is a man who committed a second offence within three months — break and enter for purposes of committing an indictable offence, namely sexual assault. Dr. Whittemore said he was recommending that random urinalysis be done to assist in managing Mr. Shoker's risk to the community when he was released from jail.

The trial judge sentenced Mr. Shoker to 12 months' incarceration, to be followed by a two-year period of probation, subject to a number of conditions.

One of the conditions is found in paragraph 6, Condition 9:

Abstain absolutely from the consumption and possession of alcohol and non prescription narcotics and to submit to a urinalysis, blood test or breathalyzer test upon the demand/request of a Peace Officer or Probation Officer to determine compliance with this condition.

Honourable senators, Mr. Shoker went to jail but he disputed the fact that he would have to be subjected to urinalysis when he came out to find out if he had a narcotic in his body.

• (1500)

He took it to court and went to the Court of Appeal and the Supreme Court of Canada. The Supreme Court of Canada ruled that he was right and that it was unlawful. Why? As honourable senators know, there is a case called *R. v. Collins*, in which it says a search can be legal only if it is authorized by law, if it is a reasonable law and if the search is conducted reasonably. Those are the three components of a legal search. The Supreme Court of Canada said it is not authorized by law.

Honourable senators, that was in 2006. For five years we have been without the authority in this country for the police and parole officers to check on people who are out on condition, judicial interim release or probation following a jail term. That authority is what this bill provides. It is a complicated bill. It is a long bill, but that authority is what it provides.

Senator Angus, in describing the bill, made two excellent points, among all the other excellent points he made. He said: "For example, from April 1, 2005 to March 31, 2006, some 236,000 individuals in Canada were convicted of a Criminal Code offence."

When individuals are charged, as honourable senators know, they are brought before a judge within 24 hours. Following that is their application for bail, after which their conditions for release on bail are given. According to Senator Angus, 80 per cent of the cases of violent crimes in Canada involve the consumption of illegal drugs or alcohol.

There is that group of people. Then there are people released on conditions and on probation. Since this decision of the Supreme Court of Canada, a judge could not authorize the taking of a sample to prove that someone was complying with a condition of their release.

Honourable senators will note that these offences are considered to be indictable, criminal offences. There are 3.6 million Canadians with criminal records as per the Identification of Criminals Act. As

honourable senators know, a criminal, in the Identification of Criminals Act, is not someone convicted of a summary offence. It is someone convicted or held for trial and who is charged with an indictable offence. That is subparagraph 2(1)(a)(i) of the Identification of Criminals Act in Canada.

Someone who is charged with a summary conviction offence is not covered under the Identification of Criminals Act. I want to make that distinction clear.

Therefore, 3.6 million Canadians today — over 10 per cent of the entire population of the country — have a criminal record as identified in the Identification of Criminals Act. We have 14 per cent of the entire population of the country who are of voting age with criminal records, and that percentage is increasing.

Senator Angus goes on to make an interesting point. He says that two standards are set under this new law. Do not forget that a system will be set up whereby parole officers and police officers can check whether someone is in compliance with their conditions of release; that is, officers can take a breath sample, a urinalysis or a blood test.

One group of people will be on the basis of grounds to suspect; the other group will be on grounds to believe. As honourable senators know, there is quite a difference between those two. Those grounds will apply to what they are released on and why they are released. Is it a part of their trial? Is it a part of their sentence? As honourable senators know, if there are grounds to suspect, and it is a part of their sentence, they have to submit to the inspection by the police officer.

What is the difference between "suspect" and "believe" in these cases? If someone has glassy eyes and slurred speech, those things are grounds to suspect. However, it is possible that anyone can have glassy eyes and slurred speech without being intoxicated or under the influence of drugs. If that person was also unsteady on their feet, stumbled when they walked and could not perform certain exercises, then that person would give reason to believe that they are guilty of the offence.

Senator Angus spells out this difference clearly.

I recommend to all honourable senators that we pass this bill. It is an excellent bill. Ensuring compliance with the Charter is one of the functions of Parliament and it is left to the Senate to determine compliance.

In conclusion, let me deliver some bad news for Senator Stratton.

Senator Stratton: I have been waiting for this.

Senator Baker: There is sad news for Senator Stratton today. The law that Senator Stratton was being referenced regarding, in all of our courts, was struck down yesterday as being unconstitutional.

Some Hon. Senators: Oh, oh.

Senator Baker: It was struck down by the Ontario court.

When we were studying the bill, I recall a senator to my right who said, when we reached that section of the bill, “it seems to me this may lead to a constitutional challenge.”

The lawyers from the Department of Justice Canada were there and said, “No, we checked this out and we are sure it would not lead to a constitutional challenge.”

That senator to my right was Senator Joyal. It did lead to a challenge and it was struck down by the court. We hope the Department of Justice Canada noticed. We know they always pay attention to what goes on in the Senate, and we hope they will obtain a copy of the judgment. It is not yet on Westlaw or Carswell, but I have a copy if they so wish to have one.

It is too bad; I suppose Senator Stratton could be compared to the line in *Macbeth*: “Out, out, brief candle!” He strutted his time upon the stage in Canadian case law, but now he will be heard from no more.

Hon. Terry Stratton: Would the honourable senator take a question?

Senator Baker: Absolutely.

Senator Stratton: I will put it in the form of a question after I make the statement. The honourable senator might not have heard me, but there is an old Yogi Berra statement that “it ain’t over til it’s over.”

Well, honey, is it over. Is there an appeal?

Senator Baker: “It ain’t over til it’s over.” I am sure officials from the Department of Justice Canada are listening to us now and they have 30 days to appeal to the Superior Court.

As Senator Stratton knows, and as His Honour knows, being a professor of law, the seriousness of this decision is that there is such a principle as *stare decisis*; in other words, “it has been decided.” That decision means the courts at that level would necessarily follow that within the jurisdiction. However, since it is Ontario, it is normally used as precedent for other provinces. What is needed is an appeal to the Superior Court of Ontario.

• (1510)

In the meantime, there may be a lot of cases in which the certificate will be ruled unconstitutional unless this is overruled. I feel certain that the Department of Justice is listening to these proceedings. It is, of course, a provincial prosecutor that we have and — as Senator Andreychuk, a judge, knows — it is a provincial prosecutor and the provincial Attorney General who would have to ask for an appeal. I am sure they would do so within 30 days.

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

Hon. Senators: Question.

[Senator Baker]

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

Hon. Senators: Agreed.

(Bill read second time.)

REFERRED TO COMMITTEE

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

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

[*Translation*]

KEEPING CANADIANS SAFE BILL

SIXTH REPORT OF NATIONAL SECURITY AND DEFENCE COMMITTEE ADOPTED

On the Order:

Resuming debate on the motion of the Honorable Senator Wallin, seconded by the Honorable Senator Stratton, for the adoption of the sixth report of the Standing Senate Committee on National Security and Defence (Bill S-13, An Act to implement the Framework Agreement on Integrated Cross-Border Maritime Law Enforcement Operations between the Government of Canada and the Government of the United States of America, with amendments), presented in the Senate on March 1, 2011.

Hon. Roméo Antonius Dallaire: Honourable senators, I am pleased to rise today to speak to the sixth report of the Standing Senate Committee on National Security and Defence on Bill S-13.

[*English*]

I rise to speak to Bill S-13, An Act to implement the Framework Agreement on Integrated Cross-Border Maritime Law Enforcement Operations between the Government of Canada and the Government of the United States of America.

[*Translation*]

I would first like to outline the purpose, background and provisions of Bill S-13, as discussed in committee.

The bill before this chamber deals with a treaty. The bill will implement, in Canada’s domestic law, the Framework Agreement on Integrated Cross-Border Maritime Law Enforcement Operations between the Government of Canada and the Government of the United States of America. This is an international treaty signed by the representatives of our respective governments in May 2009.

The purpose of this legislation, as indicated in clause 3 of the bill, is to provide additional means to prevent, detect and suppress criminal offences and violations of the law in undisputed areas of the sea or internal waters along the international boundary between Canada and the United States, and also to facilitate the investigation and prosecution of such offences and violations.

The bill reflects the obligations set out in the framework agreement entered into by our two countries. However, this bill is related to another bill that is still being studied in the other place. I am referring to Bill C-38.

[English]

An Act to amend the Royal Canadian Mounted Police Act and to make consequential amendments to other Acts.

[Translation]

We have before us a bill that depends on the passage of another bill currently being studied in the House of Commons. I can tell you that that bill gave rise to an interesting debate. There were lively discussions about amendments that were then defeated. Our bill therefore risks being amended if Bill C-38 is passed. If ever Bill C-38 were not passed, Bill S-13, if passed, will come into force. So why such complicated wording that only legal experts or honourable senators better versed in interpreting legislation can understand?

To get back to the bill that is before us, the concept of the operations, known as Shiprider, was designed to improve the ability of Canadian and American law enforcement agencies to prevent, detect and suppress criminal activities that threaten national security or the economic interests of our respective countries. Essentially, the bill would allow RCMP officers to be designated as peace officers in the United States. The bill would also allow U.S. Coast Guard officers to be designated as peace officers in Canada. For example, Canadian peace officers engaged in a pursuit in waters on the Canada-U.S. border would be authorized to continue their pursuit and proceed with an arrest, even if the offending ship enters U.S. waters, and American peace officers would have the same privilege.

The program was designed to ensure continuity in law enforcement in our two countries through the signing of reciprocal access agreements. These agreements would allow Canadian and American peace officers to operate in the other country's waters while remaining in their respective vessels.

The Standing Senate Committee on National Security and Defence heard witnesses, including two representatives of the RCMP: Bob Paulson, Deputy Commissioner, Federal Policing; and Joseph Oliver, Chief Superintendent and Director General, Border Integrity, Federal & International Operations. These witnesses confirmed what committee members had read in the 2007 Shiprider evaluation report. The success of the Shiprider program is mainly due to the fact that it meets a real need in the marine sector, particularly with respect to the ongoing obligation to intervene in illegal cross-border activities carried out by organized crime groups. The integration of RCMP and U.S. Coast Guard personnel was effective. Missions were carried out safely and successfully. People on both sides of the border responded favourably to the Shiprider program. Senator Wallin shared the specific results with us yesterday.

[English]

Nonetheless, the evaluation report found that the Mohawk territory that bridges the Canadian-American border in the Cornwall-Massena area represents unique law enforcement

challenges given the multi-jurisdictional nature of the geographic area. It recommended the consultation and engagement of the Aboriginal communities of Akwesasne and St. Regis in the development of future initiatives in this territory.

This view on the involvement of Aboriginal peoples in the Shiprider program was confirmed when our committee heard from representatives of the Mohawk Council of Akwesasne. Mr. Brian David, Acting Grand Chief of the Mohawk Council of Akwesasne, who was generally positive about the purpose of Bill S-13, stated:

I think that any initiative that has as its core objective the eventual effective harmonizing of the environment, the legal textual framework and substance, the operating environment of the territory of Akwesasne would certainly be welcomed and certainly is welcomed as part of what we are trying to accomplish in our nation-building initiative with Canada.

However, he went on to express certain reservations. He asked:

How will the police distinguish the good people in Akwesasne from the not-too-good people in Akwesasne? How will these activities disturb some of the customary traditional patterns we have in the river system, like fishing or trapping, and our use of the river system as such? How does this dovetail into some of the rights we have already established in the Supreme Court of Canada and those that we have under way? How does this dovetail into the direction that our community is moving with its nation-building initiative — the self-government negotiations with Canada?

It is difficult to say. I can see where it might be very supportive, but it could also be detrimental to many of these initiatives that we have under way, if it is not properly administered . . .

Later in his testimony, Mr. David said that if the Shiprider program operates within Akwesasne territory, then Akwesasne needs to be part of the formula.

• (1520)

Honourable senators, those are significant concerns. The acting grand chief also expressed concern that the Mohawk government was not involved in any of the negotiations of the framework agreement and that their council leadership was informed of the project only two weeks before its implementation. Looking forward, it is important that the Canadian government undertake greater efforts to fulfill the duty to consult and accommodate Canada's Aboriginal peoples. They were involved with Shiprider and have been working to make it a success.

It is also important to recognize that Canadian sovereignty is, to a certain degree, at play in this bill. We should be concerned about the large capabilities of the Americans and the relatively small Canadian capabilities in the area. Take, for example, the Great Lakes. The proposed legislation would put Canadian law enforcement agents on American vessels. We can thus expect to see many more American vessels in Canadian waters. Americans

are deploying unmanned air vehicles, FLIR equipment and other sophisticated systems, including access to heavy weapons; although in Shiprider, the police and the Coast Guard are limited to personal weapons.

Honourable senators, this treaty legislation really leaves us, as parliamentarians, very little room to manoeuvre. This brings me to a recent announcement in which the Prime Minister of our country and President Obama signed an agreement to pursue a North American perimeter. If they have signed that, what is Parliament within that? If it is a treaty, where do we stand in influencing its content? As an example, Parliament must be involved, and ultimately an agreement must be subject to parliamentary approval. Of course, that is what we are doing. In any agreement, the devil is in the details and will need to be scrutinized carefully. It is in Mr. Harper's interest to work with Parliament in this current new agreement as negotiations proceed so that negotiators are mindful of what Parliament is prepared to accept, just as, surely, the Obama Administration will no doubt be working with the U.S. Congress.

We always worried about the building of fortress North America. If parliamentarians are not within the process, the danger that it actually will happen is quite possible. Will that limit our sovereignty? Will it affect our laws, immigration, human rights and such? That is for the next round.

As stated in Recommendation 4 of the Brown task force report regarding Shiprider, *Rebuilding the Trust: Report of the Task Force on Governance and Cultural Change in the RCMP*, specifically oriented on the RCMP, the Brown report says that the RCMP should not assume new responsibilities without first ensuring that it has the wherewithal to do so. It should also be remarked that the RCMP-U.S. Coast Guard Shiprider 2007 impact evaluation final report states:

The RCMP will have to make a considerable investment in time, money and human resources to effectively put into place full-time operational Shiprider units. This will be a significant undertaking for the force and a departure from its focus on land-based activities. The U.S. Coast Guard will not have as significant a hurdle to surmount in this regard, however, the logistics of establishing new units within existing national infrastructure will require careful planning and implementation.

I have reservations about Bill S-13 because neither the RCMP nor the Minister of Public Safety provided any idea of the new equipment or personnel or training and overall cost required to implement this proposed legislation. They tell us that they will generally be able to absorb the costs and requirements of implementation. Yet, we currently have very limited capability, especially given that the U.S. Coast Guard will be involved in Shiprider operations, while the Canadian Coast Guard is not. Also, we should keep in mind that the U.S. Coast Guard is a military, multi-mission maritime service and one of that country's five armed services.

The Standing Senate Committee on National Security and Defence was not informed of any concrete or even abstract plan to bolster Canada's respective capability in order to create a more balanced operating environment with the Americans.

[Senator Dallaire]

We will end up putting RCMP on more American naval capabilities, which then permit the American naval capabilities to be in our waters more often. It may not be fiddling with our sovereignty, but that familiarity does put, in my opinion, our respect of our border and our sovereignty at risk if it can be or if it should be abused.

I request five minutes, if I may.

The Hon. the Speaker *pro tempore*: Is the honourable senator asking for more time?

Senator Dallaire: Yes.

Senator Comeau: Five minutes.

The Hon. the Speaker *pro tempore*: Please proceed.

Senator Dallaire: Honourable senators, the Minister of Public Safety tells us that this is a net gain for Canada because we will be riding on the backs of the Americans in terms of our capacity to enforce Canadian law. Tell me how our sovereignty will not be tested, given these circumstances. You own the ship; you are going to really make it run.

Ironically, the government uses a different argument in the Arctic, where it recognizes the need to have Canadian equipment and vessels and personnel in order to establish and confirm our sovereignty. In my opinion, security on the border is better guaranteed by a "deep" border concept; that is, not a thick physical border, but, rather, a smart border that uses multiple types of resources to reinforce on-the-ground surveillance and over-the-water surveillance. It is my belief that the proposed legislation would make it essential that intelligence material and systems of intelligence gathering be shared between the two countries without reserve. Ultimately, this could pose a problem due to our limited intelligence agencies and in numerous and extensive webs of intelligence agencies in the United States, including the U.S. Coast Guard, which is still a military service and thus protective of that dimension of its sources of intelligence.

Honourable senators, for a government that prides itself on transparency, accountability and fiscal responsibility, this is a difficult comportment to justify. In order to fulfil our legislative duties responsibly, we need full disclosure of information concerning the costs of implementing legislation. It is unsatisfactory to say we can simply find the financial costs of this program in a future budget. Before approving new programs, parliamentarians have a duty to taxpayers to ensure they know the cost associated with implementation.

• (1530)

The problem is this: Can the Senate get engaged in such endeavours? Can we actually pass legislation that calls for expenditures, or is that out of our realm? We never received an answer on cost inasmuch as the witnesses, including the minister, said it would essentially be absorbed. Therefore, seemingly, no new costs and no figures were provided. Does that get us off the hook? I would contend it is perhaps a question of ethics versus a question of procedure.

Last, the proceedings of the clause-by-clause review of Bill S-13 in our committee were conducted without broadcasting, as required in the Senate. The steering committee decided to do this without broadcasting. It is an essential requirement of a democracy that the legislative process be open and transparent. Committee proceedings, particularly when undertaking clause-by-clause review of proposed legislation, should be as accessible to the public as reasonably possible. Let us not forget that this is, after all, their Parliament. Video broadcast makes our committees more accessible and transparent and, in certain instances, allows viewers to glean additional information that would otherwise be inaccessible from a mere audio broadcast.

Indeed, video broadcasting is the main vehicle for informing the public about our committee proceedings. Public access to the legislative process guarantees the integrity of our democracy inasmuch as the transparency that flows from access ensures that law is made in a manner that is not arbitrary but in accordance with the principles of fairness.

Openness fosters democratic discourse as well as truth-finding. In not having that broadcast, committee proceedings are less accessible to the public, thereby undermining the integrity and openness of the legislative process. Thus, I was disappointed with the decision to not have our proceedings broadcast in committee while we did the clause-by-clause analysis of Bill S-13.

The Hon. the Speaker *pro tempore*: 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?

Some Hon. Senators: Agreed.

Some Hon. Senators: On division.

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

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

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

INCOME TAX ACT

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Mitchell, seconded by the Honourable Senator Banks, for the second reading of Bill S-221, An Act to amend the Income Tax Act (carbon offset tax credit).

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, in Senator Dickson's absence, I have taken it upon myself to provide some remarks on Bill S-221 so that it may go on to committee.

Bill S-221 proposes to offer individuals a personal income tax credit for investing in eligible carbon offset projects, with the objective of reducing greenhouse gases. The credit would be worth 15 per cent of an individual's total investments for the year.

Honourable senators, we all recognize that reducing greenhouse gas emissions is important for the health of our planet. This is an issue that is important to all Canadians, and it is a priority of the government.

Bill S-221 sets out grand principles, but it fails to consider the nuts and bolts needed to construct an effective measure. Even if this measure were designed properly, it would not likely reduce greenhouse gases. This bill would also be expensive, mainly due to the administrative structure it would require. Let me elaborate on this.

The bill seeks to promote so-called carbon offset projects. This is a term that might not be known by all members. However, a clear definition of carbon offset projects is fundamental to this bill.

A carbon offset project can refer to many things, including projects that avoid, reduce, displace or mitigate the effects of carbon dioxide emissions. These projects can take a variety of forms.

For example, a carbon offset project could involve improving the energy efficiency of commercial buildings, capturing methane gas from landfills, or planting a tree.

This leads us to one of the biggest failings of the bill: how would we be able to identify an eligible project? Although I can provide some examples, the harder thing is to set out clear criteria to tell us, for every example we look at, whether or not it would be an "official" carbon offset project, one that could or should be designated for the purposes of the tax credit at the heart of this bill.

Would a carbon offset project be eligible while it is under development, or would proof be required that the project is finished and has, in fact, reduced carbon emissions? Again, I would emphasize that it would be important to establish the right principles for choosing.

Honourable senators, a vague definition of eligible offset projects will take us into all sorts of grey zones and uncertainty.

What is the solution? Bill S-221 simply puts the responsibility on the Minister of National Revenue to sort it all out without basic guidelines in the bill that a minister could use to determine which projects would be eligible.

Let me be clear. Many people around the world, as well as here in Canada, have been developing the kinds of guidelines we are talking about. There are several voluntary markets out there, each

using their own individual guidelines for approving carbon offset projects. I use the term “approve” loosely. Some make use of third party verification; others have none at all.

In fact, there is no national consensus on eligibility requirements for carbon offset projects. As such, there are no standardized guidelines to ensure that carbon offset projects achieve real, incremental, quantified, verified and unique reductions of greenhouse gases.

These are fundamental questions of environmental policy that many governments around the world are struggling with. How can the Minister of National Revenue decide whether or not to provide a carbon offset tax credit if he does not know which projects to approve?

The implementation of Bill S-221 is entirely impractical.

The failure to define this most fundamental aspect of the bill is one problem. There are others.

For example, the bill does not clearly define what would constitute an “investment” in a carbon offset project and, perhaps more important, how an individual would participate as an investor in a carbon offset project.

When we think of carbon offset purchases, we typically think of a business that is trying to meet a regulatory target. The concept is this: If a business needs to reduce their emissions by a certain amount, they can do it in one of two ways. They can either reduce their own emissions, or they can purchase carbon offsets from another company that can reduce carbon emissions more cost-effectively.

It is a bit difficult to see why individuals — and this bill is about individuals, not businesses — would invest in the first place.

In some cases, an individual might decide to voluntarily purchase an offset for the good of the environment. In fact, a potential mechanism already exists through the personal income tax system that would facilitate these transactions. For example, taxpayers could donate to environmental organizations for the purchase of voluntary carbon offset credits and claim a generous tax credit for the charitable donation if the recipient organization is a registered charity. It is already there. The federal credit of 15 per cent on the first \$200 and 29 per cent for every dollar in excess of \$200, combined with provincial credits, can be worth up to 45 per cent of the donation. In other cases, the individual might want to be a direct investor in a carbon offset project, perhaps by buying shares in the project or lending money.

• (1540)

In any case, carbon offset projects such as the development of alternative energy sources will require massive capital investments. The financing for such projects will come from capital markets in Canada, and internationally.

Individual investors may be one source of capital, but in today’s globally integrated financial markets, individual investors are relatively small players. The major source of investment consists of large-scale corporate and institutional investors. In this

context, it is hard to believe that a 15-per-cent tax credit for individual investors would increase the supply of capital significantly for major carbon offset projects, or lower the cost of capital. This is all for the kinds of costs, even to begin with, to administer such a program.

The overall results: The main beneficiaries from the proposed tax credit would be individual investors, but there likely would not be any significant reduction in carbon emissions as a result of this bill.

In terms of effectiveness, there is nothing in the bill that prevents someone from investing in a carbon offset project and then selling that investment to another individual. This practice could lead to multiple taxpayers receiving a tax credit for the purchase without generating any further carbon reductions.

One clear reason the credit would not be effective is that there is no clear valuation mechanism or standards to ensure that the public subsidy for the carbon offset project — in this case, the tax credit — would result in a cost-effective reduction in carbon emissions. The amount of carbon reduced could vary significantly for every dollar spent, depending on the type of project being implemented.

Honourable senators, given that the Senate is the house of sober second thought, and that we like to pursue these items further, and these matters are quite valuable for a committee to study, and without giving any indication that this side supports this bill in any way, shape or form, I would suggest that we send it to committee with further evaluation, where I think it will receive the proper attention it deserves.

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 and bill read second time.)

REFERRED TO COMMITTEE

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

(On motion of Senator Tardif, bill referred to the Standing Senate Committee on National Finance.)

MAPLE LEAF TARTAN BILL

SECOND READING—DEBATE ADJOURNED

Hon. Elizabeth Hubley moved second reading of Bill S-226, An Act to recognize the Maple Leaf Tartan as the national tartan of Canada.

She said: Honourable senators, it is with pleasure I rise today to move second reading of Bill S-226, which would recognize the Maple Leaf Tartan as Canada’s national tartan.

The Maple Leaf tartan has been Canada's unofficial national tartan for many years. It is time to recognize the rich contribution Canadians of Scottish descent have made to this country by adopting a national tartan for Canada, which can be worn by every Canadian, regardless of their ancestry, as a symbol of national pride.

Around the world, there is an estimated 40 million people who claim Scottish descent. According to Statistics Canada data, almost 5 million Canadians claim Scottish origin. That is almost 15 per cent of Canadians. In my home province of Prince Edward Island, almost one in three Islanders claim Scottish origin.

Since the 17th century, Canadians of Scottish origin have played a significant role in the evolution of Canada and in its leadership in the fields of politics, science, education and the arts. Many Canadian universities were founded by Scots: the universities of Toronto, McGill, Queen's, St. Francis Xavier, Dalhousie and Saint Dunstan's, to name a few.

In the field of politics and law, there have been many Scots who played a large role in developing our country: Sir John A. Macdonald, Alexander Mackenzie, William Lyon Mackenzie King, Agnes MacPhail, Tommy Douglas, Kim Campbell, Beverley McLachlin, and even Pierre Trudeau, who was of Scottish descent on his mother's side.

Director James Cameron, musicians Wilf Carter, Joni Mitchell and Sarah McLachlan, and actors Donald Sutherland, Keifer Sutherland, and Eric McCormack are all Canadians of Scottish descent, as is actor Jim Carrey, whose mother is from the Gordon clan.

Alexander Graham Bell gave us the telephone. James Naismith gave us basketball. Alexander Keith gave us Keith's beer.

Honourable senators, the list of Canadians of Scottish descent who have contributed to shaping all aspects of our growth as a nation is endless. After all, as late as the 1960s, the third largest ethnic group in this country after English and French were those of Scottish descent. In fact, as I look around this chamber, I see many colleagues who, like me, are of Scottish descent.

My grandmother was a MacLeod, and even as a young girl I recognized the importance of my Scottish heritage. My mother made sure all her children attended the Highland games and local ceilidhs. I was encouraged to participate in Highland dancing and in Scottish step-dancing competitions. I remember the thrill as a young girl of meeting Dame Flora MacLeod, who was the clan chieftain at the time, and having the privilege of dancing for her. I still wear my MacLeod tartan with pride.

A tartan is probably the most visual expression of Scottish heritage and culture. Although the earliest evidence of tartans dates to the Hallstatt culture that flourished between 400 BC to 100 BC, and was linked to the ancient Celtic populations, tartans became widespread in the 16th century in Scotland. By the late 17th century, some uniformity was growing in the use of tartans and they could be used to distinguish the inhabitants of different regions.

Weavers used natural dyes locally available to make their tartans, and these regional tartans or district tartans eventually were claimed by the clan or family who was most numerous in the area as their clan tartan. Often these clan tartans are worn by those who feel associated with the tartan.

Since the Victorian times, some have claimed there is etiquette to wearing a tartan, and only those with connection to a family tartan should wear it. However, not all tartans are associated with a particular clan. Some tartans, known as free tartans or universal tartans, can be worn by anyone. Examples of these free tartans are the Black Watch, which is also known as the Government, Universal or Campbell tartan, as well as other tartans such as the Caledonian, the Hunting Stewart and the Jacobite. That being said, there are no rules about who can and who cannot wear a particular tartan.

Although tartans were originally woven from wool and made into clothing, most notably kilts, they are now made of other materials and can be found printed on a variety of materials such as cups, notebooks, purses and even furniture.

Many organizations and regions have created their own tartans. Most provinces and territories in Canada have adopted an official tartan, with the exception of Quebec and Nunavut. Some municipalities and counties in Canada have also adopted official tartans.

- (1550)

The Maple Leaf Tartan was created in anticipation of Canada's centenary. Designed in 1964 by David Weiser of Highland Queen Sportswear Limited in Toronto, the Maple Leaf Tartan pattern incorporates the green of the leaves' summer foliage, the gold that appears in early autumn, the red that appears with the coming of the first frost, and the brown tones of the fallen leaves.

David Weiser, the talented designer who designed not only the Maple Leaf Tartan but also the Quebec Tartan, the Ontario Tartan and the Niagara Falls Tartan, died in 1990. However, I have been in contact with David Weiser's son, Howard Weiser, and his grandson, Mark Weiser.

David Weiser was born in Ukraine and immigrated with his family to Canada as a toddler. His father took a job in the garment industry in Toronto when the family arrived in the country. When his father became ill, David left school and went to work in the industry to help support the family. He learned garment making and design from the ground up, and became a talented and prolific designer. His son, Howard, followed him into the garment business. Although he is retired, Howard's son Mark works in the industry — making four generations of talented designers and garment makers in the Weiser family. I am pleased to inform honourable senators that the family is delighted with Bill S-226 and supports the designation of the Maple Leaf Tartan as the official national tartan of Canada.

The Maple Leaf Tartan made a big splash in the fashion industry after its introduction in 1964. A review of news clippings from that time indicate that it was worn by Canadian athletes

competing abroad, by a Canadian on a U.S. fashion tour, and by Canada's dairy queen at the British agricultural fair in London. It was even modelled at a private fashion show for the Queen Mother.

In the 1960s and 1970s, clothing made with this tartan was available for men, women and children in department stores, such as Eaton's and Simpson's. Today, the tartan is not usually available in department stores but is still sold widely in tartan and fabric shops. It is worn by the Pipes and Drums of the Royal Canadian Regiment, by staff at a major hotel chain in Nova Scotia and by individuals who appreciate this beautiful tartan. Fittingly, performers at the closing ceremonies of the Vancouver Olympics last year wore the Maple Leaf Tartan.

Honourable senators, the Maple Leaf Tartan was registered as an industrial design in 1964 by Highland Queen Sportswear Limited of Toronto; but it is now in the public domain as design rights expired in 1974. A sample of the tartan was sent to the Scottish Tartan Society in 1964 after an article appeared in the *Dundee Evening Telegraph*, a Scottish newspaper, reporting on the new tartan's appearance at a fashion show for the Queen Mother. It was first entered in the Register of All Publicly Known Tartans and registered in 1964. In the late 1990s, the Scottish Tartan Society became defunct. The Register of All Publicly Known Tartans formed the basis of a new International Tartan Index maintained by the Scottish Tartans Authority, a charitable organization started by several former members of the Scottish Tartans Society. The Maple Leaf Tartan's International Tartan Index number is 2034, as identified in the original Register of All Publicly Known Tartans.

In February 2007, Secretary of State Jason Kenney asked the Scottish Tartans Authority in Edinburgh, Scotland, to issue a certificate for the Maple Leaf Tartan in the name of the Dominion of Canada. I have a copy of that certificate, which confirms the Maple Leaf Tartan, as originally registered in 1964, as the de facto national tartan of Canada. As the government indicated in a press release in 2008, by doing so, they wished to ensure that no other country or individual could lay claim to the tartan.

Honourable senators, I should note that the records of the defunct Scottish Tartans Society have been maintained by a second charity created by other former members of the society. Known as the Scottish Tartans World Register, this database was also based on the Register of All Publicly Known Tartans. It records the Maple Leaf Tartan with reference number WR2034. In 2009, the Scottish Register of Tartans was established as part of the National Archives of Scotland to act as an independent, accessible and sustainable registry for tartans. The National Archives of Scotland has worked with the Scottish Tartans Authority and the Scottish Tartans World Register to amalgamate their former databases into a single dataset for the registry. The new Scottish Register of Tartans does not assign a new identification number for tartans already registered but uses the reference from the original databases. Therefore, in the new register, the Maple Leaf Tartan is identified by its reference numbers in both databases — the Scottish Tartans World Register and the International Tartans Index of the Scottish Tartans Authority. In the bill, I choose to identify the tartan by its Scottish Tartans Authority International Index Number 2034,

keeping the same method of identifying the tartan as the government kept in 2007. As I indicated, this same number also appears in the new Scottish Register of Tartans.

It is important to note that by registering a tartan in the Scottish Register of Tartans or in any of its predecessor databases, as was the case with the Maple Leaf Tartan, no rights are conferred. It is simply a register of unique designs.

Honourable senators, currently there is confusion about the status of the Maple Leaf Tartan with some believing that by claiming the tartan in the name of the Dominion of Canada with the Scottish Tartans Authority, the government has recognized the tartan officially. That is not the case. Official symbols are created by official proclamation, by order-in-council, by resolutions adopted in both Houses of Parliament or by an act of Parliament. This is why the Canadian Heritage website lists the Maple Leaf Tartan as Canada's unofficial national tartan. Bill S-226 would change that.

Honourable senators, I have had conversations with the minister's office and I understand that the Minister of Canadian Heritage is supportive of the bill. The family of the designer, David Weiser, is supportive of the bill. The Clans and Scottish Societies of Canada, which has more than 45 member organizations from all across this country, is supportive of this bill.

I ask honourable senators to support this bill, which would declare officially the Maple Leaf Tartan as Canada's national tartan — a tartan that can be claimed by every Canadian regardless of his or her ancestry.

(On motion of Senator MacDonald, debate adjourned.)

CONTROLLED DRUGS AND SUBSTANCES ACT

BILL TO AMEND—SECOND READING— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Lang, seconded by the Honourable Senator Brown, for the second reading of Bill C-475, An Act to amend the Controlled Drugs and Substances Act (methamphetamine and ecstasy).

Hon. Sharon Carstairs: Honourable senators, I was asked by Senator Lang prior to the break week when I would be prepared to speak to this bill. I had hoped to speak to it this week, but I had an extremely busy week of speeches in three cities, including his city of Whitehorse. Therefore, I am not ready to speak to the bill so I move the adjournment in my name.

(On motion of Senator Carstairs, debate adjourned.)

• (1600)

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

THIRTEENTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the thirteenth report of the Standing Committee on Internal Economy, Budgets and Administration (*Senate budget for 2011-2012*), presented in the Senate on March 2, 2011.

Hon. David Tkachuk moved the adoption of the report.

He said: Honourable senators, I am pleased to present the 2011-12 Senate Main Estimates. The budget amounts to \$93,956,182, which represents an increase of \$1,085,082, or 1.17 per cent, over the 2010-11 Main Estimates. This increase cannot be avoided. In fact, the only increase relates to a non-discretionary increase in senators' contributions to the employee benefit plan. It seems that the Treasury Board, from time to time, uses different numbers to calculate benefits, and this year they are asking us to use 18 per cent of total salaries rather than 17 per cent: hence, the increase.

The budget provides a realistic funding level to enable the Senate to carry out its constitutional role and to administer the affairs of the Senate for the coming year. The Senate voluntarily adhered to the federal Budget 2010, and there was no increase to the operational budget. As part of the preparation process for the Main Estimates 2011-12, the Senate administration undertook an extensive expenditure review exercise during the summer period. The objective was to review historical spending for every Senate administration directorate and to identify and understand patterns, review centralized budgets usage and identify possible areas of savings or deficiencies.

I believe that the Senate administration succeeded in identifying these reductions to cover amounts required for statutory increases. Honourable senators will find the details in the executive summary that they received with the committee report that was presented to the Senate.

In closing, I would like to take this opportunity to thank the administration, the senators and their staff for their work in this complex undertaking. The Senate is a vital part of our parliamentary system, promoting better policies and investigating a wide range of social, economic and cultural issues. I ask honourable senators to support the adoption of this report.

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?

Hon. Senators: Agreed.

(Motion agreed to and report adopted.)

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

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

On the Order:

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

Hon. Consiglio Di Nino: Honourable senators, I have taken some time to prepare notes on this item. Yesterday they were sent to translation so that I can deliver, as is my usual style, part of my remarks in each official language. I intend to speak on this item next week, if the translation is completed by then.

Therefore, I move the adjournment of this item in my name for the remainder of my time.

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

GOVERNMENT PROMISES

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Cowan calling the attention of the Senate to the litany of broken promises by the Harper administration, beginning with the broken promise on income trusts, which devastated the retirement savings of so many Canadian seniors.

Hon. Pierre De Bané: Honourable senators, I ask leave of the Senate to table, in both official languages, the notice for the position of vice-chair of the Canadian Radio-television and Telecommunications Commission published in the *Canada Gazette* in June 2010.

The Hon. the Speaker: Is leave granted?

Hon. Gerald J. Comeau (Deputy Leader of the Government): Yes.

Senator De Bané: Honourable senators, yesterday, in response to a question that I put to the honourable Leader of the Government, the leader said she was amazed by my question and asked why I was so obsessed with putting those questions to her.

I have here the 23 questions that I asked of the Leader of the Government in the Senate. Except for her repeated statement that the selection of the vice-chair of the CRTC followed a rigorous, transparent, impartial and independent process, she has answered none of the 23 questions I put to her.

If the system, the procedure and the selection of the vice-chair was rigorous, independent, impartial and transparent, why were none of the 23 questions I put ever answered?

That process is particularly troublesome in light of the commitment that the Prime Minister made in 2006 when he said that he would “change the way business is done in Ottawa forever.”

The then President of the Treasury Board, Minister Baird, upon the introduction of Bill C-2, promised that the Accountability Act would transform how things are done in Ottawa.

There is absolutely no way that an independent, rigorous selection committee could have appointed to that position a lawyer who specialized in criminal law in Montreal.

• (1610)

Let me read to you a few sentences of the three-page document that was published in the *Canada Gazette*:

[*Translation*]

The CRTC is responsible for regulating and supervising all aspects of the Canadian broadcasting system with a view to implementing the policy set out in the Canadian Broadcasting Act. It also regulates telecommunications in Canada to implement the policy set out in the Telecommunications Act.

Reporting to the Chairperson of the CRTC, the Vice-Chairperson is responsible for assisting the Chairperson in providing effective leadership to the Commission, assuming responsibility for broadcasting issues, and providing executive support in the management of an independent regulatory body.

Extensive experience in providing corporate direction and leadership is required, as well as experience in the operation and conduct of a quasi-judicial tribunal, an agency or an equivalent.

The qualified candidate should possess proven senior level decision-making experience with respect to sensitive and complex issues. The position requires experience in developing, maintaining and managing successful stakeholder relationships and partnerships.

The suitable candidate should possess extensive knowledge of the legislative framework and mandate of the CRTC; knowledge of the theories, practices and procedures related to administrative justice, especially related to quasi-judicial bodies; and an understanding of the relevant global, societal and economic trends, stakeholders' concerns, the government's policy agenda and how it relates to the CRTC.

[Senator De Bané]

I could continue on like that for another three pages.

[*English*]

In English, it lists these qualifications: extensive experience in providing corporate direction and leadership; experience in the operation and conduct of quasi-judicial tribunal, an agency or equivalent; proven senior level decision-making experience with respect to sensitive and complex issues; experience in developing, maintaining and managing successful stakeholder relationships and partnerships within and outside an organization; and experience formulating cultural and regulatory policy.

Under “knowledge that would be considered an asset,” it lists: extensive knowledge of the legislative framework and mandate of the CRTC; knowledge of the theories, practices and procedures related to administrative justice, especially related to quasi-judicial bodies; understanding of the relevant global, societal and economic trends, stakeholders' concerns, the government's policy agenda and how it relates to the CRTC; knowledge of the regulatory environment in which the broadcasting and telecommunications industries operate in Canada and abroad; knowledge of broad issues related to media convergence would be an asset; ability to interpret relevant statutes, regulations; ability to conduct a fair and efficient quasi-judicial hearing; ability to build consensus; ability to develop effective working relationships and promote meaningful dialogue with a variety of stakeholders; and superior communication skills, both written and oral.

Honourable senators, I have asked some very simple questions since this announcement was made on February 4. When did Mr. Pentefountas apply according to the notice that appeared prior to the deadline of June 28? Did he meet with a selection committee? If he did, on what date did he meet with them?

The Leader of the Government did say at some point that it was an independent, transparent, rigorous system and Mr. Pentefountas was found to be qualified. What date was that on? She would not answer. At some point, she said that it is in Hansard. He was found to be the most competent of all the candidates — not only qualified, but now he becomes the most qualified. I respectfully and forcefully submit that this is beyond belief. I cannot believe it.

What is sad is that the Prime Minister and his party were elected because in 2006 he made the commitment in his *Stand Up for Canada* document that he would:

Establish a Public Appointments Commission to set merit-based requirements for appointments to government boards, commissions, and agencies, to ensure that competitions for posts are widely publicized and fairly conducted.

That is in the document published in 2006.

What is extraordinary is that he did not create that appointments commission. In 2008, he was re-elected because he repeated that commitment, as Senator Day said in a speech a few days ago. The commitment was made a second time.

I heard my colleague, Senator Oliver, say that it was rejected. Is Senator Oliver serious? Is it really an excuse to say a parliamentary committee of all the parties found that it was quite disputable, the question of the selection of the chairman?

What did the Prime Minister do? He threw out the baby with the bathwater. "You do not want my chairman? Then, no commission." What kind of argument is that?

Then, in 2008, he reiterated the same commitment, and today we are in a situation that is without precedent.

If one looks to the law of the CRTC, what does it say? It states that one may appoint a vice-chair among the present actual commissioners, advisers or councillors of the CRTC. What did the government decide? That they will appoint him as a councillor and commissioner, and, in the same sentence, they will also appoint him as the vice-chair.

What I want honourable senators to understand is that by putting aside the merit principle, there are very serious consequences. The first one is that competent people are discouraged from competing again when we make such a mockery of the merit principle.

• (1620)

We can do whatever we want in politics. The only thing we cannot do is evade the consequences of our decisions. I submit respectfully that by making a mockery of the merit principle, we are discouraging competent people from putting forward their names to serve in the public interest.

In that regard, not only is the government hurt by doing that, but all political parties are hurt, and the citizenry of this country becomes cynical. That means they will participate less in the democratic process. All those consequences are laid together, one after the other.

I do not have the time to go through all the notes I have prepared. However, the Prime Minister in two consecutive elections, in 2006 and 2008, promised that he would appoint an appointment commission according to the Federal Accountability Act. Twice, that was not done.

I look to all the vice-chairs who were appointed at the CRTC —

The Hon. the Speaker: I regret to advise the honourable senator that his 15 minutes have expired.

Senator De Bané: I have less than five minutes remaining. May I continue?

Senator Comeau: Agreed.

Senator De Bané: I look to those fundamental issues that the Prime Minister understood so well to elevate the confidence of the people. He promised an array of measures, whether it was to protect whistle-blowers, accountability or providing expanded jurisdiction to the Auditor General. Then what happened?

We have seen honest public servants, such as Linda Keen, former Chair of the Nuclear Safety Commission, removed from her job, despite public promises to protect public servants from reprisals. They have taken reprisals against a number of public servants and appointed their friends and cronies to positions of critical importance.

I do not think we can overestimate the damage done in appointing someone who might be a good, competent lawyer as vice-chair, with the understanding that he will be the chair in 10 months. I can assure all honourable senators, and they can check for themselves, the way in which the appointments process was done. Someone who was not knowledgeable was appointed as vice-chair who will succeed the present chair. Prime Minister Harper promised that we would alternate between English-speaking and French-speaking Canadians. This vice-chair will succeed the Honourable Konrad von Finckenstein in January 2012.

This is without precedent, honourable senators. As the notice of that position clearly states: "The vice-chair of broadcasting assumes the responsibility of broadcasting." We live in an era of communication and media. Communication is the main characteristic of our era. To appoint someone to that field because he can instantly come in is very sad. As I said, it will make the public cynical, it will hurt all political parties and, finally, democracy will suffer.

(On motion of Senator Cordy, debate adjourned.)

THE LATE JIM TRAVERS

Leave having been given to revert to Senators' Statements:

Hon. Michael Duffy: Honourable senators, I rise to fully endorse and associate myself and all members on this side of the house with the heartfelt remarks made earlier today by the Honourable Senator Munson on the sudden and sad passing of one of Canada's truly great journalists, Jim Travers. He was not only a distinguished member of the Parliamentary Press Gallery, where I knew him for years, but also a genuinely good guy.

Jim made a substantial contribution to the political discourse in Canada. We did not always agree, but no one ever doubted his sincerity.

All members on this side, and I dare say all honourable senators in this chamber, extend our condolences to the Travers family on this sudden, surprising and terrible loss.

Hon. Jim Munson: Honourable senators, I just wrote a few notes down about Jim. Sometimes there are days in one's life that matter more than most. This is one of those days. I live near the Rideau Canal. When I woke up this morning, the sun was rising and there was a skater on the canal. I thought, "What a beautiful day — a sunrise, a skater on the canal. What a beautiful morning. We all take mornings for granted, but what a beautiful morning."

I thought to myself: "Why do you not say something nice about someone today?" Little did I think it would be about my old friend Jim Travers. Senator Wallin, who has worked with Jim, knows and understands that.

• (1630)

When you work in the Parliamentary Press Gallery, as Senator Duffy says, what happens on the road stays on the road. What happens in Ottawa stays in Ottawa. However, when you work together, it stays with you forever. Road trips and Parliamentary Press Gallery friendships go on for almost 40 years. One never forgets that there is this common bond.

We, as senators of the journalistic variety, are privileged. We get teased from time to time by our friends in the Parliamentary Press Gallery who are still working there, and by some of the new senators, but, man, oh, man, what a privilege to be here and carry on our work, not only in the world of communications but in the world of policy. To be inside the room, whether you are inside the room inside this institution, or inside the room working for the Prime Minister, or inside the room being in opposition, we live and work in a privileged environment.

I know that I speak on behalf of Senator Wallin and Senator Duffy when I say it does not matter that you compete; what does matter is real, deep friendship, both in Ottawa and on the road. I was on the road with Jim for more than 30 years, and I will treasure that friendship.

I think Canada will miss his independent voice writing for the *Toronto Star* or writing for the *Ottawa Citizen*, or when he was in Africa as a reporter. I have a son who was in Africa and works for Journalists for Human Rights. Jim was obviously loving and fond of his son, who also works in the journalistic and communications world. We were voice pieces for our boys.

I would like to echo what Senator Duffy has said and what Senator Wallin is obviously feeling in her heart, that I will treasure that friendship.

[*Translation*]

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Gerald J. Comeau (Deputy Leader of the Government), for Senator Tkachuk, pursuant to notice of March 3, 2011, moved:

That the Standing Committee on Internal Economy, Budgets and Administration have power to sit at 2 p.m. on Wednesday, March 9, 2011, even though the Senate may then be sitting, with the application of rule 95(4) being suspended in relation thereto.

(Motion agreed to.)

ADJOURNMENT

Leave having been given to revert to Government Notices of Motions:

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Tuesday, March 8, 2011 at 2 p.m.

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

Hon. Senators: Agreed.

(Motion agreed to.)

(The Senate adjourned until Tuesday, March 8, 2011 at 2 p.m.)

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