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Friday, June 29, 2012

The Honourable NOËL A. KINSELLA
Speaker

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THE SENATE

Friday, June 29, 2012

The Senate met at 9 a.m., the Speaker in the chair.

Prayers.

SENATORS' STATEMENTS

REFUGEE HEALTH CARE

IMPACT OF BUDGET

Hon. Jane Cordy: Honourable senators, I was very pleased to be invited to a press conference on Wednesday of this week held by the Canadian Doctors for Refugee Care. This was a final plea to the Harper government to save refugee health services from pending cuts to the Interim Federal Health Program, the IFHP, set to take place on June 30.

The IFHP currently provides temporary health care coverage to eligible protected persons, refugee claimants, and others who do not qualify for provincial or territorial health care plans.

These reforms announced by the minister will end the coverage of the supplemental health care benefits starting tomorrow. These cuts were made without any consultation with those working on the front lines — in fact, without any consultation with any Canadians. The new program will allow for medication and immunization to be provided only when there is a risk to public health or safety or if it is of an urgent or essential nature.

A person with asthma would not receive medication but in a crisis situation would be treated at the emergency department and then released with no medication, only to have to return to emergency later. The same would be true for a diabetic, who would not receive insulin, or someone with a heart problem — no medication. Emergency care is one of the most costly, and these changes will increase costs, which will be downloaded to the provinces and territories.

Refugees come to Canada to escape violence and persecution. Where we should be providing them with hope, this government has decided to continue to treat them as unworthy. It is a policy change that will victimize the most vulnerable.

Does the minister really believe that refugees are risking their lives and spending large amounts of money to come to Canada so that they can get free eyeglasses? The tendency of this government to pit us against them, Canadians versus refugees, must stop.

In a rare move for any church group, the Anglican diocese, along with a refugee sponsorship group in Winnipeg, are taking the federal government to court over its changes to the IFHP, claiming it is a breach of contract. The diocese and several church-funded refugee sponsorship agreement holders have a contractual relationship with the federal government and operate under the assumption that the IFHP will be in place. The Canadian Council for Refugees has said that these cuts will be a serious deterrent to sponsors. The Conservatives are downloading costs to the provinces, municipalities, community-based health groups, the charitable sector, and public programs and organizations that provide the uninsured with health benefits.

In response to demonstrations by doctors against these changes affecting the health of refugees, Minister Kenney called those who oppose these changes "extremists." He has labelled doctors concerned about the health of refugees as "extremists," when in fact they are caring and compassionate people. Physicians are deeply concerned that these cuts to health services will lead to poorer health outcomes. Canadian health care workers should have been consulted before changes were made to cut health care for refugees.

Honourable senators, this is a very important issue. Not only does it hurt the health of those seeking asylum in Canada, but it will also affect our global reputation as a compassionate nation. Let us follow our humanitarian traditions and not allow ourselves to become so callous and unfeeling to the plight of others.

Both the Toronto Board of Rabbis, in a letter to the Prime Minister, and Philip Berger, Bernie Farber, and Clayton Ruby, in an article in *The Globe and Mail*, ask that the proposed changes to refugee health care coverage be rescinded and that refugees not lose basic health care.

Let us not consider refugees to be second-class individuals. These are people who have fled civil war, disaster or persecution. Why are we opening the door to Canada but closing it to health care? Most refugees have arrived in Canada with nothing. Why would we want to re-victimize them?

As Dr. Parisa Rezaiefar, a refugee who came to Canada and who is now a physician, said:

> I urge Minister Kenney to not take away that dream from today's refugees and tomorrow's citizens. . . . The Interim Federal Health Program is not charity; it is an investment in the future of the country.

THE HONOURABLE MICHAEL H. TULLOCH

CONGRATULATIONS ON APPOINTMENT TO ONTARIO COURT OF APPEAL

Hon. Don Meredith: Honourable senators, I rise today to acknowledge a great milestone for African Canadians in the province of Ontario and the Jamaican diaspora in Canada.

Last Friday, our government appointed Superior Court judge and Brampton resident Justice Michael Tulloch to the Court of Appeal for Ontario. Born in Jamaica, he is the first African Canadian to serve in Ontario's highest court. As the fourth African Canadian and the first Jamaican to be appointed to this place, and as a representative of the province of Ontario, I am especially proud of this great achievement.

Honourable senators, Justice Tulloch's journey reflects the success story that all newcomers dream of in coming to this country. I recently spoke to Justice Tulloch to congratulate him on this accomplishment. I indicated to him that our Conservative Visible Minority Caucus has met with the Minister of Justice and the Minister of Immigration to raise the issue of how more diverse Canadians can be appointed to these prominent positions. We also discussed how to better engage and encourage our diverse Canadian communities to seek out these positions.

Justice Tulloch is deeply honoured by this appointment and thanks our government for recognizing the talents that exist in this diverse Canada. He is also encouraged that he is blazing the trail for other African Canadians who aspire to be called to the bench across this country.

His prior accomplishments include graduating from Osgoode Hall Law School and becoming an academic fellow at York University's McLaughlin and Vanier colleges. In 2003, he was appointed to the Superior Court of Justice, making him the youngest Black judge in Canada.

Prior to being called to the bench, Justice Tulloch worked at the federal level as an assistant Crown attorney and special prosecuting agent for the Department of Justice. In 1999, he also participated in the Criminal Code review conducted by the federal Attorney General and Minister of Justice. At the provincial level, he served as a consultant during the Government of Ontario's review of the legal aid system.

Honourable senators, Justice Tulloch has been active within the community. He is a past board member of the Ontario Legal Aid Committee, the Canadian Bar Association, the Urban Alliance on Race Relations, and the Jane-Finch Community Legal Aid Clinic, the community in which I grew up. He is also past president of the Canadian Association of Black Lawyers and the Caribbean and African Chamber of Commerce. Honourable senators, please join me today in celebrating this great accomplishment for Justice Tulloch and the people of Ontario. Thank you.

[*Translation*]

UNITED NATIONS CONFERENCE ON THE ARMS TRADE TREATY

Hon. Roméo Antonius Dallaire: Honourable senators, at the end of the Cold War in 1989, the participating countries demobilized reservists and recovered military equipment. These countries, which wanted to reap the benefits of this war — essentially developed countries in Europe and North America — did not destroy their small arms.

The resale of this equipment became an option, because Canadian taxpayers had paid for this equipment, and people did not want to destroy what could still be useful. As a result, today, there are more than 300 million small arms spread out around the entire world.

[*English*]

Honourable senators, small arms and light weapons are the very lifeblood of modern conflicts. In countries such as Angola, Liberia, Côte d'Ivoire, Sudan and the Congo, United Nations monitors are reporting the horrific burden of these trafficking networks. Between 1990 and 2005, conflicts like these have cost Africa's economy an estimated $284 billion, roughly $18 billion a year.

Small arms proliferation has even impacted Canadians, as our trade interests are threatened by pirates off the Horn of Africa, our citizens suffer from domestic gun violence, and our overland trade routes are endangered by gangs in Mexico. We have had to create new capabilities like Shiprider in order to prevent illegal arms from entering our country. Yet, we live in a world where there are more regulations regulating the trade of bananas than the trade of arms.

• (0910)

Honourable senators, on Monday the United Nations and nations around the world will convene in New York to negotiate what could be the most important disarmament convention in decades. It will be a UN treaty on the global arms trade.

The idea of an arms trade treaty was initiated by NGOs and Nobel Peace laureates in the 1990s. Since then, a great deal of ground has been covered and today we are finally close to realizing that goal.

The treaty would, as an example, end the transfer of weapons in cases where they may be used in serious violations of international human rights or humanitarian law — or crimes against humanity, as we have seen in Syria and Libya.

With so much at stake, Canada cannot afford to sit on the sidelines. We do not know what Canada's position is. Honourable senators, Canada must participate in taking the lead in this treaty over the next three weeks to bring about the controlling and stopping of the proliferation of small arms illegally in the world.

THE SENATE

TRIBUTES TO DEPARTING PAGES

The Hon. the Speaker: Honourable senators, just before I move into the next item, I would like to draw your attention to the final two of our pages who are departing their tenure as Senate pages.

Ruphen Shaw was born in Taiwan but has called Vancouver, British Columbia, home since she was four years old. This year, she was on exchange to the University of Ottawa in order to take part in the Senate Page Program. Ruphen will be returning to Simon Fraser University this fall, where she will be completing her degree in biochemistry, with a minor in international studies.

Roland Troke-Barriault has spent his childhood living between Nunavut and Nova Scotia, but his family recently returned to Nunavut. He first came to the Senate as a summer student in the office of the Clerk. Roland will be completing the final year of his studies this fall in political science at the University of Ottawa, and hopes to one day pursue a career in the field of law.

Hon. Senators: Hear, hear!

ROUTINE PROCEEDINGS

THE SENATE

NOTICE OF MOTION TO RESOLVE INTO COMMITTEE OF THE WHOLE TO RECEIVE SENIOR MANAGEMENT AND OFFICIALS OF THE CANADIAN BROADCASTING CORPORATION

Hon. Hugh Segal: Honourable senators, I give notice that, two days hence, I will move:

> That, at the end of Question Period and Delayed Answers on the sitting following the adoption of this motion, the Senate resolve itself into a Committee of the Whole in order to receive senior management and officials of the Canadian Broadcasting Corporation to explain their decision to cut funding to Radio Canada International services by 80%, particularly in view of the importance of
>
> (*a*) Radio Canada International as the voice of Canada around the world; and
>
> (*b*) short wave radio in oppressed regions worldwide that are denied access to the Internet.

[*Translation*]

QUESTION PERIOD

ANSWER TO ORDER PAPER QUESTION TABLED

HUMAN RESOURCES AND SKILLS DEVELOPMENT—CANADA PENSION PLAN

Hon. Claude Carignan (Deputy Leader of the Government) tabled the answer to Question No. 35 on the Order Paper — by Senator Callbeck.

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, pursuant to rule 27(1), I would like to inform the Senate that when we proceed to Government Business, the Senate will address the items in the following order: Bill C-23, Motion No. 47 and Bill C-11, followed by other items in the order in which they stand on the Order Paper.

CANADA—JORDAN ECONOMIC GROWTH AND PROSPERITY BILL

THIRD READING

Hon. Pierre Claude Nolin moved the third reading of Bill C-23, An Act to implement the Free Trade Agreement between Canada and the Hashemite Kingdom of Jordan, the Agreement on the Environment between Canada and the Hashemite Kingdom of Jordan and the Agreement on Labour Cooperation between Canada and the Hashemite Kingdom of Jordan.

He said: Honourable senators, we examined this bill yesterday in committee. I understand the dismay of some of my colleagues who know that this bill was introduced in the House of Commons in a number of different sessions and that members of that chamber were able to examine it ad nauseam while we had only one day. Nevertheless, honourable senators, we must not delay in passing this bill just because the MPs took more time.

Why did Canada conclude this free trade agreement? For those who are wondering — and Senator Downe mentioned this — the volume of trade between Canada and Jordan is small compared to our trade with other countries. However, the fact of the matter is that this agreement is of strategic importance to Canada, given Jordan's geographic location and our desires for world peace and security.

Honourable senators will understand that it was important that Canada sign this free trade agreement, particularly since our main economic partners, for example the United States and the European Union, have signed similar agreements. The agreement with the United States has been in effect for a year now and the agreement with the European Union will come into effect in two years.

The time frame for the elimination of tariffs between Canada and Jordan will be more or less the same as the implementation of the agreements with the United States and the European Union.

This is the first free trade agreement that Canada has signed with an Arab country. Even though it is small, it is a stable Arab country. This stability is respectable and highly regarded in the Arab world. Although Jordan's political structure is not exactly what we would like to see, King Abdullah has nevertheless managed to maintain relative peace in a rather tumultuous environment. Consider that country's neighbours: Iraq, Syria and Israel.

Without going into too much detail, I have explained why it is important that Canada enter that part of the world's markets.

Although Jordan is a relatively small market, Canadian companies are already doing business there. It was important to protect those markets, no matter how small. For instance, think of our Western farmers who grow lentils. The people of Jordan love lentils and therefore buy them from our Canadian farmers. So it was important to protect those markets.

We heard from one witness representing the clothing industry.

• (0920)

We might think that the clothing industry would oppose the agreement. The minimum wage in Jordan is about a dollar a day, not ten dollars an hour. If we compare a garment made in Canada to one made in Jordan, which country do you think has the manufacturing cost that is most advantageous to the seller? Jordan.

Nowadays, Canadian clothing wholesalers no longer manufacture clothing in Canada. They contract out the manufacturing to other countries and, at this time, Bangladesh is the country of choice. Signing this agreement with Jordan will allow Canadian wholesalers, those who place orders for the manufacture of clothing, to have choice, and there will be competition to see who will produce the best clothing for the best price.

The Parliamentary Secretary to the Minister of Industry appeared before the committee, and the representatives of the various departments involved all supported this agreement. We also heard from two experts. I mentioned the clothing expert, but we also heard from an expert in international trade agreements, a former Canadian official who today teaches at Carleton University. And although he is not absolutely thrilled with this free trade agreement, he does support it because it is symbolic.

The parties signed the agreement in June 2009. There were three rounds of negotiations in one year and everything was settled. This is a simple agreement that only includes the agreement on goods and nothing else. There are two side agreements, and I will say a few words about one of them.

This agreement is symbolic because Canada is sending its trading partners the message that it can get along even with the smallest countries in the world, with countries that do not share its democratic values.

The side agreement on labour is also important for the garment industry. I am sure that some of you can picture children forced to do hard work for very little pay under conditions that would be unacceptable in Canada. This side agreement on labour imposes the same employer-employee labour relations standards on Canada and Jordan.

Think of all the labour standards we have in Canada at both federal and provincial levels. Jordan will have the same standards. Imagine equality, non-discrimination, the abolition of forced child labour, regulations for migrant workers, and workplace health and safety standards. In addition, minimum wage — even though it is too low — would be regulated. All of this will come into effect once Canada ratifies this treaty.

Those are the positives. Imagine a Canadian citizen, a garment buyer who visits a manufacturer and wants him to make T-shirts. He visits his Jordanian supplier's factory and finds that seven- or eight-year-old children are working there, which violates the standards. The manufacturer can go back to Canada and file a complaint as an individual. Canada can file complaints, and so can individuals.

If a Canadian tourist visits Jordan and thinks he has discovered an irregularity in some work environment, he can, upon returning to Canada, file a complaint. That will automatically trigger the investigation process and follow-up if the complaint is justified. If the investigation turns up something of interest and shows that labour standards were violated, actions will be taken and Jordan will have to pay very stiff fines.

Honourable senators, these are all of the reasons why I believe we should pass Bill C-23 at third reading. This is a good agreement. I wish we could have spent more time studying it, but I think that most of us believe this is a good bill about three good agreements for Canada.

[*English*]

Hon. Percy E. Downe: Honourable senators, we have to ask the question: What is the rush passing the Canada-Jordan Free Trade Agreement, Bill C-23? It was only received in the Senate two weeks ago. The House of Commons had the bill and its predecessor, Bill C-8, for over 14 months, and they held 12 committee hearings and heard from over 40 witnesses. The Senate has held only one meeting and heard from only seven witnesses.

The process was so rushed that we did not even hear the Minister of International Trade, the Honourable Ed Fast. The government sent only the parliamentary secretary to the minister. We all remember Senator LeBreton saying, when she was in opposition, "No minister, no bill." Has her opinion changed?

The Liberal opposition submitted a list of 16 witnesses. Only one of these was available to appear. For example, one witness received an email on Wednesday, June 27, at 2:40 p.m., wondering if they would drop everything and appear the next morning before the Standing Senate Committee on Foreign Affairs and International Trade. Another witness, who received an invitation on Wednesday afternoon for an appearance Thursday morning, was in Spain.

Talk about not being prepared. This is no way to conduct a serious review of the bill. Indeed, I would argue it is no way to run the Senate. On what basis are we to support this legislation without proper hearings? Has the Senate simply become a rubber stamp for the federal cabinet?

As all honourable senators know, the responsibility of this chamber is to carefully review legislation passed by the House of Commons. How did we do our job with this bill? Did we meet our responsibilities? Why did the government want to rush this bill through the Senate? By rushing this bill, what did we miss? What areas required further study?

Let me highlight some areas from the House of Commons' study of the bill. After all, they had over 40 witnesses and 12 separate committee hearings. Honourable senators may have been interested in hearing other witnesses, had we had the time.

In the House of Commons, on March 29, 2012, the International Trade Committee heard from Mr. Jeff Vogt, Legal Adviser from the Department of Human and Trade

Union Rights at the International Trade Union Confederation, who spoke to the committee about workers in factories in Jordan. He said:

> The issue of recruitment fees to a third party remains a serious concern. Migrant workers often are required to pay substantial fees to recruitment agents and sub-agents in their home countries. Workers in over 40% of factories indicated that this debt adversely affects their freedom to leave their jobs. There are no provisions in Jordanian law to ensure that workers have not been recruited under such circumstances.

• (0930)

The same day, the House of Commons International Trade Committee heard from Mr. Charles Kernaghan, Director of the Institute for Global Labour and Human Rights. In reference to the U.S., which signed an agreement on trade with Jordan 10 years ago, he stated:

> When the institute began its work in Jordan, we discovered that over the course of the five years from 2001 until 2006 —

That is when the trade deal was in effect:

> — the United States-Jordan free trade agreement had descended into human trafficking of guest workers, who were stripped of their passports, held under conditions of indentured servitude, and forced to work gruelling hours while being cheated of their wages.
>
> After our report was released, there were some minor improvements. For one thing, many of the guest workers received their passports back again.

The institute just released a report on March 28 of this year.

> It is on a factory called Rich Pine, in the Cyber City Industrial Park. It makes clothing for Liz Claiborne and J.C. Penney. . . . Its Chinese and Bangladeshi guest workers are working 14 hours a day, seven days a week. They are at the factory 96 hours a week. That's just the norm. They have had only one day off in the last 120 days, in the last four months. The workers are being paid about 70¢ an hour, which appears to be . . . It is below the minimum wage in Jordan, which is 74.5¢.
>
> The workers have no rights whatsoever. It's a real sweatshop. Workers are housed in primitive dormitories. The Chinese workers and Bangladeshi workers have no voice.

He concluded by saying:

> I want to talk finally and briefly about the Classic factory in Jordan. It's the largest factory in Jordan. There are 5,000 workers from Egypt, Bangladesh, Sri Lanka, and China.
>
> They have $125 million of exports to the U.S., most of it Walmart and Hanes. The workers are working 14, 15 hours a day. Maybe they get two Fridays off a month. The workers are slapped, screamed at. When shipments have to go out, they'll work 18-and-a-half-hour shifts.
>
> But that's the least of it. What we have discovered is that at the Classic factory, Jordan's largest factory, there are scores and scores of young women guest workers who have been raped at the Classic factory.
>
> I'll tell you how we found out about this. We were in Jordan in December of 2010. Young women came to us and gave us disks. They gave us tapes that they had made themselves with their cellphones testifying about the rapes, pleading that we help them, pleading that we stop the rapes.
>
> A young woman, Kamala, told us about the men . . .

In her case, it was a general manager. She said:

> I was molested in every way. . . . That man tortured me. He took a lot of sexual advantages from me. . . I had to fulfill everything he desired because I was placed in an extremely vulnerable situation and intimidated. . . My whole body is in pain. . . . I cannot face my mother and father. I am destroyed. I cannot even change clothes before my mother because Priyantha has destroyed me. I have teeth marks all over my body.

She goes on to say that she was so horrified . . . she would have committed suicide:

> I cannot take my own life because. . . . I am the only one to take care of my parents. This is why I came to here . . .
>
> It goes on and on. It's in our report. It's in our updates.

Mr. Kernaghan concluded:

> I see very big problems in Jordan and the lack of respect of human and women's rights.

What would the Senate have recommended if we heard similar testimony? What new areas would we have uncovered if we did a review of this legislation? Would we have recommended to the government that we would only agree to the trade agreement if working conditions were improved and enforced, particularly for women from other countries who work in factories in Jordan?

As we rush this bill through the Senate, honourable senators, you may want to ask yourselves about that as we start our summer break. When you are enjoying a barbecue over the next few weeks, you may want to ask yourself about the conditions of those workers in the factories in Jordan. You may want to ask yourself this: Did we miss an opportunity to improve their lives and still have a trade deal? You may want to ask yourselves if senators met their responsibilities in rushing this bill through.

Honourable senators, you may ask those questions, but you may not like the answers.

[*Translation*]

Hon. Roméo Antonius Dallaire: Would Senator Downe agree to take a question?

[*English*]

Senator Downe: Yes, of course.

[*Translation*]

Senator Dallaire: I may have missed this in your presentation, but what about the use of child labour in the various industries you mentioned?

[*English*]

To what extent is Jordan abiding by the child labour laws in international conventions that have, in fact, been signed by Jordan and other similar countries?

Senator Downe: Honourable senators, there is no indication, as Senator Nolin said, that child labour is a problem. I am talking about migrant workers, mainly women, mostly over the ages of 16 and 17.

Senator Dallaire: Child labour laws cover 18.

Senator Downe: I did not know that.

[*Translation*]

Senator Nolin: Honourable senators, I have a question, if I may, that might help answer Senator Dallaire's question.

I understand that Senator Downe was referring to migrant workers. Indeed, there are no minors in that group, but the labour agreement covers basic labour standards that prevent young people from working in this type of industry and that also protect migrant workers.

Yesterday, Senator Downe and I heard officials explain how this side agreement on labour will be set up, and the binding components of this agreement. Do you not think that a terrible story like the one you just told us, although still possible, could give rise to a formal complaint by a Canadian who finds out about the situation there, or hears about it, as you did?

[*English*]

Senator Downe: Complaining is not the problem; enforcement is the problem.

Senator Nolin: Of course, enforcement is the problem, but the penalties associated with the proper enforcement are huge. We are talking about millions of dollars. For a small economy like Jordan's, it will be big.

Enforcement is always a problem. We are talking about trade sanctions and trade negotiations. I think the appropriate enforcement mechanism will be used to fulfill the objectives of the accord.

Senator Downe: The honourable senator asks a very good question. Does it not highlight the weakness that we had only one hearing with seven witnesses? Those are things we could have pursued and your questions are very good.

The reference in my speech was to the review that was done in the United States-Jordan trade agreement that was signed ten years ago. Five years in, this is what they found with the lack of enforcement, and that is the story that I recounted to the Senate today.

Hon. Terry M. Mercer: Honourable senators, I have a further question for Senator Downe. What provisions are there for enforcement of the rules that have been referred to by Senator Nolin? Are they strong enough? He talked about the ability to complain. Complaining is one thing, but action is another. Are these provisions strong enough, in the honourable senator's opinion?

Senator Downe: Honourable senators, I cannot answer that question because we only had one hearing and we did not explore that in any great detail.

Hon. Consiglio Di Nino: Honourable senators, I have a few brief comments. Senator Downe knows that I have a great sympathy for the issues he raises.

I believe all honourable senators know of my involvement with the Tibetan community in Canada. I was one of a number of people many years ago who would stand in front of plazas and other commercial enterprises, carrying a sign with the message, in effect, "Boycott Made in China."

• (0940)

My Tibetan friends taught me a lesson that applies here as well. They suggested that to isolate, in effect not to engage in dialogue, is worse than to be there. As a matter of fact, at a conference, His Holiness made a similar comment to the gathering. There is no question that not every country has the same standards or respect for rights, values and fundamental principles of fairness that we have in this country. We are not perfect either, but I think it must be considered that engagement with these countries and not isolating them — that is, to be in the tent with them — can help those people in those countries that are working toward democratic values and democratic rights.

I use as an example what I think is happening in China today. I never thought I would be able to say this, but I am quite encouraged at the changes taking place in China today. I think there is just a glimmer at the end of that tunnel — maybe it is not quite a light yet — and it is in large part because the world has engaged with China. Although I am totally in agreement with Senator Downe that we should always try to ensure that we raise these issues and defend them, I believe that to engage with these countries is better than to isolate them.

Hon. Mobina S. B. Jaffer: May I ask Senator Di Nino a question?

Senator Di Nino: Yes.

Senator Jaffer: When Senator Di Nino decided to leave our chamber, with him we lost a defender of minorities all around the world. I want to acknowledge the great work that he does for so many people.

Hon. Senators: Hear, hear!

Senator Jaffer: Most people know about his work in Tibet, but he does tremendous work in Kurdistan. I did not know about that until recently.

The honourable senator made a statement that we have to be vigilant. If anyone knows about that, Senator Di Nino knows that because in Tibet he has been vigilant. I agree with that we do not have to isolate. That is why we are looking at this agreement. However, when we look at this agreement we are aware that there are terrible atrocities happening against migrant workers in Jordan. As a vigilant country, does the honourable senator not think that that should have been part of our agreement before we proceed, to ensure vigilance in protecting the rights of the most vulnerable in this world?

Senator Di Nino: For me the answer is simple: We could put up barriers in dealing with people on the other side of an issue, or we could extend a hand.

I spent 37 years as a banker, so I will put on my business hat for a moment. In negotiation you sometimes have to accept what you can take, as long as it is within a defined range, so that you can continue to at least establish a relationship, build trust and build a relationship so that you can do things together. That applies in this case as it does in business. The alternative would be the fact that there were hearings. Were there enough hearings? I will let the committee deal with that. I do not want to get involved in that debate, especially today, my last day.

Having said that, I still think that if we have an opportunity to engage with these countries, I am now convinced, after nearly a quarter of a century of dealing with that, that it is better to be in there with them. The results seem to be pretty well universally agreed that we improve the situation by being there and by not isolating them.

Senator Dallaire: Would the honourable senator take another question?

Senator Di Nino: Yes.

Senator Dallaire: I am in total agreement that it is only by engagement, by extending a hand, by face-to-face discussions and by creating the human links, ultimately, that we will resolve conflicts.

Let us put it to another dimension. Would the honourable senator agree that our boycotting things like the Durban conference on human rights, or maybe even boycotting the Commonwealth Conference because we do not like some of the dictators there, is pejorative to the philosophy of actually going after these people and ultimately influencing them, maybe, to change their minds?

Senator Di Nino: There are times when you have to stand, as I did, with a big banner that says "Boycott made in China." You have to make that statement. If you want the perfect example of how that works and how it results in things that have improved the situation, it is Brian Mulroney with apartheid in South Africa. We had to do that and we need to do that still. This is not the same situation. This is a negotiation between two countries that already have a relationship to extend that relationship to include an exchange of goods and services, which I honestly believe will eventually help the situation in that country.

Hon. Francis William Mahovlich: Honourable senators, I want to compliment Senator Di Nino. If he can recall, back in 1972 we engaged Communist Russia. We engaged with them, and look what happened. We not only won, but what happened to Russia? The wall came down.

[*Translation*]

Hon. Fernand Robichaud: Honourable senators, I have something to say because I am a member of the committee that carried out the review — and I use that term loosely — of this bill.

I would like to point out that one of the witnesses who testified called this agreement "small," as the Honourable Senator Nolin did. I would instead use the term "insignificant" because it does not represent very much in the way of trade.

One of the witnesses told us that the reason we should sign this agreement and pass this bill was simply to show the world that we are open to doing business.

The government is saying that we are going to work with these people and open a dialogue, but I think that the dialogue will probably be limited, since this trade agreement itself will be limited in terms of trade with this country.

It is true that it is not a bad thing to sign the agreement, but we may have missed an opportunity, as the Honourable Senator Percy E. Downe pointed out, to have a look at an issue that is important to us: foreign workers who work in industry. If we had had the chance to have a few more committee meetings, we could have heard from more witnesses. Senators must understand that it is not easy for people who want to speak before a Senate committee to find the time to prepare a brief, because these people work and have responsibilities.

I dislike this aspect of our hearings. We should have taken a little more time to more carefully study this bill.

[*English*]

Hon. Don Meredith: Will the honourable senator take a question?

Senator Di Nino: Absolutely.

Senator Meredith: In light of what we have heard today — and Senator Downe spoke eloquently about the atrocities that have taken place — is the honourable senator confident that Canada's position on the world stage in terms of protecting those individuals who then victimize is such that we would not enter

into a full agreement if we saw these atrocities that have come to light? That is, we would not be party to through the implementation of this agreement in light of what Senator Nolin has indicated, that there is still room for improvement and that there is a complaint process. Is the honourable senator confident that we would not go further with this agreement in light of what has been talked about by our senators?

• (0950)

Senator Robichaud: As I said, I think our engagement would be quite limited. We did not have the time to really have a look at what was happening. What Senator Downe said came not through the witnesses but through a report from some other place. I would have liked to have gone and made the point so that, when this agreement comes into force, there is something on the record from the Senate hearings that we should work on, but we did not have time. I sincerely hope that when we begin to trade, that we bring those points to the attention of those people.

As Senator Nolin was saying, if one visitor from Canada to Jordan sees things that should not happen, like child labour or forced labour, he can make a report and actions can be taken, but the problem is with the enforcement. I am not convinced that we have looked at that like we should have.

Hon. Art Eggleton: I have a question, if I might, for Senator Robichaud. We are hearing from both sides of the house an absolute abhorrence about what we are hearing could be going on. I realize they are allegations at this point, but they need to be explored further. What mechanisms are there for this exploration? Do we need some sort of amendment to ensure that there is further investigation of this issue?

Senator Robichaud: Honourable senators, at this point, I suppose we could move an amendment, but it is somewhat late in the process. The proposed legislation has been through committee. This issue should have been dealt with in the hearings at the committee stage, where we could have called witnesses to ensure that whatever we proposed could have been a remedy to whatever happened, if it happened. The information was quite limited. This is where committees do their work. They look into the issues before them and the history and what will follow if we enter into a trade deal.

As I said in my opening remarks, one of the witnesses said the only reason we should sign this agreement right away is to show the world that we are open for business. That, for me, is not the right reason. We should have taken the time to look into that matter further.

Some Hon. Senators: Question.

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

Hon. Senators: Agreed.

Some Hon. Senators: No.

The Hon. the Speaker: Carried, on division.

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

[*Translation*]

COPYRIGHT ACT

BILL TO AMEND—ALLOTMENT OF TIME FOR DEBATE—MOTION ADOPTED

Hon. Claude Carignan (Deputy Leader of the Government), pursuant to notice of June 28, 2012, moved:

> That, pursuant to rule 39, not more than a further six hours of debate be allocated for consideration at third reading stage of Bill C-11, An Act to amend the Copyright Act;
>
> That when debate comes to an end or when the time provided for the debate has expired, the Speaker shall interrupt, if required, any proceedings then before the Senate and put forthwith and successively every question necessary to dispose of the third reading stage of the said Bill; and
>
> That any recorded vote or votes on the said question shall be taken in accordance with rule 39(4).

He said: Honourable senators, I would like to say a few words to emphasize the importance of this motion, which, today, I would like to refer to as a motion to manage the legislative process in a timely manner, rather than as a time allocation motion.

I urge all senators to support this motion.

[*English*]

Hon. James S. Cowan (Leader of the Opposition): Honourable senators, as we near the end of this session, I think it is appropriate to reflect on the work that has been done and, in particular, on the way in which we have gone about that particular work. I want to address my remarks particularly to my friends on the other side of the aisle.

Honourable senators, this is the fourth time in just over a week that the government has moved time allocation in this chamber. Since November, there have been eight time allocation motions tabled. Honourable senators will remember that the government withdrew a time allocation motion calling for a possible pre-study on the Wheat Board bill, but we received the bill before that motion could be considered. The government did move time allocation for both the second reading and the committee stage of the Wheat Board bill.

In short, the Senate's work on government legislation has been shut down seven times in the past seven months. Let us be clear that this has not happened because of an obstructionist opposition. We have never filibustered. We have never taken undue advantage of those provisions in our rules that enable

opposition senators to delay the consideration of government legislation. I have stated our position on this clearly and repeatedly, in public and in private. The government has known that our side has had no intention of unduly delaying their bills, yet time allocation has been used seven times in the past seven months.

On virtually every occasion, the government gave notice of time allocation on the first day of debate, usually after just one or two speeches. After less than an hour of debate, after hearing one person's thoughts, the government decided that it had heard enough.

There are two consequences to this approach to the work of Parliament. The first and most obvious is that our examination of important government legislation has been radically truncated. This is not just an issue of time, honourable senators. The quality of the Senate's contribution necessarily suffers. I think the remarks of Senator Robichaud a few moments ago with respect to the Jordan free trade bill bear that out.

There is no possibility to reflect upon what a colleague has said, ideas that they have been raised or changes proposed before we are asked to speak or forever stay silent on that bill. This means that any senator's intervention will have little if any impact, no matter how insightful, no matter how critical the issues raised, no matter the wealth of knowledge and experience reflected in that contribution and no matter how helpful the solution or suggestion proposed.

This means we are going through what is essentially a pro forma exercise: put in the time, make the speeches, stand and vote. Nothing matters but that the government's legislation gets passed as is, no changes, however much a bill may need amendment.

Honourable senators, we are a chamber of sober second thought. A metaphor that is commonly used is that we are like a saucer that cools the tea, a place where the benefit of time and reflection can enable flaws or unintended consequences to be seen before a bill is passed into law. The goal of all this, of course, is for the two chambers together to produce the best laws possible for Canadians. Time allocation does not allow much time for cooling. In fact, it only heats up the debate, and that is the second consequence I want to highlight.

Instead of debating the substance of the legislation before us, and each of these bills has been far-reaching, with profound impacts upon Canadian lives and indeed in some cases their very liberty, we are forced to engage repeatedly in rancorous debates on the process. Some may suggest that this is exactly what the government wants. If parliamentarians are debating time allocation, then that is when the narrative, as some people say, shifts from the bills themselves to a discussion of the process. Let us face it, Canadians generally cannot relate to those kinds of debates, and so some undoubtedly lose interest. If the government is advancing controversial legislation — and I think we would all agree that every bill for which time allocation has been proposed is highly controversial — then from the government's point of view, the fewer Canadians who follow the progress, the better.

• (1000)

Now, that would be the most cynical view. Certainly it is not an approach that respects the views that Canadians may have on proposed legislation, and without question, it is not an approach that respects the views of any parliamentarian sitting in this chamber on either side of the aisle. Most important, it is not an approach that respects Canadian parliamentary democracy.

If that is wrong, if that cynical view is not justified, then the only conceivable reason for the government's repeated recourse to time allocation is its own inability to manage its agenda.

Let us look for a moment at the legislative history of each of the bills for which the government has imposed time allocation just in the past 10 days.

Bill C-38 is the massive budget bill. Much has been said about the physical size, physical length of the bill and the sweeping range of issues addressed in this single omnibus bill.

It arrived in the Senate last week, very late on Monday night. On Wednesday, the Conservative sponsor of the bill, Senator Buth, spoke. Senator Day, our opposition critic and Chair of the National Finance Committee, rose and spoke briefly before proceeding to adjourn the debate for the duration of his time. At that point, the Deputy Leader of the Government in the Senate gave notice of time allocation.

One speech from the government sponsor of the bill and a few words from the opposition critic with the promise and expectation of much more to follow, and the government moved to cut off debate.

Remember, honourable senators, this was our first opportunity to debate this bill in the full chamber. Recognizing the massive size and scope of the bill, we on this side cooperated with the government and agreed to take the unusual step of conducting a pre-study of that bill. We divided the bill into separate sections for pre-study by six different Senate committees. Although our committees did their best — and I reiterate our appreciation for the work that the members of those committees did — let us not deceive ourselves or mislead Canadians. Our examination was still woefully inadequate for a piece of legislation of such size and far-reaching scope.

I doubt that anyone here could seriously argue that the examination of Bill C-38 was the kind of detailed study the Senate is capable of and indeed has done so well in the past.

Of course, no reports were tabled in the Senate by the committees that conducted those pre-studies. Again, I can only surmise that the reason was lack of time. The committee members must have recognized that they, too, did not have adequate time to consider and then distill the evidence they heard into a concise report or set of recommendations. The result, of course, was that the pre-study, already inadequate because of the time available, necessarily was of very limited value to our consideration of this important and massive bill.

Honourable senators will remember that the transcripts of the evidence heard before those committees was transmitted as a pile to the members of the National Finance Committee, and I doubt that the members of that committee had an opportunity to review

that evidence in any detail before they were called upon to pass clause-by-clause consideration of the bill. I am not criticizing them or the members of any committee that did pre-study; as I said, they did the best they could under the circumstances.

As soon as debate started in the chamber, time allocation was moved. Again, let us be clear and honest with Canadians. There was no objective reason for time allocation to be imposed on the consideration of Bill C-38.

Government spokespersons and officials were asked repeatedly to point to provisions in the budget bill that were time sensitive. They could not point to a single one. In fact, some of the provisions — for example, the controversial amendments to Old Age Security — will not even be phased in for a decade. How is that so time sensitive that it had to be passed urgently, with no time for serious examination and debate?

There was nothing urgent about the bill itself, or at least nothing that the government told us about. We, on our side, were absolutely clear, publicly and privately, as I have said, that we had no intention of obstructing or unnecessarily delaying consideration of the passage of the bill, yet after one speech, the government gave notice of time allocation. In the words of our Speaker, spoken when he was in our position, on the opposition benches, the government brought down the guillotine.

So much for the second reading of Bill C-38. That was last Thursday.

Next up, indeed the next day, notice of time allocation was given on Bill C-31. Bill C-31 is a mini omnibus bill, this time dealing with immigration and refugee law. Why do I call it a mini omnibus bill? Here is the official title: An Act to amend the Immigration and Refugee Protection Act, the Balanced Refugee Reform Act, the Marine Transportation Security Act and the Department of Citizenship and Immigration Act.

Honourable senators, let us look at the legislative history of that bill, which as you have heard is, like the budget bill, a very controversial bill, not only amongst senators but also amongst Canadians who have communicated with all of us, I am sure, on this bill.

This bill arrived in our chamber on June 11, not even three weeks ago. We debated it for one day in this chamber at second reading and then referred it to our Standing Senate Committee on Social Affairs, Science and Technology.

Our committee spent four days on the bill, and that includes their time doing clause-by-clause consideration and drafting observations.

On June 22, last Friday, the bill came up for third reading debate. The sponsor of the bill, Senator Martin, spoke very briefly, and I think all of us acknowledge that she did an excellent job of putting forward the government's rationale for this bill. Then our critic, Senator Jaffer, gave an equally well-thought-out and well-delivered response on behalf of the opposition. Then, as is now the government playbook, the Deputy Leader of the Government rose and gave notice of time allocation.

This important bill that overturns much of Canadian immigration and refugee law was forced to a final vote on Wednesday, two weeks and two days after it was tabled here for first reading.

Honourable senators, let us contrast what took place here with the bill's study in the other place.

The bill — we are talking about the refugee bill here — was tabled on February 16 and then sat on the Order Paper for almost three full weeks until March 6, when the government brought it forward for second reading.

Honourable senators, think about that for a moment. The government let the bill sit at first reading, no action whatsoever, for longer than it gave members of this chamber to complete all stages of the bill from start to finish.

Senator Mercer: Disgraceful.

Senator Cowan: The bill had six days of second reading debate in the other place, 15 committee hearings, three days of debate at report stage, two further days of debate at third reading and then, and only then, did it come to us. In all, the bill was in the other place for four months, and we had the guillotine slammed down after one day of debate and two speakers.

Senator Moore: So much for sober second thought.

Senator Cowan: Why, honourable senators, was this suddenly so urgent? The Deputy Leader of the Government told us it was because a number of immigration and refugee reforms passed by this chamber two years ago are set to come into force on June 29. Therefore, we need to pass the bill before that day, in his words, "to avoid the need for a multitude of bureaucratic measures and to prevent potential errors from being made when the system is implemented."

• (1010)

I want to pause for a minute here to remind honourable senators that we joined with the other place back in 2010 to pass certain reforms. The government did not like those reforms, but it was a minority government back then. However, Parliament, including members of this chamber, passed it. Instead of respecting what Parliament passed, now that it has a majority in both houses, the Harper government introduced this bill to undo those changes and, to add insult to injury, said we had to move fast without time to properly study or debate the bill to ensure that those changes, which we ourselves legislated two years ago, do not ever take effect.

Of course, the government either did not realize that it faced this deadline or was so sanguine about its power to simply impose time allocation in this chamber that it let the bill languish on the Order Paper in the other place for three weeks before even bringing it forward for second reading debate. When after months it finally came to us, suddenly, all this urgency, no time for serious study, very little time to hear from Canadians, and as soon as the debate begins, slam, down comes the guillotine, debate silenced. Honourable senators, that is how little respect the government has for our views and for your views.

Bill C-31 addresses people's lives, refugees fleeing horrendous circumstances and children who have seen untold horrors. Surely they deserve better from their chosen country of refuge than a law passed in such a slipshod, off-the cuff way.

Now we have Bill C-11, a bill that makes extensive changes to our copyright law. Again, there has been very little evidence that this bill has been a matter of urgency for this government — importance, unquestionably — but urgency, no.

This is the third copyright bill tabled by the Harper government. The first was Bill C-61, which was introduced on June 12, 2008, in the other place. It sat at first reading for three months — no action by the government. Eventually, it died on the Order Paper. That was when Prime Minister Harper called an election after two years, contrary to his own fixed election law. As I recall, the reason was that Parliament had become dysfunctional. The only dysfunction with respect to the copyright bill was his own government's refusal to bring it forward for debate.

Then the government waited. It waited until June 2010 when it tabled Bill C-32. Having waited two years after tabling the last copyright bill, Prime Minister Harper was evidently in no hurry to move forward with his new one. That bill, Bill C-32, sat on the Order Paper for five months before even being brought forward for second reading. There were several days of debate in the other place; then the bill was referred to a special legislative committee that held 17 hearings. Another election intervened, and that bill, too, died on the Order Paper.

Now we have Bill C-11. The pattern seemed to hold. The government tabled the bill in the other place in September 2011. There were 10 days of debate in the other place. Then the bill was referred to a special legislative committee. That committee held 10 days of hearings. For those who are keeping count, that is 27 days of committee hearings in the other place on the government's copyright proposals. There were two days of debate at report stage, two days of third reading debate, and then the bill arrived here on June 18th. That is nine months after it was introduced in the other place.

Two separate legislative committees were established in the other place to study the Harper government's copyright proposals, and as I say, in total, 27 different committee hearings.

Also, honourable senators, it is important to note that none of the Harper government's copyright bills has ever reached the Senate before. The first opportunity our Senate committee had to study this government's proposals was last Thursday, just over a week ago. The sponsor of the bill, Senator Greene, in fact, underscored this himself yesterday when he said that this is "the first time in over 15 years that the Senate has had the opportunity to review this important piece of legislation."

He went on to note, "Intellectual property law is complicated and updating it is a balancing act."

Our Banking, Trade and Commerce Committee did its best, honourable senators. It sat long hours in three days trying to hear as many witnesses as it could possibly cram into the limited time available to it, but three days, honourable senators, for a bill that is designed to modernize our entire copyright law, a subject that the sponsor himself has acknowledged is complicated and whose updating requires careful balancing. There was no time to reflect on what each witness had said, and, indeed, there was hardly any time to examine each witness that took the time to come before our committee. Then the committee had to immediately report the bill back to this chamber the day before yesterday. That is the extent of the Senate's study of this important, complicated bill.

Of course, Senator Carignan had to do his usual dance — I think he has it down pat by now — and move time allocation.

As for the question of urgency, there is none that I can see. Certainly, the government did not manifest any urgency in its action or inaction with respect to this bill or its predecessors in the other place. There was no indication that there were any time deadlines or urgency with respect to this bill.

Honourable senators, why are we being asked to abdicate our constitutional role in this way? Why are we now routinely being cut out of the legislative process, prevented from doing the job we were summoned here to do, a role that is mandated under the Constitution and that our predecessors in the Senate have fulfilled since 1867?

Worse — and I said I would address these comments to my colleagues on the other side — why are honourable senators opposite so willing to relinquish their role, to decline to do the job that is demanded of them and of all of us by Canadians who pay our salaries?

An Hon. Senator: Hear, hear.

Senator Cowan: Senator Brown rises from time to time to speak of Senate reform and his wish that senators would live up to the independence that is the best of this chamber. I do not share his optimism that all would be made right if only senators were elected. Certainly, the experience in the other place suggests that that does not lead to independence.

Senator Tardif: That is right.

Senator Cowan: We have as much independence here in this chamber, honourable senators, as we will ever have. None of us here is in any way beholden to any government. That is why our tenure is what it is, but I deeply share Senator Brown's concern over the apparent willingness of senators to relinquish our constitutional role and responsibility, which, at its most fundamental, is to act as a check — not an enabler — on the power of the executive, the government of the day.

That is what is at issue here: The government's determination to impose its will and flagrantly ignore and bypass as much as it can this chamber of Parliament. If we on all sides of this chamber accept the government's evident disdain for our considered views, if we accede to the repeated and relentless pushing through of legislation with no opportunity for us to do our job and then the ultimate guillotine of time allocation, honourable senators, make no mistake — that is our choice then. It is we ourselves who bring down the guillotine, a kind of suicide for the Senate.

• (1020)

I do not believe that any of us, wherever we sit in this chamber, came to the chamber to be a party to that. We have worked together for some time now, and I am confident that each one of us came here because we wanted to make a contribution; we wanted to do our part to make Canada a better place. The road that we are now travelling is not how we accomplish that, honourable senators.

I hope that when we return in the fall, we will have had an opportunity to reflect over the summer on what we are doing to this institution and to its role in the Parliament of Canada, and indeed what we are doing to Canadian parliamentary democracy.

Some Hon. Senators: Hear, hear.

Senator D. Smith: Bravo.

The Hon. the Speaker: The Honourable Senator Brown, questions and comments?

Hon. Bert Brown: Would Senator Cowan allow me a question, please?

Senator Cowan: Absolutely.

Senator Brown: The honourable senator brought me into this discussion this morning, so I would like to respond. The honourable senator said that he has all the power he will ever have. Does he not believe that if all future senators were elected by their own province to come into this chamber and to speak on any bill from their province, whether they want to support that bill or to make a change to it, they would have much more power if they had a vote that was not commanded by a political party, a federal political party, but was actually commanded by the provinces they served?

Senator Cowan: I thank the honourable senator for the question. He and I have had this discussion before. As he knows, I do not support the government's proposed legislation, which would, through the back door, try to circumvent the provisions of the Constitution, which I think both he and I agree we should respect.

I am not sure that a Senate composed of representatives produced through this process of selection election will be good. I do support, as the honourable senator knows, the provisions relating to term limits. I absolutely agree that term limits are appropriate.

I am also not opposed, as the honourable senator also knows, to the concept of electing senators. I think that the approach of the government to this issue is wrong, and I oppose it for that purpose. I am not opposed, as the honourable senator knows, to the concept of electing senators. However, I think we must look at that, as we have discussed, in a broader context in terms of parliamentary reform involving the appropriate powers. If we simply have two chambers elected by the same method, and without any deadlock-breaking mechanism, then we have the type of chaos and deadlock that exists in the U.S.

I sincerely hope that before very long we will have an opportunity — all of us in this chamber — to debate either the current proposal from the government or an amended proposal, and I think that would be an appropriate time to debate this issue.

An Hon. Senator: There will be time allocation on it.

Senator Brown: One more comment.

I thank the honourable senator. I want to compliment Senator Cowan on his efforts and on his speech. However, I have to tell honourable senators that we received a new Angus Reid poll last night. We went up three points, not down three points.

The people of Canada are the ones who want to decide this, and that is how we want it decided. We want the people of Canada, in their provinces, to have the right to what the Constitution actually says. If one looks on page 7 at the very top, it says that senators are to represent the province in the Senate. Then it lists the numbers of senators that should be from each province.

We want a chance for those people who want to go forward with elections ultimately to have a stand-alone constitutional amendment and decide both the powers and the numbers of the Senate. I have given the honourable senator a paper on that. If he has lost it, I will be happy to provide him one in the next five minutes.

Senator Cowan: I certainly have not lost the honourable senator's paper. I have read it over several times.

I think the honourable senator and I will perhaps engage in a debate that is better held for another day, but it is passing strange that the two people who purport to be elected senators are about to vote on time allocation closure on an open, democratic debate. I think that is passing strange, honourable senators.

Senator Tardif: So much for independence.

The Hon. the Speaker: The time is over. Is there further debate?

Senator Comeau: Question.

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

An Hon. Senator: Yes.

The Hon. the Speaker: It was moved by the Honourable Senator Carignan, seconded by the Honourable Senator Poirier, pursuant to rule 39, that not more than a further six hours of debate be allocated for consideration at third reading stage of Bill C-11. All those in favour of the motion will please say "yea."

Some Hon. Senators: Yea.

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

Some Hon. Senators: Nay.

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

And two honourable senators having risen:

The Hon. the Speaker: Honourable senators, the vote will take place at 11:25 a.m. It is a one-hour bell.

• (1120)

Motion agreed to on the following division:

YEAS
THE HONOURABLE SENATORS

Andreychuk	Martin
Angus	Meredith
Ataullahjan	Mockler
Boisvenu	Nancy Ruth
Brown	Nolin
Buth	Ogilvie
Carignan	Oliver
Comeau	Patterson
Dagenais	Plett
Di Nino	Poirier
Doyle	Raine
Duffy	Rivard
Eaton	Runciman
Finley	Segal
Fortin-Duplessis	Seidman
Frum	Seth
Gerstein	Smith (*Saurel*)
Greene	St. Germain
Johnson	Stewart Olsen
Lang	Tkachuk
LeBreton	Unger
MacDonald	Verner
Maltais	Wallace
Manning	Wallin
Marshall	White—50

NAYS
THE HONOURABLE SENATORS

Callbeck	Hubley
Campbell	Jaffer
Chaput	Kenny
Charette-Poulin	Mahovlich
Cordy	Mercer
Cowan	Merchant
Dallaire	Mitchell
Dawson	Moore
De Bané	Munson
Downe	Ringuette
Dyck	Robichaud
Eggleton	Smith (*Cobourg*)
Fraser	Tardif
Furey	Watt
Hervieux-Payette	Zimmer—30.

ABSTENTIONS
THE HONOURABLE SENATORS

Nil

• (1130)

[*Translation*]

BILL TO AMEND—THIRD READING—
MOTION IN AMENDMENT NEGATIVED—
VOTE DEFERRED

On the Order:

Resuming debate on the motion of the Honourable Senator Greene, seconded by the Honourable Senator MacDonald, for the third reading of Bill C-11, An Act to amend the Copyright Act;

And on the motion in amendment of the Honourable Senator Moore, seconded by the Honourable Senator Dawson, that Bill C-11 be not now read a third time, but that it be amended,

(*a*) in clause 27, on page 23,

(i) by replacing lines 25 to 29 with the following:

"convenient time.",

(ii) by deleting lines 33 to 37, and

(iii) by replacing line 41 with the following:

"students who are enrolled in the course to which the lesson relates;";

(*b*) by relettering paragraphs 30.01(6)(*b*) to (*d*) on pages 23 and 24 as paragraphs 30.01(6)(*a*) to (*c*) and changing all related cross-references accordingly;

(*c*) in clause 34, on page 36, by replacing line 26 with the following:

"tained and may not subsequently reproduce the same sound recording, or performer's performance or work embodied in the sound recording, unless the copyright owner authorizes further reproductions to be made."; and

(*d*) in clause 47,

(i) on page 45,

(A) by replacing line 17 with the following:

"the technological protection measure, for any infringing purpose, unless", and

(B) by replacing line 25 with the following:

"measure for any infringing purpose.",

(ii) on page 51, by replacing lines 33 to 35 with the following:

"subsection.", and

(iii) on page 58, by replacing lines 10 and 11 with the following:

"regulation, increase or decrease the maximum amount of statutory damages set".

Hon. Céline Hervieux-Payette: Honourable senators, I would like to add to what has been said about Bill C-11 and to what we heard from a number of witnesses who, despite the short notice, came to shed light on a bill that all my colleagues and I find very complex and very difficult. The government must also find it difficult because it has taken many years for it to finally pass this bill today.

Nevertheless, I would like to say that we are very satisfied, although I believe the evidence we heard indicates that even though this bill may resolve some problems in some cases, it also creates a great deal of uncertainty.

I would like to give an overview of the cultural industry and its contribution to Canada's GDP. As the former head of a school board, I am especially concerned about one particular sector, and that is education.

In general, this industry contributes $46 billion to Canada's GDP and creates 630,000 jobs. I am not referring just to education, but also to music and all creative activities. In the case of books, I do not believe that we realize the importance of this sector of the creative industry in Canada.

Unfortunately, Canada ranks below average in a study of 30 countries. A study released in January 2012 by the World Intellectual Property Organization indicates that, in terms of the general size of this industry we lag far behind the United States, where this sector represents 11.1 per cent of GDP, double Canada's 5.4 per cent; Australia sits at 10.3 per cent.

Cultural industries in other countries account for an average of 5.9 per cent of jobs. In Canada, that figure is 3.8 per cent, compared with 8.9 per cent in the United States and 8 per cent in Australia.

I think it is important to understand how this law will affect Canada's economy and to gauge the impact of implementing it. It is also important for us to be aware of the need to respond to the concerns that most of the witnesses expressed.

Canada has 3,879 recognized authors, and 45,000 Canadian titles are published each year in print and digital formats.

Sales amount to $2.1 billion, and Canadian companies invest $140 million per year in creating and producing books. Authors collect $71 million in royalties and create 9,700 jobs.

It is clear that books are a cornerstone of the industry, yet that segment will be affected by the Copyright Act.

Print media and literature add more value — 40 per cent on average — than most other segments of the cultural industry, but in Canada, they account for just 25 per cent. We can do better. The good news is that Quebec is above the international average with 51 per cent in terms of Quebec creators, authors and publishers. It took us 40 years to reach that level, but I think that is very encouraging for Quebec. In fact, and I may talk about this more later, Quebec is slightly ahead of its anglophone colleagues and has promised to fully respect copyright from a legislative perspective.

Nonetheless, one of the things of concern to the entire industry is the fact that Bill C-11 has introduced 40 new exceptions. When it comes to the law, we do not expect there to be so many exceptions. Observers of the creative sector and people in the political, economic and cultural world consider these exceptions as a way of expropriating copyright.

For all intents and purposes, authors are those who justify the existence of the Copyright Act because without authors there is no industry. If the exception, according to most observers, has become the rule — and this is even more troubling in the field of education — then the bill seems to give educational institutions and all other commercial or non-commercial private training businesses the right to use any copyright-protected work without permission or compensation. It is the one exception that could have the most adverse effects on the publishing industry.

Given the close relationship between books and education, this exception could cause a contraction of up to 20 per cent in the publishing/writing sector in the next two years. That is what is so worrisome, with regard to job creation, to the entire chain of stakeholders in this industry.

As far as collective societies are concerned, copyright licensing agencies were created to facilitate the collection of copyright fees. If, every time a work was used, the user had to send the author the small amount he or she is owed, then with thousands of authors and millions of users, that approach would not work. In Canada, we have collective societies. Every year, those societies collect $41 million and redistribute it to authors and publishers, including $11 million in French Canada. This represents 0.5 per cent of Canada's total education budget.

I am talking about formal education at educational institutions. I am not talking about education in the broad sense because that is another sector and a whole other matter of concern to every witness who came to testify.

• (1140)

This pertains to manuals published for professional training, professional associations, language courses and industries. The Canadian Bankers Association also produces material. Will those who produced this material lose their rights as authors? The bill cannot guarantee that they will not, and that was a concern for all the witnesses who appeared before our committee.

When representatives from copyright collectives appeared before the committee, they told us that there were Supreme Court rulings. Remember that we are talking about the

management of fair use. That is what concerns most people who work in this sector, because the bill leads to the free use of works for educational purposes and does not provide any protection for the book industry.

Honourable senators will understand that the authors were also inspired by the opinions of very credible legal organizations, such as the Barreau du Québec, which said:

> In several respects the bill introduces legal uncertainty in a way that will lead to greater use of the courts to determine the relations between authors, suppliers and users/consumers.

The Barreau du Québec recommended:

> . . . The addition to section 29 of the word "education" as one of the permitted fair uses of a work gives this provision a very broad and imprecise scope, especially in light of the many new exceptions specifically for the benefit of educational institutions.

Many people, particularly representatives of the copyright collectives, came to tell us that, already, a number of educational institutions are withdrawing from the copyright collection system, except one entire province where the Minister of Education has committed to respecting all copyrights and preventing any educational institution from benefitting from or applying this exception, or in other words, thinking that it can get away without paying anything. Why would only one copy of a publication be purchased for a class of 25 students and the author not receive anything for the other 24? Anglophone and francophone authors who appeared before the committee told us that they receive only the ridiculous amount of 90¢ for a book that sells for $10 in a bookstore. All this to say that the other $9.10 goes to the printer, the bookstores and all the other industry intermediaries, who receive the biggest piece of the pie. The authors have reason to be concerned that they will not be receiving the 90¢ for the other 24 copies.

We also heard about the business model for educational publishers, which do only educational publishing and make up a rather large share of the market. When each educational institution starts purchasing only a single copy of the required textbooks, these Canadian educational publishing houses will simply disappear.

This government brags about creating jobs, and yet an entire sector of the economy is in jeopardy here. All the publishing houses told us that they feel very threatened. When their representatives appeared in committee, they did not come to cry, but they suggested that the government fix this problem by complying with the Berne Convention. This convention states:

> It shall be a matter for legislation in the countries . . . to permit the reproduction of such works in certain special cases, provided that such reproduction does not conflict with a normal exploitation of the work and does not unreasonably prejudice the legitimate interests of the author.

Canada signed the Berne Convention, but Canada does not automatically take the convention into account in its legislation. Not including these criteria in the legislation downplays the importance of copyright and gives authors cause for concern.

I am spending so much time talking about copyright in the education sector because it is key to knowledge transfer. It is not simply a matter of copying, but also electronic publishing, so that students can have access to educational material through as many means as possible. That is why there are copyright collectives, and these organizations unique to our country are worried about their future, especially since in English Canada, only two universities have renewed their agreements with these collectives and several educational institutions have already withdrawn.

I would like to address Quebec's position, because, honourable senators, when I am here in the Senate, of course it is my duty to represent the interests of my province and francophones. I said earlier that French-language publishing in Quebec has made more progress than English-language publishing, which has to compete with the entire English-speaking world, including the Americans. The Government of Quebec supported new legislation and recognized that it was essential to maintaining a competitive and prosperous economy in Quebec and Canada. However, it wanted better protection for intellectual property rights, particularly in the digital world.

Publishers and all teaching institutions have had to adapt to these new electronic modes of sharing knowledge that comes from the mind of an individual or teacher who puts this new knowledge down on paper, or records it electronically, and then shares that knowledge with students to prepare them for the future. That is certainly one way of sharing knowledge with a wider audience, as long as it is done in a way that is fair and equitable.

The Government of Quebec did not and does not support expanding the fair dealing exception for the purpose of education, because there is no real guarantee. Most of our witnesses interpreted this as being able to get around paying copyright when material is reproduced for educational purposes. For Quebec alone, this would mean a loss of $40 million, and another $25 million for film use.

The Government of Quebec is well aware that it has budget woes. It is having financial difficulties, just like all other provincial governments, but it will not sacrifice authors for the sake of its budget.

I would also like to take a look at ephemeral rights. The Canadian Music Publishers Association is worried as well. As a result of negotiations with users, an acceptable compromise was reached with authors by radio stations and all music broadcasters. Works could be recorded, put together and an exception made for 30 days. This section of the act has been repealed, and we are now also putting our songwriters at risk. God knows that Quebec songwriters have garnered international success — not just Céline Dion, but people like Robert Charlebois and many others.

These people persevered even though it was difficult getting their careers off the ground. But not everyone is a Céline Dion or a Robert Charlebois. Quebec songwriters do not earn much money and need to collect royalties every time their music is played. This exception could block the collection of royalties.

The issue of resale rights was also brought up and concerns me, but was not addressed.

While they are still alive, creators — painters, sculptors and others — do not always enjoy financial success and may even live in poverty.

• (1150)

Then all of a sudden, once they die, their work goes up in value. For example, a painting that was sold for $400 can be resold for $50,000, $500,000 or even a million, but none of that goes to the heirs.

[*English*]

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

Senator Hervieux-Payette: Five more minutes.

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

Hon. Senators: Agreed.

[*Translation*]

Senator Hervieux-Payette: Honourable senators, we will have to take another look at this issue. A creator's work is his legacy. When his work increases in value, heirs should be entitled to a portion of that revenue.

One clause seems very strange to me. It states that when copyright is violated, the maximum penalty is $5,000, a sum that does not generally warrant going to court. With $5,000, a creator would be losing money the minute he hired a lawyer. Going to court would cost well over $5,000. Maybe lawyers in other provinces work for free, but those in Quebec are paid handsomely, so I do not think creators will be in a position to exercise that right.

In closing, I wish I could say that this bill is extraordinary and that it will improve things significantly. The industry will be well served, except for some players, such as non-profit copyright collectives.

In this bill, the words "fair," "equitable" and "just" come up over and over again. Our Conservative colleagues have an extraordinary talent for playing with words because pitting creators' rights against the industry is anything but fair. Contrary to what the Bible says, David has lost the battle and Goliath has won.

Hon. Ghislain Maltais: Honourable senators, allow me to say a few words about this bill and put it into context.

The Copyright Act needed to be reviewed. In the standing Senate committee we received the Honourable James Moore and the Honourable Christian Paradis, who clearly indicated that the need to review this bill was urgent. They also told us something important. They told us that the bill is not perfect and that it could never please everyone. It is a bill for the whole cultural community on copyright.

I will not get into the same statistical details as Senator Hervieux-Payette, whom I respect a great deal and who does good work. The big bad Conservatives gave the good Liberals all the time they needed to hear witnesses in committee. We wanted to ensure that the Liberals had the opportunity to ask all the questions they wanted to ask.

I will remind Senator Hervieux-Payette that I too come from the education community. I was vice-president of the Quebec federation of school boards and, I should note, I was a member of the first government in Canada to recognize the status of artist.

I must say, the content of the bill is rather broad. A bill is often geared to the majority and not to the minority because the legislator only legislates for a minority in exceptional cases. Generally speaking, the legislator legislates for the majority. For example, the Income Tax Act states that we must pay our taxes, but the regulations are there to tell us how to pay our taxes.

It is therefore important to put this framework that exists for the entire population and all creators into context. Of course the regulations will have to be adjusted. I also acknowledge that, as Senator Hervieux-Payette pointed out, there are things that could be improved. That is the role of the regulations. There is a legislative framework and a regulatory framework.

When the regulations committee sits, it will be up to stakeholders to let department officials know that they do not agree with certain regulations and to request changes. This is done in every parliament and I do not see why it would not be done here.

Bill C-11 is important, and not just for creators. Canada is a land of opportunity. Now we can say that we are citizens of the world and members of the global community. We must not withdraw from the world. On the contrary, we must open up to the world. And the new technologies that are available to all creators must be open technologies.

I would like to come back to a specific point and that is education. Senator Hervieux-Payette admirably tried to define the word "education." However, it is not up to the federal government to do so because education falls under provincial jurisdiction.

I sat in the Quebec National Assembly and, at the time, I would not have tolerated a higher level of government interfering in my jurisdiction. Every province and territory has defined education. So, the federal government will not reopen that constitutional can of worms, which could lead to disagreements in the future.

Bill C-11 is a bill that is needed. Bill C-11 is not perfect, but it addresses the needs of all Canadians, particularly creators.

Hon. Maria Chaput: Honourable senators, I too would like to participate in the debate on Bill C-11, An Act to amend the Copyright Act.

I would like to participate for several reasons. The first is that I was personally contacted by groups and organizations representing the arts and culture industry. I received letters and emails. Also, the arts and culture industry is very dear to my heart and I have a great deal of respect for its creators.

Today I would like to share some concerns about Bill C-11 that come from the arts and culture sector as well as other groups and individuals involved. The Canadian Conference of the Arts presented a list of 20 amendments to the government and the committee studying Bill C-11, on behalf of 68 cultural organizations across the country. The purpose of these amendments was to minimize the negative impact that the bill could have on Canadian artists, writers, publishers and other creators.

Although all 20 of these amendments are fully supported by the 68 cultural organizations across the country, the CCA identified three amendments that were top priorities for the thousands of people represented by the CCA. The first amendment, proposed to clause 32.3 of the bill, has to do with interpretation. It states:

> In interpreting limitations or exceptions to copyright in Part III of the Act, a court shall restrict them to certain special cases that do not conflict with the normal exploitation of the work or other subject-matter and do not unreasonably prejudice the legitimate interests of the author, performer or maker.

This amendment is self-explanatory and does not require any justification.

The second amendment proposed by the CCA has to do with statutory damages in clause 46 of Bill C-11. The justification for this amendment is the following:

> Statutory damages are part of a well-functioning copyright regime. Because it is often difficult for copyright owners to calculate damage caused by infringement, pre-established damages known as statutory damages ensure they are compensated for proven infringements: they work to deter would-be infringers. The statutory damages regime, as it stands, is a necessary element of the Government's goal to fight piracy. The proposed reduction of statutory damages available in respect of all infringements for non-commercial purposes could have the unintended effect of rendering the regime useless.

• (1200)

> The legal costs for taking action against "non-commercial" infringers would outstrip the newly proposed damage range of between $100 and $5,000 for all infringements of all of the rightsholder's works or subject-matter.
>
> Copyright owners do not obtain disproportionate damage awards from individuals. The courts already have the discretion to reduce statutory damages awards when individuals infringe for commercial purposes. They should continue to have that discretion. The new limitations on statutory damages for infringement — including their restriction to commercial infringements — essentially knock the teeth out of the existing Copyright Act. With the cost of litigation, the limitations remove any hope of meaningful remedies for infringement. Imposing arbitrary caps risks turning it into little more than a licence fee for infringement.
>
> While it remains important that statutory damage awards be proportionate, it is also important that the regime remains a strong deterrent for infringers, including those that enable acts of copyright infringement on the Internet. Consequently, there is no need to make a distinction between commercial and non-commercial infringement. Instead, courts should continue to have discretion to reduce statutory damage awards in circumstances where they may be grossly disproportionate to the infringement.

Thus, the proposed amendment reflects this justification.

The third amendment proposed by the CCA has to do with the review of the act — an amendment proposed in clause 58 and clause 92.1 — and here is that organization's justification for the amendment, and I quote:

> Considering the speed of technological changes that affect copyright, and the impact that the amendments proposed in Bill C-11 are expected to have, a shorter timeframe for the review of the legislation would be preferable. We expect that within three years, copyright holders will be able to clearly demonstrate how these changes have affected them, thereby justifying new amendments to the legislation at that time.

I also carefully read the proceedings of the Standing Senate Committee on Banking, Trade and Commerce pertaining to the study of Bill C-11.

One of the major concerns of witnesses who appeared before the Standing Senate Committee on Banking, Trade and Commerce during its study of this bill was the use by schools of material produced by authors. I am referring to witnesses who deal with authors. Many people are worried because they do not see in the new legislation the obligation to pay amounts of money that are usually set aside for the use of paper or electronic versions of a book or educational material. They asked many questions and there are very few answers.

Will authors be compensated every time 2,000 or 3,000 students receive a copy of a work? In the past, a formula was negotiated to the satisfaction of all stakeholders. How will our authors be compensated in the future? Will they receive compensation for just a chapter or a part of their work?

Does this bill not change the relationship that previously existed between education systems and authors and publishers?

Does this bill not create confusion about the definition of "fair education"? Does this mean private education, public education, professional training? It seems that this can mean any process involving education, whether public or private. It encompasses more than just schools, but no distinction seems to be made.

Therefore, it seems that authors of material will receive no compensation. And creators will have to sue the organization that uses the material for educational purposes in order for the court to decide whether the six factors established by the Supreme Court have been applied to the use. What happened to common sense? What happened to logic?

As Honourable Senator Céline Hervieux-Payette said to one of the witnesses at the June 26, 2012, meeting of the Standing Senate Committee on Banking, Trade and Commerce:

> . . . creators talked about a fund that was eventually agreed to of slightly more than $20 million. That amount was distributed to creators for the reasonable application of copyright and allowed photocopies or digital copies. Universities will no longer have to pay that $20 million, so tell me, how will they now compensate authors whose work they copy?

So many questions, honourable senators, so much ambiguity and so few answers. This bill is good and deserved to make it this far but it also deserves to be improved.

I would like to conclude by quoting Bill Harnum, publisher and 2012-13 president of the Association of Canadian Publishers.

[*English*]

> We appreciate that our government values the high-quality books we provide and is seeking to make them more accessible. We also know that this government recognizes the importance of sustaining the system that provides them and does not intend to undermine it.
>
> Our concern is that the absence of clarity around the definition of education as a purpose under fair dealing will have a number of unintended consequences. The most immediate of these will be uncertainty in the marketplace, as users claim a very broad interpretation of education.

[*Translation*]

I would also like to read some excerpts from a letter I received from Michael McCarty, president of **ole**, Canada's largest music publisher.

[*English*]

> The laws we pass must allow and encourage Canada's intellectual property industry to flourish in the digital age. As currently written, Bill C-11 misses the mark.
>
> As Canada's largest music rights owner and employer, we have invested over $115 million in copyrights and employ over 40 staff. Bill C-11 will not only have a negative impact on musicians and songwriters, but also on our business and the people we employ.
>
> We agree that our Copyright Act needs to be modernized. Unfortunately, Bill C-11 will ensure that creators are largely shut out of the digital business while the tech, telcom and broadcast businesses continue to profit from music piracy. The Bill will also "pick the pockets" of artists and songwriters to the tune of $30 million per year through the proposed elimination of existing rights. This is a large part of the income of musical creators for generations to come.

Honourable senators, as Senator Moore stated:

> We understand the issue is a complex and controversial one. But we believe there are problems with this legislation which will harm both creators and consumers. We feel that we can fix the problem with amendments.

Honourable senators, artists, musicians, authors and others working in the cultural sector are worried, with reason, I believe. They cannot afford to lose revenues.

[*Translation*]

Honourable senators, the concerns I have raised are real.

[*English*]

Hon. Terry M. Mercer: Honourable senators, I rise today to speak on Bill C-11, another of those bills that come from the Harper government with racing stripes on the side to indicate how quickly they want this legislation passed but always come at the last minute. I also speak on an issue. I cannot claim any artistic talent, but I was smart enough 40 years ago to marry into a family of very talented people. I have two brothers-in-law who are artists and a sister-in-law who is also an artist, so I claim my right through them.

This bill is complicated, but so is the digital world we live in. Like it or not, we must ensure that proper safeguards exist that protect artists, educators and writers from unlawful use or distribution of their materials. I think we are all in favour of that. However, how this government has approached this is the same way it approaches all bills: "My way or the highway."

This is not the first time we have seen this bill. Bill C-11 is in fact an exact duplicate of Bill C-32. Even though the house committee heard from hundreds of witnesses and received hundreds of submissions on Bill C-32, the Harper Reformists still did not even try to amend the bill.

• (1210)

While we all agree we need to update our copyright laws, why not do it right? Why not listen to the experts who tell you that a certain section of the legislation should be amended to better protect educators or a certain section should be deleted because it may actually harm a writer's ability to maintain control over his or her work?

Bill C-11 includes measures that add new fair dealing exceptions for education, parody and satire; allow copying for personal uses, such as recording TV shows or transferring music onto an iPod; add new rules making it illegal to circumvent digital locks; and add new responsibilities for Internet service providers to notify copyright holders of violations. Big brother is watching again.

Honourable senators, this bill should bring us in line with the 1996 World Intellectual Property Organization Internet Treaties. These treaties were put in place to combat piracy. Again, I believe we are all in favour of doing that and protecting Canadians, but at what cost and at whose provocation? I will get to that later.

There are too many things in this bill to comment on, but I would like to concentrate on the digital lock provisions. These harsh and American-influenced digital lock provisions are most likely the toughest and most restrictive in the world. Digital locks, of course, protect content, whether it is on a DVD or the Internet.

How often have you put a CD into your computer, copied the music onto iTunes, and then transferred them onto your iPod or BlackBerry? In doing so, did you think you were stealing someone's work? If not, you better start believing it because now, if you do just that, you could face fines of up to thousands of dollars because the government says you are stealing.

The true question is this: Who owns the material you are transferring? Do you? Does the musician? Do you both? Bill C-11 is supposed to provide a balanced approach to such issues, but I do not believe this is accomplished at all. This is where property law and copyright law collide, but I will leave that legal discussion to the lawyers; God knows there are enough of them.

Senator Cowan: Never enough of them.

Senator Mercer: Do not push me, Senator Cowan!

The Harper Reformers say that format shifting provisions exist in the bill that allow the transfer of the music to your iPod, but there is a catch. If it has a digital lock, you cannot do it. One hand giveth and the other hand taketh away. Is it not preventing me from enjoying something I legally purchased and should be able to enjoy in whatever way I see fit? Interesting questions, honourable senators.

Canadians who have legitimately purchased CDs or DVDs should have the ability to transfer this legally owned material to something they own, as long as, of course, they are not going to resell it or transfer it to someone else.

Under this bill, Canadians will lose this ability if a company chooses to deny it. This effectively makes us criminals if we try to circumvent a digital lock, even if we are transferring what we own from one device to another device that we own.

Recent releases of diplomatic cables showed that parts of the Harper reform copyright plan were drafted to satisfy U.S. concerns rather than Canadian, particularly the digital lock provisions.

Who is running the government over there anyway, honourable senators? That is what I want to know.

An Hon. Senator: We are.

Senator Mercer: I do not think so.

Again, this government pretends it cares about Canadians, but just as with the budget, that care does not seem to exist.

Honourable senators, I was indeed pleased to see some provisions in the bill to help students, including education as a category in fair dealing as a positive step. However, it becomes muted when you add in the digital lock provisions because they effectively override fair dealing.

There is also the issue of clarifying provisions of fair dealing when it comes to education. I can only hope that all parties will continue to work together to respect the rights of artists but also to allow students to fully explore their educational opportunities.

I have worked with the Canadian Alliance of Student Associations, CASA, on various issues over the years. In fact, many of you have attended an event I host every year called Homecoming on the Hill in conjunction with CASA. Go, Huskies, go!

Senator Moore: That is right.

Senator Mercer: CASA and the other student groups have advocated for education fair dealing because it would provide some reasonable freedoms to use copyrighted material in certain circumstances.

Also, some teachers want to innovate and use every tool at their disposal to improve the education experience for their students. By not including fair dealing, students would lose out, but we must be careful not to abuse it because our writers and artists must be fairly compensated for their work.

Honourable senators, I do support the efforts to efficiently and effectively modernize the Copyright Act in a balanced way, but some of the provisions — digital locks being the most controversial in my eyes — are highly restrictive and do not strike a proper balance. We must ensure that our copyright law protects the work of our Canadian artists and reaches a balance with the rights of Canadian consumers. I do not think this bill does that, and so I will be voting against it.

[*Translation*]

Hon. Dennis Dawson: Honourable senators, I too will be voting against passing this bill because of what is missing from Bill C-11.

I will briefly speak to Bill C-11 on copyright, and more specifically to artists' resale rights, the poor cousins of copyright, this new facet of copyright about which many senators were concerned during debate in committee.

Despite the senators' concerns and the fact that they recognized that this should be included in the bill, those on the committee did not propose any amendments, and I am talking to Senator Segal in particular. Despite the senators' concerns, no amendments were made to the bill.

I will not go back to what happened yesterday, when the amendments that were supposed to be presented were buried, but perhaps we will have the opportunity in the fall — as Senator Hervieux-Payette was saying — to try to find some sort of accommodation.

I would like to read from a presentation by the Regroupement des artistes en arts visuels du Québec, an agency that appeared before the Standing Senate Committee on Banking, Trade and Commerce. The presentation deals explicitly with the problems raised by Bill C-11. There is a host of mistakes in the bill that deserve our attention. That being said, I will deal only with what is missing from the bill.

[*English*]

With respect to artist resale rights, last month, at an art auction in Toronto, the works of 32 living Canadian artists were sold for a total of $1.5 million. Needless to say, the 32 owners of those works, as well as the auction houses, were happy to cash their share of the bounty.

What is wrong with this picture? Well, for one thing, the people who created the paintings got nothing out of it. Who created these pieces, which increased in value over time, and who benefited? The sellers benefited. The 32 mostly aging Canadian artists did not get anything out of it. Why have these works increased in value? Because these artists have talent and they are dedicated to their art. What was their share of the $1.5 million? Zero, honourable senators.

[*Translation*]

If Canada had done what 59 other countries are doing or have already done, in other words incorporate artists' resale rights into our copyright legislation, those artists could have shared roughly $75,000. That might not seem like a lot of money to you, but again, I am talking about sales for one month, May, and the 32 artists would have received an average of $2,340 each. Unfortunately, there was no provision to include in Bill C-11 a 5 per cent resale right to be paid to artists for the successive resale of their works. Can the Senate include this provision? Yes, honourable senators, it can. Has the Senate decided to do so? No, honourable senators, we have not made any amendments to this bill.

[*English*]

Instituting the artist resale right would allow visual artists to share in the profits being made from their work and would align Canada with our trading partners.

Artist resale rights would entitle artists to receive a small percentage from the resale of their work in Europe, which ranges from 2 to 5 per cent. The full value of an artwork is often not realized on the initial sale. It is common for visual art to appreciate in value over time as the reputation of the artist grows.

• (1220)

For example, acclaimed Canadian artist Tony Urquhart sold his painting *The Earth Returns to Life* in 1958 for $250. It was later resold at an art auction for $10,000. What did he get out of that $10,000? He got nothing, honourable senators,

I could elaborate on Riopelle, Lemieux and other artists' paintings that are sold for millions of dollars, of which nothing is given back to the original artist or their heirs. It is a shame, honourable senators.

That is why, honourable senator, I will also be voting against the bill — not for what is in it, but for what is not in it.

Canada's Aboriginal artists, in particular, are losing out on the tremendous profits being made on their work in the secondary market. Artists living in isolated northern communities live in impoverished conditions, while their work dramatically increases in value.

[*Translation*]

The income potential of visual artists is much lower than that of artists in other disciplines because visual artists generally do not produce multiple copies of their works. Writers and performers can sell a large number of CDs, DVDs or other forms of their work and receive royalties for as long as their work is sold.

Half the visual artists in Canada earn less than $8,000 a year. Even recipients of Governor General's awards find it difficult, if not impossible, to earn their living from the income they receive from their art. Some have an income that is far below the national average and others have to work full time to fund their art. The value of these works usually increases with time. Older or retired artists will benefit from the implementation of resale rights in Canada.

Honourable senators, I would like to reiterate my objection to this bill, not because of what it contains, but because of what is missing. Committee members acknowledged it, and as Senator Hervieux-Payette said, the opposition senators acknowledged it. Unfortunately, since the government is not accepting any amendments, there was no debate and no proposed amendments. The bill is therefore flawed and incomplete. Even Senator Maltais is saying so. I would prefer if we could use our authority as senators to improve the bills that are passed in the other place, which are often flawed.

[*English*]

Hon. Claudette Tardif (Deputy Leader of the Opposition): Honourable senators, I rise today to speak to Bill C-11, an Act to amend the Copyright Act.

I would like to begin by stating that the Banking Committee report was tabled just 48 hours ago. It is an extensive report and senators wishing to examine it in detail have scarcely had the opportunity to do so.

I would remind honourable senators that, as I said yesterday, and as Senator Cowan so eloquently stated this morning, this bill was first tabled in the House of Commons on September 29 of last year. In those nine months in the other place, a total of 25 sitting days were devoted to careful consideration of all 68 pages of this bill, and that was after the same bill was studied in two previous incarnations in previous Parliaments. It was not adopted until last Monday, June 18.

The other chamber has signalled to us that the bill requires careful consideration, and yet today we in the Senate are being asked to dispose of this matter by the end of the day today.

[*Translation*]

I would still like to make some comments about this bill. There is no doubt that Canada's Copyright Act needs to be modernized. This is necessary to protect the works of Canadian artists and creators and to achieve a balance between their needs and the rights of consumers.

However, the digital lock provisions in this bill, which are the most restrictive in the world, would cause an imbalance and detract from the fair use of the other provisions of this bill. That is why I cannot support this bill.

There is no doubt that Canada's move to a digital economy is having a major impact on our cultural industries. We therefore proposed amendments to be able to support the bill. One aspect of these amendments to clause 47 has to do with the need to ensure that the digital lock provisions give Canadians who legitimately purchased a CD, DVD or other similar product the ability to transfer the content onto their iPod or to save a personal copy, provided they are not selling it or transferring it to other people.

A number of artists, writers, student groups and creators also expressed serious concerns about certain aspects, such as the new provisions regarding education, statutory damages and resale right payments. I would have liked to see the bill define the term "education" and include a strict, clear criterion for fair dealing for the purpose of education.

As you know, honourable senators, my previous experience is with university education. I am therefore particularly interested in this area, as well as the areas of research and publication. A number of stakeholders from the education world, for example, the Canadian Association of University Teachers, the Association of Universities and Colleges of Canada, and the Canadian Alliance of Student Associations, are in favour of the new changes regarding teaching, and I agree. However, these groups are concerned about the provisions regarding digital locks, as am I.

[*English*]

Less than a week ago, I met with the president and vice-president of the University of Alberta Students' Union. They shared with me some very serious concerns they had with some aspects of this bill.

To begin with, they expressed concern over book importation regulations, which raise costs for students without providing any corresponding benefit to the actual holders of the copyright for these works. In fact, the Canadian Alliance of Student Associations has recommended that Bill C-11 be amended to remove the exclusive distribution provisions outlined in section 27.1 of Canada's Copyright Act. This particular bill does not address the relevant section, namely, section 27 of the Copyright Act, but I nonetheless took great interest in the case that they made for this issue.

The students also commented on the aggressive new digital locks about which I and others have already spoken today. They pose a real challenge for academic research.

The students at the University of Alberta are not alone in their concern. No less than the Council of Ministers of Education of Canada are reported to have said, like other education groups, that the digital lock provisions are too restrictive.

The problem lies in the compromising of the fair dealing right with the new provisions in the Copyright Act set out in this bill. An educational fair dealing right is not enshrined as a true right, but more as a secondary right, because it can be overridden at any time by a copyright holder's digital lock.

The lock poses an even greater challenge for students with disabilities. If a visually impaired student needs to shift the format of a text so that he or she can read it but finds protection measures on that text, he or she would not be able to do so without breaking the law.

The legislation also creates an impossible situation for distance learning. For example, Ontario's Collège Boréal provides post-secondary distance education to minority francophone communities in northern Ontario. With these new provisions, students will be forced to destroy their own course notes and material within 30 days of the completion of the course. In addition to the difficulty that this bill will create in administering long-term distance education, it will make it more difficult for small remote libraries, like that of the Collège Boréal, to share its materials and the materials of interlibrary loans with all students in a realistic way.

Changes such as those we are seeing in this piece of legislation, without fully exploring and debating the consequences, would have a deep, dramatic impact on some of the very demographics — the students — whom we should be focused on and be supporting.

Honourable senators, I received many letters and emails regarding Bill C-11 from artists, publishers, students and other intellectual property stakeholders. There is one letter, and this is just a sample, from which I would like to share some excerpts, as I think it epitomizes the effects of this legislation on everyday Canadians.

• (1230)

This particular woman is a small Alberta book publisher. She wrote to me and said:

> . . . I wanted to let you know that Bill C-11 will put the publishing of all books in jeopardy regardless of the format, printed or ebook. . . . Writers will find themselves left out in the cold to their own devices. . . . Every dollar that a publisher makes is ploughed back into new projects, i.e. new books. Authors are already not paid what their material is worth because of the dwindling sales of Canadian books due to U.S. publishers and distributors dumping their overstocked books across the border at a fraction of the price that Canadian publishers must charge just to get by. . . . Publishers and creators work hard every single day for very little, and many of these people have to find at least one other job to fund what they really love because their work is not valued as should be.

Honourable senators, this is a complex bill that should have had far more in-depth study at committee stage and certainly should be given more than two days' consideration at third reading in this chamber. I strongly urge honourable senators to adopt the amendments proposed by my honourable colleague Senator Moore. These amendments seek to correct some of the deficiencies that have been identified in this bill. Should these amendments not be supported, I find myself in the position of not being able to support Bill C-11.

Hon. Joan Fraser: Before His Honour calls the question, I would like to associate myself very strongly with the remarks of Senator Dawson. The point he made is inestimably important.

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

Some Hon. Senators: Question.

The Hon. the Speaker: The question before the house is the motion in amendment, moved by the Honourable Senator Moore, seconded by the Honourable Senator Dawson, that Bill C-11 be not now read a third time but that it be amended — shall I dispense?

Some Hon. Senators: Dispense.

The Hon. the Speaker: Those in favour of the motion will please say "yea."

Some Hon. Senators: Yea.

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

Some Hon. Senators: Nay.

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

And two honourable senators having risen:

The Hon. the Speaker: There will be a 15-minute bell. The vote will take place at 12 minutes to 1:00.

• (1250)

The Hon. the Speaker: Honourable senators, the question before us is the motion in amendment of the Honourable Senator Moore, seconded by the Honourable Senator Dawson, that Bill C-11 be not now read a third time but that it be amended

(*a*) in clause 27, on page 23 —

Shall I dispense?

Some Hon. Senators: Dispense.

Motion in amendment negatived on the following division:

YEAS
THE HONOURABLE SENATORS

Callbeck
Chaput
Charette-Poulin
Cordy
Cowan
Dallaire
Dawson
De Bané
Downe
Dyck
Eggleton
Fairbairn
Fraser
Furey
Hervieux-Payette
Hubley
Jaffer
Mahovlich
Mercer
Merchant
Mitchell
Moore
Munson
Ringuette
Robichaud
Smith (*Cobourg*)
Tardif
Watt
Zimmer—29

NAYS
THE HONOURABLE SENATORS

Andreychuk
Angus
Ataullahjan
Boisvenu
Brown
Buth
Carignan
Comeau
Dagenais
Di Nino
Doyle
Duffy
Eaton
Finley
Fortin-Duplessis
Frum
Gerstein
Greene
Johnson
Lang
LeBreton
MacDonald
Maltais
Manning
Marshall
Martin
Massicotte
Meredith
Mockler
Nancy Ruth
Nolin
Ogilvie
Oliver
Patterson
Plett
Poirier
Raine
Rivard
Runciman
Segal
Seidman
Seth
Smith (*Saurel*)
St. Germain
Stewart Olsen
Tkachuk
Unger
Verner
Wallace
Wallin
White—51

ABSTENTIONS
THE HONOURABLE SENATORS

Nil

The Hon. the Speaker: Honourable senators, the question now before the house is the motion by the Honourable Senator Greene, seconded by the Honourable Senator MacDonald, that Bill C-11, An Act to amend the Copyright Act, be read the third time.

Are honourable senators ready for the question?

Some Hon. Senators: Question.

The Hon. the Speaker: Those in favour of the motion will please say "yea."

Some Hon. Senators: Yea.

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

Some Hon. Senators: Nay.

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

And two honourable senators having risen:

The Hon. the Speaker: Pursuant to the rules, this vote will take place at 5:30, after the ordered vote at 5:30 on Bill C-38.

CANADIAN HUMAN RIGHTS ACT

BILL TO AMEND—SECOND READING—
DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Finley, seconded by the Honourable Senator Frum, for the second reading of Bill C-304, An Act to amend the Canadian Human Rights Act (protecting freedom).

Hon. Nancy Ruth: Honourable senators, I was surprised yesterday that Senator Finley's speech on an amendment to the Human Rights Act, Bill C-304, left out three important points, so I would like to put them on the record.

First, who can use the Human Rights Act, and who can use the Criminal Code? Though Senator Finley said that anyone can use the Human Rights Act — if the case, of course, is allowed — to use the Criminal Code, one must have permission of the Attorney General. The test for using these sections of the act and the code are quite different.

The second point is the following: Who are the identifiable groups? In Senator Finley's speech, it sounds as though the groups are exactly the same, and they are not. There are three groups in the Human Rights Act that are definitely left out of the Criminal Code sections 318 and 319. The identifiable groups that are left out are the disabled, those who are discriminated against on the basis of age, and the category of sex, which in this instance means women.

Another point Senator Finley has left out is that the government has moved to include these three groups in sections 318 and 319 of the Criminal Code, but their legislation is lost in Bill C-30, Part 2, clauses 16 and 17. This bill is still at first reading in the House of Commons, and it looks like it is going nowhere, so those groups are not protected.

Surely we will not remove access to rights before they are secured elsewhere, and maybe we should not remove citizens' access to the freedom from telephonic hate without the permission of the Attorney General.

Your Honour, I reserve the rest of my time for later and I move the adjournment in Senator Munson's name.

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to have this matter adjourned by Honourable Senator Nancy Ruth but in the name of Senator Munson? Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

Hon. Claudette Tardif (Deputy Leader of the Opposition): I am rising on a point of order. I am not sure if I comprehended what was happening here. I understood that Senator Nancy Ruth wanted to adjourn for the remainder of her time, but it is adjourned in Senator Munson's name? Will Senator Nancy Ruth thus be allowed to speak at a later date if she has already spoken?

The Hon. the Speaker *pro tempore*: Yes. The matter had been standing in Senator Munson's name.

(On motion of Senator Nancy Ruth, for Senator Munson, debate adjourned.)

• (1300)

FOOD AND DRUGS ACT

BILL TO AMEND—SECOND READING—
DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Duffy, seconded by the Honourable Senator Frum, for the second reading of Bill C-313, An Act to amend the Food and Drugs Act (non-corrective contact lenses).

Hon. Percy E. Downe: Honourable senators, I join the debate in support of Bill C-313, important legislation that has already passed in the House of Commons with all-party support.

Bill C-313 goes a long way to ensuring that Canadians are taking the best possible care of their eyes by making non-corrective contact lenses, often called cosmetic contacts, subject to the requirements of the Food and Drugs Act in the same way that corrective contact lenses are.

Quite frankly, there is nothing more important to a person than his or her health. It should come as no surprise that in a 2003 poll by Environics Research Group, Canadians listed vision loss as the disability they feared most.

Many Canadians wear corrective or cosmetic contacts for a variety of reasons every day. What is alarming is the damage that can be associated with wearing ill-fitting or mishandled contacts. The complications that arise from improper use, handling and fit are preventable, provided that a licensed and regulated professional dispenser assesses eye health and lens fit and provides training on proper use and handling of contact lenses.

Bill C-313 cannot address all of these concerns, honourable senators, as they are outside federal control. However, this legislation can ensure that Health Canada approves of the product, and proper safeguards are in place before the product is manufactured and distributed to retailers.

Honourable senators, something that really concerns me about this issue is the fact that cosmetic contacts may be purchased from party stores, local markets and other locations where buyers receive no instructions on the use and handling of the lenses. In particular, I am concerned about the health risks associated with buying contacts through Internet sites. The potential problems are not limited to the sale of simply cosmetic contacts, but also prescription contacts and glasses.

The Internet sale of prescription eyewear is perhaps the biggest issue facing vision care today. Unregulated sales by Internet providers have created an unlevel playing field, with brick and mortar locations having to abide by provincial regulations and Internet sellers that do not. Essentially, all prescribing and dispensing regulations in the provinces are rendered null and void by the current practices of online retailers of prescription eyewear.

A considerable amount of research, produced by Canadian and other investigators, raises questions about the safety of allowing Canadians to order their eyewear online. A 2011 study entitled *Safety and compliance of prescription spectacles ordered by the public via the Internet* concluded:

> Nearly half of prescription spectacles delivered by online vendors did not meet either the optical requirements of the patient's visual needs or the physical requirements for the patient's safety.

Studies like the one I just mentioned that show that the wrong prescription, improperly positioned lenses and failed shatterproof standards occur in almost 50 per cent of Internet-obtained prescription eyewear, and this should be a concern to the vision health and safety of Canadians.

Given that Health Canada's role in reviewing medical devices is to assess their safety, effectiveness and quality before being authorized for sale in Canada, the research I have just mentioned begs the question: What is Health Canada doing to protect Canadians from Internet sales of contact lenses and eyeglasses? Two weeks ago I wrote to the federal Minister of Health on the issue and I look forward to her response.

Online shopping, as we all know, is on the rise. Canada's Internet economy is expected to grow by almost 7.5 per cent through 2016, when it will represent close to 4 per cent of GDP. What is to prevent a major online retailer like Amazon.com, or a totally unregulated company operating in some offshore location, from selling prescription contacts, glasses or cosmetic contacts to Canadians over the Internet?

I believe that a growing number of Canadians will choose to purchase their eyewear online, unaware of the risks that such a purchase may entail. Health Canada must not only be monitoring this situation closely, but implementing new regulations to protect Canadians from faulty products that may cause serious harm to their permanent eyesight.

Honourable senators, I am not under the impression that Bill C-313 can prevent the scenario I have just described in which faulty contacts or glasses are sold over the Internet with potentially serious consequences. However, I am confident that this legislation is a step in the right direction. I will be voting in support of Bill C-313, and I urge the federal Minister of Health to quickly bring forward new legislation to control online sales of both contact lenses and eyewear.

I also want to thank Senator Duffy, who is the sponsor of this legislation, for bringing it forward in the Senate.

I will take this opportunity to correct the record. Last evening in his speech Senator Duffy indicated that the Minister of Transport reported that the Member of Parliament for Cardigan, the Honourable Laurence MacAulay, has never written a letter to Ottawa making representation on the continuous ferry run. I have a number of letters that Honourable Mr. MacAulay had cc'd to members of the caucus, including one to the Minister of Transport. I will simply read one line and I will send these to Senator Duffy for his information, as I do not believe he was here in 2009 when this letter was sent.

This is the Honourable Laurence MacAulay to the federal Minister of Transport:

> I cannot stress strongly enough my concerns that the level of service in crossing for the ferry be maintained to avert another blow to the already sagging economy of eastern Prince Edward Island.

I will also send to my colleague Senator Duffy a letter that Mr. MacAulay sent to the federal Minister of Finance on the same issue.

(On motion of Senator Hubley, debate adjourned.)

BUSINESS OF THE SENATE

Hon. Claudette Tardif (Deputy Leader of the Opposition): Your Honour, when I rose a few moments ago to seek clarification further to Senator Nancy Ruth's intervention and subsequently her desire to have the adjournment remain in Senator Munson's name, I neglected to reserve the 45 minutes for the second speaker.

The Hon. the Speaker *pro tempore***:** Honourable senators, the normal practice is, after Senator Finley speaks from the government side, the second speaker, from the opposite side, has 45 minutes. In this particular case, Senator Nancy Ruth was the second speaker. Is it agreed that Senator Munson shall have 45 minutes?

Hon. Gerald J. Comeau: Before we give agreement to that — and I will be giving it — this is a long-standing problem we have had in this chamber. Every once in a while it does happen that someone else will speak to a subject, whether it is a government bill or a private member's bill. If His Honour happens to recognize the second person and the second person starts making a speech, the rules state that the second person has the 45 minutes. In effect, we now need to revert to give unanimous consent in order to reserve the 45 minutes for the opposite side, which I happen to support.

However, it does show a flaw in one of our rules that we need to fix. In fact, I did write a letter to the Rules Committee through the clerk of the committee. I requested that the committee look

exactly at this rule so we do not require that the deputy leaders on either side get up to seek unanimous consent when this happens. There could be the loss of attention for just a moment, and this can happen very easily.

• (1310)

I do hope that when honourable senators look at the rules — and I see our friend from the other side is not here today to take part in this debate — we can fix this rule once and for all. However, I do offer my support.

Hon. Fernand Robichaud: Honourable senators, I would really like to get involved in this debate, but I will keep my remarks for another day.

The Hon. the Speaker *pro tempore*: Honourable senators, is leave given to ensure that the second speaker on this, the Honourable Senator Munson, will have the usual 45 minutes?

Hon. Senators: Agreed.

The Hon. the Speaker *pro tempore*: Agreed.

BANKING, TRADE AND COMMERCE

BUDGET AND AUTHORIZATION TO ENGAGE SERVICES AND TRAVEL—STUDY ON THE PROCEEDS OF CRIME (MONEY LAUNDERING) AND TERRORIST FINANCING ACT—SIXTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the sixth report of the Standing Senate Committee on Banking, Trade and Commerce, (*budget—review of the* proceeds of crime (money laundering) and terrorist financing act—*power to hire staff and to travel)* presented in the Senate on June 27, 2012.

Hon. Irving Gerstein moved the adoption of the report.

Hon. Joan Fraser: Honourable senators, would Senator Gerstein tell us very briefly what this is all about and, particularly, where the committee members plan to travel?

Senator Gerstein: Yes, with pleasure.

This is related to the proceeds of crime, money laundering and terrorist financing bill and, as honourable senators know, the report was originally scheduled to be filed by the end of May. We then moved it to the end of June, and we have subsequently moved it to the end of December.

As the committee studied it, we became aware we had one of two choices: either to tinker with the bill around the edges or to really go at it full bore. This is to allow us to go to Washington, where we will be meeting with members of the regime that exists there. That decision was totally unanimous by the committee.

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

Hon. Senators: Agreed.

(Motion agreed to and report adopted.)

STUDY ON THE ESTABLISHMENT OF A "CHARTER OF THE COMMONWEALTH"

THIRD REPORT OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE COMMITTEE ADOPTED

On the Order:

> Resuming debate on the consideration of the third report of the Standing Senate Committee on Foreign Affairs and International Trade entitled: *A Charter "Fit for Purpose": Parliamentary Consultation on the Proposed Charter of the Commonwealth*, tabled in the Senate on April 3, 2012.

Hon. A. Raynell Andreychuk: Honourable senators, this matter stood in the name of Senator Carignan, because he was kind enough to rewind the clock when I was away ill. Therefore, at this time, I would like to speak to the adoption of the report of the Standing Senate Committee on Foreign Affairs and International Trade, entitled: *A Charter "Fit for Purpose": Parliamentary Consultation on the Proposed Charter of the Commonwealth*.

Honourable senators, I am pleased to put a few comments on the record with respect to our study. The report is the outcome of the committee's hearings on the establishment of a Commonwealth charter, as agreed to at the Commonwealth Heads of Government Meeting in Perth, Australia in October 2011.

As honourable senators may know, the Commonwealth has in recent years been undergoing a process of renewal. In 2009, the Royal Commonwealth Society undertook the largest ever global public consultation on the future of the Commonwealth. *The Commonwealth Conversation*, as the report was called, found a lack of clarity among most people about the Commonwealth and what it represents.

Responding to the outcomes of this consultation, in 2009 Commonwealth leaders established an Eminent Persons Group. The group, which included the Honourable Senator Hugh Segal among its 11 members, was tasked with studying and developing recommendations to bring the Commonwealth and its values back into the public conscience.

The first of the Eminent Persons Group's many recommendations suggested that:

> 'A Charter of the Commonwealth' should be established after the widest possible consultation in every Commonwealth country.

Commonwealth leaders meeting in Perth in October 2011 agreed with the Eminent Persons Group. They stated in their communiqué that:

> . . . there should be a "Charter of the Commonwealth" . . . embodying the principles contained in previous declarations, drawn together in a single, consolidated document that is not legally binding.

On January 20, 2012, Canada's Minister of Foreign Affairs requested that the Standing Senate Committee on Foreign Affairs and International Trade consider holding hearings on a charter of the Commonwealth. Members of our committee responded positively to that request.

Honourable senators, it is our understanding that Canada is the only Commonwealth country to conduct its hearings on the proposed charter of the Commonwealth via the parliamentary process — in this case, more specifically, the Senate and its committee. We were honoured to have that privilege.

Over the course of 11 hearings, the committee heard from witnesses from Canada and other Commonwealth countries. They represented government, civil society, academia, youth and other Commonwealth affiliated organizations, and we also heard from the Francophonie.

Each witness came with a certain interest and expertise in the Commonwealth, and brought new perspectives to our study. Common themes emerged in three broad areas: first, the specific values and principles that Commonwealth countries share; second, the comparative advantages that make the Commonwealth unique among other international organizations; and, third, the role that the proposed charter could play as the Commonwealth seeks to carry its values and principles into the future.

Our report endorses the idea of a Commonwealth charter. As a stand-alone, inspirational and aspirational document, with moral standing in Commonwealth countries, a Commonwealth charter could become the singular point of reference for what the association stands for. It has the potential to become a tool to educate others about those values and to raise the profile of the Commonwealth itself.

However, in order to achieve maximum impact, members of the committee believe that the charter should be as succinct and as accessible as possible. It should focus on the core competencies and comparative advantages that define the association. In addition to the cornerstone values of democracy, good governance, human rights and the rule of law, our report recommends that the charter clearly reference three unique features that differentiate the Commonwealth from other international associations.

First, the committee recommends that the proposed charter reference the role of youth in the Commonwealth. About 60 per cent of the population in the Commonwealth is under the age of 30. By highlighting the importance of promoting the development of our young people today, the charter can help ensure the vitality of our societies, while securing the Commonwealth's ongoing relevance into the future.

Second, our report recommends that the charter emphasize more strongly the positive role that parliamentarians play in the Commonwealth. As an association rooted in the Westminster legal and administrative tradition, the Commonwealth has an opportunity to leverage its competency in this area. Parliamentary diplomacy, within and between Commonwealth countries, is a critical axiom through which key Commonwealth values are brought into public discourse and rooted in public policy. We believe that this noting of parliamentary diplomacy is unique and necessary, and we believe that it must be underscored by the heads of the Commonwealth and should be followed through by the secretariat, itself.

• (1320)

Third, the committee recommends that the charter reflect the Commonwealth's role with regard to small states. Thirty-two of the 54 member countries of the Commonwealth are considered to be small states having populations under 1.5 million. The Commonwealth plays a critical role in supporting small states' integration into the global economy and in ensuring their interests are properly represented in international fora.

The committee recommends that Canada's Minister of Foreign Affairs encourage member states to work toward a shared understanding of what they would like the charter to accomplish.

The equal participation of all countries and their citizens in the drafting process is critical if the charter is to resonate and take root across the association.

On May 30, I received a letter from the Minister of Foreign Affairs. In his letter, the minister notes that the committee's report had been circulated in its entirety to representatives of the Commonwealth member states gathered at the Senior Officials' Meeting of April 12-13, 2012.

Attached to the letter was the revised draft charter emerging from that meeting. I was pleased to see that the draft reflects many of our committee's recommendations, and particularly that it is more succinct and includes references to young people and small states. The minister assured me that the Canadian officials are now working to have a reference added to the document on the special role of parliamentarians and parliamentary diplomacy. Comments on this latest draft charter will be considered by Commonwealth foreign ministers in September 2012.

The Commonwealth's strength lies in its ability to find commonality in the face of differences. Speaking for countries large and small and representing people of different ethnic, cultural and religious backgrounds, the Commonwealth partnership is based on shared values. A charter could be an important tool for the Commonwealth as it strives to preserve and defend those values.

The process of establishing a charter is an opportunity to engage and educate people about the Commonwealth and to create a document that speaks to the best of what the association stands for. Our committee was honoured to have played a role in this process, and we would encourage Canadians to remain engaged as the final chapter takes shape.

I would be pleased if the Senate could adopt our report in advance of the September 2012 meeting so that we could go with the full force of the Senate to indicate the importance of youth, the importance of parliamentary involvement and the need to address small states. I look for a favourable response from the Senate.

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

Hon. Hugh Segal: Honourable senators, I simply want to speak in favour and in support of what the honourable senator just said. I think the committee did an outstanding job, and I would like to report that the recommendations the committee forwarded in the report that is now before the chamber were adopted by the senior officials of the countries that are working on the charter and by the ministerial task force that met thereafter, and they are now making their way to the foreign ministers meeting that will take place in the UN in the fall.

The meeting of Commonwealth parliamentarians in Sri Lanka and the working session coming up in Quebec City are very important, and I could not agree more with the honourable senator's plea for the support of this report so the full force of this body can be recognized and embraced as the process goes forward with her leadership on this issue.

The Hon. the Speaker *pro tempore*: If there is no further debate, are honourable senators ready for the question?

Hon. Senators: Question.

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

Hon. Senators: Agreed.

(Motion agreed to and report adopted.)

STUDY ON POLITICAL AND ECONOMIC DEVELOPMENTS IN BRAZIL

FIFTH REPORT OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE COMMITTEE— DEBATE ADJOURNED

The Senate proceeded to consideration of the fifth report of the Standing Senate Committee on Foreign Affairs and International Trade entitled: *Intensifying Strategic Partnerships with the New Brazil,* tabled in the Senate on May 29, 2012.

Hon. A. Raynell Andreychuk: Honourable senators, I do intend to speak to this report. It is a significant report of the Senate, but I wish to have more time to prepare and to spare you from having two speeches from me sequentially. However, the Honourable Senator Fortin-Duplessis is ready now and would appreciate speaking today. I have no objections to her speaking, and then I will adjourn this item for the rest of my time.

[*Translation*]

Hon. Suzanne Fortin-Duplessis: Honourable senator, the Standing Senate Committee on Foreign Affairs and International Trade produced this report following 22 meetings in Ottawa, at which 56 witnesses were heard and also following a reconnaissance mission to Brazil.

We began our study in 2010, motivated by an interest in how and to what extent Canada could benefit from Brazil's impressive economic growth. Its rise in the new global economy holds significant domestic, bilateral and global implications for Canada's prosperity.

My remarks today concern the report on the rise of Brazil, a country that is steeped in history, that I had the pleasure of visiting during the committee's travels there. In order to fulfill its mandate, the committee visited the following cities: São Paulo, *Brasilia* and Rio de Janeiro. This report is the last in a series of four reports looking at the emerging economies of Brazil, Russia, India and China, commonly known as BRIC. It explores the implications of Brazil's emergence as an economic and political force in our own hemisphere and internationally, and highlights the economic, political and social opportunities that stand to be gained through stronger Canada-Brazil relations.

First, I would like to thank those who worked so hard to make our report a success. I would also like to thank everyone who took time to meet with us, whose insights were invaluable in shaping this study.

I extend my personal appreciation to the Government of Brazil and the numerous parliamentarians for their assistance. In particular, I would like to thank His Excellency Piragibe Dos Santos Tarragô, Ambassador of Brazil in Ottawa, for his guidance and advice.

I would also like to mention the exceptional dedication of staff at the Department of Foreign Affairs and International Trade in Brazil and Canada, the Canadian Embassy in Brazil, and the Consuls General of Canada in São Paulo and Rio de Janeiro.

Finally, I would like to sincerely thank the committee members and their staff for their professionalism. A big thank you to the Subcommittee on Agenda and Procedure: Senator Raynell Andreychuk, Chair; Senator Percy E. Downe, Deputy Chair; and Senator Doug Finley. Their diligence and commitment were instrumental in helping the committee navigate the nuances of this complex topic.

The committee's researchers, Natalie Mychajlyszyn and Brian Hermon, the clerk, Line Gravel, Ph.D., and the translators deserve special mention. Their professionalism contributed greatly to the success of our reconnaissance mission.

Honourable senators, Brazil is the largest and most populous nation in Latin America. Brazil is ranked fifth in the world in terms of land area and population. The Brazilian giant, a country the size of a continent, is also imposing because of its vast natural resources.

While Canada has an aging population, Brazil has a very large population of young people who live in a vast country that has achieved a demographic transition.

Brazil emerged from the 2008-09 financial crisis with growth rates not seen since the 1980s. In 2009, it became the world's eighth-largest economic power, ahead of Russia, and in 2010 it was the seventh-largest economic power, ahead of Italy.

• (1330)

It emerged from the 2009 crisis stronger than ever and focused on accelerating growth and reducing inequality without compromising economic equilibrium. The international financial community has responded favourably to Brazil's strategy to protect its economy from both external and internal shocks.

Our committee found that several important factors made this progression possible: adjustment of the labour market to the economic cycle, stable employment and stable buying power of low-income earners, implementation of countercyclical policies, reducing Brazil risk and increasing non-resident confidence.

In general, over the past few years, Brazil has readjusted its export markets by increasing its share of new markets. In 2009, China emerged as Brazil's largest trading partner ahead of the United States and surpassed Germany as the world's largest exporter.

With an unemployment rate at a historic low, 5.8 per cent, export diversification, massive foreign investment and dynamic domestic consumption, Brazil's economic climate remains very attractive. The GDP of the state of São Paulo, comparable to those of Turkey or Indonesia, is solely responsible for Brazil's economic strength. Today, Brazil is the world's third-largest exporter of agricultural products. The country is poised to realize tremendous financial gains from recently discovered offshore oil and gas deposits.

The government raised taxes on financial operations to slow down the influx of foreign capital not destined for productive investment. The central bank must also monitor changes in the value of the real, which can compromise the country's competitiveness as inflation exceeds 7 per cent. Maintaining a high key lending rate should help control inflation and growth.

Canada-Brazil merchandise trade and investment have seen impressive growth in recent years, with almost $29 billion in bilateral trade and cumulative investment stock combined in 2010. Bilateral trade has increased by 42 per cent over the last five years, reaching $6.7 billion in 2011. In 2010, Brazil was the eighth-highest source of foreign direct investment in Canada. Brazil was the eleventh-largest recipient of Canadian direct investment abroad. Some 500 Canadian companies are active in Brazil, including over 50 in the mining sector alone.

Our committee learned, during meetings with the Canada-Brazil Chamber of Commerce, that there is potential for significant growth for Canadian companies in the following key sectors, which are well suited to Canadian capabilities and interests: infrastructure, education, clean technologies, information, communication and technologies, oil and gas, and aerospace.

In addition, important opportunities for Canada exist in mining, defence and security, life sciences, ocean technologies, automotive, energy, agriculture and agri-food, services and tourism. Brazil is a key partner for investment attraction, retention and expansion initiatives, for science and technology collaboration, as well as for participation in global value chains.

Brazilians love their cellphones just as much as Canadians do, but their country lags far behind in terms of access to telecommunications: Brazil ranks 61st, behind China and India. This situation is due in part to the high price of telecommunications services and equipment, which eats into household budgets. This has led the Brazilian government to vote in phase two of its growth acceleration program, worth $863 billion over six years.

Canada has a considerable advantage over other industrialized countries in terms of the quantity and quality of its infrastructure. Canada, which quickly became a leader in the information and communications technologies sector, remains at the cutting edge of these industries.

Our trip to Brazil helped us to understand that, right now, Brazil's higher education system still does not have enough space in its universities to accommodate a tide of five million students who will then be ready to enter the labour market. Today, Canada is the number one short-term study abroad destination for Brazilians. In 2011, approximately 20,000 Brazilians came to Canada to study. There is an active Brazilian Association of Canadian Studies, which was established in 1991 and includes over 500 members and 12 Canadian studies centres throughout Brazil.

I was pleasantly surprised to learn that, since 2007, 465 Brazilian students and professors have received scholarships to study or conduct research in Canadian universities. In addition, five Canadian universities are participating in the joint effort to promote the study of Brazil in Canada and established the Visiting Research Chair of the Brazilian Studies Program in 2003.This program has brought Brazilians to universities and meetings in Canada, including a biofuel conference in 2008.

Our committee encourages the Government of Canada to strengthen these important people-to-people exchanges because of their potential to enrich the Canada-Brazil relationship. I note with interest that, as a complement to the Agreement on Science and Technology, on August 30, 2010, Canada and Brazil signed a Memorandum of Understanding on Academic Mobility and Scientific Cooperation to encourage innovation between the two countries and support joint research projects.

While Canada has many local sports associations, Brazil identifies itself as a sports nation and has a network of sports clubs — a phenomenon unique to the middle-class — that encourage families to participate in sports mainly for leisure.

With regard to literary endeavours, although the book market is still narrow, it is gradually developing. Traditionally, music overwhelmingly dominates Brazilian culture. In that respect, we had the privilege of attending a capoeira performance, a traditional form of dance that simulates combat. Everyone greatly appreciated this moving performance by young people from *favelas*.

Honourable senators, before I finish my remarks, I would like to briefly mention the main thrusts of Brazil's foreign policy. Brazil's diplomacy is focused on the following priorities: to be recognized as a world power and spokesperson for international reform. Brazil is working to expand the United Nations Security Council and is a candidate for a permanent seat.

• (1340)

It supports the G20 as the preferred forum for global governance and the overhaul of international financial institutions.

The Hon. the Speaker *pro tempore***:** Would the honourable senator like an additional five minutes?

Senator Fortin-Duplessis: I will need an additional five minutes.

The Hon. the Speaker *pro tempore***:** Is there agreement, honourable senators?

Hon. Senators: Agreed.

Senator Fortin-Duplessis: Thank you. It is arguing for an end to the Doha Round.

Brazil wants to form strategic partnerships with the major emerging countries. It is developing an ambitious African policy and has recently developed a much more active Middle East policy. It plans on playing a larger role in resolving certain regional problems at the international level, such as the Israeli-Palestinian conflict and Iran's nuclear program.

Brazil is looking to strengthen the common market in the southern cone — Mercosur — consisting of Brazil, Argentina, Paraguay and Uruguay.

It also wants to be the driving force behind integration and the leader in South America. Under President Lula, Brazil became more involved in resolving regional crises in Colombia, Venezuela, Bolivia and Haiti. In additional to promoting regional integration through Mercosur, it is strengthening the Union of South American Nations, with a focus on the economy and defence. This strategy is supported by increased military protection at land and sea borders against illegal trafficking and organized crime.

Honourable senators, for several years, Canada has been developing a strategic partnership with Brazil based on an in-depth political dialogue, extensive cultural, scientific and technical cooperation, and the presence of major Canadian companies in key sectors of Brazil's economy. A number of high-level diplomatic visits are proof of the strength of this relationship. Dilma Rousseff's victory in the presidential election will enable this partnership to continue.

(On motion of Senator Andreychuk, debate adjourned.)

[*English*]

STUDY ON ISSUES RELATED TO INTERNATIONAL AND NATIONAL HUMAN RIGHTS OBLIGATIONS

SEVENTH REPORT OF HUMAN RIGHTS COMMITTEE ADOPTED

The Senate proceeded to consideration of the seventh report (interim) of the Standing Senate Committee on Human Rights entitled: *Level the playing field: A natural progression from playground to podium for Canadians with disabilities*, tabled in the Senate on June 12, 2012.

Hon. Mobina S. B. Jaffer moved the adoption of the report.

She said: Honourable senators, I am pleased to rise today to speak to the seventh report of the Standing Senate Committee on Human Rights entitled *Level the playing field: A natural progression from playground to podium for Canadians with disabilities*.

I want to take this opportunity to commend our esteemed former colleague the Honourable Vim Kochhar. This study is a result of his recommendation and vision. Senator Kochhar has done remarkable work supporting and advancing the Paralympic movement in Canada. Since retiring from the Senate, he has continued to serve this cause, most notably as the chairperson of the Canadian Paralympic Foundation and of the Canadian Foundation for Physically Disabled Persons.

He also provided valuable testimony and perspective as a witness during our committee hearings.

Thank you, Senator Kochhar, for your continued efforts and dedication to promoting the human rights of persons with disabilities. You are missed by all your colleagues in this chamber.

Honourable senators, the United Nations Convention on the Rights of Persons with Disabilities, which Canada signed in 2007 and ratified in 2010, recognizes the rights of persons with disabilities to participate in sport, recreational and leisure activities. Throughout our study, our committee realized that Canada has not fully recognized the rights inherent in the Convention on the Rights of Persons with Disabilities. Our government must act to ensure that Canada meets its human rights obligations under this convention.

I wish to draw your attention to Article 30(5) of the convention, which expressly pertains to recreation and sport. It requires member states to encourage and facilitate opportunities for participation, to

> . . . ensure that persons with disabilities have access to sporting, recreational and tourism venues;
>
> d. To ensure that children with disabilities have equal access with other children to participation in play, recreation and leisure and sporting activities, including those activities in the school system;
>
> e. To ensure that persons with disabilities have access to services from those involved in the organization of recreational, tourism, leisure and sporting activities.

There are 4.4 million Canadians with disabilities. Some studies report that as few as 3 per cent of these individuals participate in regular organized physical activities. We know that persons with disabilities face particular obstacles to participation in sport, recreation and leisure activity, including costs for specialized equipment and transportation, the lack of specialized coaches, and limited information regarding existing sport opportunities.

Paralympic swimmer Darda Sales testified before our committee regarding the particular financial obstacles to participation, and she said the following:

> Many athletes have got lost along the way and never made it to the international level because they did not have the finances to get there. It really is sad to see how many individuals with a disability are not active simply due to finances.
>
> What a lot of people do not understand is that, for some accessible sports, there is specialized equipment that you need. If you want to play wheelchair basketball, you need a wheelchair basketball chair. If you want to play sledge hockey, you need a sledge. It is not quite as simple as grabbing a ball and away you go.

Core Canadian values — compassion and equality — demand that we as a country are more sensitive to the obstacles that impede the participation of Canadians with disabilities.

During the study, our committee heard from more than 30 witnesses. Our report addresses the issues of active living for persons with disabilities and human rights, health and human rights, barriers to participation, and athletic development in Canada.

The Human Rights Committee's report makes 13 recommendations. In the main, it calls for our federal government to ensure that all Canadians have equal opportunities to participate in sport by incorporating gender- and diversity-based analysis into the research and through the development and implementation of government programs and policies concerning participation in sport and recreational activities.

The report also recommends that the government ensure that there is open, transparent and substantive engagement with civil society, representatives from organizations advocating for persons with disabilities and the Canadian public regarding Canada's human rights obligations under the Convention on the Rights of Persons with Disabilities.

It further recommends that our government sign and ratify the Optional Protocol to the Convention on the Rights of Persons with Disabilities.

The report urges the government to do the following: review its ministerial structure in relation to health, active living and sport to ensure effective policy and program development; engage with provincial and territorial governments to facilitate the creation of more sport opportunities; prioritize the development of universally accessible sports and recreation facilities across Canada; address economic barriers such as high transportation and equipment costs for persons with disabilities; and celebrate the successes of Canadian Paralympians in a manner equal to the way that Canadian Olympians are celebrated and promoted.

Kim McDonald, Executive Director of the Paralympic Sports Association, defined the true spirit of Article 30(5) as providing everyone with "the opportunity to take part in sport at whatever level they are able."

This is the spirit and approach that the Human Rights Committee took as we deliberated and prepared this report, consulting with government representatives, organizations that promote the rights of persons with disabilities, Paralympians, UN representatives and other concerned citizens.

Our government must ensure that all Canadians have equal opportunities to participate in sport and recreational activities regardless of disability, gender, culture or ethnic origin.

• (1350)

Many witnesses highlighted the importance of championing access to community programs and initiatives for children and youth with disabilities. Honourable senators, when Canada ratified the Convention on the Rights of the Child, we committed to upholding the human rights of all children, including children with disabilities. We need to do more to live up to this commitment. We need to do more, honourable senators, because equal opportunity and access to sport and recreation can make all the difference in a young person's life.

Our committee heard from a young athlete, Christina Judd-Campbell, during our hearings. Ms. Judd-Campbell shared her story with our committee. She said:

> For many years I really struggled. Outside my brothers and sisters, I did not really have any friends, and I had not found anything I liked or was good at. However, my life changed when I joined Special Olympics rhythmic gymnastics. . . . My successes in rhythmic gymnastics showed me if I worked hard, I could become very good at something. I became more confident and proud of myself. I now lead a very busy and full life. I train for rhythmic gymnastics almost every day. I have a part-time job at Staples, which is a few blocks from here. Monday to Friday mornings, I am at Algonquin College in a special program. About once a month, I give a speech or demonstration about Special Olympics. I have many friends that I see regularly, and I also take riding lessons and take care of my three horses.

Honourable senators, Christina's story shows the fundamental importance of physical activity in a child's life. As she said, "My life changed." Her physical, mental and social well-being dramatically improved.

[*Translation*]

I would like to emphasize that we strongly believe that the government needs to play a leadership role in renewing the Canadian Sport Policy and in developing a pan-Canadian strategy that promotes the rights of persons with disabilities and reflects provincial and territorial jurisdictions in that regard.

Federations epitomize the very notion of partnership and cooperation, and above all, they provide opportunities for leadership and coordinated action on complex public policy issues.

No single government in this country can solve the problems regarding the accessibility of sports to people with disabilities, but nor can we achieve better recognition of human rights in Canada without the federal government's active engagement.

The government is a body that brings people together and leaves no one out. Our playing fields, recreation centres and sports training facilities should be no different.

[*English*]

Honourable senators, I look forward to further discussion on our committee's report.

At this time, I would like to take the opportunity, on behalf of the committee, to thank Dan Charbonneau, the Clerk of the Committee, and Julian Walker, the Library Analyst. They both worked very hard to reflect the different views of the members of the committee, and I want to thank them on behalf of our committee.

The ways that we, as senators, can better advocate for the rights of Canadians with disabilities is the focus of this report.

Some Hon. Senators: Question.

Hon. Suzanne Fortin-Duplessis (The Hon. the Acting Speaker): Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

(Motion agreed to and report adopted.)

KOREAN WAR

INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Martin, calling the attention of the Senate to:
>
> (*a*) the importance of the Korean War, the third bloodiest war in Canadian History but often called "The Forgotten War"; and
>
> (*b*) Canada's contribution to the three-year war on the Korean Peninsula, including the 26,791 Canadians who came to the aid of South Korea, 516 of whom gave the ultimate sacrifice, and the 7,000 Canadian peacekeepers who arrived following the signing of the Korea Armistice Agreement in Panmunjom 59 years ago this July 27.

Hon. Donald H. Oliver: Honourable senators, I rise today to speak to the inquiry to mark the importance of the Korean War for Canada, which was presented by our honourable colleague from British Columbia, Senator Yonah Martin.

As honourable senators know, on June 14, Senator Martin gave notice that she would call the attention of the Senate to the importance of the Korean War, the third bloodiest war in Canadian history but often called "The Forgotten War"; and Canada's contributions to the three-year war on the Korean Peninsula, including the 26,791 Canadians who came to the aid of South Korea, 516 of whom gave the ultimate sacrifice, and the 7,000 Canadian peacekeepers who arrived following the signing of the Korea Armistice Agreement in Panmunjom 59 years ago this July 27.

[*Translation*]

Honourable senators, I am very proud to take part in today's debate on this notice of inquiry. This is an excellent opportunity for me to recognize and extol the strong bilateral relationship that exists between Canada and South Korea.

Honourable senators, Black Canadians have a long history of service in uniform. Before the Second World War, it was often difficult for Black Canadians to enrol in the army. The attitude and prejudices of many of the people responsible for military enrolment were the cause of this. Nevertheless, Canadians of African descent have left a lasting mark on Canadian military forces for many decades since that time.

And many have made the ultimate sacrifice.

[*English*]

My grandfather, William White, for instance, enlisted in the Canadian Army and served as chaplain during World War I. He was the only Black officer in the British Army.

During World War II, several thousand Black men and women served our country and defended the principles of freedom and democracy in Europe.

Since 1945, the tradition of Black Canadian service in the military has expanded and evolved. With the Korean War, Canada returned to the battlefield to join the United Nations forces. Black soldiers were among Canadian Army troops that were sent to fight halfway around the world — in a country most knew nothing about.

I think, for instance, of Joseph Allan Niles of Halifax, Nova Scotia, who enlisted in the Canadian Forces in May 1951 at age 17. He became part of a special force with the Royal Canadian Regiment. In March 1952, he left for Korea, where he took part in fighting patrols and saw action on the front lines.

[*Translation*]

Born in 1931, Gus Este, a Black man from Montreal, also served his country with distinction as a medic in the Korean War. He later participated in tours to Egypt and Germany.

Errol Patrick, also from Montreal, retired after a brilliant 33-year career with the Canadian Forces. Mr. Patrick joined the Canadian Armed Forces during the Korean War. He served with the First Regiment Royal Canadian Horse Artillery as an artillery soldier. He was a valiant soldier who contributed to Canada's war effort in Korea. In 1985, he retired as Chief Warrant Officer of Artillery.

[*English*]

The memory of these three Black Canadian soldiers who served in Korea needs to be recounted. It is in honour of them, and the thousands of other Canadian Veterans, that I wish to speak to Senator Martin's inquiry.

Furthermore, I have also been engaged politically in matters related to the Korean Peninsula for many years now. As President the Canadian Group of the IPU, I have worked closely with senior members of the Legislative Assembly in the Republic of Korea, including Mr. Young Chin, in an initiative to create a "special IPU committee on peace and Korean reunification." Together, we want to find ways to strengthen the ties between our two countries, and also between the two Koreas. This committee would promote humanitarianism and human rights; facilitate inter-Korean dialogue, exchange and cooperation; encourage the economic development of North Korea; and help reunite families from both Koreas who were torn apart during the war.

• (1400)

Despite receiving strong support from many nation members, the IPU chose not to establish such a committee at this time.

I find it fitting, honourable senators, to say some more words about Senator Martin's inquiry. She gave a touching account of the consequences of the Korean War for Korean families and Canadian soldiers, and she highlighted Canada's countless contributions to the UN efforts in Korea. I thank Senator Martin for bringing this important topic to the Senate and for allowing honourable senators an opportunity to participate in this debate.

As Senator Martin pointed out, the Korean War is often called "The Forgotten War" due to the lack of publicity and press coverage it received at the time. As one Korean War veteran recently said:

> We were neglected for a long time. The Korean War was too close to World War II, then Vietnam came along and it was a television war. The only thing you saw about Korea was little bits in the paper or short snatches on the cinema newsreel.

Many Canadians are not familiar with Canada's role during the Korean War, one of the Cold War's most tense episodes. Therefore, it is that much more important to commemorate Canada's efforts in Korea and honour our men and women who served there, including the many Black soldiers who were also sent to fight.

Honourable senators, two days ago, June 25, marked the sixty-second anniversary of the breakout of the war. It was on June 25, 1950, that forces from North Korea crossed the thirty-eighth parallel into the Republic of Korea. As you know, it was after World War II that the thirty-eighth parallel was established as the dividing line between the newly independent countries of North and South Korea. A number of cross-border raids and attacks took place between the two countries between 1945 and 1950, but on June 25, 1950, it was immediately clear that the North Korean assault on South Korea was a breach of peace and a full-scale invasion.

The Korean War opposed a communist state, North Korea, to a capitalist state, South Korea. On the one hand, North Korea was aided by the Chinese and Soviet forces. On the other hand, the United Nations called upon its members, including Canada, to take collective military action against North Korea's aggressive military invasion. Canada answered the call to duty.

Within three weeks of the start of the war, three Canadian destroyers were dispatched to Korean waters to serve under UN command. All branches of Canada's Armed Forces saw action in Korea: ground, naval and air. Our Royal Navy was among the first in and the last out. It sent more than 3,600 officers into action. On the ground, 22,000 soldiers made up the Canadian Army Special Force. In total, nearly 27,000 Canadians participated in the war. An additional 7,000 Canadians served after the signing of the armistice in July 1953, with some Canadian troops remaining in the country until 1957. Our Canadian military did some outstanding work in Korea.

Allow me to draw your attention to one of our Canadian Forces success stories in Korea, the Battle of Kapyong in April of 1951.

The battle was between the 27th British Commonwealth Brigade, made up of Canadians and Australians, and the North Korean and Chinese forces. The Princess Patricia's Canadian Light Infantry, a component of the Canadian Army Special Force, served on the 27th Brigade. The allied soldiers endured months of bitter cold weather and rugged country while forcing the Chinese to withdraw to the north. By mid-April 1951, the Commonwealth allies descended into Kapyong Valley where it met a large-scale offensive attack by the Chinese and North Korean armies. The Commonwealth brigade established blockades and developed defences in the Kapyong Valley to prevent the Chinese from moving further south. The Australians were defending Hill 504, and the Canadians were stationed at Hill 677.

On April 22, the Chinese infiltrated the brigade position on Hill 504 and the Australians were forced to withdraw. The Chinese then turned to the Canadians on Hill 677. The Chinese were unable to dislodge the Canadians, who stood their ground and stopped an entire Chinese division from breaking through the UN command's central front.

Ultimately, Canada's role in this battle prevented the Chinese capture of Seoul, the capital of South Korea.

Ten Canadian soldiers were killed during the offensive and 27 were wounded in the Battle of Kapyong. The brave Canadians who fought in Kapyong earned a United States presidential citation for their undeniable valour. It was, indeed, a key victory for the UN allied forces.

In addition to the Battle of Kapyong, we have many other reasons to be proud of our Veterans who fought in Korea. I think, for instance, of the soldiers of the 3rd Battalion of the Royal Canadian Regiment, who fought at the Battle of Hill 187 on May 2 and 3, 1953. It was Canada's bloodiest engagement of the Korean War. It raged on for eight hours. Canada lost 25 soldiers in the battlefield that day; 27 were wounded and 8 went missing in action.

Despite the aggressive Chinese offensive, the UN forces maintained control of Hill 187. It was also the last significant military offensive by Canadian Forces during the war. Peace talks eventually led to the signing of the armistice on July 27, 1953.

In total, more than 930,000 individuals from 16 allied nations served in the UN command forces during the three-year war. UN fatal and non-fatal battle casualties were approximately 490,000, including 1,558 Canadians.

Some sources estimate at more than 2 million the number of military casualties on both sides, and 2.5 million civilians were either killed or wounded during the war. These numbers are huge. Each casualty, both civilian and military, represents an individual who deserves to be remembered, not forgotten. It is because of them and for them that I am honoured to participate in this debate.

Honourable senators, the contributions of Canada to the Korean War have not gone unnoticed. There is a deep sense of gratitude in South Korea for the Canadians who fought there. For instance, a monument to Canada's war effort was erected in South Korea in 1985. The Canadian Memorial Naechon is situated in front of the hills that were defended by Canadian Forces in the Battle of Kapyong.

Three days ago, on June 22, South Korea bestowed a unique honour on Canada's oldest living veteran of the Korean War. The South Korean government issued a then-and-now set of stamps in honour of Major Campbell Lane, who served in Korea.

Last Friday, a top official from the South Korean Veterans Ministry visited Major Lane, who turns 100 years old next week, in his home in Ottawa to express South Korea's most fervent thanks for his service as commander of the engineers corps.

Here at home, Korean War Veterans are honoured in Brampton, Ontario. A 60-metre-long memorial wall commemorates the 516 Canadian soldiers who died during the Korean War. Each soldier who paid the price of freedom with his life has an individual bronze plaque in his honour.

Last year, Prime Minister Harper and Veterans Affairs Minister Steven Blaney attended a memorial service at the memorial wall to commemorate the fifty-eighth anniversary of the Korean War armistice.

At the ceremony, Prime Minister Harper said:

> The selfless sacrifice of those who accepted the challenge helped establish Canada's reputation as a nation that will fight against injustice and repression beyond its borders.

Minister Blaney added:

> As one of Canada's most significant armed engagements of the 20th century, we must remember the sacrifices of those Veterans who gave so much in the defence of freedom and democracy and ensure that their legacy is preserved for future generations.

Ottawa, our nation's capital, is also home to the Monument to Canadian Fallen. It commemorates Canadians who served in Korea. The monument depicts a Canadian volunteer soldier and two Korean children. An identical monument stands in the United Nations Memorial Cemetery in Korea, where 378 Canadians lie buried.

The Government of Canada's Veterans Affairs website also pays tribute to many Veterans of the Korean War, including the African-Canadians Joseph Niles, Gus Este and Errol Patrick. They each have a profile online with their biographies and archival video interviews.

Prime Minister Harper also recognizes the fact that the heroic efforts of our Canadian men and women during the Korean War have not received the attention they deserved.

• (1410)

On May 6, 2011, he paid tribute to them and he said:

> The tragedy of the Battle of Hill 187 and the incredible victory of the Battle of Kapyong — two of the unforgettable battles of the Korean War — had not been properly reported in Canadian newspapers then. Today on behalf of the Government of Canada, I wish to honour the Canadian Veterans of the Korean War . . . I encourage all Canadians to remember these historic days in hopes that the Korean War will never be "forgotten."

Honourable senators, I, too, believe it is important for all Canadians to remember the sacrifices of all Veterans who served in the Korean War. Their stories deserve to be told.

It is only fitting, then, that on June 8, 2010, the Senate unanimously adopted a motion presented by Senator Martin to recognize and endorse July 27 annually as National Korean War Veterans Day.

Honourable senators, could I have five more minutes?

Hon. Senators: Agreed.

Senator Robichaud: Ten minutes.

Senator Oliver: Canada's participation and contribution to the Korean War demonstrated our willingness to uphold the United Nations' ideals and to take up arms in support of democracy and peace. It is my hope that one day we will no longer refer to this war as the "forgotten" one. In many ways, it shaped our nation and marked a new era of involvement in world affairs for Canada. It saw Canadian troops deployed around the world in peace commissions and emergency forces. It contributed to making Canada a peacekeeping nation.

Honourable senators, I also invite you to join me in thanking the Honourable Senator Martin for the outstanding work she does in increasing awareness of Canada's efforts in the Korean War. Of course, I encourage honourable senators to participate in this debate on this subject. It is important that we all join in on this conversation.

In honour of the 26,791 Canadians who served in our forces during the war and the other 7,000 who served as peacekeepers, I urge the Senate to recognize their many contributions and their commitment to peace and freedom.

Together, we can do more than never forget. We can set the record straight about Canada's remarkable participation during the Korean War.

Hon. Michael Duffy: Honourable senators, I would like to associate myself with the comments made by the previous speaker and by Senator Martin in raising this matter.

I think it is remarkable that we hear the phrase "Korean War" being used here. For generations after that terrible conflict, bureaucrats in this town referred to it as a "police action"; it was not a war.

Why did they refer to it as a police action? So they could deny those brave souls who went over there and fought for freedom their proper Veterans' benefits, which you get from being in a war. It was shameful. It is part of a continuing legacy in this town of previous administrations, putting down those that have made great sacrifices. I am thrilled to see that our two colleagues have been brave enough to stand up — and the Prime Minister in his remarks — to call it what it was. It was a war for peace in Asia, and no one can deny that.

Hon. Roméo Antonius Dallaire: I have a question, and it was to Senator Oliver before this intervention. Senator Oliver still had time, the honourable senator intervened and I was not seen. May I ask a question to Senator Oliver in his time remaining?

The Hon. the Speaker: Is that agreed?

Hon. Senators: Agreed.

Senator Dallaire: I thank Senator Oliver for the very appropriate historical review of Canadian participation in the Korean "conflict," which in fact is the term historians use. In that UN conflict, the honourable senator mentioned the PPCLI on Hill 677. My regiment, 1 RCHA, fought in support of that hill. Each gun fired over 800 rounds that night. In fact, the cooks were hauling the ammunition from the trucks right into the breeches of the guns. That hill stood as a monument to the bravery of the Canadian Forces in Korea, compared to a number of other allies: well done to raise Kapyong.

However, when I entered the forces, there were still Korean Veterans serving, and one of them was a Black sergeant called Sammy Best.

I wanted to ask a question in relation to the honourable senator mentioning Black soldiers and how they were accepted within the ranks in the army, even though they were Veterans. The night after Sammy Best arrived in Germany, there was what we called a "snowball." This was an alert exercise that we would be called upon to respond to, go to the base and prepare to leave. They were going around the town on the microphones saying "snowball." In the married quarters they would knock on the doors of people to wake them up, because it was two o'clock in the morning, and say "snowball."

Sammy Best was a Black soldier. He answers the door and this White guy says "snowball," and Sammy Best drops him, punches him out. Sammy Best is charged for assault, but subsequently was not court-martialled.

However, there was still a sense of friction with the Black soldiers, even though they were Veterans. Has the honourable senator picked up on any of that in his conversations with Veterans?

Senator Oliver: I have not had conversations with the Veterans; I just read. What I know is that the first Black man to serve in the First World War was my grandfather, and he left many stories about accounts of overt racism that he encountered, even as a man of the cloth during the war.

Later, in the Second World War, my brother, Rev. Dr. Oliver, served as a chaplain in Europe and also encountered gross indignities because of race relations. During the Second World War, it was not possible for a number of Blacks who enlisted to serve, so they had to form, as the honourable senator knows, their own regiment in order to be able to defend and serve their country.

There is no question that the 19th century was not a century for Blacks who wished to enlist to serve their country.

Senator Dallaire: It is interesting that the only French-Canadian regiment in World War I was created under the same auspices of not wanting to let the French soldiers be together because they were fearful of who they would actually be loyal to. They spread them around the army, and finally we were able to convince the government to create a French-Canadian regiment, the Van Doos, that have fought very well. We went the other way on the French-Canadian side.

Thank you for your intervention.

Senator Oliver: The Blacks were the construction battalion, and that is the battalion that went overseas and consisted of 100 per cent Black soldiers who wanted to serve their country.

Hon. Betty Unger: Honourable senators, I also rise to pay tribute to Canadian Veterans of the Korean War whose sacrifices laid the foundation for the strong and free Republic of Korea that we know today.

In the tragic turn of events following June 25, 1950, when the North Korean army invaded the South, the international community quickly responded to the crisis and mobilized through the United Nations with 16 countries, including Canada, sending in troops to assist in the combat. Over the course of the war, approximately 266,000 served in the United Allied Forces, of which 26,791 were Canadians.

With the help of the United Allied Forces, South Korea succeeded in counterattacking the North Korean advance, but the intense and ongoing fighting did not result in a decisive victory on either side.

Finally, an armistice was reached in Panmunjom on July 27, 1953, which left Korea split across the 38th parallel. Thanks to UN and Canadian efforts, South Korea retained its sovereignty.

Since the temporary resolution of the conflict, South Korea has shown remarkable strides in its development, jumping from the rank of second poorest country in the United Nations to the

eleventh strongest economy in the world. Today, South Korea serves as an ideal model for growth, and most poor countries attempt to reproduce the "Miracle on the Han River," which saw the astonishing transformation of South Korea from a country heavily dependent on development aid to becoming a prosperous and aid-contributing nation in just six decades.

• (1420)

South Korea's economic prosperity has been equally accompanied by its flourishing democracy, for which the Republic of Korea feels deeply indebted to the international community and all those who defended her freedom.

As a token of gratitude, Korea's Ministry of Patrons and Veterans Affairs sponsors revisits of Korean War Veterans each year. One example is the Kapyong Revisit Program every April. This year alone, 52 Korean War Veterans, accompanied by their family or caregivers, travelled to Korea for the first time since they had fought in the war. What made this year extraordinarily special was the long-awaited, 60-year reunion of Private Archie Hearsey with his older brother Joseph, who had died in action in 1951. According to her father's wishes, Private Archie's daughter, Debbie Hearsey, carried the ashes of her father to Korea to be buried with his brother Joseph.

I had listened as my colleague, the Honourable Yonah Martin, spoke about the Korean War. However, it did not really touch me until a friend of mine from Edmonton, Brenda Aruda, told me about the bittersweet experience she and her father had when they travelled with other Veterans and their families to Korea this past April. Brenda's father's name is Norman Thomas Arthur and, like many of the Korean Veterans, a trip back to Korea was always on his mind.

This year, when Brenda accompanied her father, a recent widower, on his first trip back to Korea this year, she recounted the following stories of their trip. She talked about the wonderful send-off from Vancouver, at which Senator Martin spoke. They were astonished to see over 200 media people waiting to greet them on their arrival in Seoul, South Korea. Mr. Arthur was amazed at how far South Korea had come in 60 years. She remembered her dad saying, "This trip was like walking in the past and fast-forwarding to the future."

Brenda and her dad equally found the trip to be very emotional because she and Debbie Hearsey connected in a very special way. Both were mourning the loss of a parent, and together they learned so much about the Korean culture and the value and sacrifice of our Canadian Veterans.

Seeing the foothills where the battles were fought so many years ago hit the Veterans with heavy hearts. Mr. Arthur said that this was the Korea they remembered.

On the day of the funeral it rained so hard, it was as if South Korea was weeping also, but all the trees were in bloom and the cemetery looked beautiful. It was sad to watch as Veterans searched among the tombstones for a lost family member or friend. One Veteran was looking for the name of a fellow he had carried from the battlefield but who did not make it.

Mr. Arthur was a medic and a member of the Princess Patricia's Canadian Light Infantry from Edmonton. He arrived near the end of the war. His primary duty was peacekeeping, although the fighting had not yet ceased. Brenda reminded her father of the importance of peacekeeping and the difference they also helped to make.

The role of the Princess Patricia's Canadian Light Infantry is to close with and destroy the enemy through a variety of methods, most importantly by foot and in rough terrain, which would prove difficult for mechanized forces. The 2nd Battalion of the Princess Patricia's Canadian Light Infantry, or PPCLI, was awarded the U.S. Presidential Citation for its gallant participation in the Battle of Kapyong, which was fought furiously in late April 1951.

Brenda also said:

> One thing we will never forget was the way the veterans and their families were treated: and that was with true, honest and genuine respect from all the Korean people.

Even young Korean students were involved, by helping to push Veterans in their wheelchairs and doing whatever they could to help.

She closed by saying:

> It is so difficult to explain with words why I proudly cried for those soldiers who rest in peace in Korea.

Honourable senators, I cannot imagine the pain and suffering endured by the families and friends of those who fought in the Korean War, and the 516 soldiers who paid the ultimate price. They fought in a war that was called a "conflict." When they returned home, rather than a hero's welcome, they were ignored and forgotten.

On behalf of all those brave soldiers and their families, I wish to thank Senator Martin for speaking to us and all Canadians about this war.

Honourable senators, please join me in celebrating the success story of the Republic of Korea, founded on the sacrifice of our proud Veterans and the promise that the Canadian Forces has not forgotten — and will not forget — those who fought there 60 years ago.

(On motion of Senator Dallaire, debate adjourned.)

IMPORTANCE OF ASIA TO CANADA'S FUTURE PROSPERITY

INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Poy, calling the attention of the Senate to the importance of Asia to Canada's future prosperity.

Hon. Claudette Tardif (Deputy Leader of the Opposition): Honourable senators, it gives me a great deal of pleasure to rise today to speak to Senator Poy's inquiry on the importance of Asia to Canada's future prosperity. I thank the Honourable Senator Vivienne Poy for bringing this important matter to the attention of the Senate of Canada.

Canada and Asia have developed strong, interdependent relations based on trade, culture, development, immigration and other vital areas of international cooperation. Asian culture is deeply woven into the fabric of Canadian society and history. It is imperative that we understand, communicate and reiterate the extent to which Asia matters to Canada.

Before beginning my remarks, I would like to take a few moments to recognize Senator Poy's many contributions to Canada and to the institution that we serve. Senator Poy is a remarkable woman who has made significant contributions to the fields of commerce, education, philanthropy and public service in Canada. In her time here at the Senate, Senator Poy has shown dedication to gender issues, immigration, multiculturalism and human rights. Her public policy and legislative roles have directly and positively impacted the lives of Canadians, as evidenced most notably by her leadership role in having the month of May recognized as Asian Heritage Month across Canada. Thus, it gives me great pleasure to contribute today to her inquiry.

[*Translation*]

As Senator Poy clearly pointed out, we know that Asia will become the world centre for innovation and technology in the next decade. As the global leader in the manufacturing of goods for mass consumption, Asia needs not just our natural resources, but also our technologies and know-how in the areas of education and governance.

Thus, Canada's long-term prosperity will depend on the ability of our Canadian decision-makers to understand and seize economic opportunities in this region of the world and to benefit from them. Some businesses, post-secondary institutions, non-governmental organizations and provincial governments already have close ties with Asia.

• (1430)

[*English*]

Canada has a rich history of engaging with Asia, from early Canadian missionaries of the 19th century to the sale of wheat in the 1960s. China is of particular significance to Canada and to my home province of Alberta. The long-standing relationship established between the two, in my view, is an example of effective, cross-cultural dialogue, partnership and cooperation.

Approximately 137,000 Albertans are of Chinese descent. Alberta's Chinese-English bilingual program is the first such program in the world. In total, 14 Albertan schools offer such programs. China is also Alberta's second highest source country for foreign students and is an emerging science and technology market for the province, with several agreements designed to enhance research and development cooperation in the areas of information and communications technology, life sciences, environmental technologies, advanced materials, energy-related technologies and high-tech agriculture.

I am also proud to say that the University of Alberta boasts the China Institute, a research centre dedicated to enriching the dialogue and reinforcing understanding between Canada and China. The institute was founded in 2005 to foster and support new teaching activities between Canada and China, and to promote strong, academic linkages between the University of Alberta and Chinese universities.

The institute focuses on the study of contemporary China, including cutting edge and policy-relevant research on Chinese energy policy, politics, economy, social issues, culture and Canada-China relations. The China Institute thus serves as a hub, connecting the University of Alberta, the city of Edmonton, the province of Alberta and Canada with Chinese universities, institutions and other local communities. Since the founding of the institute in 2005, the University of Alberta has cultivated a large network with local government, research institutions and funding agencies.

I would also like to add that the University of Alberta's Mactaggart Art Collection, composed of more than 1,000 rare works of Chinese art, plays a significant role in furthering our knowledge of East Asian cultures, traditions and practices in the province of Alberta. It has been certified by the federal government as Canadian cultural property and has met the standards of national importance. This direct contact with objects of cultural and artistic significance promotes Asian heritage through visibility and accessibility, and contributes to intercultural relationship building and understanding.

Honourable senators, China is the fastest growing major economy of the 21st century and is Alberta's second largest trading partner. With one fifth of the world's population and an annual growth of nearly 10 per cent, the Chinese economy has doubled every seven to eight years since the late 1970s. This trend has created the longest continuous economic expansion for the largest proportion of the world's population in human history. In a matter of decades, China has moved several hundreds of millions of people out of poverty, another unprecedented record in history.

The country is moving on its modernization path with full speed. Today, China is the fourth largest economy after the United States, Japan and Germany. In recent years, economic ties between Canadian and Chinese markets have been expanding at rapid rates, as China increasingly relies on Canada's natural resources and, particularly, Alberta's energy sector to continue to grow.

Chinese investments are flowing in Alberta at unprecedented rates and will play an important role in defining the future of the energy industry. With this in mind, we need to play a more significant role in encouraging a wider range of economic ties, investments and tourism from this part of the world.

Senator Poy called upon our government to strengthen our relationship with a region that will undoubtedly grow in importance for Canada's future prosperity. I have tried to highlight but a small number of cross-cultural initiatives, partnerships and agreements that are taking place in my home province and that are of enormous benefit to Canadian society.

I thank the honourable senator for giving me the opportunity to speak on this matter, and I wish her a very happy and fulfilling retirement from the Senate.

Hon. Hugh Segal: Would the Honourable Senator Tardif accept a question?

Senator Tardif: Certainly.

Senator Segal: I think all honourable senators would want to be associated with her accurate, reflective and constructive comments on Senator Poy. She really has been a tremendous leader in this place and elsewhere on the issue of our relationship in constructive trade with Asia.

I would be interested in Senator Tardif's advice on how we balance the remarkable opportunities for trade and commerce, the tremendous economic success that the Chinese have shown, and the liberation of so many from poverty because of their very hard work and intense commitment to building a broader and open economy, with some of the compelling human rights issues that continue to be part of the dialogue between Canada and China, and the growth of Chinese investment in her province in a way that is probably inherently constructive between our two societies. How do we avoid the context where we use constructive trade as a way of avoiding the more unpleasant discussion about human rights? Or, is there a way, in the honourable senator's judgment, to make use of those trade relationships in a fashion that respects Chinese history but does not desert the commitment to human rights, democracy, minority rights and freedom of expression which we share with so many of our trading partners around the world?

Senator Tardif: I thank the senator for the question. I am sure that Senator Segal could answer that question much more eloquently than I could.

Therefore, I will go no further than to say that we have had a similar discussion this morning with regard to Canada-Jordan Free Trade Agreement. As Senator Di Nino so aptly said, let us move toward the invitation of dialogue, rather than to closure of dialogue.

The Hon. the Speaker: Is it agreed that this item remain standing in the name of Senator Day?

Some Hon. Senators: Agreed.

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

[*Translation*]

ELECTORAL RIDING REDISTRIBUTION

INQUIRY—DEBATE CONCLUDED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Chaput calling the attention of the Senate to the process for readjusting federal electoral boundaries and the impact it could have on the vitality of official language minority communities.

Hon. Fernand Robichaud: Honourable senators, I would like to continue my speech on this inquiry.

My speech could be labelled "best before June 22" because the New Brunswick Commission issued its report on the redistribution of federal electoral districts last Friday.

I live in Saint-Louis-de-Kent, located in the northernmost part of the riding of Beauséjour. Beauséjour is located next to the riding of Miramichi, which has a population of 52,000. As the average population for a riding in New Brunswick is approximately 75,000, Miramichi is clearly shy of the permitted 25 per cent variance.

The riding of Beauséjour is also bordered by the riding of Moncton, which includes the cities of Moncton, Dieppe and Riverview. The riding of Moncton currently has a population of 98,000, which is over the allowable variance of 25 per cent.

Changes had to be made, and I believe that the Commission has done a good job because it has endeavoured to balance the different populations. This has resulted in the reversal of the situation: the number of constituents in the riding of Moncton has been decreased from 98,000 to 82,000.

• (1440)

Beauséjour was at 78,000 and now it is up to 92,000 making it New Brunswick's most populous riding because the entire city of Dieppe was added to the riding of Beauséjour.

There is still one problem. Earlier, I talked about the riding of Miramichi, whose boundaries were changed. At one time, it included the region of Belledune, which was right on Chaleur Bay, making the MP's work quite difficult, I think. Now I believe it is part of the riding of Acadie—Bathurst, which is within the limits.

But the riding of Miramichi is still below the 25 per cent limit. When there is justification for it, the commission can allow the riding to remain with a population below the 25 per cent limit. That is what it did. And I have no problem with that. Had I spoken to this before June 22, I would have reminded the commissioners that they should take into account both rural and urban regions because I believe it is more difficult for an MP in a large rural riding to serve the people than it is for an MP in an urban riding where the population is much more concentrated.

They kept the riding of Miramichi below the allowable limit, and I agree with that. Whether I agree or not, the people will decide, but I think this is good because the riding covers a lot of territory.

There is one thing that I would not have changed had I been there. The upper Richibouctou region, home to the Elsipogtog Aboriginal community and all of the communities along the river, was added to the riding of Miramichi. I believe that region should have remained part of Beauséjour simply because the community has more in common with Richibouctou and Moncton.

It is not easy for a commission to take a whole province and play around with population, communities and territory. We just have to wait now as the commission will hold hearings, and I hope that people will take the time to express their views on the new boundaries.

The Hon. the Speaker: Do other senators wish to speak? If not, the inquiry is considered concluded.

(Debate concluded)

FRENCH EDUCATION IN NEW BRUNSWICK

INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Losier-Cool, calling the attention of the Senate to the current state of French language education in New Brunswick.

Hon. Fernand Robichaud: Honourable senators, I see that this inquiry has reached its allotted limit of 15 days. I need a bit more time to do my research before I can deliver my speech on the current state of French language education in New Brunswick.

(On motion of Senator Robichaud, debate adjourned.)

[*English*]

MAINTAINING MERCHANTS' RECORDS OF SALES OF NON-RESTRICTED FIREARMS

INQUIRY—DEBATE ADJOURNED

Hon. Joan Fraser rose pursuant to notice of June 21, 2012:

> That she will call the attention of the Senate to the desirability of maintaining merchants' records of sales of non-restricted firearms.

She said: I regret to inform honourable senators that I am rising to speak one more time, I hope the last time, about guns, specifically long guns, but I am not speaking about the gun registry. As honourable senators know, Bill C-19 is the law of the land, so I am talking about something more in the nature of what has turned out to be a consequential matter.

Some of you may have noticed that, I think it was last week, the Legal and Constitutional Affairs Committee reported that it had studied a regulation presented by the Minister of Public Safety. A regulation may sound a bit bureaucratic, but this one is very important.

This regulation says that provincial chief firearms officers may not oblige gun merchants to keep records of non-registered guns, that is, long guns, that are bought by their customers. Let me stress again: This is not the long-gun registry and it is very important to keep the distinction clear. The records to which I refer have been, for many years, kept by merchants in ledgers known as "green books." They existed for nearly 20 years before the registry was established, and they were compulsory. They are used basically for two purposes.

First, the chief firearms officer in each province and territory uses those ledgers to check gun merchants' inventory during local on-site inspections. The information is not centralized, but if an inspection discovers that something has gone wrong, that a gun is missing or has been stolen, then, because that is a clear signal that something has gone wrong, that information is reported to CPIC, the national information system for the police.

The second way in which the ledgers are used, the green books, is that if the police have reason to believe that a gun that has been used in the commission of a crime comes from a given merchant, they can get a warrant to consult the record of the sale of that gun, so these records are a real tool for law enforcement. They have no impact whatsoever on ordinary law-abiding gun owners — none — no cost, no bureaucratic hassle, nothing, but they are important for law enforcement. If keeping them is not compulsory, your committee heard from a number of people that the door will be opened for criminals to operate more easily.

I would stress that there is nothing revolutionary about the concept of keeping these records. Many countries require comparable records to be kept — the United States, the U.K., Australia, New Zealand, as well as countries in Europe. The United States federal law requires gun merchants to keep records for 20 years. In addition, various international instruments — conventions, protocols, agreements, United Nations programs — relate to small arms, and they all require the keeping of detailed records for law enforcement purposes and not for the purpose of harassing innocent citizens. They are kept for law enforcement purposes.

In Canada, in the years when these ledgers were compulsory, which is basically before the gun registry was established, there were, so far as we were able to ascertain, never any complaints from anyone about them.

• (1450)

I found it interesting to look back at the testimony that was given to the committee when we were studying Bill C-19 from Sergeant Murray Grismer, who is a police officer from Saskatchewan. He said:

> Years ago, before I became a police officer, I worked in retail sales in a sporting goods shop. I am very familiar with the ledgers that were kept then. That kind of a system was not onerous then and I do not think the dealers of today would consider it onerous now.

These records, of course, assume particular importance now that the long gun registry is being abolished under Bill C-19.

Let me just remind you, honourable senators, that when we are talking about long guns, we are not just talking about, to use the frequent phrase, "duck guns" that are used by law-abiding hunters. Unfortunately, the category of non-registered firearms in this country also includes some that no one thinks of when they think of law-abiding hunters. I will cite three: The IMI Tavor

TAR-21, which is categorized by its manufacturer as an assault weapon; the Steyr Mannlicher HS .50 M1, which is a .50-calibre sniper rife that can pierce light armour at 1.5 kilometers; and then of course the famous Ruger Mini-14, which killed 14 women and wounded 13 others in about 20 minutes in Montreal, and which has been dubbed the poor man's assault rifle. It can be modified to be even more effective, and that is how one man was able to kill 69 people, most of them young, in Norway last summer.

That is one reason why, when Bill C-19 was being studied, many witnesses, including the police, said it was important to reinstate this compulsory ledger system, to reinstate these compulsory green books, as they are called. For example, Chief Rick Hanson of the Calgary Police Service said flatly, "We must reinstate point of sale recording," and he was just one of quite a number of people.

In earlier versions of the bill to abolish the long gun registry, the requirement to keep the ledgers was in there, but it was not included in Bill C-19. Nevertheless, statements from the bill's proponents at that time certainly suggested that one reason that no one should worry about the loss of the registry was that these records would exist. For example, the Minister of Public Safety, Mr. Toews, said:

> Gun shops, in fact, keep records of their sales and those records can be accessed through a warrant or other appropriate provisions. You don't need the registry for that.

More explicitly, Mr. Tony Bernardo from the Canadian Sports Shooting Association, which has been one of the most assiduous campaigners for the abolition of the registry, said to our committee:

> Remember that all businesses are required to keep records mandated by the chief firearms office of the province that they live in. To remove the record from this registry does not remove their obligation to keep business records. Business records are mandated by the chief firearms office in the issuance of a business permit. . . . The record-keeping requirements are not going away . . .

It seems clear.

It is hardly surprising that after Bill C-19 was passed, a number of chief firearms officers turned their attention to the green books. Notably, the chief firearms officer of Ontario notified gun dealers that they would henceforth have to keep green books in connection with the sale of long guns. His authority for doing this was section 58 of the Firearms Act, which says that the chief firearms officer may attach any reasonable condition — any condition that the CFO considers reasonable — to the business licence of a gun dealer.

However, then — whoops — Mr. Toews and the anti-registry lobby suddenly became very upset. My notes say, "went ballistic," but I think that is a bad pun in this context. Mr. Toews wrote to the chief firearms officers to say, "You may not oblige gun merchants to keep the green books." Then, just in case anyone was in any doubt, he presented the regulation that your committee studied last week.

Apart from Mr. Toews and groups like the Canadian Sports Shooting Association, just about everyone else thinks the compulsory green books should be required for long guns. Certainly the police think so.

[*Translation*]

For example, Chief Mario Harel, Vice-President of the Canadian Association of Chiefs of Police, said to your committee:

[*English*]

> . . . firearm vendor ledgers provide at least one method through which law enforcement can investigate a long-gun used in a criminal act — I repeat, in a criminal act.
>
> It is not a searchable, centralized database. It has no cost to Canadians. It does not criminalize law-abiding citizens, and it places no burden upon them.
>
> Why would we remove such a practice and how can we justify it from a public safety perspective?

Those are good questions, in my view.

Victims pleaded for the maintenance of the registries. Many of you may have come across Ms. Sue O'Sullivan, who is the very eloquent Federal Ombudsman for Victims of Crime. She sent a submission in, saying:

> Requiring that information be collected and maintained at the point of sale for non-restricted firearms is an important tool that can assist law enforcement in preventing further victimization, and effectively investigating victimization that has occurred. For victims, this investigative tool is essential in providing them with access to justice.

Many of you have also over the years become familiar with Ms. Priscilla de Villiers, a most eloquent spokesperson for victims, who is a great lady. She wrote to the committee:

> The inconvenience of registering the purchase of a gun —

— that is, at the point of sale —

> — pales by comparison to all the forms and processes that we, who have lost children or have been injured by gun violence, continue to live with for many years.
>
> Yet again, the need to prevent further victimization is put aside in this rush for convenience. Piece by piece, we are weakening the systems and precautions to prevent victimization by firearms that Canada had made much progress at implementing. Step by step we are singling out long guns as being immune to the usual controls on sales to qualified buyers that apply to all other commodities which are potentially harmful to society.

Opponents of the green book system say that they do not like it because it opens the door to a back-door gun registry. Frankly, honourable senators, I believe that to be an absolutely ludicrous assertion, but do not take my word for it. Take the word of the Prince Edward Island government. We received a submission

from Ms. Janice Sherry, who is the Minister of Justice and Attorney General in Prince Edward Island. She wrote us quite a long and strong letter. Among other things, she said:

> If the concern surrounding the ledgers is that, in the custody of the Firearms Office, they could be used to create a form of a registry, this is simply not feasible . . .

The reasons she gave for it not being feasible are that it would be impossible to set up a provincial registry of non-restricted firearms using only the information that is kept in a firearms business ledger.

> These ledgers only contain the information relating to transactions that occur at that business. There are literally thousands of firearms bought and sold among individuals every day in this country. Any attempt to build a registry from this information —

— that is, the merchants' information —

> — would be pointless as there would be no means of ensuring the ongoing accuracy or integrity of the information. The ledgers offer "point in time" information for ensuring that a dealer is acting lawfully in the operation of the business.

Ontario, the province whose CFO seems to have started this whole thing, has said very firmly that it does not plan or want to establish a provincial long gun registry, but it still thinks the green book system would be a good system to have.

• (1500)

What would be the result of ending the compulsory ledgers? Let me quote the Chief Firearms Officer of Ontario, Superintendent Chris Wyatt of the OPP. He said:

> If this regulation comes into effect, no one involved in a long-gun transaction with a business will have to produce a firearm licence or have it recorded.

They will not have to produce a licence, even.

May I have five minutes, colleagues?

The Hon. the Speaker *pro tempore***:** Is five minutes granted?

Hon. Senators: Agreed.

Senator Fraser: Thank you very much.

That is not an element that the committee pursued, but it is an arguable interpretation of the regulation as drafted, since it says that a gun dealer cannot be required to collect information with respect to the transfer of a non-restricted firearm. You could argue that a person might not have to produce a licence, and there are also arguments to be made that under Bill C-19 a merchant does not actually have to demand to see the licence.

Anyway, that one will remain to be straightened out.

Superintendent Wyatt went on:

> With the end of the ledgers there will also be no information on where a long gun came from or where it went.

Further on, he stated:

> In Ontario, firearms business inspectors make sure that every firearm is accounted for during an inspection. Very few are found to be missing or stolen, and those that are found are reported to the police and entered on CPIC. This high level of accountability protects the public in a way not possible if this regulation does away with the ledgers.

Finally, he said:

> I believe the elimination of the ledgers will result in more firearms being sold by businesses to criminals and unlicensed persons.

Honourable senators, we all know that it is only a tiny fraction of the population that gets involved in crime, and that is as true when we are looking at the matter of guns as it is in the case of any other crime, but it is because of that tiny fraction that society has to establish protections for itself. That is why we have the Criminal Code: because a few people will commit crimes.

The same will be true of a few people involved in the buying or selling of guns. That is just human nature. The knowledge that their transaction was being recorded by the merchant would be a disincentive to people who wanted guns for less than honourable purposes. That disincentive may now disappear.

Most merchants, we were told, being law-abiding persons eager to help ensure the safety of the public, will voluntarily continue to maintain the ledgers, for their own inventory control, if nothing else. However, what about the tiny fraction of gun dealers who see the opportunity to make rather more cash than they might running entirely legitimate businesses? Things may not be so great there.

Honourable senators, these ledgers incur no cost to the purchaser or owner of a gun. They incur no cost to the taxpayer. There is no inconvenience to the buyer or owner of a gun, other than to have to spend a few seconds at the time of purchase providing the information about where they live, what their name is and what their licence is. It is such a simple system. I cannot for the life of me fathom why the Government of Canada does not want to continue with it.

Hon. Consiglio Di Nino: Honourable senators, I have a brief question, if I may.

I am not sure the honourable senator covered it. I was trying to listen.

Senator Fraser: You listened; you caught me out.

Senator Di Nino: I recall that Minister Toews stated more than once that there was nothing prohibiting the provinces, if they wished, from setting up these gun registries. Is that correct?

Senator Fraser: Again, I would draw the distinction between "registries" and "ledgers." If a province wishes to set up its own gun registry, it can do so. The only one that has indicated any interest in doing that is the Province of Quebec, and I purposely did not go anywhere near that topic in my remarks about the ledgers.

Senator Di Nino: I do not blame you.

Senator Fraser: It is the other provinces that do not want to get into the business of registries that do want to maintain the compulsory ledgers.

The way the law works is that most chief firearms officers are actually members of the RCMP, except in the large provinces. Even for those who are not, their authority is established under the federal Firearms Act.

Therefore, what Mr. Toews says is very important; it will determine what happens.

(On motion of Senator Runciman, debate adjourned.)

OMAR KHADR

INQUIRY—DEBATE CONCLUDED

Hon. Roméo Antonius Dallaire rose pursuant to notice of June 21, 2012:

> That he will call the attention of the Senate to the case of Omar Khadr, the first person to be prosecuted for war crimes committed while a minor, and further call on the Senate to demand his repatriation without further delay.

He said: Honourable senators, before I get into the substance of my remarks, because we were talking about forgotten wars or conflicts where we suffered quite a toll, I bring to honourable senators' attention, if I may, this month's *Legion Magazine* and the raising of the Dieppe Raid, which happened on August 19, 1942. August 19 will be the seventieth anniversary, and I have seen no activities being planned for it yet.

Of the 5,000 troops who went across the shores, 982 were killed, 586 were wounded and 1,946 were held prisoner. That is called a catastrophic destruction of a force. It was a terrible lesson learned that the inexperienced Canadian army acquired at the expense of its troops, and that lesson should never have to be relearned by having inexperienced troops and having inexperienced commanders planning complex missions such as that.

This brings me to the subject of my inquiry, Omar Khadr, the first person to be prosecuted for war crimes committed while a minor, and further call on the Senate to demand his repatriation without delay.

When I was medically released from the forces and handed in my uniform, I felt a little *dépourvu* of dress. I attended the International Conference on War-Affected Children, where I presented a paper, and I was given the opportunity to work for the minister of international development on war-affected children. From then on I decided to wear as a uniform a tie that would represent an NGO that is involved with war-affected children. Today, I am wearing not one that is defending gay rights, but one that is reflecting Save the Children. UNICEF and Save the Children have been the two prominent NGOs that have been working on rehabilitating and reintegrating child soldiers in conflict zones around the world. When I was in Sierra Leone in 2001 demobilizing a number of these child soldiers, those NGOs were by far the most effective and the ones that produced the best results in attempting to move these children back into a reasonable life.

Honourable senators, I am rising now to put on the record the case of the only child soldier prosecuted for war crimes.

Canada has been the world leader in drafting and promoting the Convention on the Rights of the Child and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, specifically addressing child soldiers. This convention entered into force in 2002 and has been signed by 130 countries.

That same year, Canada again led the charge in developing that optional protocol, and now 150 countries have signed it.

This protocol prohibits the use and recruitment of children under the age of 18 in armed conflict.

• (1510)

The Optional Protocol led to the drafting of the Paris Principles, which clearly established the definition of a child soldier. I have read this definition in the chamber previously, but I wish to do so again simply to remind us:

> Any person under 18 years of age who is compulsorily, forcibly or voluntarily recruited —

Of course, in conflict zones, the term "voluntary" is questionable.

> — or used in hostilities by any kind of armed forces or groups in any capacity, including, but not limited to, soldiers, cooks, porters, messengers, sex slaves, bush wives and those accompanying such groups. It includes girls recruited for sexual purposes and forced marriage. It does not, therefore, refer exclusively to a child who is carrying or has carried arms.

Imagine, honourable senators, that you are a 13-year-old boy. For your whole life your family has moved around, never settling for very long. You live in a culture where your father is never questioned. If he says "Jump," you ask "How high?" No matter what he asks you to do, you comply. You are barely an adolescent; you cannot fully grasp the meaning or consequences of your tasks. You live in a country where armed conflict surrounds you. Listening to your father is, in fact, your survival.

Your father sends you to live and work with his associates. He tells you to stay there and to listen to what you are told. As you are working one day, the compound you are in comes under attack by U.S. Special Forces. In the firefight frenzy, you are shot

three times. Then you are wrenched from the rubble and accused of killing an American soldier. It is 2002, you are 15 years old, and your name is Omar Khadr.

To produce a professional soldier, the minimum standard in NATO is about one year. That is a basic infantryman. To produce a Special Forces soldier, the minimum time and experience is four years of service, plus up to another year to year and a half of special training.

This compound was first, as we say, softened up by air attacks, bombed by 500-kilogram bombs from the air, and then assaulted by a full-fledged Delta Special Force, which Omar Khadr finds himself in the middle of.

Today, honourable senators, I speak about the case of Omar Khadr, a Canadian citizen and former child soldier currently held in prison at Guantanamo Bay. It is my intention to speak about the nightmares this now man has suffered, the failures of our government to protect him, and the immediate necessity for this government to sign the transfer agreement and bring Omar back home.

It is believed that during the firefight, Omar Khadr threw a grenade, killing Sergeant Christopher Speer, a Delta Force strategic forces soldier and special forces medic. He was sent to the Americans' notorious Bagram prison. Once identified, the Canadian government sought and was denied consular access.

In September 2002, Foreign Affairs sent a diplomatic note to the U.S. Department of State. The note made three points.

First, there was "ambiguity as to the role Mr. Khadr may have played" in the battle of July 27, 2002.

Second, Guantanamo Bay "would not be an appropriate place for Mr. Omar Khadr to be detained," since "under various laws of Canada and the United States," his age provided "for special treatment of such persons with respect to legal or judicial processes."

Finally, the diplomatic note went on to ask for "discussions between appropriate officials on Mr. Khadr prior to any decisions being taken with respect to his future status and detention."

In spite of our government's concerns, Omar was transferred to Guantanamo Bay, where he has remained a prisoner for the last 10 years. Despite the best efforts of the truth, what has followed in the last 10 years has been a nightmare for this ex-child soldier, a stain upon our society, and a fundamental reproach upon our respect for international law and conventions that we have signed.

We have since learned that after being hospitalized at Bagram, this seriously injured 15-year-old was pulled off his stretcher onto the floor and his head was covered with a bag while dogs barked in his face. Cold water was thrown on him; he was forced to stand for hours with his hands tied above his head and to carry heavy buckets of water to aggravate his wounds. He was threatened with rape, and bright lights were shone on his injured eyes. In fact, he has lost vision in one eye.

We have learned that, while prepping him for American and Canadian interrogators at Guantanamo Bay, this boy was subjected to further tortures, such as extreme sleep deprivation and endless hours of standing up, designed to exhaust him. After being held without charge for three years, Omar is charged by the U.S. as an "enemy combatant" in November 2005 and put to trial through the Military Commissions Act.

[*Translation*]

During the 10 years that this nightmare has gone on, we have realized that the most serious violations of Khadr's rights have been covered up—violations of the right to due process, the right to protection from torture, the right to protection from arbitrary imprisonment, the right to protection from retroactive prosecution, the right to a fair trial, the right to confidential legal representation at the appropriate time and place, the right to be tried by an independent and impartial tribunal, the right to *habeas corpus*, the right to equality before the law and the rights stemming from the Convention on the Rights of the Child.

The status of child means that the person concerned is unable to understand the world into which he was thrown. The need to protect and take care of children has always been the code of humanity. The use of child soldiers is a violation of that code. The status of child soldier means that the person concerned is subject to the most atrocious form of indoctrination, to physical and psychological torture and to the most poignant mental poverty into which an innocent child can be thrust.

For too long, we have done nothing. We must remember that the substance of the Khadr case involves children's rights. In this type of case, we must demonstrate wisdom, compassion and a true willingness to take into account the overall context and remember that all children have inalienable rights, even if they or their families have done things of which we disapprove. These rights are meaningless if we respect them only selectively.

When the military commission in Guantanamo dismissed the charges on a technicality in June 2007, the Government of Canada could have exerted pressure to have Omar repatriated, particularly given the Kafkaesque possibility that the United States government would, as it had promised, appeal the decision before a tribunal that had yet to be set up.

I went to Washington to talk to members of Congress, the Senate and the State Department. They said that the only entity refusing to go ahead with Omar's departure was the Pentagon, backed by the Canadian government's lack of action.

From the outset, the U.S. administration adopted rules as the need arose whereas Canada's representatives shirked their responsibilities towards a citizen. The charges of murder, attempted murder, conspiracy, material support for terrorism and espionage under the Military Commission Act are reiterated in the appeal.

While Omar was waiting for his trial to begin in Guantanamo Bay, the Canadian courts studied his case. In May 2008, the Supreme Court of Canada ruled that Canada's representatives had violated Omar Khadr's rights, which were guaranteed by the Canadian Charter of Rights and Freedoms, when he was illegally interrogated in 2003.

• (1520)

The court ordered that the fruits of the interrogations sent to the American authorities be disclosed to Omar. Canada complied with the order to disclose the information, but it has done nothing to put an end to this nightmare.

In January 2010, once again, the Supreme Court of Canada concluded that the Government of Canada had continued to infringe Omar's rights under the Canadian Charter of Rights and Freedoms, finding that the treatment Omar was subjected to offended the most basic Canadian standards. The court stopped short of ordering the government to repatriate Omar, because of the Crown's prerogative over foreign affairs.

Therefore, the situation is focused specifically on the Crown.

Honourable senators, may I have an additional five minutes?

The Hon. the Speaker: Is it agreed?

Hon. Senators: Agreed.

Senator Dallaire: The government sent a diplomatic note to the United States to ask the Americans not to use the fruits of the Canadian interrogation. This was nothing but a symbolic gesture that did nothing to compensate for the serious, fundamental violation of Omar's rights by Canadian agents.

In August 2010, Omar Khadr's trial started in Guantanamo Bay, even though he was a child soldier. He decided to plead guilty because he wanted a chance to live. Ultimately, he is the one who took responsibility.

[*English*]

Canada was intimately involved in the pre-trial plea deals and negotiations. In October 2010, Canada committed to return Omar to complete his sentence in Canada after he served one additional year in Guantánamo Bay.

On November 1, 2010, in the House of Commons, then Minister of Foreign Affairs Lawrence Cannon said that Canada will implement this deal; yet, eight months later, he was eligible to return to Canada and we have seen nothing from the government. Why the delay?

This government has turned what should have been a technical, bureaucratic decision into a political game, a political football. The Americans have held up their end of the deal. Omar Khadr has held up his end of the deal. The Americans have signed his release, dated April 16, so that the Canadian government can take him and incarcerate him in appropriate establishments in this country in order that he can receive, as other prisoners do, rehabilitation and reintegration into our society. Why is the Canadian government refusing to follow through on its word? If this is a political decision, what is the political impediment for bringing him here?

The U.S. government is not known for being soft on terrorism. The U.S. would never agree to transfer a detainee, especially to an ally, if they believed that that detainee was in any way a threat.

He will not be walking the streets; he will be going to a Canadian prison. Despite this, our government continues to stonewall the United States' efforts to return Omar Khadr to Canada. In fact, the Canadian specialist or technocrat in Washington refused to meet with the Americans to even start discussing the details of how to bring him back, under what means and under whose control.

The Minister of Public Safety tells us that the matter is under consideration. That is not a particularly good response. Perhaps, as Mr. Khadr's Canadian lawyers have said, the minister thinks that it has not been that long, but the minister has not been in Guantánamo Bay for a decade under less than appropriate conditions, even compared to our jails. The minister does not sit shackled to a floor waiting for the decision to return him to Canada. Khadr does.

There is a great deal of frustration in the American government towards Canada. Not only is the patience of our closest ally wearing thin, but the world has been watching Canada's missteps in this case. Just this month, the UN Committee against Torture in its report urged Canada to promptly approve Omar Khadr's transfer application. Canada's reputation as a defender of human rights continues to be sullied the longer this process and his detention in Guantánamo Bay continue. It is a simple fact of fulfilling a promise; you either sign the deal and you implement it, or you go against the deal and lose your credibility as being a fair negotiator with your closest ally.

As Omar Khadr's defence lawyer put it last week in a press conference:

> The United States and Canada are supposed to be the good guys. We're supposed to be the people that the other places in the world who are looking for freedom look at for how things are supposed to be done the right way. We're supposed to stand for human rights, dignity and the rule of law. The cornerstone of the foundation on which the rule of law is built is honouring your agreements.

Canada must honour the agreement it has with Omar Khadr and return him immediately to Canada. There are all kinds of planes waiting to bring him back. There is a whole program already in place through the university in Edmonton where he has already commenced his rehabilitation while incarcerated in Guantánamo Bay.

There can be no doubt, and I conclude, that the case of Omar Khadr taints this government, this country and all of its citizens. Our credibility in attempting to extricate, demobilize, rehabilitate and reintegrate child soldiers, as I recently was doing in the Congo and South Sudan, is affected by the fact that we are not playing by the rules that we have instituted and want other people to play by. They are not stupid. They know we are not playing by the rules. It was put into my face that the Khadr case is an example where we sign the papers, we even make deals with our allies, but we do not have the guts to implement them.

Hon. Consiglio Di Nino: Honourable senators, I know we have too little time, so I will make a couple of comments in debate.

Senator Dallaire and I have had differences of opinion on this for a number of years. It is out there in the public, in Hansard, if one wants to see it. I think Senator Dallaire's comments are not

only very strong, they are inappropriate. I would just like to suggest that during my discussions in public, there has been a great deal of support for a position that says do not bring him back. I was actually surprised by that, for a number of reasons. The fact that his family publicly continues to chastise Canada in effect suggests that we are not a good country. That is not helping his cause.

The honourable senator just referred to him as a "now man"; he has been a man, an adult, for a lot of years. I have yet to hear this man express regrets. I have yet to hear this man express remorse. I think it would go a long way for Canada to be more accepting if, now that he is an adult, he would say at least, "I did not know what I was doing. What I did was wrong." He has not done that yet.

The Hon. the Speaker: We were on debate. If there is a question of Senator Di Nino or a comment, that is permitted.

Senator Dallaire: I have taken it as a question.

The Hon. the Speaker: Let me clarify it again. Senator Di Nino was speaking on debate. He has concluded his debate, but there is time for questions and comments on Senator Di Nino's time.

Senator Dallaire: I would like to ask a question of Senator Di Nino.

• (1530)

We have been on different sides of this question. Senator Di Nino is right that we do not like the politics of the family, and he is right that Omar Khadr is now an adult. However, because one does not like the politics of the family that does not permit us to play against the fundamental rules of law and the conventions we have signed.

We recognize that Omar Khadr was a child soldier. We even had people down there at the start to pull him out and then changed our tune. That was the previous government. However, the current government just reinforced it, so no one is any smarter on either side on this issue. I am trying not to be political.

However, even if the Canadian people do not agree with it — and it is about 53 per cent right now — the law is the law. We signed a deal. We agreed to do this but we are not.

The honourable senator is saying Omar Khadr has not expressed remorse. No one has told me why the government is not doing it. I keep hearing that we are reviewing and are in continued discussion. There is no legal reason for not implementing the process. The Americans want to get rid of him. The first question is why are we not doing that?

The second question to follow up on with regard to Omar Khadr and the case is he has been under significant rehabilitation already. If one queried his lawyers while they were here, both Canadian and American, he has demonstrated remorse at having found himself as a victim in the middle of a war and, as such, has been working extensively in trying to reintegrate himself into Canadian society by learning many subjects which university academics support.

I would argue that he has gone a fair distance already. Why have we not?

Senator Di Nino: Honourable senators, first, frankly, do not give a hoot about the politics of the family. I never said such a thing.

I said that I do not appreciate the public comments made by the mother and the sister, in effect calling our country names. Derogatory remarks about my country. A country I chose to come to.

Some Hon. Senators: Hear, hear!

Senator Di Nino: I said "yes" when someone asked me, "do you want to be a Canadian?" I am very proud of that.

I am not speaking about the politics of the family. There are comments that family members have made about my country, Canada, which are unacceptable.

As far as I am concerned, I have heard nothing to make me believe that Mr. Khadr does not share exactly the same opinions and, frankly, if he believes that Canada is not a country that he should live in, then we should not let him back in.

Senator Dallaire: I am not sure what planet the honourable senator is operating from in this case.

Some Hon. Senators: Oh, oh!

Senator Dallaire: I am being personal because, whether one calls it politics or the expression of people, we are playing with words because the family is unacceptable to us.

I was born overseas. My mother was a war bride and my father fought in the war. We have a stake in this country. My family arrived here in 1656. I am as proud, surely, of this country as Senator Di Nino.

However, what the family says and does has nothing to do with the law and the application of it and the deals we signed and the credibility of that same country he is defending.

The credibility of that country is the following: We signed a deal and we said to sentence him to eight years. He said he was guilty. He has been in rehabilitation. He has, in fact, already demonstrated a willingness to reintegrate into society and has been taking action while in prison, while shackled to the floor, after nearly 10 years in jail, and he has still not turned against Canada. He wants to come back here.

In that context and following the law, the Americans played their side of the deal. We have prisons galore and are going to build more, so why not bring him home? Throw him in jail and wait the seven years.

Senator Di Nino: I have not heard Mr. Khadr at any time express sentiments of regret or show any sign of remorse. That would go a long way to making me think this way.

Second, our country is acting within the law. They said they have and they are. These are complex issues and they take time. We are not a country that acts outside the law.

Finally, we will disagree on this issue, and that is fine. However, if the senator has any influence on the young man, if he got up and said, "Canada, please forgive me," it may go a long way to changing the minds of many Canadians like me.

Hon. Michael Duffy: Honourable senators, I had not planned to get into this, but it is time to set the record straight.

Dr. Michael Welner, American's leading forensic psychiatrist, asked Omar Khadr what the worst physical torture was that they did to him while he was in Guantanamo. The doctor brought along a video camera to record the whole conversation. All eight hours are on tape. Was he water boarded, electrocuted and chained to the floor? He is suing the Canadian government for millions of dollars.

According to Dr. Welner, all Khadr could come up with as an example of physical torture was when the Red Cross came to make sure he was being taken care of, the Red Cross insisted he be weighed. Khadr resisted and wriggled around and cried out as the guards put him on the scale. That is it. That is the extent of the torture.

He shouted in Arabic as he entered the area to be weighed that it was all just for show and that they should not be worried about it.

That is it. Omar Khadr.

Senator Dallaire: I would like to ask a question of Senator Duffy.

Omar Khadr was 15 years old, had been in a firefight, had been shot three times, lost an eye and been tortured. In fact, one of the people who was in the jail before he was moved to Guantanamo Bay has been prosecuted subsequently because he killed one of the prisoners. Then Omar Khadr ends up in Guantanamo Bay and people are starting to offer him opportunities, to maybe see the future and he is grasping at straws. Is that young man still fully stable, cognizant of what he is saying, not under duress by the incarceration in that jail to start with? In fact, there were processes by which people were coming to say that they were there to help him but were interrogating him was proven in the Supreme Court.

Senator Duffy: We do know this, honourable senators: Khadr is a racist and sexist, calling a Black woman guard a "slave" and a "bitch." I think his actions speak for themselves.

Some Hon. Senators: Oh, oh!

Senator Dallaire: My subsequent question to that is, has Senator Duffy never had a bad day? Has the honourable senator never been pushed to the brink of saying something that might be a little foolish? Has he never been in that type of condition and been brought to the limits of wanting to react, not getting the medication to control his emotions, and something like that is said and he is going to take that as cash in order for the Canadian government not to implement the deal that it has committed itself to? Come on.

The Hon. the Speaker: There being no further debate on this inquiry, it is considered debated.

(Debate concluded.)

BUSINESS OF THE SENATE

EXPRESSION OF THANKS AND GOOD WISHES

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, just before we suspend for the vote later today, and because we are at the end of the spring and early summer sitting, I want to take the opportunity to thank Your Honour, the Clerk and the table officers, the reporters, the pages and all the Senate staff, both administrative and protective, for the great service they have provided to all senators over the past six months. Of course, many of them will continue their work over the summer.

• (1540)

Most of us will not be back here until September. I want to take this opportunity to thank them and to say to my colleagues on both sides that it has been a very long session, with vigorous debate — sometimes problematic. However, at the end of the day, we do get our work done, we do achieve our objectives, and, no matter what side of the aisle we sit on, we all must know that we are so fortunate to live in the best country in the universe. It is important that we reflect on that, as we look at the situation around the world and what our global neighbours face daily.

I wish all senators a very nice summer and a very happy Canada Day on Sunday.

I also want to again bid a fond farewell to Senator Di Nino, Senator Angus, Senator Cochrane and Senator Poy. One, unfortunately, has no choice in the matter, and both Senators Di Nino and Poy have decided to take leave of this place before they were required to do so, which I think some people would agree is an admirable thing.

I again want to thank every one of my colleagues, especially, for their support. This is a great team and I could not be even half as effective if I did not have the support of each and every one of my colleagues on this side, most particularly, my deputy leader, Claude Carignan; our whip, Beth Marshall; and our caucus chair, Rose-May Poirier.

Even though people opposite do not realize it sometimes when we get into rather acrimonious debates, I do have the greatest respect for all the people who serve in the Senate of Canada. This is a unique group of people because, since Confederation, there have been fewer than 1,000 of us who have had the privilege of serving in this great chamber.

Happy Canada Day, happy summer, and we will see you all back here in September.

Senator Cordy: Happy birthday to you!

Senator LeBreton: On the fourth of July. They have this big party for me every year south of the border. Thank you and happy birthday to you, Senator Cordy.

Hon. James S. Cowan (Leader of the Opposition): Honourable senators, I wish to associate myself with Senator LeBreton in thanking people for what they have been through and what they have done in the last while.

I want to thank His Honour for his patience and wisdom, and the calming influence that he has had on us from time to time when we have been a little out of hand. It is appreciated and we do acknowledge that today.

The Clerk and the table officers constantly demonstrate the expertise we need in keeping us, for the most part, on the straight and narrow, from a procedural point of view at least.

To the Senate Debates staff, the transcribers and all the pages, we do know the hard work and the long hours that they put in and we appreciate that. I am always amazed at the ability of the Debates staff to report what we say into both of Canada's official languages and to make it readable the next day.

The security staff shows an unfailing professionalism and courtesy to us all on a daily basis. We should appreciate the fact that they make this a very safe workplace for all of us. That is not something we should take lightly.

We also often make unreasonable demands upon our own staff and they respond, for the most part, cheerfully and always willingly to the demands we make upon their time. We do not say it often enough, but we appreciate what they do for all of us.

To all honourable senators, I wish you a very pleasant summer. I hope you have a restful vacation over the summer and that perhaps we will return in the fall in rather better humour than we leave today.

The Hon. the Speaker: Honourable senators, is it agreed that we will stand suspended until the call of the bells at 5:15 for the ordered vote at 5:30?

Hon. Senators: Agreed.

The Hon. the Speaker: Should honourable senators in the meantime not be able to leave this Centre Block, in light of the fact that we are celebrating the two hundredth anniversary of the War of 1812 this year, they will see on the south pillar to the right, beside the coat of arms of the Crown of England, two facial figures. The one on the left is General Wolfe and the one on the right is General Brock. In the spirit of the success of General Brock, if you come by the Speaker's quarters, you may not be disappointed whilst we wait.

Do I have permission to leave the chair?

Hon. Senators: Agreed.

(The sitting of the Senate was suspended.)

• (1730)

(The sitting of the Senate was resumed.)

JOBS, GROWTH AND LONG-TERM PROSPERITY BILL

THIRD READING

The Hon. the Speaker: Honourable senators, it was moved by the Honourable Senator Buth, seconded by the Honourable Senator Doyle:

> That Bill C-38, An Act to implement certain provisions of the budget tabled in Parliament on March 29, 2012 and other measures, be read the third time.

Motion agreed to and bill read third time and passed on the following division:

YEAS
THE HONOURABLE SENATORS

Andreychuk
Angus
Ataullahjan
Boisvenu
Brown
Buth
Carignan
Comeau
Dagenais
Di Nino
Doyle
Duffy
Eaton
Fortin-Duplessis
Frum
Gerstein
Greene
Johnson
Lang
LeBreton
MacDonald
Maltais
Manning
Marshall
Martin
Meredith
Mockler
Nancy Ruth
Nolin
Ogilvie
Oliver
Patterson
Plett
Poirier
Raine
Rivard
Runciman
Segal
Seidman
Seth
Smith (*Saurel*)
St. Germain
Stewart Olsen
Tkachuk
Unger
Verner
Wallace
Wallin
White—49

NAYS
THE HONOURABLE SENATORS

Callbeck
Campbell
Chaput
Charette-Poulin
Cordy
Cowan
Dallaire
Dawson
De Bané
Downe
Dyck
Eggleton
Fairbairn
Fraser
Furey
Hervieux-Payette
Hubley
Jaffer
Kenny
Mahovlich
Mercer
Merchant
Mitchell
Moore
Munson
Ringuette
Robichaud
Smith (*Cobourg*)
Tardif
Watt
Zimmer—31

ABSTENTIONS
THE HONOURABLE SENATORS

Nil

COPYRIGHT ACT

BILL TO AMEND—THIRD READING

The Hon. the Speaker: Honourable senators, it was moved by the Honourable Senator Greene, seconded by the Honourable Senator MacDonald:

> That Bill C-11, An Act to amend the Copyright Act, be read the third time.

Motion agreed to and bill read third time and passed on the following division:

YEAS
THE HONOURABLE SENATORS

Andreychuk
Angus
Ataullahjan
Boisvenu
Brown
Buth
Carignan
Comeau
Dagenais
Di Nino
Doyle
Duffy
Eaton
Fortin-Duplessis
Frum
Gerstein
Greene
Johnson
Lang
LeBreton
MacDonald
Maltais
Manning
Marshall
Martin
Meredith
Mockler
Nancy Ruth
Nolin
Ogilvie
Oliver
Patterson
Plett
Poirier
Raine
Rivard
Runciman
Segal
Seidman
Seth
Smith (*Saurel*)
St. Germain
Stewart Olsen
Tkachuk
Unger
Verner
Wallace
Wallin
White—49

NAYS
THE HONOURABLE SENATORS

Callbeck
Campbell
Chaput
Charette-Poulin
Cordy
Cowan
Dallaire
Dawson
De Bané
Downe
Eggleton
Fairbairn
Fraser
Hubley
Jaffer
Kenny
Mahovlich
Mercer
Merchant
Mitchell
Moore
Munson
Ringuette
Robichaud
Tardif
Watt
Furey
Hervieux-Payette
Zimmer—29

ABSTENTIONS
THE HONOURABLE SENATORS

Nil

The Hon. the Speaker: Honourable senators, is it agreed that the house will suspend to the call of a five-minute bell in order to await the message for Royal Assent? We expect that to be in about 30 minutes.

Hon. Senators: Agreed.

(The Senate adjourned during pleasure.)

• (1830)

(The sitting was resumed.)

[*Translation*]

ROYAL ASSENT

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

RIDEAU HALL

June 29, 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 29th day of June, 2012, at 6:15 p.m.

Yours sincerely,

Stephen Wallace
Secretary to the Governor General

The Honourable
The Speaker of the Senate
Ottawa

Bills Assented to Friday, June 29, 2012:

An Act to implement the Free Trade Agreement between Canada and the Hashemite Kingdom of Jordan, the Agreement on the Environment between Canada and the Hashemite Kingdom of Jordan and the Agreement on Labour Cooperation between Canada and the Hashemite Kingdom of Jordan (*Bill C-23, Chapter 18, 2012*)

An Act to implement certain provisions of the budget tabled in Parliament on March 29, 2012 and other measures (*Bill C-38, Chapter 19, 2012*)

An Act to amend the Copyright Act (*Bill C-11, Chapter 20, 2012*)

• (1840)

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, September 25, 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 to Tuesday, September 25, 2012, at 2 p.m.)

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