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OFFICIAL REPORT
(HANSARD)

Thursday, May 17, 2012

The Honourable NOËL A. KINSELLA
Speaker

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

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THE SENATE

Thursday, May 17, 2012

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

Prayers.

[*Translation*]

ROYAL ASSENT

The **Hon. the Speaker** informed the Senate that the following communication had been received:

RIDEAU HALL

May 17, 2012

Mr. Speaker,

I have the honour to inform you that the Right Honourable David Johnston, Governor General of Canada, signified royal assent by written declaration to the bills listed in the Schedule to this letter on the 17th day of May, 2012, at 9:30 a.m.

Yours sincerely,

Stephen Wallace
Secretary to the Governor General

The Honourable
The Speaker of the Senate
Ottawa

Bill Assented to Thursday, May 17, 2012:

An Act to amend the Railway Safety Act and to make consequential amendments to the Canada Transportation Act (*Bill S-4, Chapter 7, 2012*)

An Act to authorize Industrial Alliance Pacific Insurance and Financial Services Inc. to apply to be continued as a body corporate under the laws of Quebec (*Bill S-1003*)

• (1330)

[*English*]

SENATORS' STATEMENTS

ACCIDENTS CAUSED BY USE OF MOBILE DEVICE HEADPHONES

Hon. Betty Unger: Honourable senators, I rise to draw your attention to a disturbing trend among young people today across North America. More and more young pedestrians, wearing

headphones attached to the newest mobile devices, are becoming victims in serious train and motor vehicle accidents. Because of the rising popularity of mobile devices using headphones, the statistics are rising dramatically.

Young people are being seriously hurt or killed because they are simply losing track of their surroundings. They are becoming what some call "inattentionally blind," focusing too much attention on their devices and not enough attention on the world around them.

This past February, two teens were struck by trains in separate, yet shockingly similar, accidents. Both were in high school and both were hit by trains at level crossings. Both were using mobile devices and wearing headphones. Both were distracted and did not see or hear the warning signals from the approaching trains. One boy was from Oshawa, Ontario; the other was from Leduc, Alberta. Tragically, both died only one day apart. In the same month a 27-year-old man was walking along a train track in Banff, Alberta, and was struck by a Canadian Pacific train. He was wearing a toque and headphones and apparently did not hear the train coming; he was pronounced dead at the scene.

Today we live in a society which is increasingly safety conscious, and accidents like these should never happen, but sadly they are happening all the time. A recent U.S. study has revealed that 67 per cent of these fatalities were under the age of 30, 68 per cent were male and almost 9 out of 10 cases occurred in urban areas. An expert in this field, Dr. Lichenstein, an associate professor of pediatrics at the University of Maryland, stated:

Everybody is aware of the risk of cell phones and texting in automobiles, but I see more and more teens distracted with the latest devices and headphones in their ears.

• (1340)

New research conducted by the University of Maryland has found that serious injuries to pedestrians listening to headphones have more than tripled in six years. In many cases, the cars or trains are sounding horns, but the pedestrians cannot hear, leading to fatalities in three quarters of the cases.

As a grandmother of two teenage boys, I am alarmed by these statistics. What makes them so troubling is that, in most cases, the accidents were preventable if mobile devices and headphones had not been used.

Honourable senators, I sincerely believe that we have a responsibility to raise awareness of this disturbing trend and to warn Canadians of the dangers of using handheld devices and headphones where moving vehicles are present. We must remind Canadians, and especially parents of children and young adults, to stop, look and listen, and we must urge them to stay alert so that they can stay alive.

MR. SHERALI BANDALI JAFFERCONGRATULATIONS ON RECEIVING UGANDA'S
NATIONAL INDEPENDENCE MEDAL

Hon. Mobina S. B. Jaffer: Honourable senators, I rise today to honour my father, Sherali Bandali Jaffer, who was recently decorated with Uganda's National Independence Medal, one of the highest awards granted by the government of Uganda. This medal, known as the Hero's Award, was first awarded by Queen Elizabeth II in 1962, at the time of Uganda's independence. It is an honour awarded to those individuals who have contributed significantly to Uganda's struggle to obtain independence, as well as to those who continue to work diligently to protect its independence.

My father has devoted his life to creating a strong, independent Uganda and is extremely proud to have represented his Ugandan brothers and sisters as a city councillor and as a member of parliament under President Obote's government.

In 1972, under the rein of Idi Amin, my father and our entire family were exiled and forced to leave Uganda, our country of birth, with nothing but the clothes on our backs. After seeking refuge in Vancouver and establishing successful businesses in Canada, my father chooses to continue to return to Uganda from time to time, as it is his place of birth.

Although my father contributed to the social, economic and political advancement of Uganda, his main focus has always been on the importance of education. Having personally sponsored over 1,000 Ugandan students and built a number of schools, including the Kibuli Mosque and School, now one of the best educational institutions in Uganda, my father has always firmly believed that investing in the education of young people would transform the lives of the most marginalized boys and girls and in turn help entire communities and countries to prosper. During my travels, I have often crossed paths with individuals whom my father helped to educate, and I am truly humbled by the impact that he had on their lives. The importance my father placed on education also helped me to get to where I am today. Fifty years ago, when girls often did not receive higher education, my father sent me to England to study. It is because of his constant support, advice and guidance that I am able to rise before all of you today, in the Senate of Canada, and represent my province of British Columbia.

My father's love for Uganda comes second only to the love he has for his family. He is a proud father of one son, five daughters, four sons-in-law, one daughter-in-law, 13 grandchildren and 2 great-grandchildren. We all consider ourselves exceptionally fortunate to be able to call such an amazing man our papa. Even in the darkest of times, he has always managed to bring light into our lives. Last night, I was incredibly touched to hear my grandson, Ayaan, say to my dad, "Papa, please return to Vancouver. I need you to sparkle my life. I miss you." I agree with my grandson. My father has indeed put a sparkle not only in our lives but also in the lives of many Ugandans.

HON. KELVIN KENNETH OGILVIE, C.M.CONGRATULATIONS ON BIOMEDICAL
SCIENCE AMBASSADOR'S AWARD

Hon. Donald H. Oliver: Honourable senators, I was born in Wolfville, near the heart of the beautiful Annapolis Valley in Nova Scotia, and I am delighted today to call your attention to an honour received by one of our valley's outstanding statesmen. I am referring, of course, to our colleague, Honourable Senator Kelvin Ogilvie, who was just received another accolade for scientific excellence. This time it was the Biomedical Science Ambassador Award, received from Partners in Research. A number of his Senate colleagues were on hand on May 9, at Partners in Research's 2012 Ottawa Gala Fundraiser, at the Hampton Inn and Conference Centre, when Senator Ogilvie received the award. The theme of this year's gala was "Virtually Educating Our Future."

The citation for Senator Ogilvie read, in part, as follows:

In recognition of his distinguished service as an internationally acclaimed scientist and innovator whose chemistry of the "Gene Machine" helped launch the modern technological revolution.

His invention of Ganciclovir, an anti-herpes drug that continues to save the lives of thousands around the world, has been hailed as a "milestone of Canadian chemistry in the 20th Century." He was also the first to chemically synthesize and transfer RNA molecules.

There were dozens of scientists, educators, students and friends at the gala, the purpose for which was to enhance public understanding of health research and inspire elementary and secondary students in the fields of science, technology, engineering and mathematics. Senator Ogilvie was the keynote speaker. Linda and I also had the pleasure of joining former Prime Minister Joe Clark and his wife, Maureen McTeer. At the same event, she was awarded the Ronald G. Calhoun Science Ambassador Award for her outstanding leadership in health advocacy, particularly for women. In her speech, she outlined work she had done in promoting health and science research.

Partners in Research, established in 1988, is a national charity with the mandate of educating the lay public, in particular young people, about the history, importance, accomplishments and promise of health research in all of its aspects.

Honourable senators, please join me in congratulating our esteemed colleague, Honourable Senator Kelvin Ogilvie, for his outstanding achievements and his receipt of this prestigious award. He continues to represent us so well with his scientific excellence.

MR. DAVID DORNSIFE

Hon. Roméo Antonius Dallaire: Honourable senators, I rise today to inform you of a great philanthropist that I recently met and to tell you a bit about the source of his funds, which I think is worthy of our attention. Last Friday, I was at the convocation of the University of Southern California, and, at that ceremony, a number of honorary degrees were given. One of them was to a Mr. David Dornsife. Mr. Dornsife is known, as is his wife and partner in philanthropic work, to have extensively supported

World Vision by advancing projects to bring water, well-drilling capabilities, sanitation and hygiene to more than 1 million people in Niger, Ghana, Mali, Ethiopia and Zambia. His wife has also advanced micro-enterprise and literacy projects, in Mauritania, to empower women.

He is the head of a California-based steel fabrication and installation company. In conversing with him, I found out that he had given the largest donation to the University of Southern California, to the tune of \$300 million.

However, the company that is the source of his funding is a steel infrastructure building company. In discussions, he said, "I am very much engaged in the oil sector of Canada." He said that he is providing all of the steel required in Saskatchewan and Alberta to build the infrastructure for the tar sands. He said that he is also heavily involved in building pipelines and pipes for pipelines. "By the way," he said, "I am just opening up a refinery in Illinois to refine Alberta oil." I said, "Why are you doing that from there?" I suggested that surely his company could acquire assets in Canada to build and provide all the material needed to improve our capabilities of being safe and also an ethical provider of oil and energy to his country.

• (1350)

Mr. Dornsife said, "You know, I would, but it's too expensive. It can't be priced." He could not make a profit if he used Canadian steel and Canadian manufacturing capabilities, or even by installing a refinery in Canada to refine Canadian oil. His profits are coming from our oil, but we are not getting any of the infrastructure built, or any assets from that in order to improve our industries. We are just pumping oil down to meet his needs.

[*Translation*]

CANADA-FRANCE INTER-PARLIAMENTARY ASSOCIATION

OBSERVATION MISSION OF FRENCH PRESIDENTIAL ELECTION

Hon. Claudette Tardif (Deputy Leader of the Opposition): Honourable senators, as President of the Canada-France Inter-parliamentary Association, I had the privilege of conducting an election observation mission for the second round of the French presidential election from May 2 to 6, 2012. The Canadian delegation was made up of five parliamentarians representing all the parties in both chambers, and included our honourable colleague, Senator Michel Rivard.

Canada's presence at the French presidential and legislative elections is very important. It is part of a longstanding tradition of diplomacy, cooperation and friendship between the two countries. These visits make it possible to maintain and strengthen this special relationship, which is characterized by a common language, culture and history.

After this experience, I can testify not only to the value Canadian parliamentarians gain from participating in this election observation, but also to the interest generated among the people of France by the presence of Canadian parliamentarians at these historic electoral events.

[Senator Dallaire]

The two main political parties in France welcomed the Canadian delegation very enthusiastically. The French presidential campaign and its results attracted and held the attention of many people around the world.

France, a great world power, plays and will continue to play a key role in the international community, particularly in Europe, given that the euro crisis and public deficits are affecting the entire world, including Canada, since we are currently in the process of negotiating a free trade agreement with the European Union.

The Canadian delegation witnessed first-hand a change in regime that will have both national and international consequences. Canada has much to learn from this most recent French presidential election, which had a voter turnout rate of almost 82 per cent and a high level of youth participation and which made effective use of social media.

Finally, I want to take this opportunity to offer my most sincere congratulations to the Honourable Lawrence Cannon on his appointment to the position of Ambassador of Canada to France. As ambassador, he will undoubtedly extend the relationship of trust and friendship that Canada enjoys with France.

ROUTINE PROCEEDINGS

THE ESTIMATES, 2012-13

SUPPLEMENTARY ESTIMATES (A) TABLED

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, I have the honour to table, in both official languages, Supplementary Estimates (A) for the fiscal year ending March 31, 2013.

JUSTICE

JUDICIAL COMPENSATION AND BENEFITS COMMISSION—REPORT TABLED

Hon. Claude Carignan (Deputy Leader of the Government): I have the honour to table, in both official languages, the report and recommendations of the Judicial Compensation and Benefits Commission.

[*English*]

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

ELEVENTH REPORT OF COMMITTEE TABLED

Hon. David Tkachuk: Honourable senators, I have the honour to table, in both official languages, the eleventh report of the Standing Committee on Internal Economy, Budgets and Administration, which deals with senators' travel policy.

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

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

THE ESTIMATES, 2012-13

NOTICE OF MOTION TO AUTHORIZE NATIONAL FINANCE COMMITTEE TO STUDY SUPPLEMENTARY ESTIMATES (A)

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the Standing Senate Committee on National Finance be authorized to examine and report upon the expenditures set out in the Supplementary Estimates (A) for the fiscal year ending March 31, 2013.

EMPLOYMENT INSURANCE 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-316, An Act to amend the Employment Insurance Act (incarceration).

(Bill read first time.)

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

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

[*Translation*]

INTER-PARLIAMENTARY UNION

ASSEMBLY AND RELATED MEETINGS, OCTOBER 4-6, 2010—REPORT TABLED

Hon. Suzanne Fortin-Duplessis: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Inter-Parliamentary Union respecting its participation at the 123rd IPU assembly and related meetings, held from October 4-6, 2010, in Geneva, Switzerland.

ASSEMBLY AND RELATED MEETINGS, APRIL 15-20, 2011—REPORT TABLED

Hon. Suzanne Fortin-Duplessis: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Inter-Parliamentary Union respecting its participation at the 124th IPU assembly and related meetings, held from April 15-20, 2011, in Panama City, Panama.

ASSEMBLY AND RELATED MEETINGS, OCTOBER 16-19, 2011—REPORT TABLED

Hon. Suzanne Fortin-Duplessis: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian delegation of the Inter-Parliamentary Union respecting its participation at the 125th IPU Assembly and related meetings, held October 16 to 19, 2011, in Bern, Switzerland.

MEETING OF THE CO-RAPPORTEURS OF THE THIRD IPU STANDING COMMITTEE ON DEMOCRACY AND HUMAN RIGHTS, MAY 18-20, 2011—REPORT TABLED

Hon. Suzanne Fortin-Duplessis: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian delegation of the Inter-Parliamentary Union respecting its participation at the meeting of co-rapporteurs of the third IPU standing committee on democracy and human rights, held May 18 to 20, 2011, in Geneva, Switzerland.

PARLIAMENTARY PANEL WITHIN WORLD TRADE ORGANIZATION PUBLIC FORUM 2011 AND THE SESSION OF THE STEERING COMMITTEE OF THE PARLIAMENTARY CONFERENCE ON THE WORLD TRADE ORGANIZATION, SEPTEMBER 20-21, 2011—REPORT TABLED

Hon. Suzanne Fortin-Duplessis: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian delegation of the Inter-Parliamentary Union respecting its participation at the parliamentary panel within the framework of the World Trade Organization (WTO) Public Forum 2011, and the 24th session of the Steering committee of the parliamentary conference on the World Trade Organization, held September 20 and 21, 2011, in Geneva, Switzerland.

• (1400)

[*English*]

QUESTION PERIOD

HEALTH

UNITED NATIONS SPECIAL RAPPORTEUR ON THE RIGHT TO FOOD—NATIONAL FOOD STRATEGY

Hon. Art Eggleton: Honourable senators, the United Nations Special Rapporteur on the Right to Food concluded yesterday that Canada is ignoring hunger within its own borders. He said:

What I've seen in Canada is a system that presents barriers for the poor to access nutritious diets and that tolerates increased inequalities between rich and poor, and Aboriginal non-Aboriginal peoples . . .

He pointed out that these growing disparities are leaving 800,000 households without the wherewithal to ensure that they can put proper food on the table. Will the government act on his recommendations? Will it develop a national food strategy?

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, I noted the comments of the United Nations rapporteur yesterday in the media conference. I was struck by his lack of knowledge of Canada. When he met with Health Minister Aglukkaq, she too was surprised by his complete lack of knowledge regarding Canada in general, Aboriginal people, Inuit and how Aboriginal people depend on other sources for their food security.

The rapporteur made his comments about our Aboriginal people without ever setting foot in Canada's Arctic. It is obvious that he is severely limited as to how he would be in a position to adjudicate on any of Canada's policies, most particularly in relation to our Aboriginal people.

Senator Eggleton: Honourable senators, the rapporteur travelled in parts of this country and saw hunger. Hunger is hunger wherever you see it. We know there is hunger in this country. The Standing Senate Committee on Social Affairs, Science and Technology did a report that found a staggering one in ten Canadians lives in poverty, one in four of them being children. That is 3.4 million people, many of whom are working but still cannot make enough money to put proper nutritious food on the table. We know that and we adopted that in a report in the Senate.

All of this has a profound impact on the productivity of our workforce and the health of our nation. Poverty expands health care costs, policing burdens and diminishes educational outcomes. In turn, this depresses productivity, economic expansion and social progress, all of which takes place at a huge cost to the taxpayers and a robust potential to our economy, not to mention the food-on-the-table problem.

Will the government commit to working with the provinces to establish a pan-Canadian poverty-reduction framework, as recommended by the Social Affairs Committee in its report?

Senator LeBreton: Honourable senators, the government is already doing that by working with provincial and territorial health officials.

Although I do not often commend honourable senators to read any newspaper, I would commend them to read an article by John Ivison in today's *National Post*. He pretty well nailed it in terms of the extent of this gentleman's work. By the United Nations' own measure, Canada ranks sixth best in the world on the Human Development Index. While the rapporteur is travelling the streets of Montreal, Toronto, Ottawa and any other urban centre, 65 per cent of the world's hungry live in only seven countries: India, China, the Democratic Republic of Congo, Bangladesh, Indonesia, Pakistan and Ethiopia — almost all countries where Canada contributes significantly to the World Food Programme.

The Minister of Health pointed out yesterday that there are issues concerning proper nutritional health in this country. We have a huge problem with obesity. Senator Raine and other

senators are advancing these concerns. However, to suggest that Canada, with a better record on all of these fronts, is somehow a problem in the world says more about the United Nations than it says about Canada.

ENVIRONMENT

NATIONAL ROUND TABLE ON THE ENVIRONMENT AND THE ECONOMY

Hon. Elizabeth Hubley: Honourable senators, my question is for the Leader of the Government in the Senate. The National Round Table on the Environment and the Economy, an arm's-length federal advisory panel, recently learned that its budget has been cut and that it will be shut down. For the past 24 years, the NRTEE has provided independent research and analysis on a range of important environmental and economic issues. Their most recent and now final report, released a day before the budget was tabled, was on the life cycle approach to production and was completed in response to a specific request from Environment Minister Peter Kent. Initially when the government was questioned in the other place about the elimination of the NRTEE, the response from Minister Kent was that the round table was no longer necessary. This was an interesting response, considering that the agency had just completed a report specifically requested by the minister.

Even more interesting was that we learned earlier this week from Minister Baird about the real reason the government has eliminated the NRTEE. According to him, the round table had its funding cut because it was producing reports that the government did not like. Is this true? Is this just another example of the government's preference for ideological rather than evidence-based decision making?

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, I am aware of the report that NRTEE has tabled at the request of the Ministry of the Environment. We thank them for the report. It was requested. However, that does not change the government's intention to end funding to the National Round Table on the Environment and the Economy.

When the round table was founded in 1988, I happened to be on the other end of it at the time. There were limited sources of public policy advice on the environment, and that is why it was set up. Today, there is absolutely no shortage of organizations providing scientific advice and research, and so there is no longer a need for the government to fund a body such as the round table. It is time to put the funding to better use for taxpayers. That is the position of the government, and that will not change.

Senator Hubley: Honourable senators, I thank the leader for her answer. It is interesting that I have heard this answer in response to several questions involving the cutting of valuable programs that have served the country well for many years. It is strange because if something has worked so well for that amount of time, it obviously was a useful program. That should in some way ensure that it would continue, but obviously the government thinks differently.

On a supplementary, the elimination of the NRTEE is just one of several changes the government is making that will impact environmental research and policy directions. More and more we are seeing a move towards closed-door decision making and the muzzling of scientists.

• (1410)

How can the government assure Canadians that it is taking their environmental concerns seriously when it is silencing independent voices, such as those from the National Round Table on the Environment and the Economy?

Senator LeBreton: Honourable senators, I have been asked many questions in the Senate about various government programs that we are ending, such as Katimavik. Many programs that were started by previous governments still perform functions in the interests of the government and the Canadian public. However, there are agencies, honourable senators, that have outlived their usefulness. Many of these programs were set up to provide for a need at the time, and they were supposed to be sunsetted. I have complained many times that the sun never sets. The programs go on and on, even though the purpose for which they were set up no longer exists. There will be all kinds of programs like that.

This is called good and prudent management of taxpayers' dollars. We are trying to reduce the deficit. We are trying to provide jobs, grow the economy and ensure long-term prosperity.

It is not the case that scientists are being muzzled. I have answered those questions here before. That is another myth that floats around this town.

As I have said, the National Round Table on the Environment and the Economy was set up in 1988, and I was involved in setting it up. There was a need for it at the time because there were not many organizations providing advice and research on the environment. Now, there is no end to the number of organizations, universities and people in the private sector assisting in advising the government and the private sector on the environment. That underscores the fact that there is no longer any need for the government to keep funding a body like the National Round Table on the Environment and the Economy.

SCIENCE AND TECHNOLOGY

ARCTIC RESEARCH

Hon. Claudette Tardif (Deputy Leader of the Opposition): Honourable senators, the Arctic Institute of North America's Kluane Lake Research Station, which just celebrated its fiftieth anniversary, will likely be forced to close its doors soon due to federal budget cuts. This station, operated mainly by scientists from universities in Alberta and British Columbia, is one of many whose operations are being threatened in the Arctic.

In response to federal budget cuts, the Natural Sciences and Engineering Research Council has ended a funding program that helped this facility and other research facilities across Canada. The Kluane Lake Research Station was renovated just last year

after receiving a \$2.5 million investment from the federal government's Arctic Research Infrastructure Fund, but now scientists working there cannot afford to keep it operational.

Why would the government invest in infrastructure in the Arctic without a plan for keeping these important facilities operational?

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, I believe that the honourable senator has asked me that question before. The funding for that organization was not solely provided by the government. When the senator asked this question before, I undertook to get a written response. Perhaps I did not do that, but I will take this question as notice.

The organization of which the honourable senator speaks could not access funding from other sources, and that is why they could not continue.

Senator Tardif: Honourable senators, that was not the same facility; it was the Polar Environmental Atmospheric Research Laboratory, PEARL. I can understand that it could be confusing as so many facilities are being shut down.

The government has repeatedly said that it is committed to having an important presence in the North. However, due to federal budget cuts and the cost of operating there, many scientists who are now hard-pressed for funding are shifting their research away from the Arctic and are preparing their exit.

David Hik, a University of Alberta scientist and a member of the board of this Arctic Institute said budget cuts:

... will have repercussions on the operations of most Arctic infrastructures operated or funded by universities, or other NSERC eligible institutions.

... there is a clear misalignment between major investments in infrastructure such as new buildings, ships, research stations through the Economic Action Plan and other programs, and large cuts or absence of any sustainable operational funding.

Honourable senators, these stations provide important services, from research on climate change to affirming Canada's sovereignty in the North. Why is the government allowing them to shut down?

Senator LeBreton: Honourable senators, it is clear that the government has embarked on a whole host of programs targeted to the North through the infrastructure program and many other initiatives. I thank the honourable senator for clarifying that it was the PEARL project that she had asked about earlier.

The government has undertaken many initiatives in the North. I will take the honourable senator's question as notice. There is a lot of misinformation flying about with regard to what we are doing in the North, the resources we have put into the North, the role of the scientists and to whom they are responsible. Sometimes we partner with the private sector.

If the honourable senator does not mind, I will take her question as notice and provide her with a detailed response.

[*Translation*]

INDUSTRY

RADARSAT SATELLITE AND COMMUNICATION PROJECTS

Hon. Roméo Antonius Dallaire: Honourable senators, my question is for the Leader of the Government in the Senate, and follows along the same lines as Senator Tardif's question regarding the Arctic.

The Prime Minister has travelled to the North on several occasions to affirm the essential role of our sovereignty and our presence in the Arctic. Without this presence, it would be difficult to assert our Arctic sovereignty.

The budget has not yet passed, but the departments are already getting ready to implement it. However, there seems to be a lack of continuity or a lack of communication between those who are implementing the budget cuts and the Prime Minister regarding his policies on certain issues, and the Arctic is one such example.

Consider the example of Canadian naval vessels. They were supposed to begin patrolling the Arctic in 2016. However, that project has been postponed by three years. It is going to take three years to complete that project.

It also appears as though the RADARSAT Constellation, a large-scale project involving three satellites to monitor the North, is about to be abolished or at least postponed.

Has the Prime Minister developed a policy whereby he committed to monitor the Arctic, but now that it is time to allocate funding, he has changed his basic philosophy regarding the desire to move forward on the issue of Arctic sovereignty?

[*English*]

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, the Prime Minister and the government have been clear about the importance of our North, not only in terms of our sovereignty, but also in terms of the development of the North and ensuring that the people there benefit directly from that development. We have undertaken to build a new icebreaker, for example.

As I said in response to Senator Tardif's question, there is a host of actions the government has taken that specifically relate to the North. I will take the honourable senator's question as notice and add it to the information I want to provide to Senator Tardif.

• (1420)

Senator Dallaire: In the continuity of the concern regarding the Arctic — that is to say, having a surveillance capability to observe who is moving around, as well as security needs with regard to the environment and other security matters — we are turning extensively to technology. In fact, we have been turning to MacDonald, Dettwiler and Associates out of Vancouver to be the lead in advancing some of our satellite technology in order to do that surveillance in the North. What is happening is a bit of a problem with regard to the left hand and the right hand.

On the left hand, the government has decided that the technology at MacDonald, Dettwiler and Associates could not be sold to other countries because it has strategic value and interest, and that the company would receive contractual arrangements in order to implement, as an example, the RADARSAT Constellation.

However, the budgets have not come forward. The company has received nothing with regard to being able to implement that project. They are sitting there right now with a promissory note that says, "Yes, maybe we will move forward with that project." They have an instruction that says they cannot sell that equipment, and they have a whole bunch of scientists who are packing up and going south. This smells like the Avro Arrow story. We build an extraordinary capability, the government commits itself, and then it says it is closing the project down. All that capability goes south, and ultimately we end up buying the stuff that our own people in the south are selling back to us.

Can the leader tell us whether or not MacDonald Dettwiler will get a response from Minister Paradis as to that essential project of the future and be able to not only keep the capability here, but also keep those highly regarded scientists and engineers working in Canada for Canadian needs?

Senator LeBreton: The honourable senator said "maybe" we will commit to RADARSAT. It is not maybe. Our government remains committed to the RADARSAT Constellation Mission and we are working to ensure that this program is delivered in a cost-effective way. That is what we are doing. That is what the Canadian taxpayer would want us to do.

The speculation about the future of RADARSAT has been mischievous, to say the least. I cannot help but correct the record. The honourable senator was right when he made the comment that the government did make the decision to cancel the Avro Arrow project. This was always blamed on the Diefenbaker government, but history and the record clearly show that the decision was made by the St. Laurent government to scrap the program. Like all things in government — the transition of government — when Mr. Diefenbaker defeated the St. Laurent government, he was left with a program that they had already decided to scrap. It requires repeating many times because it is another one of those myths that lie around.

Senator Dallaire: We had better ensure that we are reading an objective history and not a politically based history. The Diefenbaker government had ample opportunity to reverse that trend that may have moved the Avro Arrow program to being stopped, and could have continued that program if it wanted to.

Let me get back to RADARSAT. We know that 100 employees left last year and another 50 are leaving this year, with the possibility of 100 going south. That is a fact. Looking at the cost-effectiveness of the project is one thing, but by the by, we will have to end up buying it from the Americans because these characters are all going to the United States and our capability will be eliminated.

In line with that, National Defence has a space program. The Royal Military College has a degree in space science, which is variant of a degree in physics. Their satellite program is called

Sapphire. It is supposed to be implemented to provide surveillance and communications support for our operational capabilities. Can the leader tell me whether that project has also been under the gun and moved to the right by three years under this budgetary process?

Senator LeBreton: Honourable senators, Steve MacLean, head of the Canadian Space Agency, is doing an outstanding job.

The honourable senator asked specific questions about various parts of our programs with regard to satellites and communications. As I indicated a few moments ago, there is obviously a lot of detail. I would not believe everything one reads in the newspaper about scientists coming and going. We have read these stories before. However, I will provide the honourable senator with a written response.

Senator Dallaire: I raised this next point a couple of years ago: I wonder whether or not there is a requirement for us to have a time limit on responses and whether that is a point of order or a procedure that we want to entertain.

[Translation]

ORDERS OF THE DAY

CRIMINAL CODE

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Andreychuk, seconded by the Honourable Senator Tkachuk, for the second reading of Bill S-9, An Act to amend the Criminal Code.

Hon. Roméo Antonius Dallaire: Honourable senators, yes indeed, you are going to have to put up with me for another 45 minutes, but I will try to do as my friends in the U.S. Marines taught me.

[English]

I will try to power talk my way through this and curtail my time.

Honourable senators, Bill S-9 concerns nuclear terrorism. In the 1970s when I was serving, Canada still had the capability of delivering nuclear weapons. By that time we had gotten rid of the missiles we had and we were based on gun systems. In my duties within NATO, I had the capability of ultimately being able to deliver nuclear weapons.

Some of the tactical nuclear weapons that I speak of are the size of a grapefruit and can take out half of Toronto. There are still close to 27,000 of those weapons out there today, and those are

the small ones, the tactical ones. Therefore, there is an urgency and a concern that in fact the international community does its best to ensure that nuclear capabilities do not fall into the wrong hands.

Bill S-9 on nuclear terrorism is a bill that I certainly support. Let me provide some of the surrounding material to the argument in support of this bill.

The bill is entitled An Act to amend the Criminal Code to combat nuclear terrorism. My objective today is to outline a number of elements within the legislation itself, as well as a series of concerns that I have with Canada's anti-nuclear efforts. I want to describe how Bill S-9 fits into those efforts and finally discuss questions that need further study in committee.

Nuclear weapons are the most extreme massive violation of human rights imaginable. They are a violation of our human right to security, to peace in the world. These terrible weapons of mass destruction not only threaten us as a species, but they threaten our humanity as well.

• (1430)

Why worry about an oil spill or a plastic bag when we actually have the capability of wiping out the planet completely?

Honourable senators, there is simply no other issue of equal or greater importance, significance, danger or threat than that of a nuclear weapon to Canadians and to global security.

Honourable senators, nuclear weapons are absolutely and totally useless weapons.

[Translation]

I would like to express my support for what Senator Andreychuk said when she proposed these amendments on March 27, 2012, on behalf of the Honourable Rob Nicholson. These amendments will update Canada's penalties for activities related to nuclear terrorism and will enable Canada to implement in full two major international agreements on the fight against nuclear terrorism.

This is in accordance with Amendment to the CPPNM regarding criminalization and constitutes a national law that would enable Canada to ratify the ICSANT. This is an important symbolic measure that brings Canada into step with its international partners.

Canada is committed to participating in international efforts to fight nuclear terrorism. We are one of the states parties to the 1980 Convention on the Physical Protection of Nuclear Material, the CPPNM, which establishes measures related to the prevention, detection and punishment of offences related to nuclear material.

Canada has also signed the 2005 International Convention for the Suppression of Acts of Nuclear Terrorism, ICSANT, which covers a broad range of criminal acts and stipulates how those who commit nuclear terrorism offences are to be treated.

Canada's Nuclear Safety and Control Act and Nuclear Security Regulations fulfill the physical protection requirements set out in the 2005 Amendment to the CPPNM, but criminalization measures are not yet in place.

Bill S-9 would amend the Criminal Code to create four new offences.

Possessing or trafficking in nuclear or radioactive material or devices would be illegal. Anyone found guilty of this serious offence would be liable to imprisonment for life.

Anyone found guilty of using or altering nuclear or radioactive material or devices or committing an act against a nuclear facility would be guilty of an indictable offence and would be liable to imprisonment for life.

Anyone committing an indictable offence with the intent to obtain nuclear or radioactive material or a device or to obtain access to or control of a nuclear facility would be guilty of an indictable offence and liable to imprisonment for life.

Lastly, anyone threatening to commit any of these offences would be guilty of threatening and liable to imprisonment for up to 14 years.

These penalties are in line with the international agreements we signed.

[English]

This bill can be seen as a tool to close legal loopholes when it comes to the prosecution of those carrying out activities related to nuclear terrorism. Through the extraterritorial jurisdiction approach, it extends the reach of Canadian law where prosecution may have previously occurred in a legal vacuum. It also provides for extradition in the case of nuclear terrorism without the need for pre-existing bilateral agreements.

If we are to leave this planet a better place for those who succeed us, then we must take nuclear weapons far more seriously into the forefront, and we must struggle with every effort that we can muster to keep our planet free of their use.

Bill S-9 is the result of one such effort, but it is certainly not enough. Though perhaps Canadians feel unthreatened by the prospect of nuclear terrorism, I must stress that theft of weapons-grade material and components is not just possible, it is happening. Some of the world's estimated 2,100 tonnes of plutonium and highly enriched uranium are kept in poorly guarded buildings, and there have been 18 known attempted thefts since 1993. These are the materials essential for creating the nuclear weapons.

Matthew Bunn, an eminent scholar at Harvard University and a former White House adviser in the Office of Science and Technology Policy says that the al Qaeda terrorist network has made repeated attempts to buy stolen nuclear material in order to make a nuclear bomb. They have tried to recruit nuclear weapons scientists, including two extremist Pakistani nuclear weapons scientists, who met with Osama bin Laden shortly before the 9/11 attacks to discuss nuclear weapons. Nuclear terrorism, Bunn

says, remains a real and urgent threat. The way to respond is through international cooperation, not confrontation and certainly not war.

Responding to these new threats, the UN Security Council, in 2004, adopted Resolution 1540, binding all states to enforce measures aimed at preventing non-state actors from acquiring nuclear, biological or chemical weapons and their means of delivery. A nuclear weapon on the back of a truck may not necessarily be the most effective delivery means, but in downtown Toronto, it could still achieve its aim.

However, the resolution requires complex implementation mechanisms that reduce confidence in its effectiveness. When President Obama convened the Security Council in 2009 to tighten up the non-proliferation regime, Resolution 1887 on non-proliferation was unanimously adopted. While that resolution called for the enforcement of strict controls on nuclear material to prevent it from falling into dangerous hands, it also underlined the right of states to pursue peaceful nuclear energy under the IAEA supervision, so nuclear power is certainly acceptable and within the context of the use of nuclear material.

Unfortunately, all it could do was urge states to curb the export of nuclear-related material to countries that had terminated their compliance with agency safeguard agreements. Since fewer than half of the world's governments have signed on to the tougher IAEA inspection program known as the additional protocol, the checkpoints on nuclear materials are full of holes.

This perilous state of affairs prompted the Obama administration to convene the Washington Nuclear Security Summit in April 2010, a conference that would be succeeded by the Seoul conference in 2012. There, 47 heads of government, including of course Canada's and including those of India, Pakistan and Israel, where the fear of terrorism is constant, pledged to prevent the theft of fissile material by securing stockpiles within four years. That was the plan.

With this commitment, the chances are better that at least states possessing civilian nuclear sites, many of which lack even standard military protections like barbed wire and checkpoints, will invest in proper security measures, such as fuel vaults, motion detectors and central alarms.

• (1440)

Most importantly, the leaders left the summit with a new resolve to beef up the 30-year-old Convention on the Physical Protection of Nuclear Material and to tighten security measures around the world. Canada is attempting to achieve that in this bill.

[Translation]

A "new nuclear order" is needed to confirm the symbiotic relationship between the non-proliferation of nuclear weapons and nuclear disarmament. Ban Ki-moon, the Secretary General of the United Nations, and President Obama have tried to lead the way to a nuclear-free world. However, many important countries, including Canada, hesitate to follow their lead and appear to be afraid to embrace the bold measures needed to truly rid the world of nuclear weapons.

[Senator Dallaire]

In the hope that modest measures will be enough to stave off nuclear disaster, these countries are resisting the historic movement that would put an end, once and for all, to the proliferation of weapons that poses a problem for all peoples.

[*English*]

I will bring to honourable senators' attention a bit of history. In 1957, in the little village of Pugwash, Nova Scotia, a gentleman called Cyrus Eaton, who made his millions in the United States but came back to use them in Canada, put together a group of 20 nuclear physicists, including the Russians, at the height of the Cold War. Together they commenced the process of ultimately creating an atmosphere for nuclear disarmament and non-proliferation.

The Pugwash movement, of which I have been the patron, continues still today. It meets internationally, and Pugwash, Nova Scotia, remains the heart of that overall anti-nuclear movement.

[*Translation*]

Quite an impressive achievement for a fisherman!

The international community has voiced its concerns about the catastrophic humanitarian consequences of the use of nuclear weapons and again stated that all countries must obey international humanitarian law.

In fact, the 2010 Review Conference, tasked with reviewing the Non-proliferation of Nuclear Weapons Treaty, added to the world's agenda consideration of negotiations toward a nuclear weapons treaty to strengthen the instruments. For the first time, the concept of an international ban on all nuclear weapons was validated. That was a first step.

However, progress is hindered by modernization programs of countries with nuclear weapons, countries that have retained their military doctrine of nuclear deterrence as a means of exercising their authority. Moving forward with some reductions would be beneficial; eliminating all weapons would not, at least not at this time.

[*English*]

It is interesting that since the end of the Cold War, when we sought the peace dividend and reduced our conventional military capabilities and the start of a disarmament program was commenced, up to this day, the developed countries that possessed nuclear weapons have invested over \$800 billion in modernizing them. That is at a time when we do not need them anymore, certainly not under the context of the history of why they were created in the first place. We have not put \$800 billion into environmental protections, but we have put \$800 billion into how to wipe out the planet and humanity along with it.

[*Translation*]

The nuclear powers say that, as long as nuclear weapons exist, they will have to keep their arsenals. According to the convoluted logic that led to the historic nuclear arms race during the Cold War, as we have seen, the degree of security these weapons bring always depends on their use.

[*English*]

The idea of zero nuclear weapons is considered but a dream. The powerful defenders of nuclear weapons act as if not possessing nuclear weapons would be an unbearable deprivation. This continued obstinacy has created a new crisis for humanity because failure to seize this moment to start comprehensive negotiations will lead to the further spread and possible use of nuclear weapon.

More people have them; more idiots are there to use them.

Both the opportunity and the crisis point to an inescapable fact of life in the 21st century: A two-class world in which the powerful aggrandize unto themselves nuclear weapons while proscribing their acquisition by other states is not sustainable. This is certainly not leadership by example. "I need mine and they have to be better and more improved. You do not do not need yours and you have no reason to acquire them." It is not particularly logical.

We face the danger of the proliferation nuclear weapons because the powerful nuclear states have not used their authority to build a world law outlawing all nuclear weapons. They can do that. They own them, they lead in it and they could actually stop it. Whether their industries are prepared to support their politicians certainly still remains up in the air today.

Yet there is hope that a way can be found to move forward together. The 2010 consensus NPT final document stated:

The Conference calls on all nuclear-weapon States to undertake concrete disarmament efforts and affirms that all States need to make special efforts to establish the necessary framework to achieve and maintain a world without nuclear weapons.

It is a major step in the efforts to rid the world of nuclear weapons. All states — the strong and weak, the rich and poor — stand on common ground. The global need to reduce nuclear dangers by making it unlawful for anyone to use, deploy, produce or proliferate nuclear weapons is there for us to make and subsequently apply.

In short, the problem of nuclear terrorism cannot be seen in isolation. It is but one facet, albeit important and not insignificant, of the overall problem of nuclear weapons. This fact was recognized by 550 distinguished members of the Order of Canada who have called on the Government of Canada to support the UN Secretary-General's five-point plan for nuclear disarmament, which includes starting negotiations for a nuclear weapons convention.

This action led to a motion unanimously adopted by the Senate on June 2, 2010, and also adopted unanimously in the House of Commons on December 7, 2010. It called for the government to initiate a major diplomatic initiative on nuclear disarmament. So far, the government has not acted on this unprecedented motion. This is the moment for Canada to show that it cares about nuclear disarmament. Its parliamentarians have unanimously requested it to do so.

[*Translation*]

The Convention on the Physical Protection of Nuclear Material and the International Convention for the Suppression of Acts of Nuclear Terrorism are just two of Canada's many commitments to support efforts against nuclear terrorism, and we commend our country for that. Other government resolutions and international agreements in which Canada participates, such as the Global Initiative to Combat Nuclear Terrorism and the United Nations Security Council Resolution 1540, emphasize the importance of member states helping each other keep their commitments.

This involves offering support in the way of information sharing, technical cooperation, such as mutual support during investigations and extradition proceedings, and other forms of direct intervention.

- (1450)

There is very little information about how Canada contributes. Further to the Nuclear Security Summit, which was held in Seoul in 2012, Canada announced that it was going to cooperate with the United States to support Mexico by replacing its highly enriched uranium research reactors with ones that run on low-enriched uranium. Unfortunately, few other specific projects have been announced and no resources have been allocated.

The obligations resulting from these agreements and Canada's lack of progress show the potential and importance of Bill S-9. It also reminds us of how far we still have to go. We have taken a fundamental step; now, we just have to continue moving forward.

The measures taken to incorporate these agreements into Canada's legislative framework are very important; however, they represent only one aspect of Canada's overall commitment in the fight for nuclear non-proliferation and disarmament.

There are still important questions remaining with regard to Canada's commitments overseas. How will the \$367 million, which was announced after the summit in Seoul and set aside by Canada under the Global Partnership Program, be spent? To date, this budget has been used to fund programs designed to secure nuclear materials, technology and knowledge in countries of the former Soviet Union. What are the future budget priorities? What projects funded in other areas of the world have to do not only with nuclear materials but also with nuclear weapons? These questions need to be answered. And we can help answer them, since our country is part of the solution.

[*English*]

We know, for instance, that support for starting work on the nuclear weapons convention, which would be a legal ban of all nuclear weapons, is widespread. More than three quarters of the countries of the world have voted for a United Nations resolution calling for the commencement of negotiations leading to the conclusion of a nuclear weapons convention. Support comes from across the geopolitical spectrum, including Asia, Africa, the Middle East, Latin America and parts of Europe, and includes support from some countries possessing nuclear weapons, which include China, India, Pakistan and, yes, even North Korea.

In fact, the international campaign to abolish nuclear weapons has noted that nations that support a ban make up 81 per cent of the world's population, and who do honourable senators think

are the targets of these nuclear weapons? There are no more huge armies deployed in the field. The targets are civilian targets. The targets are our cities, our populations and our resources.

More support is coming from such important groups as the InterAction Council, comprised of 20 former heads of state from key countries, including the United States, Canada, Norway, Germany, Japan and Mexico, and a December 2011 summit of leaders of Latin America and Caribbean states.

The ball is moving slowly. Despite the growing support for a treaty, many major states are still unwilling to enter such negotiations. To overcome this obstacle, a practical action would be a core group of countries starting an informal process to start building the framework for a nuclear weapons-free world. This could include preparatory work on some of the elements of a framework, such as verification, national prohibition, exploring what we would be required to ensure, compliance with a global ban, advancing alternative security frameworks to nuclear deterrence, and further refining the model nuclear weapons convention to make it into a realistic working draft for actual negotiations. Such work would pave the way for eventual formal negotiations. It would be a continuum of the great initiative by Cyrus Eaton in Pugwash, for which the Nobel Peace Prize was given in 1995 and sits there in Pugwash.

This could be complemented by actions by like-minded states to build political momentum for such negotiations through advocacy at the highest level, that is, head of state, or through establishing a full-scale international diplomatic conference, as called for by numerous commissions in the past.

Honourable senators, we have stood up time and again to reaffirm Canada's commitment to a nuclear-free world, yet we feel the tension of being a part of NATO, an organization predicated on the possession of these weapons and their potential use. We are really quite *bicéphale* about it. We establish rules to protect our uranium and nuclear device components, but we do not seriously ask how we can create a framework for cooperating on ridding ourselves of them. We fight tooth and nail to hold on to what we have and punish those who try to take it away from us. However, we do not ask ourselves how we can one day reach a world where those same people do not need, through their rage, to take anything from us in that fashion. That is a world we ought to make. That is a world we ought to leave behind. That is a world in which Canada could be a leader.

Bill S-9 is a small step in Canada's efforts to ridding the world of a nuclear threat. By filling the legal vacuum in which prosecution of these crimes might have taken place, we not only take an important symbolic step forward in the anti-nuclear commitments, but we empower our country with essential new jurisdictional and punitive powers.

I propose, however, that we discuss how this legislation fits into the broader stance Canada has taken and needs to take against nuclear weapons.

Our international commitments, some universally adopted and many reaffirmed by this Senate, hold us to a higher standard. It was only two years ago that this Senate unanimously passed a motion in support of a statement on nuclear disarmament by a group of recipients of the Order of Canada. The time has come

[Senator Dallaire]

once more to study and reflect on what we must do to see that commitment through. The time is now to explore how we can best continue to implement Security Council Resolution 1540, which holds us to assisting other member states with their disarmament and non-proliferation commitments.

We must continue to explore how we can continue to promote peaceful uses of nuclear energy through our partners at the Nuclear Energy Agency, the OECD and the IAEA. We owe it to ourselves to take these challenges to the Special Senate Committee on Anti-terrorism and continue to ask questions and continue to act.

As nuclear weapons remain one of the only true existential threats to our species, we must always be vigilant and we must always be proactive.

I have stood before you, honourable senators, not only to speak of our successes but also of our failures and our challenges. With each step, we must reflect on the questions, holes and obstacles that still remain in ridding us of what is essentially and fundamentally an absolutely useless weapons system and a threat to our human right to security on this globe. Thank you very much.

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?

(Motion agreed to and 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 Andreychuk, bill referred to the Special Senate Committee on Anti-terrorism.)

• (1500)

STUDY ON USER FEE PROPOSAL

PASSPORT CANADA—FOURTH REPORT OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE COMMITTEE ADOPTED

The Senate proceeded to consideration of the fourth report of the Standing Senate Committee on Foreign Affairs and International Trade (*Passport Canada's Fee-for-Service Proposal to Parliament, pursuant to the User Fees Act, without amendment*), presented in the Senate on May 10, 2012.

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

HUMAN RIGHTS

BUDGET AND AUTHORIZATION TO ENGAGE SERVICES AND TRAVEL—STUDY ON ISSUES PERTAINING TO HUMAN RIGHTS OF FIRST NATIONS BAND MEMBERS WHO RESIDE OFF-RESERVE— SIXTH REPORT OF COMMITTEE ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Jaffer, seconded by the Honourable Senator Munson, for the adoption of the sixth report of the Standing Senate Committee on Human Rights (budget—study on the rights of off-reserve Aboriginal Peoples—power to hire staff and to travel), presented in the Senate on May 3, 2012.

Hon. Mobina S. B. Jaffer: Honourable senators, may I please ask Senator Comeau when he plans on speaking to this?

Hon. Gerald J. Comeau: Actually, honourable senators, I see my deputy leader nodding, so I think we should go ahead with it right now and put the question.

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

Hon. Senators: Question.

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

Hon. Senators: Agreed.

(Motion agreed to.)

RECREATIONAL ATLANTIC SALMON FISHING

ECONOMIC BENEFITS—INQUIRY— DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Meighen, calling the attention of the Senate to the economic benefits of recreational Atlantic salmon fishing in Canada.

Hon. Wilfred P. Moore: Honourable senators, I am pleased to join in the debate of the inquiry commenced by the Honourable Michael A. Meighen regarding the economic benefits of recreational Atlantic salmon fishing in Canada.

Salmon fishing in Nova Scotia has a long and rich history. The rivers of the province where salmon spawn include, on the mainland, the Mersey, LaHave, Gold, Ecum Secum, the St. Mary's, the East and West St. Mary's and the River Philip. In Cape Breton, there is the Margaree, Cheticamp, North Aspy, Baddeck, Middle River, Indian Brook and the Barrachois.

All of these rivers have an interesting story to tell when it comes to fishing wild Atlantic salmon, and the St. Mary's is no different. Running through Guysborough, Antigonish and Pictou Counties, the St. Mary's is one of Nova Scotia's longest rivers. First named Riviere Isle Verte by Samuel de Champlain, the river received the name "St. Mary's" from a nearby French fort, Fort Sainte Marie, around 1669.

Somewhere around the early 1900s, people began to travel to the river to fish salmon. One of the most notable was Babe Ruth. Legend has it that he may not have hit so many home runs if a guide had not pulled him from the river after he fell in a deep pool.

In 2009, the recreational salmon fishery was closed on the west branch of the St. Mary's. Indeed, the Gardner Pinfold report, mentioned earlier by colleagues, states that the salmon fishery along the eastern coast of Nova Scotia, as well as the Bay of Fundy, is endangered and that the salmon fishery along the Gulf of St. Lawrence is designated as a special concern.

The loss of the wild Atlantic salmon fishery in Nova Scotia would mean the loss of \$10 million in salmon-related spending activity and the jobs and businesses that depend on that fishery, not to mention the loss of a species that has inhabited the waters of Nova Scotia for as long as inhabitants of the area can remember.

The Margaree River in Cape Breton generates \$2.9 million in spending, \$2.5 million in GDP, 70 full-time jobs and \$2.1 million in income. This is not a mere drop in the bucket for that community.

Unfortunately, salmon farming has emerged as a threat to the recovery of wild Atlantic salmon stocks. The Gardner Pinfold report states:

Over 90 per cent of all commercial aquaculture . . . in Canada involves raising domesticated Atlantic salmon . . . at the mouths of rivers where wild salmon pass by. . . . The Committee on the Status of Endangered Wildlife in Canada (COSEWIC) have identified salmon farming as a key threat. Farmed salmon can spread diseases and parasites to wild salmon, while escaped domesticated salmon compete for food and habitat . . . and interbreed with wild salmon thereby weakening the gene pool.

This past week in Halifax's newspaper, *The Chronicle Herald*, an opinion piece by Ralph Surette appeared highlighting the dangers of salmon farming. He noted that many other problems that had been experienced in areas where salmon farming has taken place are now coming to Nova Scotia. Cooke Aquaculture is on trial for allegedly dumping illegal substances from its farming operation into the Bay of Fundy which killed lobsters in the area.

Surette notes that Nova Scotians "don't want an end to salmon farming. They want it sustainable. . . ." They want to see an end "to 'open-pen' farming in favour of shore-based pens."

Let us hope that a middle ground can be found whereby the two, wild and domesticated salmon, might be produced in the same areas without any detriment.

That brings me to those working to preserve, promote and protect wild Atlantic salmon. The lead agency in this work is the Atlantic Salmon Federation, or ASF, an assembly of keen, well-motivated volunteers. Let me tell honourable senators about a few of the projects undertaken by the ASF.

In a joint effort with the Nova Scotia Salmon Federation, which is a council of the ASF, the ASF has completed a lime treatment of the West River which feeds into Sheet Harbour, Halifax County, Nova Scotia. This acid rain mitigation is the only one of its kind in North America. It cost \$700,000, all private funds.

The ASF has undertaken other projects in Nova Scotia, including at Big LaHave Lake in Lunenburg County which feeds into a river system. This is a multi-year liming project to enhance the fish habitat and salmon population, and this work is being done with the participation of the LaHave River Salmon Association.

The ASF has done work on the fish habitat of the Margaree River in Inverness County and the St. Mary's River. It has done that work in conjunction with local volunteers.

In Nova Scotia, we have the "Adopt a Stream" program whereby a portion of one's sport fishing licence fee goes to this program. It is administered by the Nova Scotia Salmon Federation. This fund amounts to approximately \$300,000 per year and, when the volunteer hours and donated materials are factored in, that figure is multiplied threefold to a total contribution of nearly \$1 million.

• (1510)

The ASF has also done physical habitat reconstruction work on the River Philip in Cumberland County, where it also carries out an angler mark and recapture program to assist in estimating the fish population.

Further, the ASF has done liming to improve the water quality of the Gold River in Lunenburg County. It has done so in association with the volunteer Bluenose Coastal Action Foundation.

The ASF has done other good works in the Sackville River in Halifax County and the Cheticamp River tributaries in Inverness County.

Another interesting project of the ASF is its tagging program. Sonic tags are attached to smolts which are released into the wild and tracked. When the fish cross a line of signal receivers, their movements are monitored, and this work assists in determining the waters in which the fish may encounter problems.

Honourable senators, I cite all of these works to demonstrate the significant contribution by ASF to our river systems, fish habitat, fish population and the economic enhancement of our communities.

Unfortunately, the budget bill of 2012 does not seem to have much in it for the protection of fish habitats. Under the Fisheries Act section, the government will eliminate certain reporting requirements and will change the way in which fish habitats are protected to a complex, two-step process. The proposed changes will narrow the scope of waterways to be protected and will only require intervention when “serious harm” will be caused to fish. This sounds to me like a loosening of the rules. I hope not.

Honourable senators, it is incredibly important for us to lend our support to the protection of our wild Atlantic salmon fishery. We know that this recreational fishery boosts our economy, and we know that protecting our wild salmon is paramount for us as stewards of our environment. Protecting the wild Atlantic salmon and promoting the economy are not competing concepts. In fact, they can be harmonious and to the benefit of all. I hope this inquiry by Senator Meighen accomplishes just that.

(On motion of Senator Maltais, debate adjourned.)

[*Translation*]

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I would like to draw to your attention the presence in the gallery of members of the French delegation from the Institut pour la Justice.

We are pleased to welcome Xavier Bebin, a jurist and criminologist and general representative of the Institut pour la Justice; Marie-Alix Maisonnaire, institutional relations representative for the Institut de la Justice; Jean Pradel, professor emeritus of criminal law at the Université de Poitiers, Institut pour la Justice special advisor, former committing magistrate and scientific director of the Revue pénitentiaire et de droit pénal; and Alexandre Baratta, psychiatrist, Institut pour la Justice special advisor and expert at the Cour d’appel de Metz.

They are guests of our colleague, the Honourable Senator Boisvenu. On behalf of all honourable senators, I would like to welcome the distinguished delegation from France to the Senate of Canada.

[*English*]

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

FIRST REPORT OF COMMITTEE—MOTION TO DISCHARGE REPORT FROM ORDER PAPER AND REFER TO COMMITTEE OF THE WHOLE— POINT OF ORDER—DEBATE SUSPENDED

Hon. Claude Carignan (Deputy Leader of the Government), pursuant to notice of May 16, 2012, moved:

That the order for the adoption of the first report of the Standing Committee on Rules, Procedures and the Rights of Parliament be discharged from the Order Paper and that the report be referred to a Committee of the Whole;

That this Committee of the Whole meet each Tuesday the Senate sits after the adoption of this motion, at the end of Government Business, until its work is completed, without having to report progress and seek leave to sit again;

That, while this Committee of the Whole is meeting the provisions of rules 6(1), 13(1), and 84(2) be suspended, with the Senate continuing to sit until the committee has completed its work for that day;

That business of this Committee of the Whole be conducted according to the following schedule:

- (a) during the initial period of the first meeting senators may ask questions of representatives of the Standing Committee on Rules, Procedures and the Rights of Parliament, with the time for the question and response being counted as part of the ten minutes’ speaking time allowed under rule 84(1)(b);
- (b) after this initial period, which shall last a maximum of one hour, the committee shall consider chapters one, two, three, and four of the First Appendix of the report for a maximum of one additional hour, after which the chair shall interrupt proceedings to put all questions necessary to dispose of these chapters successively, without further debate or amendment, after which the committee shall rise once it has disposed of any consequential business;
- (c) during the initial portion of the second meeting the committee shall consider chapters five, six, seven, eight, and nine of the First Appendix of the report for a maximum of one hour, after which the chair shall interrupt proceedings to put all questions necessary to dispose of these chapters successively, without further debate or amendment;
- (d) during the second portion of the second meeting, the committee shall consider chapters ten, eleven, and twelve of the First Appendix of the report for a maximum of one hour, after which the chair shall interrupt proceedings to put all questions necessary to dispose of these chapters successively, without further debate or amendment, after which the committee shall rise once it has disposed of any consequential business;
- (e) during the initial portion of the third meeting, the committee shall consider chapters thirteen and fourteen of the First Appendix of the report for a maximum of one hour, after which the chair shall interrupt proceedings to put all questions necessary to dispose of these chapters successively, without further debate or amendment;
- (f) during the second portion of the third meeting, the committee shall consider chapters fifteen and sixteen and the appendices of the First Appendix of the report for a maximum of one hour, after which the

chair shall interrupt proceedings to put all questions necessary to dispose of these chapters and appendices successively, without further debate or amendment;

- (g) after completing its consideration of the First Appendix of the report at the end of the third meeting, the committee shall consider its recommendation to the Senate as to whether or not the report should be adopted, with amendments if appropriate, for a maximum of 30 minutes, after which the chair shall interrupt proceedings to put all questions necessary to dispose of any business successively, without further debate or amendment, after which the committee shall rise once it has disposed of any consequential business;

That, as a general practice, the committee consider the First Appendix of the report chapter by chapter, and, in particular, it shall proceed in this manner if the chair is required to interrupt proceedings to put all questions; and

That the chair report the result of the committee's work, with a recommendation to adopt the First Report of the Standing Committee on Rules, Procedures and the Rights of Parliament or not, along with any proposed amendments, during Presentation of Reports from Standing or Special Committees during Routine Proceedings as soon as convenient after it has completed its work.

The Hon. the Speaker: Is there debate? Are honourable senators calling for the question?

Some Hon. Senators: Question.

Hon. Anne C. Cools: Honourable senators, I was looking forward to hearing someone speak to this matter.

The Hon. the Speaker: The floor is open, but I have heard honourable senators call for the question.

Some Hon. Senators: Question.

Senator Cools: Perhaps honourable senators are being a little hasty and perhaps the honourable senator proposing this motion would make himself open for questions.

The Hon. the Speaker: On debate.

Senator Stratton: Question.

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

Some Hon. Senators: Question.

Senator Cools: Honourable senators, I had been hoping to speak to this matter, and I had been planning to move the adjournment once Senator Carignan had spoken so that I could respond. However, it appears that he is not about to speak to his motion. I was going to raise questions to him, but now I find I have no alternative but to raise a point of order.

POINT OF ORDER

Hon. Anne C. Cools: Honourable senators, I would like to begin by saying that I thank His Honour for his ruling of April 25 on this matter. I especially thank him for his clarity of mind. Honourable senators may not be aware of this, but our Speaker Kinsella has attained great respect throughout the world for his clarity of mind, for his clear positions, and for his contributions to parliamentary democracy which I think are outstanding.

Honourable senators, since this motion has not been explained and the reading of it has been dispensed with, I will have to place on the record here, my major cause of concern. Perhaps I should begin by citing the Speaker's ruling of April 25, 2012, in which he states, at page 1682, about his suggestion:

The suggestion is that the matter could be resolved by having the First Report of the Rules Committee referred to a Committee of the Whole. The consideration of matters in Committee of the Whole is more flexible and appropriate to fully explore and debate these proposals that are before us than the restrictive nature of the formal debate in the Senate itself.

• (1520)

As honourable senators will recall, it is a well-known principle that rule 86(1)(d)(i) was intended to be used in concert with Committee of the Whole. I would like to begin by putting on the record a statement from our *Companion to the Rules of the Senate of Canada*, 1994, at page 307. It says:

When a report of the Committee on [Privileges,] Standing Rules and Orders recommends substantial changes in the Rules of the Senate, such report is usually referred to a Committee of the Whole for consideration.

I just wanted to put that on the record. I welcome the opportunity to go into Committee of the Whole, and I welcome the initiative to go to Committee of the Whole.

I would like to be quite clear that I am not opposed to change — I never am — and I am not opposed to rule changes. I just uphold the fact that there are certain fixed principles and concepts and rules that we should abide by when we set out to make rule changes.

Having said that, honourable senators, my concern revolves around the first paragraph of the motion, which I was hoping would be explained by Senator Carignan to clarify any difficulties or misunderstandings.

I shall quote:

That the order for the adoption of the first report of the Standing Committee on Rules, Procedures and the Rights of Parliament be discharged from the Order Paper and that the report be referred to a Committee of the Whole;

This is a huge problem, Your Honour, because if the order is discharged and if the report is discharged from the Order Paper, it can hardly be referred to a Committee of the Whole or any committee whatsoever. In a nutshell — and I shall expand on this in a moment — I am saying that this motion will not do what senators think it will do.

[Senator Carignan]

Before I come to the whole concept of “discharge,” honourable senators, I want to revisit the proposition that had been raised several weeks back, which is that a committee is a delegated authority and can only study that which it receives from the Senate in an order of reference. This motion is very problematic and deeply flawed. As it is worded, it is incapable of referring the report to the committee because it must first be discharged from the Order Paper.

Honourable senators, I have had no time to prepare to speak on any of this, and it is a matter I deeply regret. I am very sorry that I have been placed in this position. In any event, I shall proceed. I have some references on the discharge of an order. Discharging is no simple matter. It is a very serious matter.

The first problem I had wanted to ask Senator Carignan about this motion is that motions, once they are in the possession of the house, are not easily discharged nor are they easily transferred from one member to another. This motion was on the Order Paper for weeks under the name of Senator Smith. In fact, Senator Smith moved this very motion back in November, seconded by Senator Cordy. This motion simply cannot be sponsored by another new senator, Senator Carignan. How Senator Carignan obtained carriage of this motion or sponsorship of this motion has not been explained or put to us. I was hoping that he would have explained that today as well. However, the fact of the matter is that that it is out of order.

I shall describe a discharge. I did not have much time to prepare, as I said before. However, I do have something from *Black's Law Dictionary*, which says, in civil practice:

To discharge a rule, an order, an injunction, a certificate, process of execution, or in general any proceeding in a court —

— which this is, Your Honour. This is the high court of Parliament —

— is to cancel or annul it, or to revoke it, or to refuse to confirm its original provisional force.

A discharge means that its force has been vacated, honourable senators.

I think His Honour has had some experience with discharging orders. For his own enlightenment, on March 10, 2011, following Speaker Kinsella's ruling at page 1297 of the *Journals of the Senate* — and I would have to look up the question now — we see:

(Accordingly, the Order of the Day for the second reading of Bill S-223, An Act to amend the Canada Pension Plan (retroactivity of retirement and survivor's pensions) was discharged and, by order, the Bill withdrawn.)

Speaker Kinsella ordered at page 2003 of the *Debates of the Senate* that Bill S-223 be discharged from the Order Paper.

Discharging this order by this motion is not a simple matter. It is not something whimsical. It is something, Your Honour, that has to involve the senator who originally moved that motion, Senator Smith. I shall come to that in a moment. Let us

understand what “to discharge an order” means. It is rarely done. There are many precedents in the House of Commons and some in the Senate. Discharge means that the order is gone. It is not before us. It has been discharged. Therefore, it is not available to us for use, to be referred to a committee or even to be debated, because it has been discharged, and ordered withdrawn from the Order Paper.

I come to the phenomenon in the possession of the house and the process for the withdrawal of motions because the proper thing that should have happened with this motion to adopt this first report is that the mover of the motion, Senator Smith, should have risen and asked to withdraw his motion and to seek leave of the Senate. This would have allowed another and new motion to be moved, to refer the first report of the Rules Committee to the Committee of the Whole.

I shall continue with the concept in the possession of the house. According to Marleau and Montpetit, *House of Commons Procedure and Practice*, page 974:

Once a notice has been transferred to the *Order Paper* and moved in the House, it is considered to be in House's possession and can only be removed from the *Order Paper* by an order of the House; that is, the Member who has moved the motion requests that it be withdrawn, and the House must give its unanimous consent.

I did not have the time, honourable senators, to do the kind of work that I wanted to do for this speech. My intention was not to raise a point of order but to suggest corrections on the floor as to how this could be dealt with here and now, before the motion was voted on.

My other reference, Your Honour, comes from Mr. Bourinot, fourth edition, page 328:

When a motion has been stated by the speaker to the house, and proposed as a question for its determination, it is then in the possession of the house, to be decided or otherwise disposed of according to the established forms of proceeding.

• (1530)

Honourable senators, what I am saying is that the withdrawal of an item from the Order Paper and its transformation into something else is a matter that deserves great thought and careful motions to that end, but it must involve the senator who moved the motion originally.

Having said that, honourable senators, I come to the question of withdrawal of motions from the Order Paper. I know some may think this is tedious, boring and arcane, but I submit that it is extremely important.

I go now to John George Bourinot and Gilbert Campion. One is a Canadian reference and the other is British. I am citing from *An Introduction of the Procedure in the House of Commons* by Gilbert Campion, 1947, headed “Withdrawal of Motion.” It states:

To withdraw a motion the Member who moved it must signify his desire in the House.

Not by letter, but “in the House.” Campion continues:

The Speaker then ‘takes the pleasure’ of the House by saying, “Is it your pleasure that the motion be withdrawn?” Provided no one objects, he declares the motion withdrawn. It must be borne in mind that, when an amendment has been moved to a motion, the motion cannot be withdrawn until the amendment has been disposed of.

There is quite a lot of information on this particular matter.

I go now to Mr. Bourinot.

The Hon. the Speaker: Before the honourable senator moves on to the next point I wish to interrupt.

(Debate suspended.)

[*Translation*]

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I would like to point out the presence in the gallery of a group of grade seven students from Edmonton’s École Joseph-Moreau. I welcome them as guests of our colleague, the Honourable Senator Tardif.

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

[*English*]

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

FIRST REPORT OF COMMITTEE—MOTION
TO DISCHARGE REPORT FROM ORDER PAPER
AND REFER TO COMMITTEE OF THE WHOLE—
POINT OF ORDER—SPEAKER’S RULING—
MOTION ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Carignan, seconded by the Honourable Senator Tardif:

That the order for the adoption of the first report of the Standing Committee on Rules, Procedures and the Rights of Parliament be discharged from the Order Paper and that the report be referred to a Committee of the Whole;

That this Committee of the Whole meet each Tuesday the Senate sits after the adoption of this motion, at the end of Government Business, until its work is completed, without having to report progress and seek leave to sit again;

That, while this Committee of the Whole is meeting the provisions of rules 6(1), 13(1), and 84(2) be suspended, with the Senate continuing to sit until the committee has completed its work for that day;

[Senator Cools]

That business of this Committee of the Whole be conducted according to the following schedule:

- (a) during the initial period of the first meeting senators may ask questions of representatives of the Standing Committee on Rules, Procedures and the Rights of Parliament, with the time for the question and response being counted as part of the ten minutes’ speaking time allowed under rule 84(1)(b);
- (b) after this initial period, which shall last a maximum of one hour, the committee shall consider chapters one, two, three, and four of the First Appendix of the report for a maximum of one additional hour, after which the chair shall interrupt proceedings to put all questions necessary to dispose of these chapters successively, without further debate or amendment, after which the committee shall rise once it has disposed of any consequential business;
- (c) during the initial portion of the second meeting the committee shall consider chapters five, six, seven, eight, and nine of the First Appendix of the report for a maximum of one hour, after which the chair shall interrupt proceedings to put all questions necessary to dispose of these chapters successively, without further debate or amendment;
- (d) during the second portion of the second meeting, the committee shall consider chapters ten, eleven, and twelve of the First Appendix of the report for a maximum of one hour, after which the chair shall interrupt proceedings to put all questions necessary to dispose of these chapters successively, without further debate or amendment, after which the committee shall rise once it has disposed of any consequential business;
- (e) during the initial portion of the third meeting, the committee shall consider chapters thirteen and fourteen of the First Appendix of the report for a maximum of one hour, after which the chair shall interrupt proceedings to put all questions necessary to dispose of these chapters successively, without further debate or amendment;
- (f) during the second portion of the third meeting, the committee shall consider chapters fifteen and sixteen and the appendices of the First Appendix of the report for a maximum of one hour, after which the chair shall interrupt proceedings to put all questions necessary to dispose of these chapters and appendices successively, without further debate or amendment;
- (g) after completing its consideration of the First Appendix of the report at the end of the third meeting, the committee shall consider its recommendation to the Senate as to whether or not the report should be adopted, with amendments if appropriate, for a maximum of 30 minutes, after which the chair shall interrupt proceedings to put all questions necessary to dispose of any business successively, without further debate or amendment, after which the committee shall rise once it has disposed of any consequential business;

That, as a general practice, the committee consider the First Appendix of the report chapter by chapter, and, in particular, it shall proceed in this manner if the chair is required to interrupt proceedings to put all questions; and

That the chair report the result of the committee's work, with a recommendation to adopt the First Report of the Standing Committee on Rules, Procedures and the Rights of Parliament or not, along with any proposed amendments, during Presentation of Reports from Standing or Special Committees during Routine Proceedings as soon as convenient after it has completed its work.

Hon. Anne C. Cools: Honourable senators, I was just about to cite John Bourinot on withdrawal of motions from the possession of the house. In the fourth edition of Bourinot, at page 300, he says:

No member may move the discharge of a bill without notice, in the absence of the member who has it in charge and who has not given any such permission (*j*). Neither can any motion be withdrawn in the absence of the member who proposed it. . . .

This brings me to the conclusion that this motion is imperfect and in need of some correction and it must be looked at. I am asking Your Honour to rule on this matter.

I would also like to support these two last references with the current Senate rules and the House of Commons Standing Orders on the matter. Our Senate rules state very clearly, at number 30:

A Senator who has made a motion or presented an inquiry may withdraw or modify the same by leave of the Senate.

The House of Commons rule, the equivalent from their standing orders, May 2011, Standing Order 64, says:

A Member who has made a motion may withdraw the same only by the unanimous consent of the House.

Having said that, honourable senators, this order of reference is therefore imperfect and flawed and needs correction because the matter of the carriage, the carriage of the motion — the ownership so to speak — and the phenomenon of discharging of a motion must be addressed. As a matter of fact, there might have been no problem, perhaps, if these two actions had been separated into two motions. However, they are joined. In actual fact, the discharging of the order is called for prior to referring it to Committee of the Whole. This is a very important matter.

I suggested to someone earlier that a better way to accomplish this end might have been to move, as Senator Molson did on December 10, 1968, that the consideration of the motion be postponed until after the completion of the work of the Committee of the Whole.

Honourable senators, I do want these questions answered. I would like to say as well that the second defect in this motion to refer the report to Committee of the Whole is that it is unclear on its purpose for referring the report to the committee. This motion does not in any way touch the issue that prompted the need for

the Committee of the Whole. Essentially, the issues was the serious concern about questions of order, particularly the limit of the committee's mandate under rule 86(1)(d)(i), and the sufficiency of that rule to authorize the committee's total repeal and replacement of the Senate rules. This should be clearly aired in Committee of the Whole. It is a well-established principle that an order of reference, which is what this motion is, must be clear and precise because it is a delegated authority. In delegating such authority, we must also understand that the Committee of the Whole has no choice but to be limited to the confines of this motion.

That which is not in that order of reference, no Senate committee can study. I would like to cite Reginald Palgrave, *The Chairman's Handbook*, 1933:

A Committee being a body endowed with delegated powers cannot act independently of its originating authority or exceed the commission entrusted to it, or entrust its duties to others.

That was the question I raised in my previous point of order on March 27, namely, that a delegation to a subcommittee is a very questionable matter. I crossed that bridge in a profound way many years ago with Senator Fraser and Senator Stratton on the Senate National Finance Committee when they, as part of a subcommittee, wanted to conduct a study. In different discussions I made sure that I upheld the government's position, and I also ensured that the estimates were not referred to the subcommittee. The subcommittee could study much on emergency preparedness, social questions, but not the estimates themselves. I made sure that the name of the subcommittee was emergency preparedness and readiness, rather than a committee studying the estimates. We were clear not to delegate the estimates to the subcommittee being a delegated authority because a committee cannot delegate its mandate to a subcommittee. As I have said before, a committee cannot entrust its mandate or duty to a subcommittee.

• (1540)

Palgrave continues:

The assistance of those who appoint the committee is its legitimate function.

Honourable senators, it is the difficult duty of the Speaker to deliberate and examine these questions and to do so fairly and justly. I have read much on the origins of the powers of chairmen, of the casting vote and the origins of the powers of the Speakers of the two houses. It is an interesting history. The Senate Speaker has a different history from the Speaker of the House of Commons.

One of the duties of every person who finds himself in the chair is as follows:

A Chairman is bound to decline to put from the Chair a Motion or Amendment which is out of order . . .

It continues:

. . . or as containing irregular or illegal proposals, or offensive or disloyal expressions. This is his duty, because he is to this extent responsible for a Question he may submit to the consideration of the Meeting.

Honourable senators, I have tried to stay clear of the substantive questions in the motion. I could have raised some points of order on the fact that a large portion of this motion is more in the vein of mandatory instructions to committees and not in the manner of an order of reference. Anyone who has ever been involved in writing an order of reference knows that it is very difficult.

In any event, honourable senators, this is the best I could do in the circumstances in which I have found myself. I will take the opportunity to say again that I have always condemned, and will always condemn, what I will describe as, to use the words of Sir Wilfrid Laurier, “indecent haste” in moving proposals along to a vote, to quick conclusions, without debate, none whatsoever in this instance. I think this is a shame. There was absolutely no debate on an extremely important and, I would say, extremely welcome motion.

Honourable senators, we have nothing, at the end of the day, but these rules. I would like to remind honourable senators that all that stands between humanity and chaos and destruction are fixed rules and fixed principles. I would like to quote the ancient, most distinguished House of Commons Speaker Onslow. I found this in the 1828 *Manual of Parliamentary Practice* of the Legislative Council of Upper Canada.

... nothing tended more to throw power into the hands of Administration, and those who acted with the majority of the House of Commons, than a neglect of, or departure from, these rules. That the forms of proceeding, as instituted by our ancestors, operated as a check and control on the actions of ministers, and that they were, in many instances, a shelter and protection to the minority, against the attempts of power.

Honourable senators, I have spent a lot of time in my years in the Senate in a minority position upholding important principles and fundamentals from which we should never stray. I will not take any more time, but it is a well-known fact that when fixed rules and fixed principles are abandoned, the result can never be good.

[*Translation*]

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, I would like to point out that this is a request to discharge the motion to adopt the report and not a withdrawal of the motion.

This is a request to discharge the motion following the ruling that His Honour the Speaker made following a point of order raised by Senator Cools. His Honour the Speaker strongly recommended that we proceed in the following fashion. I will read the end of his ruling.

The chair is reluctant, however, to set aside the excellent work of the Rules Committee based on an arguable procedural point. The suggestion is that the matter could be resolved by having the First Report of the Rules Committee referred to a Committee of the Whole. The consideration of matters in Committee of the Whole is more flexible and appropriate to fully explore and debate these proposals that are before us than the restrictive nature of the

formal debate in the Senate itself. This suggestion would serve the dual purpose of providing all honourable senators with an opportunity to clarify the purposes and principles behind the work of the report and express themselves on it before being asked to decide on the work itself. At the same time, it would prevent us from losing the significant body of work performed by our colleagues on the Rules Committee.

So, to be clear, the chair is making a strong recommendation that the matter be referred to a Committee of the Whole.

Honourable senators, this is a very wise decision that will allow all senators to have their say, study the Rules and take ownership of them. This will also allow Senator Cools to share her knowledge, propose amendments and propose improvements based on her experience that might be made to the draft Rules that would be submitted.

Thus, we are merely abiding by His Honour's ruling by referring the report to a Committee of the Whole. We are also doing so through a discharge, given that before we can refer this document or this report to a Committee of the Whole, the ruling must first be discharged. This can be done by the Senate — which is sovereign — and I do not believe that we need a motion for withdrawal in the context of a regular motion moved by a senator, because it is not in fact a withdrawal, but rather a discharge. In the case of a withdrawal, we need the consent of the individual who moved the motion, but that is not so in the case of a discharge, given that it involves a decision that must be made through a majority vote in the Senate.

When His Honour has heard enough or believes to have heard enough information to reach a decision, a ruling as soon as possible would be most appreciated.

• (1550)

[*English*]

SPEAKER'S RULING

The Hon. the Speaker: Honourable senators, I want to thank Honourable Senator Cools for raising her point of order. Because this house was very generous to the Speaker in affording sufficient time for me to very carefully study the point of order that resulted in the Speaker's Ruling, I feel very comfortable that I am familiar with the procedural literature on the issue. Therefore I am prepared to rule on this point of order forthwith.

The question that is really before the Speaker is whether or not this motion is properly before the house: Is this motion in order? The motion is moved by the Honourable Senator Carignan, seconded by the Honourable Senator Tardif. In my opinion, it is clearly in order and I will give reasons why it is my opinion that this motion is in order.

First and foremost, the motion is in order because proper notice was given. That proper notice afforded even this member of this honourable house to have the chance to study the motion in detail. We are all familiar with what is being proposed. Clearly, this motion which has been subject to debate is open for debate, and after debate, it is open to a determination. The motion is also subject to amendment. Therefore the house is fully possessed of this proposition and it can change and modify the motion.

[Senator Cools]

To the question as to whether or not matters do not appear every day on the daily Order Paper, often we have a bill or a matter that is being debated in the chamber and it is on the Order Paper of the chamber, but we do not keep things on the Order Paper when we refer them to our standing committees. Indeed, bills themselves are sent to our committees.

However, there is a practice that these matters will return to this chamber if such steps as third reading will occur in the case of bills. This cannot happen in committee. The bill must come back to the chamber. Equally, any decisions taken in committees dealing with reports are simply that.

Honourable senators, I take this opportunity to point out that our committees often have their committee reports made public and there is great discussion. The great discussion across the land is that this is the view of the Senate of Canada on whatever subject matter has been studied by a committee. Of course it is not, unless that report has been adopted by the Senate. Up to that point, it is only the opinion and recommendation of a committee. It is a committee report.

This is why, if you at look our own records, senators have often raised questions of privilege concerning reports being made public before they were tabled with the Senate, giving honourable senators the opportunity to concur or to disagree or to raise cautions about the content of reports. There is no question that the final decisions are made in this chamber by all honourable senators.

Does the house have the right to instruct its committees to do things? Some honourable senators will remember, not too long ago, in 2004, we had here Bill C-250. I remember Senator Murray was dealing with the bill, which had to do with an amendment to the Criminal Code on hate propaganda. A question of privilege was made around that. The Speaker ruled, on April 28, 2004, that the instructions to the committee were quite appropriate and the intent of the motion was clear, et cetera. Then, as I reviewed some of the procedural literature as to whether this chamber can do what is proposed to be done in this motion, for example, in the privileges of the House in *Beauchesne's* fifth edition, at page 13, paragraph 21:

The most fundamental privilege of the House as a whole is to establish rules of procedure for itself and to enforce them. A few rules are laid down in the British North America Act, but the vast majority are resolutions of the House which may be added to, amended, or repealed at the discretion of the House.

This is important, honourable senators:

It follows, therefore, that the House may dispense with the application of any of these rules by unanimous consent on any occasion . . .

And we often do that.

. . . or, by motion, may suspend their operation for a specified length of time.

This underscores the principle that this house, this chamber, is the master and this motion, which I find to be very much in order, is reflecting the exercise by this house of its privilege to operate as it proceeds and its committees to operate the way they see the committees should operate.

According to *Beauchesne's* fourth edition, at paragraph 10:

Standing Orders may be suspended for a particular case without prejudice to their continued validity, for the house . . .

In the more recent publication of O'Brien and Bosc, once again it is made clear that it is the exclusive right of the house to regulate its own internal affairs, there is reference to its control of its own debates, agenda and proceedings. Therefore the procedural literature is very clear and would support that this motion is in order, is subject to amendment and, at the end of the day, it will be a determination of the chamber.

Honourable senators, we had called for debate, and the motion is in order.

Some Hon. Senators: Question.

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

Some Hon. Senators: Agreed.

Senator Cools: On division.

(Motion agreed to, on division.)

[*Translation*]

ADJOURNMENT

MOTION ADOPTED

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

Hon. Claude Carignan (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, May 29, 2012, 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, May 29, 2012, at 2 p.m.)

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