



# DEBATES OF THE SENATE

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OFFICIAL REPORT  
(HANSARD)

Wednesday, December 12, 2012

The Honourable NOËL A. KINSELLA  
Speaker

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## THE SENATE

Wednesday, December 12, 2012

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

Prayers.

### SENATORS' STATEMENTS

#### INTERNATIONAL HUMAN RIGHTS DAY

**Hon. Thanh Hai Ngo:** Honourable senators, this weekend the Vietnam Human Rights Network, with the collaboration of the Vietnamese community in Montreal and other community-based organizations, planned a successful celebration in honour of the sixty-fourth anniversary of International Human Rights Day. Members of Parliament Irwin Cotler, Hoang Mai, Anne Minh Thu Quach and I had the great pleasure of joining Vietnamese communities from across Canada and the United States to celebrate this event. It was truly a great opportunity for people from different walks of life to show solidarity and support to the Vietnamese people who struggle for basic human rights and justice in Vietnam. At this yearly event, we discussed in Vietnamese, English and French how Vietnam's human rights record still remains unacceptable. We discussed how the government in Hanoi constantly suppresses all forms of political dissent and religious freedom, using extreme and repressive measures.

In these last few months, many Vietnamese independent writers, bloggers, musicians and rights activists peacefully questioned their government's policies, exposed corruption or called for democratic alternatives. As a result, they were sentenced to harsh prison terms, ranging from four to 12 years, for violating the so-called national security policies or other draconian laws.

According to the U.S.-based Committee to Protect Journalists, Vietnam is one of the top 10 countries holding the most journalists behind bars.

For these reasons, the Vietnam Human Rights Network has been giving, since 2002, annual recognition to human rights and democracy activists who have made their mark in the march toward freedom, human rights and democracy for the Vietnamese people. This year, they recognized the outstanding work and sacrifices of three Vietnamese women: Pham Thanh Nghien, Ta Phong Tan and Huynh Thuc Vy.

[*Translation*]

These awards recognize the unfailing dedication of these three women to truth, justice and freedom. They inspire us to take action and speak out against corruption and human rights violations in Vietnam.

That is why I encourage all Canadians to become involved in the fight for democracy and human rights in Vietnam. The "Million Hearts, One Voice" petition, started by Truc Ho, a

musician and composer, with the assistance of Vietnamese living abroad, represents substantial support for democracy in Vietnam.

Therefore, it will be an honour to present this petition in the near future, and it is out of concern for human rights that I will be introducing motions to condemn the abuse of power and the repression of citizens in Vietnam and around the world.

Honourable senators, Canada has always stressed the importance of justice, freedom and truth. We know that these values are necessary when we observe the repression of human rights, especially among women. Cases of injustice, such as the death of photojournalist Zahra Kazemi, an Iranian-Canadian who was tortured, and the attempted assassination of the young school girl, Malala Yousafzai, truly show the importance of respect for democratic values around the world.

That is why I am proud that the promotion and protection of human rights is a pillar of our Conservative government's foreign policy.

[*English*]

#### THE LATE HONOURABLE JOHN LYNCH-STAUNTON

##### TRIBUTE

**Hon. Mobina S. B. Jaffer:** Honourable senators, as we near the end of the year and Christmastime celebrations, we remember and thank people who played an important role in our lives. Today, I want to thank Senator Lynch-Staunton.

Honourable senators, we lost a strong leader and defender of democracy last summer, our former colleague the Honourable John Lynch-Staunton. Senator Lynch-Staunton served Canadians in public office for more than 30 years, including as a city councillor in Montreal from 1960 to 1974, as a senator from 1990 to 2005 and as a municipal councillor in Stanstead, Quebec, from 2009.

I rise today to acknowledge Senator John Lynch-Staunton. When I arrived in the Senate almost 11 years ago, he and I came from different backgrounds. From time to time, we had the opportunity to discuss our different points of view. I have to admit today that we were rarely able to convince the other of our argument, but I always valued those frank discussions. One year, Speaker Dan Hays invited Senator Lynch-Staunton and me to accompany him to Bhopal, India. Before the trip, I gave all of my colleagues a copy of a book written by Dominique Lapierre and Javier Moro called *Five Past Midnight in Bhopal*. The book sets out the events of December 3, 1984, when a terrifying cloud of toxic gas escaped from an American pesticide plant in the heart of Bhopal, killing between 16,000 and 30,000 people and injuring 500,000 more. When we arrived in Bhopal, I was delighted to discover that Senator Lynch-Staunton had actually read the book. We both attempted to go to see the places where the affected people were living. We encountered a lot of resistance from the

Indian government, but, due to Senator Lynch-Staunton's persistence, we were able to visit one evening with the people who had suffered as a result of this terrible tragedy. We visited a number of places and spoke with many people, and I saw another side of Senator Lynch-Staunton, one that only made me admire him more.

Today, honourable senators, I want to reach out to his wife, his five children and his nine grandchildren. I want to let them know that Senator Lynch-Staunton holds a special place in Canadians' hearts and minds, especially my own. Although we came from different backgrounds and had different opinions, we were able to reach out to one another to find common ground and work together to serve as senators. Senator Lynch-Staunton taught me that you do not have to be partisan on issues that affect humanity. We can always find a way to work together. It is a lesson I will never forget.

[*Translation*]

### CANADIAN ARMED FORCES

**Hon. Ghislain Maltais:** Honourable senators, the vast majority of Canadians will take time over the upcoming holidays to review the events of this past year. They will also consider what kind of country we live in and to whom we owe a debt of gratitude.

We must remember that hundreds — and even thousands — of Canadians in the Armed Forces will not be home for Christmas or New Year's. They will be all over the world, wherever Canada has asked them to serve their country.

We cannot forget that these individuals and those who came before them have made it possible for us to be here in this Senate and to enact legislation to benefit all Canadians. Over the last century, they have helped protect hard-won freedom, sometimes at the cost of their own life.

We must take time to honour them. I would like to salute some individuals from my senatorial district of Shawinigan, from the Shawinigan regiment, who will not be spending Christmas with their families and children. These individuals include Captain Valérie Bourassa, Sergeant Frédéric Pagé, Corporal Félix-Antoine Bernier, Corporal François Roussel and, of course, Warrant Officer Dominique Plourde, from Trois-Rivières.

• (1340)

These people freely chose to serve Canada, but also to set an example of sacrifice for us all. We know that these missions in Afghanistan are not very safe. That is why we must pay tribute to the work they are doing to bring peace to that country.

Today, Canadians should take a moment to think about them and their families, knowing that they will never be alone as long as our thoughts are with them.

[*English*]

### DIAMOND JUBILEE MEDAL RECIPIENTS

**Hon. Rod A. A. Zimmer:** Honourable senators, he is young, bright, talented, athletic, respectful, strong in faith, and modest with his wealth and fame. Several years ago, just before he signed his huge contract with Sony, in concert with Usher, he lived in

Winnipeg with his father, Jeremy. I used to take him go-cart racing, paint-balling and waltzing through the Winnipeg malls, where he perfected his Heisman Trophy football pose. While strolling through the malls, he would slip into the display windows of the men's and women's clothing stores and pose like the mannequins. Within a few minutes, young ladies would freeze in their tracks and remark how realistic he looked, like a recently discovered rock star seen on YouTube. As we were leaving the malls, he would have a long line of giggling young ladies, too shy to ask for his autograph or his photo.

Honourable senators, on Friday, November 23, I was his guest with my wife, Maygan, to attend his performance at Scotiabank Place. We met with him and his father just before his evening's performance to give him a hug and wish him the best, and to present his father with the Queen's Diamond Jubilee Medal. Needless to say, he was very touched and said that although he was proud of receiving his medal a few minutes before, this medal to his father and the one we would present to his mother, Pattie, in the near future meant a great deal more.

Although over the past two years he has become the hottest rock star on the planet, he remains respectful and humble and maintains a strong faith in the Lord.

Honourable senators, I would be proud to have a son like him, but I will settle for him calling me "Uncle Rod." He is my hero; and his name is Justin Bieber.

### SRI LANKA

#### JUDICIAL INDEPENDENCE

**Hon. Hugh Segal:** Honourable senators, the recent and further steps by the Government of Sri Lanka to impeach their Chief Justice should concern all Commonwealth citizens and governments. Clear Commonwealth values around the rule of law and democracy as expressed in the Harare Declaration and the Latimer House Principles embraced by all Commonwealth heads of government in 1991 and 2003 are being violated by this present and unconstitutional impeachment effort.

Commonwealth Secretary-General Kamalesh Sharma was in contact with the Sri Lankan Foreign Minister on this issue on December 10. We appreciate that contact very much.

Today, President Rajapaksa announced that he would appoint an independent panel to review the findings of the parliamentary report. There is much to review in terms of the questionable way in which the investigation was handled, the lack of time for defence preparation by Chief Justice Shirani Bandaranayake and the total disregard for the international norms of trying a judge for alleged corruption.

Sri Lanka is the designated host of the upcoming 2013 Commonwealth Heads of Government Meeting. In the lead-up to CHOGM, the initiation by Sri Lanka of a credible accountability

process for the civil war ending in 2009 will be vital. The present situation regarding the Chief Justice does not inspire confidence that transparency, openness and accountability are abundant in Sri Lanka.

The Commonwealth Lawyers Association, the Commonwealth Legal Education Association, and the Commonwealth Magistrates and Judges Association put out a joint statement, which read, in part:

By virtue of its membership of the Commonwealth, Sri Lanka is committed to the shared fundamental values and principles, at the core of which is a shared belief in and adherence to democratic principles including an independent and impartial judiciary.

In the end, every member state of the Commonwealth makes its own sovereign decisions, but membership in the Commonwealth is not permanent or unconditional for any member. It is tied to a basic respect for the core Commonwealth principles and values. The consistent and serious violation of these could well result in a country's membership being questioned.

Justice C.G. Weeramantry, former Senior Vice-President of the International Court of Justice in The Hague and the senior retired judge in Sri Lanka, said yesterday:

There can be no democracy in a country unless the rule of law prevails at every level, from the humblest to the most exalted citizen.

My good friend and former President of the International Commission of Jurists, the Honourable Michael Kirby, from Australia, said:

A judge without independence is a charade wrapped in a farce inside an oppression.

It is not appropriate for any Commonwealth body to ever look the other way. The impeachment of a chief justice for political reasons is a deeply serious matter that requires careful and diligent review by Commonwealth bodies well before Commonwealth heads of government meet in Sri Lanka next year. Responding to the rule of law is not a "wouldn't-it-be-nice" aspirational goal. It is, along with democracy, human rights and development, fundamental to what membership in the Commonwealth is about.

## ROUTINE PROCEEDINGS

### RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

#### FOURTH REPORT OF COMMITTEE PRESENTED

**Hon. David P. Smith**, Chair of the Standing Committee on Rules, Procedures and the Rights of Parliament, presented the following report:

[ Senator Segal ]

Wednesday, December 12, 2012

The Standing Committee on Rules, Procedures and the Rights of Parliament has the honour to present its

### FOURTH REPORT

Following the entry into force of the revised *Rules of the Senate* on September 17, 2012, your committee has, pursuant to rule 12-7(2)(a), continued to consider the Rules and now recommends as follows:

**1. That rule 13-2 be deleted and current rules 13-3 to 13-7 renumbered as 13-2 to 13-6 respectively;**

**2. That:**

**(a) rule 16-1 be amended by the addition of the new subsection (8) as follows:**

“Message on Royal Assent

16-1. (8) At any time during the sitting, the Leader or Deputy Leader of the Government may, if there are any bills awaiting Royal Assent, state that a message from the Crown concerning Royal Assent is expected. After this announcement no motion to adjourn the Senate shall be received and the rules regarding the ordinary time of adjournment or suspension, or any prior order regarding adjournment shall be suspended until the message has been received or either the Leader or Deputy Leader of the Government indicates the message is no longer expected. If the Senate completes the business for the day before the message is received, the sitting shall be suspended to the call of the Speaker, with the bells to ring for five minutes before the sitting resumes.”; and

**(b) rule 16-1(8) be added to the lists of exceptions for rules 3-3(1), 3-4 and 5-13(1); and**

**3. That all cross references in the Rules, including the lists of exceptions, be updated accordingly.**

Respectfully submitted,

DAVID SMITH  
*Chair*

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

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

## STUDY ON CANADIAN FOREIGN POLICY REGARDING IRAN

NINTH REPORT OF FOREIGN AFFAIRS AND  
INTERNATIONAL TRADE COMMITTEE TABLED

**Hon. A. Raynell Andreychuk:** Honourable senators, I have the honour to table, in both official languages, the ninth report of the Standing Senate Committee on Foreign Affairs and International Trade, entitled: *Iran in Focus: Current Issues for Canadian Foreign Policy*.

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

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

[Translation]

## STUDY ON ISSUE OF CYBERBULLYING

NINTH REPORT OF HUMAN RIGHTS  
COMMITTEE TABLED

**Hon. Mobina S.B. Jaffer:** Honourable senators, I have the honour to table, in both official languages, the ninth report of the Standing Senate Committee on Human Rights, pursuant to article 19 of the United Nations Convention on the Rights of the Child, entitled: *Cyberbullying Hurts: Respect for Rights in the Digital Age*.

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

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

• (1350)

[English]

## PARLAMERICAS

PARLIAMENTARY FORUM ON THE MARGINS  
OF THE SUMMIT OF THE AMERICAS,  
APRIL 10-13, 2012—REPORT TABLED

**Hon. Michael L. MacDonald:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation respecting its participation at the Parliamentary Forum on the Margins of the Summit of the Americas, held in Cartagena, Colombia, from April 10 to 13, 2012.

## THE SENATE

NOTICE OF MOTION TO CELEBRATE AND RECOGNIZE  
THE SEVENTY-FIFTH ANNIVERSARY OF THE CORPS  
OF COMMISSIONAIRES NOVA SCOTIA DIVISION

**Hon. Jane Cordy:** Honourable senators, I give notice that, at the next sitting of the Senate, I will move, seconded by Senator Mercer:

That the Senate of Canada celebrate and recognize that January 24, 2013 is the 75th anniversary of the Corps of Commissioners, Nova Scotia Division.

## QUESTION PERIOD

### ABORIGINAL AFFAIRS AND NORTHERN DEVELOPMENT

#### STATE OF EMERGENCY IN KASHECHEWAN

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

We learned last week that the First Nations reserve of Kashechewan near James Bay had declared a state of emergency on November 23. It was forced to do so because it was running out of fuel and because the homes of 21 families were deemed unfit to face the harsh winters in Northern Ontario. This type of situation is becoming more and more common and has become an annual occurrence, as we know, on a number of reserves.

This community was facing a two-month gap in fuel supplies until the ice road was solid enough to bring in the required shipments. They were forced late last month to shut down the band office, two schools, the power generation centre, the health clinic and the fire hall because they could not be heated and operated safely. Unfortunately, a request for fuel to be flown in to operate the medical facility and the schools, which was made to Aboriginal Affairs via conference call, was denied by the government. In addition to the fuel shortages, the basements of the 21 homes had been flooded last spring, leaving their electric heating systems destroyed.

A statement on housing issued by the community again stated that “requests for assistance were rejected.” I now understand that, since this declaration of emergency on November 23, the government has responded, belatedly, to avert a larger crisis.

Canadians are entitled to know why the earlier requests, which were responsibly presented to the government in a timely manner, were not dealt with in a similarly timely manner. Why did the government wait so long to deal with this dire state of affairs?

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, I thank the honourable senator for the question. The health and safety of the residents of Kashechewan are obviously of great concern to the government. Given the urgent nature of the situation, we immediately released funds to

conduct renovations on 21 housing units. Also, in contrast to what the honourable senator just said, we delivered thousands of litres of fuel to the community by air days before the emergency was declared. We will continue to monitor the situation closely and work in partnership with this First Nation.

## HUMAN RESOURCES AND SKILLS DEVELOPMENT

### CANADA MORTGAGE AND HOUSING CORPORATION—NATIVE INTER-TRIBAL HOUSING COOPERATIVE

**Hon. Jim Munson:** Honourable senators, my question is addressed to the Leader of the Government in the Senate.

The holiday season should be a joyous, compassionate time, but for 26 First Nation families in London, Ontario, the new year may bring homelessness. The Native Inter-Tribal Housing Cooperative, home to 58 families and more than 200 people, is teetering on the brink as the Canada Mortgage and Housing Corporation is set to end its subsidy for many of the units in 2013.

An independent analysis by the Co-operative Housing Federation of Canada, the national voice for the Canadian cooperative housing movement and the more than one quarter of a million Canadians who live in them, indicates that the Native Inter-Tribal Housing Cooperative will not be viable without that assistance. The co-op does not receive a large amount of money from CMHC, only \$257,000, to support 30 of its units. By comparison, the drivers here on the Hill, who are working overtime, received \$600,000 in overtime pay during the same period.

The Minister responsible for CMHC, Diane Finley, can intervene and ensure that the families have roofs over their heads come the new year. The question is: Will she?

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, I will take that question as notice. I know that there has been some action taken on this file.

**Senator Munson:** I appreciate that. I hope that means that the leader will talk to someone in cabinet to have this resolved before the new year comes.

The CMHC has callously said that, once the mortgages are paid, the co-op no longer qualifies for a subsidy. However, they do not account for the maintenance or repair costs for the units, which date back to the 1980s, nor for the taxes and utilities. If the co-op is left to cover these costs on its own, it may be driven into bankruptcy.

From an article in *The London Free Press* earlier this week, we learned of a 62-year-old resident of Langarth Street, Mr. Lawrence Summers, who has lived at the co-op for 25 years and now faces the prospect of having to move. Mr. Summers is about to see his rent skyrocket from \$330 to \$600 per month. Mr. Summers, who lives on a disability income of \$1,274 a month, said:

I don't know what I will do. Where else can I get a home? If I lose my subsidy, I am not sure where I will go.

Honourable senators, what will Mr. Summers do? Where else can he get a home?

**Senator LeBreton:** Honourable senators, I just received a note with regard to the Native Inter-Tribal Housing Co-Operative in London. CMHC did provide a mortgage subsidy for the duration of the mortgage on that property. Through the Economic Action Plan, additional funding was provided for renovations.

With regard to Canada Mortgage and Housing Corporation's support for cooperatives, we provided significant funding to support over 600,000 households in subsidized housing, including cooperatives. Canada Mortgage and Housing provides access to low-interest-rate mortgages for social housing cooperatives. These mortgages are closed in exchange for lower-than-private-sector rates. Through the Economic Action Plan, we invested in over 1,300 social housing renovation projects, with a combined investment creating and renovating over 16,500 low-income housing units.

Honourable senators, despite what the honourable senator claims, there has been great progress made by our government in this area.

**Senator Munson:** Honourable senators, I do not know about "great", but progress has been made. I am talking specifically about the particular situation of this housing cooperative. No Canadian should be left without a roof over his or her head.

The leader said that she would take the question as notice. I hope that specific attention will be paid to the people who live in the Native Inter-Tribal Housing Cooperative.

**Senator LeBreton:** If there is more information on that particular cooperative, I will be happy to share it with honourable senators.

## EMPLOYMENT INSURANCE

**Hon. Catherine S. Callbeck:** Honourable senators, my question is directed to the Leader of the Government in the Senate. Last week it was revealed that 37 per cent of Employment Insurance appeals are not being heard within the government's own 30-day standard. It seems to me that this situation will get worse because at present the work on EI appeals is done by 1,000 part-time members of an EI Board of Referees, which works out to the equivalent of about 100 full-time people.

However, last June the government brought in a new Social Security Tribunal to replace this Board of Referees and three other existing tribunals. That will happen in 2014. This means that the number of people looking after EI appeals will be reduced to 39 full-time members.

• (1400)

My question to the Leader of the Government in the Senate is this: With fewer people to hear appeals, how can this government expect to ever catch up on its own 30-day standard?

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, clearly the current appeals process for Employment Insurance is expensive and extremely slow. As I



reported before in response to a question from the honourable senator, we are combining several tribunals and boards of appeal within HRSDC into one organizational structure. The new social security tribunal will provide a fair, fast and accessible appeals process for Canadians while eliminating duplication and overlap in the administrative process.

This has been the problem. There has been so much overlap between the various groups that the government felt combining the efforts of all of them would eliminate duplication, streamline the process, fix what was obviously not a good situation and make it fairer, faster and more accessible.

**Senator Callbeck:** With all due respect, honourable senators, I do not know how the government will make it faster and more accessible. The fact of the matter is there are 1,000 part-time people, which works out to be the equivalent of about 100 full-time people. That will be reduced to 39. How will that be faster and more accessible to the people waiting for claims?

**Senator LeBreton:** The situation before with all of the overlap and duplication obviously did not work.

The minister and the government looked at a way to speed up the process, provide more access and fix the process from its current situation into a fairer one. This is why these changes were made, honourable senators. I believe that streamlining the process into one organization will surely improve the situation. I would appeal to the honourable senator, before jumping to conclusions that we cannot do it and that it cannot be done, that this new process will achieve the results we desire.

**Senator Callbeck:** I cannot for the life of me understand how it will achieve the results. As I said, 37 per cent of people with Employment Insurance appeals are not getting heard in the standard period of time. What I see the government doing will make the situation worse.

The leader talks about overlap and duplication. I would like to know what she is talking about.

**Senator LeBreton:** I am talking about what the honourable senator asked in her question regarding the process being slow and burdensome.

The other point that should be made on the new social security tribunal is that these will be new full-time positions. These will be people working on these files full-time, not part-time. They will be fully involved in the files they are dealing with, and that will surely improve the system.

**Senator Callbeck:** The leader says 39 full-time people, but they are replacing 1,000 part-time, or the equivalent of 100 people. It is going from 100 down to 39. I cannot see how that will speed this up at all.

As I asked before — and maybe the minister would like to take this question as notice — I want to know what overlap and duplication the leader is talking about.

One of the reasons I think there is a delay right now is that there are supposed to be 1,000 part-time people on the Employment Insurance Board of Referees and there are only 700. That is one

of the reasons these people have to wait. Changes will come into effect in 2014, and the way I read it, this will make the situation much worse than it is right now.

I would like to know what overlap and duplication the leader is talking about.

**Senator LeBreton:** First, people are working on a part-time basis on an EI board of referees; it is part-time. The honourable senator claims that she does not see how this will work. However, I believe that with full-time people fully engaged in the EI files and working under one organization, the goal is to provide fairer, faster service and access. We had lots of good advice that this would certainly improve the situation.

I would suggest to the honourable senator that she believes it will not work; I believe it will. Let us wait to see. There have been many times here in the Senate Chamber since I have been the Leader of the Government in the Senate when I have been told that things would not work, this was wrong and that was wrong, only to find out that it did work and it was the right decision. Of course, I never get any follow-up questions when it is. The honourable senator has an opinion; I have an opinion. Let us see who is right at the end of the day.

**Hon. Jane Cordy:** Honourable senators, to follow up, each board of referees is made up of a union person, a management person and a chair. It is based in the community. People in the community would often know or understand the job situation the person would be in. For example, in Nova Scotia I remember there were Westray people who said that job conditions were not safe. They quit their jobs and went to the board of referees to say that it was a justified reason for leaving their jobs. The people on the board would be fully cognizant of the Westray Mine and have a better understanding of it. However, now we have an Ottawa-based tribunal. We are replacing 1,000 people with 37 tribunal members who will deal with Employment Insurance. Last year, 26,000 EI appeals were heard.

I am curious. One person will be dealing with this. They will be based in Ottawa. How will communication be done between the person who is appealing and the member of the tribunal?

**Senator LeBreton:** As I pointed out to Senator Callbeck, we are combining several tribunals. We will maintain the expertise of the previous tribunals.

This whole exercise was to help people because, as Senator Callbeck pointed out and as I acknowledged, it was a slow, expensive process, and people waited a long time. The purpose of this social security tribunal and having full-time people fully engaged in the file — and I would suggest that this body be given a chance — is to have a fairer, faster process where people have access to it. That is the reason for this change. Both the government and the minister believe these changes will improve the situation. We would certainly not be doing things to make the situation worse than it is now, which is not very good.

**Senator Cordy:** One looks at being fair. Certainly, if there was a union rep, a management rep and a chairperson, I think people coming before the boards of referees felt they were getting a fair hearing.

However, the leader talked about access, and that was my question. What is the access? How will a claimant who appeals not receiving the EI benefits deal with the tribunal person who is based in Ottawa? What is the process?

**Senator LeBreton:** Again, honourable senators, the expertise of the various boards and tribunals will be kept intact.

The process now is not working; it is cumbersome and slow. There is overlap, and people are not getting speedy access. They do not have their cases looked at in an efficient and accessible way. This tribunal is being set up to address those concerns. We have every reason to believe, and the minister believes, that this is the best way to go in order to more properly serve EI claimants and their appeals in a fairer, faster way.

• (1410)

**Senator Cordy:** The leader still has not answered my question. My question is related to access. How will the claimants have access? Will it be face to face with the tribunal member who is based in Ottawa, which is what they had with the board of referees? Will it be someone phoning in to Ottawa to a tribunal member? Will it be by email or online? That is my question. The boards of referees had face-to-face contact with the claimant who was appealing the decision for them not to receive Employment Insurance. Will claimants have face-to-face contact where they can explain why they believe they should be receiving benefits, or will they be doing it at the end of a phone line or in front of a computer? That is my question.

**Senator LeBreton:** Honourable senators, since we are combining the expertise of the existing boards of referees and the tribunals, I understand — although I will clarify this, honourable senators — that all of those options are a possibility: those who wish the face-to-face option, those who wish to deal over the phone, and those who wish to deal through email. My understanding is that none of the access points will change.

**Senator Cordy:** If it is to be face to face, which is a choice the leader said claimants will have, will the tribunal member come to the locality where the claimant is living? Someone who is unemployed and not receiving benefits, because that was the decision made by the department, I do not think will have enough money to fly from Halifax to Ottawa to have a face-to-face meeting with a member of the tribunal. If it is face to face, which is what the leader just said, will the member of the tribunal fly to the community in which the claimant lives?

**Senator LeBreton:** Obviously, honourable senators, the government is attempting to make this a fairer —

**Senator Mercer:** No compassion.

**Senator LeBreton:** — more accessible process for EI claimants and appeals. Obviously, the government will not make it more difficult for a person to have fairer access to the tribunal. That is my understanding. I will certainly come back, honourable senators, and correct it if I am incorrect. My understanding is that all of the expertise that was there under the old system is simply being modernized and brought under one tribunal,

[ Senator Cordy ]

because there have been many complaints, as the senator well knows, about the long, drawn-out process and the duplication — people telling their story over and over again. The government is bringing in this new system to eliminate all that slow, duplicative work and to serve these people in a more timely manner.

[Translation]

**Hon. Claudette Tardif (Deputy Leader of the Opposition):** Honourable senators, last week, the government announced the elimination of special employment insurance benefits for migrant workers who are employed under the Temporary Foreign Worker Program. Foreign workers do not have access to regular employment insurance benefits. However, since 2002, they have been able to claim special maternity, compassionate care and sickness benefits.

Foreign workers pay employment insurance premiums. They have contributed millions of dollars to this social protection fund. Yet now they will no longer be able to receive benefits.

Can the Leader of the Government in the Senate tell us why the government has decided to deprive foreign workers of these benefits and why these workers will still have to pay into the employment insurance system even though they will no longer have access to EI?

[English]

**Senator LeBreton:** Honourable senators, these people are temporary foreign workers. They are in the country on a temporary basis for specific jobs. They leave the country. The Employment Insurance system is meant to assist people living in Canada who are looking for jobs to replace the jobs that they have lost. Temporary foreign workers are temporary foreign workers. They are not part of the Canadian workforce per se. Therefore, Employment Insurance benefits cannot be paid to people who are not here actively seeking employment, because they are temporary foreign workers and they obviously are not here on a permanent basis.

**Senator Tardif:** If that is the case and they are to be barred from receiving any benefits from the EI system, why should they be forced to pay into it?

**Senator LeBreton:** On the whole issue of temporary foreign workers, obviously, before bringing temporary foreign workers in, the object is to ensure that there are not Canadians who can fill these jobs.

The issue has not changed; they are temporary foreign workers. They come here on a short-term basis to fill specific jobs and then they leave. The Employment Insurance system is designed for Canadians who need it. One of the stipulations of people who receive Employment Insurance is that they have to prove that they are actively seeking a job. They can hardly do that if they are living in Mexico.

**Senator Tardif:** The minister has not responded to the question. Why are temporary foreign workers being forced to pay into the EI system if they are being denied any benefits? Are we creating a second class of labourers here? It is well-known that temporary

foreign workers are vulnerable to exploitation and abuse because of their lack of status, their isolation and their lack of access to information as to their rights.

**Senator Mercer:** It is a human rights issue.

**Senator Tardif:** The government is putting in place policies to increase the number of temporary foreign workers. They are becoming a hidden pillar of our economy. The number of migrant workers admitted in Canada has grown by 40 per cent since 2006. We now have almost 450,000 migrant workers in Canada, and those are 2011 statistics.

If the government is eliminating the few special benefits that they were able to receive, for which they have paid EI, why are they taking away these benefits? That is not the Canadian way, honourable senators. Why is the government not treating migrant workers with the same basic fairness that every person deserves?

**Senator LeBreton:** Different companies bring in temporary foreign workers — hopefully after they have satisfied themselves that there are no Canadians to fill these positions. The companies that bring them in apply all of the normal procedures when they are here. However, the Employment Insurance system is meant to benefit Canadians as they seek another job. Temporary foreign workers, in the country on a temporary basis for a specific job, are obviously not, then, when the job ends, actively seeking employment. They go back to their home country. Therefore, they are not actively seeking employment and are not eligible for Employment Insurance benefits.

[Translation]

**Hon. Céline Hervieux-Payette:** Honourable senators, I think we are talking about different things. We understand that a person who comes to Canada on a temporary basis is not looking for work. That person came to Canada to fill a position that no Canadian could fill.

We are talking here about sick leave, maternity leave and compassionate care leave, for example, if a child or spouse becomes ill. In such cases, these special EI benefits are available to Canadians and were available to foreign workers. We are not talking about giving foreign workers compensation because they have lost their job. We are talking about giving them access to the special employment insurance benefits that they have contributed to.

We would like an answer to this question because, to date, the Leader of the Government in the Senate has provided an answer only with regard to people who lose their jobs. But that is not what we are talking about. We are talking about three types of special employment insurance benefits for which these people paid premiums. We are talking about half a million people. It therefore seems important to me that the Leader of the Government tell us why we would make these people pay into the system when they will never have the right to claim these benefits.

[English]

**Senator LeBreton:** Honourable senators, temporary foreign workers who are in Canada are eligible while they are in Canada. However, the Employment Insurance program will not pay

Employment Insurance benefits to people who are not in Canada actively seeking a job. I do not know what is so difficult about that.

• (1420)

**Senator Cordy:** Why do they pay?

**Senator LeBreton:** They are brought here by companies and they are subjected to the rules of employment with those companies. As long as they are in Canada, they are well treated. They have access to Canadian programs.

They are temporary foreign workers. When they are no longer in the country, and therefore their temporary foreign worker status is validated because they have gone back home, they are not eligible for Employment Insurance benefits. Employment Insurance benefits are meant for Canadians who need them.

**Senator Mercer:** Then why do they pay for it?

**Senator Hervieux-Payette:** Madam Leader, there is a problem here, because you do not seem to understand that we are not talking about people seeking Employment Insurance because they have lost their job and are looking for another one. That is not what we are talking about. We are talking about some benefits that Canadians are enjoying because they are paying their Employment Insurance premiums. These foreign workers are paying the same Employment Insurance premiums as Canadian workers. The only benefits available to them are for maternity, sickness and compassionate leave. I think they should remain entitled to that.

I urge the leader to ask the minister and provide us with the answer tomorrow.

**Senator LeBreton:** Again, honourable senators, temporary foreign workers are properly named; they are temporary foreign workers. They come to this country on a temporary basis. Even in this country, if an employer breaks a contract with a temporary foreign worker, while in Canada the worker has access to all the Canadian programs.

However, Employment Insurance benefits cannot be paid to temporary foreign workers who are no longer here actively seeking a job and who have gone back to their own homes.

[Translation]

#### DELAYED ANSWER TO ORAL QUESTION

**Hon. Claude Carignan (Deputy Leader of the Government):** Honourable senators, I have the honour to table, in both official languages, the answer to the oral question asked by the Honourable Senator Jaffer on October 2, 2012, concerning Foreign Affairs, rights of women and girls.

## FOREIGN AFFAIRS

[English]

## RIGHTS OF WOMEN AND GIRLS

*(Response to question raised by Hon. Mobina S. B. Jaffer on October 2, 2012)*

Women's rights continue to be an important part of Canada's foreign policy. As Minister Baird recently stated when he spoke to the issue at the Montreal Council on Foreign Relations, he has made it a personal priority to advocate for the participation of women at all levels of society, especially in conflict-affected and fragile states and as new democratic governments emerge.

During Minister Baird's visit to Libya last year, he made a point of meeting with women's rights activists to hear their views on how they could help a new Libya emerge, one that respects freedom, democracy, human rights and the rule of law. Canada also provided funding to the International Commission of Inquiry on Libya, whose mandate includes investigating violence against women and children during the conflict.

Canada is engaging with the new government in Egypt to encourage the protection and promotion of human rights for all Egyptians, including women. We believe that it will be important for women to participate actively in the ongoing transition to democracy and for their rights to be protected in the new constitution.

Minister Baird also met with the Afghan Women's Network last year to hear their concerns about the challenges facing women in Afghanistan. Canada actively supported the network's participation at the 2011 International Conference on Afghanistan in Bonn. Furthermore, Minister Baird led the G8 Foreign Ministers' discussion of women in international peace and security earlier this year.

The Department of Foreign Affairs has contributed to the training of African women peacekeepers, supported women's participation in peace processes, and helped women victims of violence to seek justice through the courts and truth commissions.

Canada introduced its National Action Plan on Women, Peace and Security in 2010. The Action Plan provides added focus and cohesiveness to long-standing Canadian activities to promote the participation of women in peace and security matters and democratic transitions, and recognize the differing experiences and contributions of women, men, girls and boys in conflict-affected and fragile states.

## ORDERS OF THE DAY

CANADA LABOUR CODE  
EMPLOYMENT INSURANCE ACT

## BILL TO AMEND—THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Eaton, seconded by the Honourable Senator Rivard, for the third reading of Bill C-44, An Act to amend the Canada Labour Code and the Employment Insurance Act and to make consequential amendments to the Income Tax Act and the Income Tax Regulations.

**Hon. Jane Cordy:** Honourable senators, I am pleased to speak today at third reading to Bill C-44, An Act to amend the Canada Labour Code and the Employment Insurance Act and to make consequential amendments to the Income Tax Act and the Income Tax Regulations.

The bill provides additional support to parents who fall ill while on parental leave. It provides an Employment Insurance special benefit for parents of critically ill children and it makes amendments to the Canada Labour Code to provide unpaid leave guarantees for parents of missing or murdered children as the result of a suspected Criminal Code offence.

I and my Liberal colleagues support Bill C-44 and the assistance it will provide for some Canadian parents dealing with traumatic family circumstances. Parents going through the emotional pain of having a critically ill child, or a child who is missing or dies as a result of a suspected criminal offence, certainly should not have the trauma compounded by further financial burden.

Although I support this bill, I believe this is a missed opportunity. Bill C-44 could have been more inclusive by supporting a greater number of Canadian families suffering through unimaginable hardships. I spoke at second reading about the shortcomings of Bill C-44 in regard to helping parents of critically ill children who work at part-time jobs and do not meet the required number of 600 insurable hours the previous year. This issue was brought up at committee. When determining the 600-hour criterion, no factors were considered beyond this being the criterion for other special EI benefit programs.

The government should have taken a closer look at the Canadian workforce to understand the realities of working families and to design the program to best serve those families in need. I believe the requirements should be 420 hours, which would be in line with the average number of hours a Canadian parent working part-time accumulates in a year.

Unfortunately, we know that less than half of unemployed Canadians qualify for Employment Insurance benefits. If they are not entitled to Employment Insurance benefits, they will not be entitled to special EI benefits to care for a critically ill child.

I also believe that the leave of absence allowance for a parent of a critically ill child should have been extended in this bill from 37 to 52 weeks, as many illnesses and treatments exceed 37 weeks. This extension to 52 weeks would be in alignment with the amount of time and support provided to a parent of a missing or murdered child as granted under this bill.

Additional support could also have been provided for parents of a critically ill child who may die as a result of the illness. The bill provides that parent benefits would expire on the last day of the week in which the child dies.

The committee brought forward an observation to the bill that states:

However, your committee heard that parents grieving the loss of a child should be permitted the same timeframe to return to work regardless of whether that loss was the result of illness or a criminal act. Your committee notes that parents would be required to return to work 14 days after the day on which a child is found following their disappearance but parents of a child who has passed away as a result of a critical illness would be required to return to work at the end of the week during which the child died. Your committee acknowledges that bereavement leave is offered by many employers but notes that not all employers offer this type of leave. Consequently, your committee suggests that the leave be harmonized for all parents who have suffered the loss of a child regardless of whether it was result of a crime or because of illness.

I would hope that the minister would consider harmonizing the time available to parents who have lost a child to murder with that available to parents who have lost a child to a critical illness for whom the employment bereavement benefits are not in place.

The committee heard some excellent testimony from Sue O'Sullivan, the Federal Ombudsman from the Office of the Federal Ombudsman for Victims of Crime. She presented a compelling argument that clauses in the bill should be more inclusive. She stated at the committee:

While we support both of these measures, it is apparent that the new provisions for unpaid leave and the income support program do not address the circumstances of many victims of crime and could be more inclusive of their visibility and reach. Therefore, our office will be asking the committee to consider amending and broadening the reach of unpaid leave and income support in order to be more inclusive of the needs of victims of crime.

She further stated:

. . . Widening the reach of the Canada Labour Code amendments to be more inclusive of victims of crime to include, for instance, leave for spouses and siblings, and removing the age limit of 18 years of age. . . .

Honourable senators, I believe that we would all agree that the parent of a missing or murdered 19-year-old child would be no less traumatized than the parent of a 17-year-old child.

The committee in its report to the Senate recognized this testimony in its observation:

In addition, your committee notes the testimony of the Office of the Federal Ombudsman for Victims of Crime that consideration should be given in the future to expand the grant offered to parents who have lost a child as a result of a crime to additional family members, such as a spouse, an adult child, or other siblings.

This observation would then include missing and murdered Aboriginal women who, as we know, are six times more likely to be victims of violence. I would like to thank Senator Dyck for her interventions at committee about the challenges faced by families of the far too many missing and murdered Aboriginal women. Again, I would hope that the government would move to make these changes in future legislation.

Part of Bill C-44 is actually a clarification of the rules, as opposed to new legislation. In 2002, Parliament passed Bill C-49, brought forward by the Liberal government of the day. It removed the obstacles to allow for parents to claim sickness benefits while on parental leave. Bill C-49 removed the anti-stacking provisions in the act to allow for the claiming of sickness benefits while on parental leave.

• (1430)

Unfortunately, the bureaucracy continued to interpret the act in a way that denied parents these benefits for almost 10 years. It was not until a ruling by an Employment Insurance umpire in 2011 when sickness benefits were granted to a woman on parental leave. The umpire ruled that the legislative changes brought in by the Liberal government in 2002 were intended to make sickness benefits available to parents who became ill immediately before, during or after receiving parental benefits. It is worth noting that the Conservative government did not appeal this decision. Bill C-44 does not bring forth anything new regarding the extension of the sickness benefits to parents in receipt of parental benefits, but as Minister Finley said at committee, it will provide clarification to the current rules and correct this injustice.

This clarification is needed more now that this government saw fit in its omnibus Bill C-38 to eliminate the regional Employment Insurance boards of referees and umpires and to replace them with an Ottawa-based tribunal. The parents who were forced to resort to appealing their sickness benefits cases before an EI board of referees and then to an EI umpire will be forced to appeal their case before an Ottawa-based tribunal, which will be charged with hearing Employment Insurance, Canada Pension Plan and Old Age Security benefits. Of the 74 members of the tribunal, only 37 will be dedicated to deal with Employment Insurance disputes. Last year, nearly 26,000 Employment Insurance appeals were heard, and there will be only 37 tribunal members based in Ottawa to hear their appeals. There will no longer be an Employment Insurance umpire for further appeal.

In conclusion, I wish to reaffirm my support for Bill C-44, and I would like to thank Senator Eaton for her work on this bill and her openness to accepting observations on the legislation to reflect

what committee members heard from witnesses. By working together, we can help to make things better for Canadians, and of course that is our job as the chamber of sober second thought. Thank you to Senator Eaton.

It is unfortunate that the government did not take the opportunity to strengthen the bill with amendments proposed in the House of Commons. However, it is my hope that the observations put forward by the Standing Senate Committee on Social Affairs, Science and Technology will be considered by this government in the future.

**Hon. Lillian Eva Dyck:** Honourable senators, I concur with previous speeches on the value of Bill C-44 to address some aspects of the plight of parents of critically ill or missing and murdered children. I congratulate Senator Boisvenu for his important and tireless work in this area and Senator Eaton in her work as the sponsor of Bill C-44.

As noted by Senator Eaton, observations were advanced by Senator Cordy and me, which were agreed to by the committee as a whole. I thank the committee members for their support.

Unfortunately, there has been an oversight in the observations on Bill C-44 tabled by the committee. Although mention of the missing and murdered Aboriginal women was to be included, it was not, much to my dismay. I will read into the record excerpts from the transcripts of the December 6 Standing Senate Committee on Social Affairs, Science and Technology meeting that deal with my request for an observation to include the plight of the families of missing and murdered Aboriginal women:

**Senator Dyck:** Sue O'Sullivan, the Federal Ombudsman for Victims of Crime, and maybe one other witness, talked about whether adult children ought to be considered at some point. Because Aboriginal women are six times more likely to be victims of violence and made missing or murdered, I am wondering whether we could add as an observation that at some point in time we should consider the same type of provisions being made available to the families of missing and murdered Aboriginal women, so for the parents of those women who have been made missing or killed as a victim of crime.

I am thinking specifically of a family from Onion Lake that started the whole awareness in Saskatchewan. She is a teacher. Her daughter was missing for four years. They found the body and she is still waiting for the trial six or seven years later. Meanwhile, she does not have provisions like this that allow her a length of time away from work or any other compensation.

If we can add that as an observation, that would be widely accepted and received with gratitude by the Aboriginal community. . . .

**The Chair:** To ensure that I get the sense of this, you are reflecting the witnesses' urging that in the future consideration be given to expanding the age limits for consideration within these benefits and that we note particularly the plea with regard to the Aboriginal women's situation.

**Senator Dyck:** Yes, "missing and murdered Aboriginal women" would be the wording. It is exactly the same words, "leave related to death or disappearance of adult children, in those particular from Canada's Aboriginal communities." . . .

**Senator Cordy:** That could probably fit in with the kinds of things I was saying. I said sibling and spouse. I think adult children could fit in there, but in addition I think it is important to talk about Aboriginal women. . . .

**The Chair:** Senator Eaton, is that acceptable as an observation?

**Senator Eaton:** I think that is fine.

Honourable senators, it is unfortunate that families of missing and murdered Aboriginal women were not mentioned in the observations, so I have taken this opportunity to put on the record that they should have been mentioned to meet the full intent and the full spirit of the suggested observations. I am saddened by the error of omission. I thought there was a small glimmer of hope for the families of missing and murdered Aboriginal women. We missed an opportunity to make a small but significant gesture to acknowledge that Aboriginal women are more likely to be victims of crime and that their families deserve provisions similar to other families whose children have gone missing or been murdered.

One small sentence would have made a world of difference. I regret that the observations on Bill C-44 did not state that "the committee notes particularly the need for similar provisions for families of missing and murdered Aboriginal women." If such a sentence had been included, it would have been received with heartfelt gratitude by Aboriginal communities. It would have shown them that we have heard their cries for help.

**The Hon. the Speaker *pro tempore*:** 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 bill read third time and passed.)

## JOBS AND GROWTH BILL, 2012

### THIRD READING—DEBATE ADJOURNED

**Hon. JoAnne L. Buth** moved third reading of Bill C-45, A second Act to implement certain provisions of the budget tabled in Parliament on March 29, 2012 and other measures.

She said: Honourable senators, I am pleased to speak one final time to Bill C-45, the proposed jobs and growth act 2012, legislation to implement key measures from Economic Action Plan 2012. As we are now at third reading, I would call on all honourable senators to ensure the final passage of these key

measures to help create good jobs and ensure long-term prosperity from coast to coast to coast. This is so very important as we continue to deal with the global recession.

• (1440)

Because of our Conservative government's actions, the OECD and IMF predict our economy will be among the leaders of the industrialized world over the next two years.

Only recently, IMF director Christine Lagarde told *The Globe and Mail* that:

Canada is . . . faring relatively well because of its fundamentals . . . and the way in which it has been properly supervised and regulated and organized over the course of the last few years. . . . Canada is doing a lot better than other advanced economies.

In a fast-paced and uncertain global economy where we face increasing competition from emerging markets like China and India, we must move quickly to implement vital economic reform. That is why I would like to take this opportunity to thank my fellow parliamentarians in the house and the Senate for their swift and efficient consideration of this important legislation.

While our colleagues in the other place shared the responsibility of studying this comprehensive bill among no fewer than 10 committees in addition to the Finance Committee, I am very pleased that we reached an agreement to undertake a similar course of study in the Senate.

I would like to extend my thanks to the honourable senators who sit on the Standing Senate Committee on Banking, Trade and Commerce; the Standing Senate Committee on Energy, the Environment and Natural Resources; the Standing Senate Committee on Transport and Communications; the Standing Senate Committee on Aboriginal Peoples; and the Standing Senate Committee on Agriculture and Forestry.

These committees heard from 135 witnesses over a total of 61 hours of study. Thanks to their diligence and the leadership of their committee chairs, we are one step closer to building a strong economy with the potential for jobs and growth, while supporting families and communities with tangible measures to make Canadians' lives a little easier. This legislation will ensure Canada remains on the right track, and it is worthy of our support.

Indeed, only a few days ago, Standard & Poor's, the noted credit rating agency, reaffirmed Canada's triple-A credit rating, praising "the effectiveness, stability and predictability of [our] policymaking and political institutions, the resilience of [our] economy and the strength of [our] monetary and fiscal flexibility."

It is clear we must stay the course with our plan for jobs and growth, widely considered to be a model for the world. It is for that reason that I thank my colleagues in the other place and in the Senate for their careful consideration and debate of Bill C-45, the jobs and growth act, 2012, and I urge all honourable senators to vote in favour of the bill.

**Hon. Joseph A. Day:** Honourable senators, I would like to first congratulate Senator Buth on her sponsorship of this particular budget implementation bill, No. 2. As well, I would like to thank all of the members of the Finance Committee, in addition to the other committees that Senator Buth mentioned that have all taken a look at different parts of Bill C-45, the budget implementation bill.

I am hopeful, honourable senators, that we will hear from representatives of each of those other five committees that looked into different aspects of this bill. It is true that representatives of those committees came to the Finance Committee and told us what they had observed and heard in the clauses that had been referred to them. We thank them for doing that, but first-hand knowledge passed on to you would certainly be desirable, and I do hope they will take the opportunity to bring that information to this chamber.

I may make reference to some of the information they passed on, but I certainly cannot go into depth on the items that they studied, which we learned about only very briefly.

Let me remind honourable senators of what we are dealing with here. This is Bill C-45. It is 414 pages in length, with 516 clauses, and there are 60 different statutes that are amended in this piece of legislation. Honourable senators, that is what my honourable colleague Senator Buth said she was so pleased we dealt with so swiftly and expeditiously.

Honourable senators, we had no choice but to move this through because the government, the elected executive, being the Prime Minister and cabinet, and the minister responsible, being the Minister of Finance, decided that the best way to get this through was to put pressure on Parliament, which is charged with overseeing the legislation, to move it through quickly by tying it into a finance bill. That is why we moved it through swiftly, and that is why we put up these defensive mechanisms, looking at how we could do the very minimum, at least, that is expected of us as parliamentarians and senators. That is why we did the pre-study. That is why we cooperated in that, so that we could not be looked upon as an irreverent, rubber-stamping institution attached to that other place.

Honourable senators, I take no great pride in saying that we moved this particular bill through quickly, for those reasons.

There are four parts to this bill, and Part I deals with amendments to the Income Tax Act and related regulations. That this is finance is clear from the fact that it was tied into a ways and means motion in the other place. We do not have that process here, but it is required of all finance-type legislation that they start it with a ways and means motion that changes into a bill as it goes along.

That is the same for Part II, honourable senators. Part II is measures with respect to sales tax, and there are quite a few different ones there. That was part of the ways and means.

The Federal-Provincial Fiscal Arrangements Act is a fairly short part of this bill. We recognize that as being an appropriate type of legislation that could be grouped with the other two parts that I have just referred to.

The problem arises, honourable senators, when we get to those other matters that are included in Part IV, and there are 24 different divisions in Part IV. I will try to highlight some of the items in here, but in the time available I cannot possibly touch on all of them.

For some of them that I would like to touch on, I made certain observations and members of our committee made certain observations. During our discussion, I will try to reflect on those observations so that you will have a bit of a flavour for what is there. I invite any honourable senator to pick up on any of these points and expand on them because each one of them is worth more than what we can do here now.

Honourable senators, Bill C-45 continues in the same vein as many of its predecessors. I am not restricting that to this particular government. Many predecessor governments have adopted this process as well. It seems to work quickly for them; they get it all done, in this instance before the Christmas break, and they do not have to worry about it. The normal trend, if this is followed, is that the bills get continually bigger and bigger, and, as was pointed out in the past, pretty soon we will have one bill per year. We will have the omnibus bill for 2013. We will all come in and pass it in two weeks, and someone will stand up and say, "That is great. We got that through in a hurry. Let us go home."

Honourable senators, this is yet another example of including a massive — borrowing an honourable senator's adjective here — bill that simply did not allow the time needed for adequate study.

• (1450)

The government knows this because we have made the point so many times. However, they continue to gain political points by bundling in provisions which we all support. There are items in this particular bill that we support. We would like to talk about those and maybe improve them a little bit, but generally we support them. However, there are many others we could not possibly support. Therefore, you bundle this all together and do not allow a separate vote and you get what comes out the other end.

Referring to Bill C-45, this particular bill, the Public Service Alliance of Canada appeared before the Standing Senate Committee on National Finance said:

Many of these proposed legislative changes will have a drastic impact on Canadians. They should not be rushed through Parliament in one large bill that does not allow the careful consideration, public scrutiny and debate.

I happen to agree wholeheartedly with the Public Service Alliance of Canada on that particular matter.

Before I get into the detail of some of the items in here, it is important for us to be aware of recurring themes. One of those is seeing provisions where power is taken away from arm's length independent boards, tribunals, organizations and given to a minister. We have seen that in the past with fewer and fewer independent boards and tribunals, more and more discretion to the minister: "Trust me, I have a big department here; we can handle all that work for you."

[ Senator Day ]

Another recurring theme, honourable senators, is an unfortunate result of this approach to legislation. We are seeing more and more legislation coming forward amending what we did in a previous omnibus bill. We are starting to see more and more correcting of mistakes and omissions.

For example, there are mistakes in Bill C-38 which we just saw in the spring. Someone is rushing to get this announcement out, put something in that bill, but the bill is not fully thought out. That is when we get these unintended consequences. There are amendments to the Fisheries Act regarding the passage of fish, for example, in Bill C-38. That had to be rectified. Poor drafting of transition provisions in the new environmental assessment law had to be rectified, as well as ambiguity around the ministerial approval process for certain investments by public investment pools. These initiatives were announced with great fanfare but had not been fully thought out, and the result is we see them back here again. We are studying them again with other pieces of legislation. Those are a few of the examples we are seeing.

I will refer to another recurring event, and that is a lack of consultation. We are hearing that more and more. Why is that? It is because whoever put this package together took little bits from here and there and did not take the time to consult.

Honourable senators, First Nation chiefs say they are not being consulted on the issue of navigable waters and that the government has a duty to consult them. The Minister of Transport can approve natural resource projects affecting 167 lakes, rivers and oceans but will have no responsibility to consult with the First Nation chiefs.

Assembly of First Nations Chief Shawn Atleo expressed his frustration by saying:

We are gathered here because there is anger, and there is frustration and it is real. That which our people are faced with every single day is life and death. Together we can accomplish a greater day for our people.

"Together" is the active word, honourable senators, and that is a group of chiefs that demonstrated outside the Parliament just last week.

Today in the paper is another First Nation announcement. Attawapiskat Chief Theresa Spence announced her hunger strike on Parliament Hill on Monday. She has begun a hunger strike for the very same reason, that their rights are being trod upon and changed without any consultation with them. We are seeing that not just with the First Nations but in many different areas.

Honourable senators, I would suggest that it would be advantageous for the government to remove all of these non-budgetary matters from these types of bills. First, it would allow for quicker study and passage of the budget implementation bill itself. Second, since the non-budgetary measures would receive more careful consideration, the government could get it right the first time and we would not have to continually revisit legislation in order to fix shortcomings.

Honourable senators, it is easy enough to look to the summary of this bill and clearly see what does not belong. For example, Division 4 contains amendments to the Canada Shipping Act;



Division 8, amendments to the Indian Act; Division 16, amendments to the Immigration and Refugee Protection Act; Division 19, amendments to the Canada Grain Act; Division 21, technical amendments to the Canadian Environmental Assessment Act, and I could go on. There are many more divisions here, but I hope that will give you a flavour for what is here.

I would like to speak a little bit about the Standing Senate Committee on National Finance and the work we have been able to accomplish by developing one way of handling this kind of action by the government — the pre-study. It is not universally accepted that we should be doing a pre-study. I recognize and I have heard from both sides of chamber on this issue in the years I have been here why that is contrary to the fundamental purpose and *raison d'être* of this institution, but we have no choice. We have to at least know what is in the bill before we can vote on it, and the only way we can do that with a bill that just arrived a few days ago is to do a pre-study.

Our committee, as we heard from Senator Buth, held 12 meetings, sat for 21 hours and heard from 65 witnesses. That was the Finance Committee, and then there were the other five committees. We began our study hearing from departmental officials on each clause contained in the bill as it was helpful for our committee and the committee members to hear from officials explaining exactly what each clause does or hopes to achieve and what legislation is being amended.

Following hearings with the officials, we then invited different stakeholders, groups or organizations to come in and talk a bit about how the different clauses or divisions of the bill affect them and whether they were consulted, of course, and what input they had. Some were consulted, but many were not. This allows us to gain a better perspective on how the legislation will affect Canadians, because that surely is one of our roles.

Another one is to understand the legislation clearly enough to determine whether there are any unforeseen or likely to be any unforeseen or unexpected consequences.

The committee heard from non-government witnesses — and maybe we can focus on this a bit — on a range of topics such as changes to rules surrounding Registered Disability Savings Plans. There were many diverse subjects, including the Shipping Act.

• (1500)

Due to the wide range of subjects contained in the bill, I will not be able to touch on everything for honourable senators, but I will outline some of the committee's findings. One of the ones I would like to talk about is the Registered Disability Savings Plan.

The committee heard testimony from several witnesses on the changes to the Registered Disability Savings Plan. We just introduced this a short while ago, and here we are back again to fix up what was passed previously. Honourable senators may recall having seen Registered Disability Savings Plan provisions in Bill C-38, which was just passed in the spring. While the initiative is a commendable one — do not get me wrong on that — what we are hearing is that there are areas that need to be examined in order to make it more inclusive.

For example, Brendon Pooran, a lawyer from the Canadian Association for Community Living, told us:

I recognize that we are not here to discuss Bill C-38 that was already passed back in June, but I have a quick comment on that bill. We do not believe that the expansion of the definition of “plan holder” of an RDSP fully addresses the systemic exclusion of adults with intellectual disabilities in terms of benefiting from an RDSP.

The government seems to be taking the approach of only addressing issues that arise with the Registered Disability Savings Plan instead of really taking the time to research, consult and study exactly how this vehicle can and should function. That was an independent comment and criticism of a very worthwhile program that is being haphazardly introduced, honourable senators.

The next one I would like to talk about is the SR&ED, the Scientific Research and Experimental Development Program. We heard a lot of positive comments about this program, which has been in existence for many years. The committee heard from witnesses who talked about the impact of the changes to this program being proposed in this legislation.

There are four main changes to the SR&ED Program. SR&ED is not a nice acronym for a program to help people with economic development, but I will continue to use that acronym, honourable senators, because it seems to have been adopted. The general SR&ED investment tax credit rate will be reduced from 20 per cent to 15 per cent. Why now? Why 20 per cent to 15 per cent? There is a proxy program where, instead of having to detail every expenditure and everything that is done in terms of expenditure and overhead, one can take a percentage of the salaries and apply that to the program. That is going down 10 per cent, from 65 per cent to 55 per cent. The answer is well yes, but one could always keep a detailed record. Yes, one could, but it has worked well in the past. What is the abuse?

Capital is being removed from the base of the expenditures eligible for the tax credit. Capital is tremendously important in fundamental research to buy the equipment necessary to build experimental devices. That is gone. They cannot claim it at all, honourable senators.

The bill removes — and I do not understand this either — the profit element from arm's-length, third-party contracts for the purpose of calculation of the tax credit. If a company is doing research and they need the help of an arm's length, independent contractor — not their husband, wife or brother — to do something they cannot, they take out the profit portion, which they estimate to be 20 per cent. That 20 per cent estimate is questionable. In any event, only 80 per cent of that cost can go into the credit claim. The credit claim is now going down to 15 per cent, as I indicated to honourable senators.

One of the primary concerns about the amendment is that it has the potential to hurt Canada's competitiveness in research and development. Martin Lavoie of the Canadian Manufacturers & Exporters, which represents 10,000 manufacturers and exporters, claimed that Canada can expect its international ranking, in terms

of competitiveness and ability to attract foreign investment, to drop from thirteenth to seventeenth, while developing countries such as India, Turkey and Brazil will offer a more advantageous research and development tax credit.

Research in Motion, the makers of the BlackBerry devices on many of our desks, reported to the House of Commons Finance Committee that they expect to lose about \$15 million as a result of these changes. This is a company that can little afford to lose that amount of money when it is struggling for survival.

We heard from many other companies. Anchor Concrete Products Limited, in Kingston, Ontario, is complaining about these changes. Acadian Seaplants Limited, from Dartmouth, Nova Scotia wrote that their company was built on the backs of the SR&ED Program, and now we are changing it.

We heard from Briggs & Little Woolen Mills in Harvey, New Brunswick, just near Fredericton, that if our government will not support research and development here in this country, a country that does will be taking away the jobs that we have in New Brunswick.

Humble Manufacturing in Burnaby, British Columbia, and Friesens Corporation from Manitoba are saying the same thing: This is not a good thing to be doing, at this time especially. However, it is there. It is in this legislation that honourable senators will be asked to vote on.

We have heard a lot about pooled registered pension plans. We saw that in Bill C-38 back in the spring. Now we are seeing more amendments to it, but nothing has happened. We heard some people saying it is a great program because the plan will be to bring the administrative costs down. Employers are not required to go into this, and the alternative recommendation of a second Canada Pension Plan, mandatory for both sides, setting the amounts that will be paid in, is a much better program and, if put together, the administrative costs would both be down.

The other thing with the pooled registered pension plan is that it uses up the registered retirement savings plan amount that one is entitled to use. People who use part of this for a pool cannot continue their own registered retirement savings program.

Why would we be talking about this pooled registered pension plan? It will not get off the ground. It is not a desirable program and will not help with the identified problem that many people will be retiring without adequate funds to look after themselves and their families in retirement. That is unfortunate, but that is in there. The government announced this vehicle with great fanfare. However, we have heard some significant testimony that the vehicle is not likely to have the desired results.

Honourable senators, there are programs in the income tax amendments in Part 1 that are there to "close loopholes" for tax avoidance. Senator Downe would be interested in seeing what this government is doing. Instead of going after people who already owe money to the government, they are trying to close loopholes for future activity.

• (1510)

Part 1 has a number of different provisions, including various arrangements, retirement compensation arrangements, employee profit-sharing rules, partnerships, transfer pricing, secondary

adjustments, thin capitalization and foreign affiliate dumping. I may talk a little bit about foreign affiliate dumping. We did have witnesses speak about foreign affiliate dumping, and they said it is an attempt by a Canadian company to move a lot of the profit over to a foreign affiliate and dump the profit off there, where there is no tax.

We heard witnesses from the Toronto Stock Exchange and the Mining Association of Canada. They understand that if there is a problem the government is trying to deal with, that is great, but do not throw out the baby with the bathwater, which is an expression that is often used. We have a wonderful program through the Toronto Stock Exchange to raise funds for projects where the mining might be taking place anywhere in the world. In fact, I have met with several mining companies in Mongolia, and Toronto is the centre of mining internationally.

The Mining Association of Canada and the Toronto Stock Exchange say that in terms of these foreign affiliate rules, there was an exception for legitimate business practices that they thought would be in the rules. They accepted the government's recommendation to tighten up the rules to avoid this dumping of profits offshore, but they thought they had that exception; there was an agreement there. However, when the rules were published, that was no longer there. That is the kind of consultation they have been receiving. They are now scrambling because this could be a very serious matter for the Toronto Stock Exchange as well as the mining industry.

There is another point about bridge institutions. We agree with a number of these initiatives, honourable senators. Facilitating central clearing of derivatives is a good idea. If anyone has seen *Bonfire of the Vanities* and a number of those motion pictures and books of a few years ago, derivatives are unregulated and causing a lot of problems and a lot of failure in big corporations where they have invested in derivatives. There needs to be some regulation of that. This is an international initiative that is there and I applaud it.

From the fisheries point of view, in order to correct the mistakes in Bill C-38, this division makes technical changes to obstructing the passage of fish. One would have thought that if six months ago this legislation had been thought out, that would have been in there, but here we are correcting it.

Let me talk a bit about the Windsor-Detroit bridge. This piece of legislation, honourable senators, exempts from any lawsuits the Fisheries Act, the Navigable Waters Protection Act, the Species at Risk Act, section 6 of the International Bridges and Tunnels Act, the Port Authorities Operations Regulations and the Canadian Environmental Assessment Act. Within the region of the bridge in Windsor, one cannot bring a lawsuit for a period of time under any of these pieces of legislation.

I recall when there was a proposal to build or expand the airports in the Toronto region. I can remember the hue and cry. It was huge. Lawyers were saying that it was unprecedented. If the company builds it right, then we do not need these exemptions. Lawyers and judges can handle this kind of thing.

[ Senator Day ]

We now have a situation where we are hearing nothing about this because it is buried away in this otherwise positive initiative of getting on with the building of this bridge from Windsor to Detroit. I know the resistance has been there, but this is overkill, in my submission, not well thought out and a terrible precedent. That, honourable senators, is in the bill.

We have IMF reform; the Canada Pension Plan Triennial Review and some changes there; and the Indian Act land designation. Part of the reason why the First Nation chiefs are opposing this measure is because they were not consulted on this particular process and it is an interference with their own governance. One does not interfere with an entity's own governance without some discussion. What was wrong with the governance they had and the way they handled matters? They had a process, and we are saying, "We know better, and here it is." I can understand why they are opposing this.

Then there is the judges' salaries legislation, honourable senators. Judges' salaries at one time were tied in with parliamentarians' salaries, or vice versa. That is no longer the case. That is gone. That is not changed here, but now we have the problem of every year or so dealing with parliamentarians and no one wants to say, "Oh, my gosh, I need more money."

The judges are in the same situation. They do not want to have to come to parliamentarians and say, "Please increase our salaries." There is an attempt to make that arm's length and create a body for doing that and this is reflective of that. I remind honourable senators that there was a time when we had an independent body and we had parliamentarians' and judges' salaries tied to one another, although not the same salaries. That was a few years ago.

Honourable senators, there are so many different elements: Merchant Seamen Compensation Board; Canada Labour Code; Customs Act; the Hazardous Materials Information Review Commission. That is the Hazardous Materials Information Review material — gone. The minister can handle that; not to worry. The commission that did that kind of work was at arm's length and it will now be done from the minister's office. Part of this was the protection of trade secrets and intellectual property and that commission knew how to do that. Now that will all fall under the Minister of Health, and that big body of people will be handling the intellectual property of companies that wish to manufacture products that could, potentially, have public impact. We recognize there should be some control, but the control was fine the way it was. Why move it over to the minister? That is a question we have to talk about.

**Senator Mitchell:** Did they get anything right in that budget?

**Senator Day:** A recurring theme, which I mentioned earlier, is "goes to the minister." That is one of those "goes to the minister," honourable senators.

Agreement on Internal Trade — there are some good initiatives on internal trade, but we are wondering why it is in this bill. Why internal trade? They have been working on this since 2009. Some of these initiatives were agreed to in 2009. They now find their

way into 2012, in the fall, in the second budget implementation. To implement enforceable dispute resolutions, that is absolutely fine. Why does it have to be tied to a finance bill? That is the question. I do not have an answer.

The EI tax credit for small businesses — I cannot say there is an extension, because we voted a year ago to give a \$1,000 tax credit. The question is now whether there should be another \$1,000 tax credit. However, the base has moved up, not to where it was when the first \$1,000 was there but where it was at the end of the first \$1,000, the new base. Therefore, you have to look at the new base. Many people will get a chance to use it; it is automatic. People will get a chance to take advantage of it because there is an increase in the employment tax. There is an increase in the employer's and the employee's Employment Insurance premium that they have to pay. This will not create more work, even though we are being told and the public is being told that this initiative will create more employment. What it might do is preserve some employment. That is important, but it will not create new employment, because there is an increase in the Employment Insurance premium. That will just come out of this \$1,000 for one year. After that, they will be paying for it. That is a program that has not been well explained but is there.

• (1520)

Electronic Travel Authorization is in here. That is a great initiative.

The CMHC age limits was an interesting subject, honourable senators. Members of the board of directors do not have to be under the age of 70 to serve on the board of directors of Canada Mortgage and Housing Corporation. I was wondering if we could see a similar type of initiative for members of the Senate in terms of eligible age, but there was no answer from the government.

**Senator Mercer:** There never is.

**Senator Day:** As for gutting the Navigable Waters Protection Act, honourable senators, I took a look at Schedule 2 to see my beautiful rivers in the Miramichi and the Kennebecasis River. When I was appointed here, I chose the watersheds of two rivers as the name of the designation of my area, Saint John-Kennebecasis. They are two beautiful rivers in southern New Brunswick.

The Saint John River is still part of the Navigable Waters Protection Act, from Mactaquac down. That is about a third of the Saint John River, maybe even less than that. The Kennebecasis River is not there at all. I invite honourable senators to take a look at how the federal government is withdrawing from activity with respect to navigable waters and navigation in rivers that you would fully expect to still be there, but that are not. The schedule is there for you to look at them, honourable senators.

The Canada Grain Act is amended in a number of places. I found that quite interesting. There will be lots of comment about doing away with the Wheat Board out West and how much that cost and saved, and how much less the farmers are paying now that the Wheat Board is gone. All of these amendments that would have saved the Wheat Board a lot of money are coming along just after the Wheat Board was disbanded. These are the Canada Grain Act amendments, honourable senators.

International aircraft financing is a really good thing to find in here. I support it. Air Canada supports it. Basically, it allows for financing outside of Canada. They could not do that before. However, again, why do we have to wait for this particular Budget Implementation Act to find this matter? That is the question I put to you, honourable senators.

Foreign affiliate dumping is one that I talked about earlier, honourable senators. I could talk about a lot of the other ones.

Basically, what I have talked about are the first three parts of this bill. The fourth part is by far the longest. It has 24 different divisions. We could talk at length about those various divisions, but I do not want to use your time to deal with something that should be in a separate piece of legislation.

I have talked, for several years, about how these finance bills should not be tied in with omnibus bills. It is unfair, undemocratic and, quite frankly, unacceptable. The trend is not to withdraw this practice. Rather, the practice is getting worse, honourable senators. What do we do? Pre-study is one of those defensive steps that we have taken. We could split the bill, like this bill was split in the House of Commons to take out parliamentarians' pensions. We could consider doing that with respect to Part 4.

We could study this bill, as we have indicated, like any other bill, and just ignore the hue and cry that this is a finance bill and has to get back within a few days of coming here. We could ignore that and say, "You sent us this bill; we will study it."

We could study the bill afterwards. We did that about a year ago. We passed the bill and then we studied it, because we said, "We cannot just pass the bill and then ignore it." We studied it afterwards and had a number of recommendations that are, at least, part of the public record.

We could send it back. Right now, we could stand up here and pass a motion to send this bill back and have it sent to us when it is in proper order.

We could amend, honourable senators, to delete certain portions of this bill.

**Senator Mercer:** Let us do that, too.

**Senator Day:** We are not a chamber of confidence here, but the public has confidence that we will do a proper job here. If they do not have confidence, then we should not be here. We have to think about that, honourable senators. This is a chamber where we are older than the other chamber and we are less partisan in our approach.

**Senator Robichaud:** Really?

**Senator Day:** We have more experience outside of Parliament. Most of us are not professional politicians here; we bring those experiences from outside. Let us do the job that is expected of us.

There are good parts of this bill. I want to reiterate that: There are good parts of this bill. However, there are also parts that are unacceptable, and that is, in large part, Part 4. There are many portions that need further work.

[ Senator Day ]

Honourable senators, if we had the opportunity to review Part 4, we could submit upwards of 3,000 amendments like the other chamber did, but I am suggesting to you that that is not the way to go. It is not realistic, and it is not manageable. We must act. I am asking you: How should we act to avoid this? This is not an acceptable thing. This is not something that we want to see happen again, honourable senators.

#### MOTION IN AMENDMENT

**Hon. Joseph A. Day:** Therefore, honourable senators, I move:

That Bill C-45 be not now read a third time, but that it be amended, on pages 175 to 414, by deleting Part 4 and schedules 1 and 2.

**The Hon. the Speaker:** Honourable senators, it was moved by the Honourable Senator Day, seconded by the Honourable Senator Mercer:

That Bill C-45 be not now read a third time, but that it be amended on pages 175 to 414, by deleting Part 4 and schedules 1 and 2.

On debate on the amendment?

[*Translation*]

**Hon. Fernand Robichaud:** I have a question for the Chair of the Finance Committee, Senator Day.

**The Hon. the Speaker:** I regret to inform you that the Honourable Senator Day's 45 minutes are up. We are now considering the amendment. Would Senator Day like to request an additional five minutes?

**Senator Day:** Yes, I would actually like to request an extra 15 minutes.

**The Hon. the Speaker:** Is it agreed, honourable senators, that Senator Day be granted five more minutes?

**Hon. Senators:** Agreed.

**Senator Robichaud:** I would have voted in favour of 15 more minutes, but the majority rules.

When the senator gave his speech at second reading, he told us that there were different ways of dealing with an omnibus bill. I believe he may have even mentioned this again in his speech today.

The proposed amendment involves deleting the part of the bill that does not deal with budgetary measures.

• (1530)

Do you think it that it will be easier for you to pass this amendment than an amendment that would split the bill and separate the budget measures from the others?

**Senator Day:** I would like to thank Senator Robichaud for that question. It is always difficult to decide what to do, but I was convinced that something had to be done. If I understand our

rules correctly, in order to divide the bill, another motion would have had to be moved in the Senate before third reading, in other words, at committee stage.

I have been thinking about this since we received the bill two days ago. I decided that, this time — and I will not take the same approach as Mr. Harper with the decision concerning Nexen in Western Canada — the best way to deal with Part 4 of this bill was to propose this amendment. However, this does not mean that, if the government keeps doing the same thing, we cannot work together to find another way of splitting the bill the next time.

(On motion of Senator Tardif, debate adjourned.)

#### ALLOTMENT OF TIME—NOTICE OF MOTION

**Hon. Claude Carignan (Deputy Leader of the Government):** Honourable senators, we have had the opportunity to discuss the time that could be allocated to the debate on this bill, but since I have been unable to come to an agreement with the Deputy Leader of the Opposition, I give notice that, at the next sitting of the Senate, I will move:

That, pursuant to rule 7-2, not more than a further six hours of debate be allocated for consideration at third reading stage of Bill C-45, A second Act to implement certain provisions of the budget tabled in Parliament on March 29, 2012 and other measures.

#### CRIMINAL CODE

##### BILL TO AMEND—THIRD READING— DEBATE ADJOURNED

**Hon. Jean-Guy Dagenais** moved that Bill C-36, An Act to amend the Criminal Code (elder abuse), be read the third time.

He said: Honourable senators, last March the Government of Canada announced that it was introducing a bill to ensure that sentencing for crimes committed against seniors in our country would reflect the significant impact that crime has on the personal lives of these victims.

Bill C-36, which we are about to pass, contains the elements required to add to the aggravating factors that judges can consider when sentencing offenders. And we truly hope that these provisions will help deter potential criminals from attacking our vulnerable seniors.

The Harper government has promised many times to implement measures to protect communities across Canada. The amendments to the Criminal Code that were passed last spring are a splendid example that we are very proud of.

Today, we want to ensure that people who commit crimes against our seniors receive the punishment they deserve. Violence against seniors in Canada, or anywhere for that matter, must not be tolerated.

With the passage of Bill C-36, Canadians will be more aware of the serious problem of elder abuse, and they will have the information and the support needed to take action and help prevent this kind of abuse.

Under the proposed amendment to the Criminal Code, evidence that an offence had a significant impact on the victim, considering their age and other personal circumstances such as their health and financial situation will be considered an aggravating circumstance for sentencing purposes. The Criminal Code already contains six aggravating circumstances; this will be the seventh.

I would like to point out that the impact of a crime on an elderly person is not always tied solely to the chronological age of the victim. Although a general assumption of vulnerability among children is appropriate based on chronological age alone, that is not the case with seniors. That is why it is impossible to determine exactly when an older person should be considered vulnerable under criminal law.

Not all individuals 65 and over are equally vulnerable. Much depends on the individual's personality and life experience, as well as factors such as physical and mental health, whether a support system in the form of a loving family and friends exists, and whether the person's finances are secure and sufficient for his or her future well-being.

We took this important point into account when drafting these amendments, because the impact of a crime on an older person depends more on the unique characteristics of that person regarded as a whole, when viewed by a properly informed court.

There are many 70-year-old Canadians who are in great shape and would be able to handle the situation. At the same time, there could be many 55-year-old victims, people who might be physically disabled, either by illness or by a disability, which we see as an additional aggravating factor to which the amendments are referring.

Thus, in order to ensure that the proposed Criminal Code amendment achieves its objective, the bill deliberately does not set a chronological age as a triggering factor.

I would like to point out that the Criminal Code currently contains provisions that address some forms of elder abuse, but I would like to take a few moments to describe how the amendment before us today goes beyond the existing provisions.

By way of example, I would like to draw your attention to the Standing up for Victims of White Collar Crime Act, which came into effect on November 1, 2011. In this act, the legislator added to the aggravating factors the fact that the offence committed had had a significant impact on the victim given his or her personal circumstances, including age, health and financial situation. This aggravating factor was proposed in response to large-scale economic crimes that had devastating consequences for vulnerable victims, particularly seniors, who had fallen prey to crafty fraudsters who earned their trust.

The Criminal Code also lists other aggravating factors that address some of the circumstances often present in cases of elder abuse.

For instance, the Criminal Code provides that where an offence was motivated by bias, prejudice or hate based, for instance, on age or mental or physical disability, it shall be considered by

judges to be an aggravating factor for sentencing purposes. These aggravating factors therefore apply in cases where crimes were motivated by hate toward an identifiable group, such as seniors.

• (1540)

Other aggravating factors currently in the Criminal Code that would also apply in some elder abuse cases include the fact that the offender abused a position of trust or authority in relation to the victim, or abused the offender's spouse or common-law partner.

These aggravating factors apply not only where the abuse was committed by a family member, but also where the abuse was committed, for example, by a caregiver in a nursing home who was in a position of trust and authority over vulnerable seniors.

In addition to the aggravating factors I have mentioned, the Criminal Code provides a range of specific offences that equally apply to protect Canadians, regardless of whether the victim is male or female, able-bodied or disabled, young or old.

For example, the offence of assault applies equally to all Canadians to protect against physical abuse. Mental cruelty is captured by offences such as intimidation or uttering threats and financial abuse is captured by theft or robbery.

In some instances, an offence is applied to a specific relationship that may be relevant to elder abuse cases. One such example is the offence of the failure of an individual to provide the necessities of life to a person under his or her charge. This is section 215. This offence is commonly among the charges in elder abuse cases.

By way of comparison to what I just mentioned, the proposed aggravating factor in Bill C-36 would recognize that the impact of crime on a victim may be exacerbated by a combination of the person's age, health and personal circumstances.

There is another obvious reason why Canada needs this bill now.

According to Statistics Canada, in 2010, there were 4.8 million Canadians aged 65 years or older. In 25 years, by about 2036, that number should double to 10.4 million. In 2051, one in four Canadians will be over the age of 65. These figures clearly show that the population is aging.

The number of seniors likely to be victims of abuse will increase as the baby boomers become dependent on other people, family members for example, to look after them.

We are not dreaming in technicolour. We know full well that these new Criminal Code provisions will not solve all the problems of elder abuse.

[*English*]

This bill will not end elder abuse, but we hope it will protect elders better and give true support to people who can take action on behalf of the most vulnerable members of our communities.

[ Senator Dagenais ]

[*Translation*]

Throughout the committee's study, our colleague, Senator Pierre-Hugues Boisvenu, talked about how the statistics show a worrisome increase in crimes against seniors. He made an important point. Between 1999 and 2006, there was a 38 per cent increase in home invasions. Although this type of crime is very upsetting for seniors, it is not considered a violent crime if the victims are not physically assaulted.

Canadians can no longer tolerate incidents such as the one where an elderly woman was attacked in the Montreal metro by a young man who had attacked others the same day and who later was sentenced to serve two years less a day in the community.

I also remember a segment that aired last September on the television program *JE* about an 80-year-old woman with Alzheimer's who was sexually assaulted by an 81-year-old man in a seniors' home in the Saguenay. What is disgraceful and unacceptable is the fact that the home's managers tried to cover everything up before calling in the police.

As you can see, we still have a long way to go.

Here are some other good reasons to give judges new benchmarks on what sentences to impose on people who abuse seniors.

By all accounts, education and prevention do not seem to be enough to eliminate this crime.

At the Standing Senate Committee on Legal and Constitutional Affairs, we heard from stakeholders from all sectors who told us how important it is to combine prevention and criminalization, and we listened to them.

That is why, I would remind honourable senators, the government is tackling violence against seniors in multiple ways, including through its elder abuse awareness campaign and the New Horizons for Seniors Program, which includes some highly structured awareness projects.

An annual budget of \$45 million has already been allocated to these various programs.

The New Horizons for Seniors Program is designed to help ensure that seniors enjoy a good quality of life in their communities. The program was expanded in 2007 to include elder abuse awareness activities.

The program provides support to organizations to help them develop national or regional education and awareness activities to reduce the incidence of elder abuse, including financial abuse.

I would remind honourable senators of the awareness campaign entitled "Elder Abuse — It's Time to Face the Reality" aimed at teaching people to recognize the signs and symptoms of violence against seniors. As part of the campaign, ads were broadcast on television and on the radio.

Although this initiative ended in March 2011, information on support services for seniors is still publicly available.

As I mentioned earlier, many crimes committed against seniors are perpetrated by family members. The Government of Canada's Family Violence Initiative aims to tackle this problem by promoting public awareness of the risk factors associated with family violence.

There is no universal definition of elder abuse. And as I mentioned earlier, it is even difficult to determine at what age someone becomes a senior.

The definition developed by the World Health Organization in 2002 often serves as a reference. The WHO defines elder abuse as a single or repeated act, or lack of appropriate action, occurring within any relationship where there is an expectation of trust, which causes harm or distress to an older person.

We must consider this part of the definition carefully, since approximately two-thirds of elder abuse is perpetrated by someone known to the victim, either a family member or a friend.

The relationship between the victim and the abuser in the majority of cases of elder abuse explains why the abuse often is not reported. In fact, it is estimated that only half of violent incidents involving seniors are reported to police.

We must never underestimate the true extent of family violence against seniors. Certainly, those around them must never turn a blind eye because they feel that voicing their concerns would have no real effect legally.

I do not believe that I am exaggerating when I say that we have all heard similar comments about the fact that some abusers get lenient sentences.

The best means of dealing effectively with this type of abuse is to ensure that the aggravating circumstances contained in the Criminal Code effectively cover situations of elder abuse in order for harsher sentences to be handed down in such cases. Parliament does not want to leave any doubt as to its intentions.

Therefore, the wording of the proposed amendment before us today is similar to one of the aggravating circumstances added to the Criminal Code last year regarding fraud.

Section 380.1 states that the following must henceforth be considered an aggravating circumstance: the fact that the offence had a significant impact on the victims given their personal circumstances including their age, health and financial situation.

When this bill was being considered in the other place, there was talk of deleting the word "significant" before the word "impact".

Some members were of the opinion that the proposed aggravating circumstance should automatically apply if the victim is an elderly person, regardless of the magnitude of the impact the offence had on the victim. The government was opposed to this suggestion.

• (1550)

Everyone agrees that all offences have consequences for their victims. Removing this word from the bill would mean that the aggravating factor would apply even in cases where the offence had a minimal impact on the victim.

For example, the offence of assault covers various acts, from simply touching someone to more violent acts. In all cases, even less serious cases, the impact of the offence on a victim may be the same whether the victim is young or old.

This bill targets cases where the impact of the crime on the victim is particularly serious, not only because of their age but also because of their personal circumstances.

This bill complements other government initiatives in the fight against elder abuse.

However, the federal government cannot combat elder abuse alone, because many important aspects of this fight fall under the sole jurisdiction of the provinces and territories.

For example, a number of provinces and territories have passed legislation to fight elder abuse in care facilities. These measures include the obligation to report abuse that takes place in health care facilities for seniors.

This example shows once again that an effective strategy to counter elder abuse requires the participation of all levels of government in different areas.

Bill C-36 will ensure that these crimes are targeted and that their perpetrators receive just punishments as a deterrent to reoffending.

Older members of our society, those who have contributed to building our great country, should not have to live in fear for their personal or financial security. After all, they have given to Canada and they have a right to be treated with respect and to live in a safe environment.

Once passed into law, this amendment will ensure that the courts in different parts of Canada have a national standard for sentencing, instead of the piecemeal approach that is now being taken. The courts will have to take victims into consideration.

By amending the Criminal Code to add a reference to elder abuse, our government is showing leadership and taking responsibility for putting an end to elder abuse. But legislation alone is not enough.

It is now up to professionals, practitioners, decision-makers, the public, families and seniors to work with various agencies, organizations and networks to ensure that this legislation has the desired effect.

I urge honourable senators to unanimously support Bill C-36 so that we will have an additional tool that I feel is essential in the fight against elder abuse.

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

## BUSINESS OF THE SENATE

**Hon. Claude Carignan (Deputy Leader of the Government):** Honourable senators, I would like to reverse the order of Government Business on the Orders of the Day so that we study the fourteenth report of the Standing Senate Committee on National Finance, *Supplementary Estimates (B) 2012-2013*, and then proceed to second reading of Bill C-50.

[English]

## THE ESTIMATES, 2012-13

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

The Senate proceeded to consideration of the fourteenth report of the Standing Senate Committee on National Finance, (*Supplementary Estimates (B), 2012-2013*), tabled in the Senate on December 11, 2012.

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

He said: Honourable senators, I can be a bit briefer on this one than I was on the last one. That is because the rules give me only 15 minutes on this one instead of 45. I thank the Deputy Leader of the Government in the Senate for dealing with this report prior to the bill.

Honourable senators, this is the report that the Standing Senate Committee on National Finance has developed as a result of our work on the Supplementary Estimates (B).

Supplementary Estimates (B) has in it a schedule of some funds that the federal government would like to have, and that appears in Bill C-50 which is the next bill we will be dealing with. In effect, honourable senators, this is like a pre-study of the supply bill that will be coming up next. By allowing us to deal with the study we have already done on the supplementary estimates, the bill then can proceed in an unusual manner for this chamber. The bill will proceed from second reading directly to third reading, because we have already dealt with the work that would normally go on in committee if, after second reading, we sent the bill to committee to study it and come back with our report and then into third reading. It was important that we deal with the report prior to making the decision on whether to go from second to third reading, or from second to committee and then to third reading.

I would propose to honourable senators that, since we have had an opportunity to deal with the report, it would be appropriate for us to move Bill C-50, when we deal with that next, directly to third reading once we finish with second reading.

Honourable senators, I will give a summary of the report that is before you, or was before you yesterday. I assume it is back in your offices now, but I will explain briefly what is in here. We met with six federal departments and one agency to review these estimates.

This is a request for expenditures and does not deal — at least not in great length — with the policy behind the expenditures. However, we wanted to know what the money was going to be used for. Why are the departments here before us asking for

further funds? The amount of \$2.5 billion is being asked for. Why in supplementary estimates? Why not in the Main Estimates? Why was everything not included in the Main Estimates so we could consider the whole year ahead?

Some of the initiatives here are reflective of what was in the budget. The budget initiatives are policy decisions that were made, and we were preparing and dealing with the Main Estimates at the same time as the budget. Therefore, some of the initiatives could not be reflected in dollar figures and worked up into a program quickly enough for the Main Estimates that we dealt with in May or June after the budget; therefore we get those in supplementary estimates.

Supplementary Estimates (A) was dealt with in the May-June time frame. Supplementary Estimates (B) is now being dealt with before Christmas, and honourable senators should expect one more, which was confirmed by Treasury Board. That will be before the year end, to pick up all of the initiatives that the government may wish to implement before fiscal year-end but could not have been costed out earlier on.

• (1600)

Honourable senators, I would like, on your behalf, to thank Treasury Board. The Treasury Board Secretariat is critical for the Finance Committee in understanding and dealing with the supplementary estimates and all of the estimates, for that matter, the estimate process.

Bill Matthews, Sally Thornton and Marcia Santiago are the three individuals from Treasury Board Secretariat with whom we have worked on a number of occasions now. We find it helpful because we can go back to issues. There is continuity that we tend not to get with most witnesses.

In addition to Treasury Board Secretariat, we met with Aboriginal Affairs and Northern Development Canada. The steering committee got together and looked at the departments that were asking for the most money and then we asked for those departments to come to talk to us. That seemed to be a reasonable approach. Then the Department of Health came before us as well. We had National Defence. I will say a little bit more about each one of these. Agriculture and Agri-food Canada also came before us, and finally the Canadian Food Inspection Agency.

As I indicated to honourable senators, these particular supplementary estimates are asking for voted appropriation and those are the ones that you will be voting on, \$2.5 billion. There is an estimate, for information purposes only, of further statutory expenditure of \$0.3 billion. That makes a total of \$2.8 billion budgetary expenditures, part of which you will be voting for and part of which is statutory. There are no non-budgetary, which would be loans that we might make to international associations, student loans and that kind of thing. There is no further request there.

Let me tell honourable senators about some of the areas where quite a bit of money is being requested. There is \$162 million in funding to continue support for the implementation of First Nation Water and Wastewater Action Plan; \$91.4 million for industrial research assistance for small- and medium-sized enterprises; \$75 million for the Community Infrastructure



Improvement Fund. We have looked into infrastructure programs in the past. There are quite a few different programs and the money that has been approved has not all been used, for various reasons. That is an important one to stay on top of because it is so important for our provinces and our communities. Hopefully, we will continue to keep a watchful eye on that particular area.

Total estimates to date are \$257 billion, including \$251 in the Main Estimates, \$2.3 billion in Supplementary Estimates (A) and \$2.8 billion in these supplementary estimates.

The Treasury Board of Canada Secretariat, as basically the employer for the public service, looks after certain across-the-department expenses. \$83 million is requested for transfer to departments and agencies for salary adjustments. Treasury Board looks after that; they confirm that these are, indeed, according to the laws that we have set and then they come and ask for Parliament to release the funds and allow them to transfer those funds to the departments. There is \$1.9 million for modernization of human resources services in across-the-board departments and agencies.

The report has more detail in relation to Treasury Board, but that is sufficient to point out the highlights of that department.

Aboriginal Affairs and Northern Development Canada — where is their money going? Virtually all of the funds are significant amounts of money to try to resolve ongoing issues. The Indian Residential School Settlement Agreement has been ongoing for many years and will continue to be ongoing. There are \$125 million in these supplementary estimates on that one; \$124 million in another aspect of the Indian Residential School Settlement Agreement. That is \$250 million in these supplementary estimates. There is \$45 million for development of systems and support to ensure readiness for First Nations education legislation.

There is another program for our colleagues from the northern part of Canada, \$2.5 million in the Nutrition North Canada program. We asked some questions about that.

In relation to the Indian Residential Schools Settlement, honourable senators, there are 35,000 applicants to be compensated under that program. That is compared to an estimate when this program was created of 15,000. More important, 4,000 are processed each year. That is the department that we got set up to handle this, 4,000 a year, and there are 35,000 applicants. You can imagine if you were an applicant, if you were a First Nation person who has or believes you have a claim under that terrible part of our history of the residential schools settlement program, you could be waiting a long time, maybe upwards of 10 years, to have your application dealt with under the current system that has been set up. We would encourage Aboriginal Affairs and Northern Development to try to get this moving a bit more quickly.

Nutrition North Canada is a program designed to help with the extraordinary cost of food in the North. We have learned that under this program prices have decreased approximately 8 per cent for a typical product basket in the North.

Honourable senators also questioned the \$500,000 reduction for the project for Aboriginal youth. This is a mobile travelling training studio for audiovisual projects and the department said it would get more information on this issue as to why half a million dollars was being removed from that program.

For the Department of Health, honourable senators, a number of programs relate to the same programs under residential schools for native Canadians.

Honourable senators, we have \$226.4 million for the provision of supplementary health benefits to eligible First Nation and Inuit. The officials from the department explained to us why they needed \$226 million more in this particular category for health care. It was indicated to us that, in addition to the existing clients, there are 23,000 new claimants resulting from the recent creation of a Mi'kmaq First Nation in Newfoundland and Labrador. There are also 20,000 new clients arising from Gender Equity in Indian Registration Act. That was a result of a court case that required the government to reverse its policy. These are Indian women who have left the reserve or are required to leave the reserve and therefore their children and their children's children were not entitled to health care because of that gender inequality rule that was reversed by a court case. The law that we have passed reflects the order of the judge to rectify that. That brings in 24,000 new clients under health care. Honourable senators can see how the prices can escalate.

The Department of Finance Canada is requesting \$10 million for the Toronto Waterfront Revitalization Initiative, which has been going on for some time now. There is another \$10 million going into that. The rest of the funds are outlined there but are typical administrative funds that are being requested.

• (1610)

**The Hon. the Speaker *pro tempore*:** I regret to inform the honourable senator that his time has expired.

**Senator Day:** May I have five more minutes, honourable senators? I could easily finish. Thank you.

The Quebec government is having \$733 million paid to them to help adjust to the harmonized sales tax. Honourable senators will recall that British Columbia received a payment, and now they will be paying that back because they decided not to continue. Quebec is moving forward and will be receiving a total of \$2.2 billion to go into a harmonized sales tax regime. I will repeat that: \$2.2 billion. That is a significant amount of administrative money, we said; it is probably a little more than administrative. The honourable senator from Quebec indicates that they deserve it, but I am sure other provinces are saying the same thing.

That figure is calculated such that it is 1.5 points from the GST, the Goods and Services Tax, in the province that is attributed to this in the formula to determine how much would go to the province. I was hopeful that British Columbia would change its mind because I think that harmonized sales tax makes it so much easier for business development and for individuals who are buying things. The next step would be to just post a sign saying "HST off; X per cent is included," so that one would see the final price. That would be another step in the right direction, in my view, honourable senators.

In response to questions regarding the \$13-million statutory reduction to Nova Scotia, there was an interesting explanation. One rule is that because of the reduction in equalization percentages, no province would receive less than the amount it received prior to the change in the rules. Therefore, there would be an amount that would go to some provinces that had not had an increase in other economic activity. Nova Scotia is also subject to a special payment by virtue of offshore and the reduction in equalization to compensate for the offshore revenue that they generate. It all sorted out to a \$13.5-million reduction for Nova Scotia as a result of that.

Honourable senators, those are some of the points. I had intended to speak on the Department of National Defence and my concern and the concern of many members on the Finance Committee regarding the issue of re-profiling money. The Department of Defence says, "We cannot spend that money on tanks this year; we would like to re-profile it to operations." We said, "That is fine; we understand that. However, we hope that you are not doing that too extensively." However, they have to come to us to do that — moving it from capital to operations.

The problem is that they said they would not have to come back to us. They will spend the money in operations, but they would not have to come back to Parliament and ask for the money again to put into capital next year. That seemed to be very strange. They have assured us that they will come to talk to us again about that once they have a chance to sort it out.

Those are a few of the highlights, honourable senators, of this particular report.

There is a wonderful summary at the end of the report. The House of Commons is trying to change this financial reporting to make it much friendlier and to deal with the crazy situation of comparing accrued accounting and cash accounting in different documents. That is what we are doing. In Public Accounts, No. 1 is accrued, No. 2 is cash. The budget is accrued accounting and the Main Estimates is cash accounting.

**Senator Stratton:** Enough!

**Senator Day:** That has to be sorted out. We are expecting more from the federal government in that regard by the end of March. The House of Commons committee equivalent to our Finance Committee has been working on that particular issue.

**Senator Stratton:** Committees are waiting.

**Senator Day:** We will keep you informed on that as time progresses.

**Senator Stratton:** I am sure you will.

**Senator Day:** I hope honourable senators find the work of the Finance Committee helpful and we can adopt this report. Thank you.

**Hon. Catherine S. Callbeck:** Honourable senators, I would like to say a few words on this report from the Finance Committee on Supplementary Estimates (B). This is on the section dealing with the Department of National Defence and some of their spending practices. Senator Day has just referred to that.

[ Senator Day ]

It was during testimony from the DND officials that the issue of re-profiling funds was raised during questions from senators from both sides of the chamber. It came to the attention of the committee that, as it stands now, DND can take money that has already been set out for certain projects in the Main Estimates, receive approval for those funds, and then re-profile that money for different projects or even for current expenditures.

That idea alone does not seem right. However, an even bigger issue seems to be that if the money that was originally set out for a specific project is spent on a different project, the original allocation still remains in the books; DND does not have to come to Parliament and ask for more money. That simply does not add up.

Let us use an example, because this is sort of difficult to understand. This is as I understand it. Let us say the Department of National Defence wants to buy a new tank. They get approval for \$100 million to buy it. For whatever reason, that project is delayed, but the funds have already been approved. DND can re-profile some or all of that \$100 million for another project or for current expenditures.

Let us say they decide to take \$50 million and apply it to something else. A year later, the tank purchase goes through for the original \$100 million, yet half the money was spent elsewhere. Despite some excellent questions from senators on the committee, we could not get a concrete or satisfactory answer from our witnesses about where the money comes from to fulfill the \$100-million commitment after half of it has already been spent.

One of the senators asked: "How can you take money from capital, use it for current operations, still have the capital project in place, and suggest that you will not have to refill the bucket at some point?"

That question was never really answered. It was not made clear at all how that original capital project would now be paid for without needing more money. Our witnesses agreed to submit a written answer to the questions posed, but I am really not overly hopeful that their response will make this issue any clearer than it was in committee.

Honourable senators, I firmly believe that this is something we should look into in further detail. In fact, I would like to see the National Finance Committee conduct a study on this very issue. I would welcome the opportunity to investigate the matter in more detail.

Honourable senators, those are my comments on the spending practices of the Department of National Defence.

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

**Hon. Senators:** Question.

**The Hon. the Speaker *pro tempore*:** It was moved by the Honourable Senator Day, seconded by the Honourable Senator Robichaud, that this report be adopted now.

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

[*Translation*]

**Hon. Senators:** Agreed.

(On motion of Senator Day, report adopted.)

• (1620)

## APPROPRIATION BILL NO. 4, 2012-13

### SECOND READING

**Hon. Larry W. Smith** moved second reading of Bill C-50, An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2013.

He said: Honourable senators, I will try to be brief and summarize some of the facts that our chair alluded to earlier.

The bill before you today, Appropriation Act No. 4, 2012-13, provides for the release of supply for Supplementary Estimates (B), 2012-13 and now seeks Parliament's approval to spend \$2.5 billion in voted expenditures. These expenditures were provided for within the planned spending set out by the Minister of Finance in his March 2012 budget.

Supplementary Estimates (B), 2012-13 were tabled in the Senate on November 8, 2012, and referred to the Standing Senate Committee on National Finance. These are the secondary supplementary estimates for the fiscal year that ends on March 31, 2013. The first, Supplementary Estimates (A), was approved in June 2012.

[*Translation*]

The Supplementary Estimates (B), 2012-13 provide information on budgetary spending of \$2.5 billion in voted expenditures and \$0.3 billion in statutory spending. The \$2.5 billion in voted expenditures requires the approval of Parliament and relates to the following major budgetary items: \$242.4 million for the overall federal costs of contract policing services provided by the RCMP for all contract jurisdictions; \$226.4 billion to maintain the provision of supplementary health benefits to eligible First Nations and Inuit;

[*English*]

\$205.6 million for the Canadian Forces Service Income Security Insurance Plan as a result of the Federal Court decision on the *Manuge* class action law suit against National Defence;

\$184.2 million for the Canadian Wheat Board's transitional costs such as pension, post-employment benefits, severance, legacy costs and penalties associated with contract changes as it becomes a voluntary grain marketing organization August 1, 2012;

\$181.5 million for mental health and emotional support services for the administration and research required to support the federal government's obligations under the Indian Residential Schools Settlement Agreement, Health and Aboriginal Affairs and Northern Development.

\$180 million for disaster financial assistance agreements; \$162.1 million to continue to support the implementation of Canada's Economic Action Plan for First Nations drinking water supply and waste water treatment;

[*English*]

\$124 million for awards to claimants resulting from the independent assessment process in alternative dispute settlement resolution related to the Indian Residential School Settlement Agreement;

\$122 million to meet the government's commitments to the Gas Tax Fund to support environmentally sustainable municipal infrastructure projects that contribute to cleaner air and cleaner water, and reduce greenhouse gas emissions;

\$114.6 million to meet the government's commitments to provincial-territorial infrastructure-based funding program to help restore the fiscal balance while enhancing Canada's public infrastructure;

[*Translation*]

The supplementary estimates also include an increase of \$0.3 billion in budgetary statutory spending items that were previously authorized by Parliament. Adjustments to projected statutory spending are provided for information purposes only and are mainly attributable to the following forecast changes: \$733 million in payments to the provinces regarding sales tax harmonization.

[*English*]

Finally, \$679.7 million for the additional fiscal equalization payment total transfer protection Part 1, a decrease of \$1.166 million for the revised forecast of interest of unmatured debt, which reflects provisions to forecasted interest rates by private sector economists.

The Appropriation Act No. 4, 2012-13 seeks Parliament's approval to spend a total of \$2.5 billion in voted expenditures.

Honourable senators, should you require additional information, I am sure our chair and I, to the best of our ability, will provide you with same. I completed that speech in 4 minutes and 30 seconds, thank you very much.

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

**The Hon. the Speaker pro tempore:** Further debate, Honourable Senator Day?

**Senator Stratton:** You'd have to match that.

**Hon. Joseph A. Day:** I just happen to have a bit of additional information.

Honourable senators, there are just two points I want to make. I accept my honourable colleague's summary of this particular bill and the amount of \$2.5 billion.

When honourable senators look at the bill, because this may stand out and one may wonder about it, one will see a good number of entries for \$1. There are quite a few of them. The \$1 is there because when re-profiling takes place we have already approved the money but the government department would like to move it from one department to another or from one vote to another, from capital — and I talked about that earlier — to operations. That is re-profiling and it requires our approval. That \$1 is in there just so that the wording can be put in for the re-profiling. When honourable senators see this, I think it is important to understand that re-profiling.

The second point is there are two schedules. Schedule No. 2 is for two years. Everything in Schedule No. 1 is for one year, but there are certain departments where we approve for two years, and that is in the back of the bill, honourable senators. There is Schedule No. 2, and that Schedule No. 2 is not for very many departments; in this instance there are few, indeed. One is for the Department of the Environment; the other for Public Safety and Emergency Preparedness. The question is, why? Certain programs, like Parks Canada which is another one in there, sometimes go over more than one year, so it makes sense to have a two-year approval for certain departments.

Finally, honourable senators, because we have looked at and just adopted the report on the study of the supplementary estimates, I would point out that forms the study of the schedule that appears here. Before we finish third reading, we all may wish to compare this schedule to ensure that it is identical to what has been studied by your committee. Only once in the last 10 years have we found an error in that regard. However, we will continue to make that comparison.

Should honourable senators see fit to adopt Bill C-50 at second reading, I would be prepared to support it going to third reading, rather than going to committee.

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

**Some Hon. Senators:** Question.

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

**Hon. Senators:** Agreed.

(Motion agreed to and bill read a second time.)

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

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

• (1630)

## THE SENATE

### STATUTES REPEAL ACT—MOTION TO RESOLVE THAT THE ACT AND THE PROVISIONS OF OTHER ACTS NOT BE REPEALED ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Wallace, seconded by the Honourable Senator Mockler:

That, pursuant to section 3 of the *Statutes Repeal Act*, S.C. 2008, c. 20, the Senate resolve that the following Act and the provisions of the other Acts listed below, which have not come into force in the period since their adoption, not be repealed:

1. *Agricultural Marketing Programs Act*, S.C. 1997, c. 20:

-sections 44 and 45;

2. *An Act to amend the Canada Grain Act and the Agriculture and Agri-Food Administrative Monetary Penalties Act and to repeal the Grain Futures Act*, S.C. 1998, c. 22:

-sections 1(1) and (3), 2 to 5, 6(1) and (2), 7, 9, 10, 13 to 16, 18 to 23, 24(2) and (3), and 26 to 28;

3. *An Act to implement the Agreement on Internal Trade*, S.C. 1996, c. 17:

-sections 17 and 18;

4. *Budget Implementation Act*, 1998, S.C. 1998, c. 21:

-sections 131 and 132;

5. *Canada Grain Act*, R.S.C 1985, c. G-10:

-paragraphs (d) and (e) of the definition “elevator” in section 2, and subsections 55(2) and (3);

6. *Canada Marine Act*, S.C. 1998, c. 10:

-sections 140, 178, 185 and 201;

7. *Comprehensive Nuclear Test-Ban Treaty Implementation Act*, S.C. 1998, c. 32;

8. *Contraventions Act*, S.C. 1992, c. 47:

-sections 8(1)(d), 9, 10, 12 to 16, 17(1) to (3), 18, 19, 21(1), 22, 23, 25, 26, 28 to 38, 40, 41, 44 to 47, 50 to 53, 56, 57, 60 to 62, 84 with respect to sections 1, 2.1, 2.2, 3, 4, 5, 7, 7.1, 9 to 12, 14 and 16 of the Schedule, and section 85;

9. *Firearms Act*, S.C. 1995, c. 39:  
-paragraph 24(2)(d), sections 39, 42 to 46, 48 and 53;
10. *Marine Liability Act*, S.C. 2001, c. 6:  
-section 45;
11. *Modernization of Benefits and Obligations Act*, S.C. 2000, c. 12:  
-sections 89, 90, 107(1) and (3), and 109;
12. *Preclearance Act*, S.C. 1999, c. 20:  
-section 37;
13. *Public Sector Pension Investment Board Act*, S.C. 1999, c. 34:  
-sections 155, 157, 158, and 161(1) and (4);
14. *Yukon Act*, S.C. 2002, c. 7:  
-sections 70 to 75, 77, 117(2), 167, 168, 210, 211, 221, 227, 233 and 283.

**Hon. Joan Fraser:** Honourable senators, this debate is a bittersweet occasion, if I may say so. The “sweet” part is, of course, that the reason we are having this debate is the fine work done a few years ago by our former colleague Senator Tommy Banks. It was thanks to him that the bill leading to the presentation of this motion was passed. It constituted a significant improvement in the way this country handles legislation and, indeed, respects the parliamentary system.

Senator Banks, as those who were here at the time will recall, had stumbled upon the fact that a significant number of bills, or portions of bills, even having been passed by Parliament and given Royal Assent, never go into force. He told Parliament in, I think, 2006 that he had found 56 such pieces of legislation. In that particular speech he quoted Lord Birkenhead, an eminent British jurist who said:

Parliament enacts legislation in the expectation that it will come into operation. This is so even when Parliament does not itself fix the date on which that shall happen.

It would be hard to put the case more clearly and simply that, in fact, when we pass a law we expect it to take effect.

Senator Banks, having discovered that this was not always the case, worked for some years to get a private member’s bill passed, the fruits of which are before us today, as they will be once a year, into the future. His bill said that if a law has been passed and given Royal Assent but not put into force for 10 years, it shall lapse unless one of the houses of Parliament passes a resolution saying that no, it should not lapse, that its lapse should be deferred for at least another year. However, Parliament must make that decision.

This is appropriate. It is almost a contempt of the public to have our statute books cluttered up with pieces of legislation that have never been put into effect, and it is certainly a contempt of what parliamentarians thought they were doing when they passed the law.

Once a year, early in the year, the government has to table a list of those laws, or portions of laws, that have been on the books for 10 years but are not yet in force, and by the end of that year either a chamber of Parliament says that, in the case of this particular bill, we will allow it to stay on the books rather than lapsing, or it will lapse.

That is what we are doing today. We are looking at the ones the government has proposed we continue, rather than allowing them to lapse. This is a really good thing. Furthermore, in some cases, it is a very good thing that we allow those laws to stand on the books, even if they are not in force.

I can think of no better example than the Comprehensive Nuclear Test-Ban Treaty Implementation Act, which is No. 7 on the list proposed in the motion that Senator Wallace spoke to Monday evening and that is before us today.

The Comprehensive Nuclear Test-Ban Treaty Implementation Act, as Senator Wallace told us, has not been put into force because the actual treaty is not in force. However, Canada believes it should be, lives in the hope that one day the world will do what it should and the treaty will be in force; and, as long as we have this implementation act on the books, the day the treaty comes into force we will stand ready to do our part. We are not, as a country, prepared to say, “Let it lapse: The whole thing was a hopeless pipe dream.”

There are really good things about this process. However, the “bitter” bit is that there are also things that I think need some attention and improvement in this process.

One is that this list that is published early in the year is simply that: a list. No reasons are given for the failure to bring a particular law or section of a law into force or the decision not to do so.

That makes it very difficult to know whether the decision or failure in question was a good thing or a bad thing. Parliamentarians should know why something is happening if they are expected to vote on it.

The second not-so-good thing is that the motions come to us very late in the year. Notice of this motion was given only last week. As I said, Senator Wallace spoke to it on behalf of the government only on Monday night.

I worked with Senator Wallace for some years on the Standing Senate Committee on Legal and Constitutional Affairs. I know how conscientious he is, how thoroughly he understands the law and legal texts, what a fine eye he has for matters of detail and a what demon for work he is. It is asking, however, a great deal of any senator, however brilliant, to grasp and be able to convey to this chamber, in one short speech, the ramifications of laws ranging from agricultural marketing, to the Canada Marine Act, to pensions, to customs pre-clearance and to firearms.

In other words, rather like the omnibus bills we were discussing earlier today in this chamber, motions concerning the implementation of Senator Banks’ bill are also omnibus affairs.

**Senator Munson:** Ominous?

**Senator Fraser:** Omnibus. The kind that would have wheels, if one were on them.

It would be relatively simple for us to live up to, and for the government to live up to, the spirit of what Senator Banks was so laudably attempting to do if we were given more information, both early in the year when the list is tabled and, more specifically, closer to the time when the motion is going to be presented to us. The departments know why a given law or portion of a law is not in force. It would be “parliamentarily” correct, in my view, for a statement of explanation to be circulated to all senators some time before the motion is presented. In that way, senators would have an opportunity to study the matter and to look into the laws in question.

Senator Wallace can maybe advocate this. He cannot make the decisions. If he could, I am sure everything would be perfect.

I have had the opportunity only to do some quick research on one element of this motion, and that is No. 9 on the list, which concerns the Firearms Act and which says that paragraph 24(2)(d) and sections 39, 42 to 46, 48 and 53 will lapse unless this motion perpetuates them. Why? Why are they not in force? Why should we not let them lapse?

When I look at them they seem largely to be in connection with the import and export of prohibited or restricted firearms. This is a serious subject on which Canada has signed international agreements. It beats me why neither this government nor its predecessors brought those sections into force. I have not been able to ascertain that. It does strike me that they would be, on the face of it, desirable.

• (1640)

Senator Wallace did tell us on Monday:

Given the government’s ongoing review of the current firearms legislative framework, the Minister of Public Safety has requested that the repeal of those provisions be deferred to allow the government sufficient time to examine the potential impacts of that repeal.

I think 10 years, actually 11, strikes me as a good long time to examine the potential impacts.

I am also particularly intrigued by the reference to the government’s ongoing review of the current firearms legislative framework. I thought we had done that. I thought we had disposed of the long-gun registry. I was not aware that there were other reviews of the legislative framework in train except for the regulations concerning gun shows and firearms marking at the border, which do not strike me as core parts of the whole legislative framework. It would have been nice for us to know the context in which we are contemplating this ongoing review and how the sections listed in No. 9 fit into that. It would have been very nice. It is not an agreeable matter for parliamentarians to be asked to vote on something they do not understand and cannot understand. In the case of this government’s approach to the Firearms Act, there has been so much confusion or opacity about so many elements of it.

I was encouraged the other day to see that the Prime Minister agrees that there should be perhaps a revision of the membership of the Firearms Advisory Committee, which at the moment consists only of people who believe their job is to represent the gun community to the government. There are, of course, other people who are concerned with firearms legislation.

I am not standing here to say that I am sure that something nefarious lurks in the weeds and is coming our way. I hope that is not the case. I hope that the new constitution of the Firearms Advisory Committee will provide broad and proper consultation of all the concerned elements of Canadian society since it appears we are going to have a revised legislative framework. However, in the meantime, I do not know why I am being asked to vote on this particular measure.

That is the only item I have had any time to look at. There are 13 others. Senator Lang may understand the reference to the Yukon Act, but I am not sure very many of the rest of us do. Senator Wallace did give us a bit of an explanation, which was helpful, but I reiterate that it would have been far more helpful if we had had advance notice so that all senators could have been able to study not just a list but an explanation of what the list contains and why it contains it. That would be a true service to the parliamentary system, to parliamentarians and to the spirit in which we all so enthusiastically supported Senator Banks’ bill.

That said, honourable senators, I believe we should support this motion as presented. When in doubt, I would argue in this case, do not leave it out. Keep things on the books unless you know why you are killing them, but at least now we know what it is we are keeping on the books. We still do not know why, in many cases, but we know what, and that is a good step in the right direction.

**The Hon. the Speaker *pro tempore*:** It was moved by the Honourable Senator Wallace, seconded by Honourable Senator Mockler:

That, pursuant to the section 3 of the Statutes Repeal Act, S.C. 2008, c. 20, the Senate resolve that the following Act and the provisions of other Acts listed below —

Shall I dispense?

**Some Hon. Senators:** Dispense.

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

**Hon. Senators:** Agreed.

(Motion agreed to.)

(The Senate adjourned until Thursday, December 13, 2012, at 1:30 p.m.)

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