



# DEBATES OF THE SENATE

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OFFICIAL REPORT  
(HANSARD)

Wednesday, February 27, 2013

The Honourable NOËL A. KINSELLA  
Speaker

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

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## THE SENATE

Wednesday, February 27, 2013

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

Prayers.

[Translation]

### SENATORS' STATEMENTS

#### THE LATE MME CLAUDETTE BOYER

**Hon. Marie-P. Charette-Poulin:** Honourable senators, the Franco-Ontarian community said goodbye to one of its staunchest supporters, Claudette Boyer, at a funeral service held here in Ottawa yesterday.

Claudette made history in 1999 when she was the first francophone woman to be elected to the Ontario legislature. She served there as the MPP for Ottawa-Vanier until 2003. During her time in the legislature, she devoted herself to promoting French language rights and to improving programs and services for Franco-Ontarians.

At the time of her death, Claudette was serving as the executive director of the Association canadienne-française de l'Ontario in Ottawa, a position she had held since 2007. A tireless worker, she was in the office finalizing preparations for the Bernard Grandmaitre awards gala the Friday afternoon before she passed away.

Everyone who was acquainted with Claudette knew that she was the kind of person who did not hesitate to contribute when she saw a job that needed to be done.

Bertin Beaulieu, President of ACFO Ottawa, said, "She was a remarkable individual, an exceptional and committed francophone woman who worked tirelessly and gave generously of her time and talents to help the community."

Claudette was a teacher by profession and during her career she was very involved in a number of teachers' organizations. She was the provincial vice-president of the Association des enseignantes et des enseignants franco-ontariens and a school trustee for eight years.

She also volunteered her time with many other francophone organizations, including the Association française des conseils scolaires de l'Ontario, the Association canadienne d'éducation de langue française, the provincial ACFO, the Ottawa Hospital, the Montfort Hospital, the Vanier Museopark, the Centre canadien de leadership en éducation, Richelieu, Perspectives Vanier, and États généraux de la francophonie d'Ottawa.

As I said, she worked hard day after day and had too many friends to count.

I join with the Franco-Ontarian community, particularly that of Ottawa, to express my sincere condolences to Claudette's children, Michel, Pierre and Julie, and to her grandchildren, Jean-Sébastien and Jasmine.

[English]

#### 104TH (NEW BRUNSWICK) REGIMENT OF FOOT

**Hon. Carolyn Stewart Olsen:** Honourable senators, I rise today to speak about a very important bicentennial.

On February 16, 1813, the 104th (New Brunswick) Regiment of Foot set off from Fredericton on a grueling overland march to Kingston, Ontario.

I attended the provincial celebrations marking the bicentennial in Fredericton on this February 16. This month the march will be re-enacted at various points along the original route.

We watched as the re-enactors marched off the parade ground on their way to war. In the freezing rain and snow, I was able to experience a small part of the hardships that these men endured in this hour of need.

The story of the 104th Regiment is the story of New Brunswick. Men from all over the province were recruited into the regiment. Acadian militia mobilized to defend the posts that the 104th left behind on their march. First Nations guides led them through the winter wilderness and brought them to safety.

In keeping with this month's celebration of Black history, let me tell you the story of the 104th's "Black Pioneers."

The 104th fielded a full unit of Black Pioneers, and they really needed them. These Pioneers served as road makers, bridge builders, carpenters and repairmen. They did the hard work and the hard fighting. They were well respected and led the dress parades of the 104th.

These men of iron could wield an axe or a spade with the same skill they wielded a musket and bayonet.

The winter in 1813 was among the worst in living memory. Men marched in temperatures below 30 degrees, and through snowdrifts that piled higher than the fence posts of the scattered settlements they passed.

The Pioneers cleared their way and hacked into the heart of the frontier wilderness. These men sat around small fires, cooking chunks of salted pork. They wore threadbare jackets and moccasins swapped from First Nations traders. They slept under open-roofed shelters made from pine branches and snow.

After reaching the front, the 104th went on to participate in many of the great battles of the war. They were present at Sackets Harbor, Lundy's Lane, Queenston Heights and Beaver Dams.

Their hardships were many, and they were ill from the march, but they still fought on and marched on.

The two-hundredth anniversary of this march, and of the War of 1812, is an unprecedented opportunity for Canadians to take pride in our history and the heroes who defended our country in its time of crisis.

Against all odds, it took the combined efforts of the British, Acadians, Blacks and First Nations to repel the American invasions and defend our country.

Just as we remember our servicemen and servicewomen today, we should not forget the brave men of the 104th.

#### THE LATE HONOURABLE EUGENE F. WHELAN, P.C., O.C.

**Hon. Mobina S. B. Jaffer:** Honourable senators, I rise to pay tribute to our former colleague Senator Eugene Whelan.

We all fondly remember him with his green stetson cowboy hat, which was presented to him at an agricultural fair in Swan River, Manitoba.

He served as Minister of Agriculture under Prime Minister Trudeau for a dozen years. He was proud that he was the only minister to have an office in Western Canada, and he travelled extensively to all parts of our country to listen and learn about the concerns of all Canadians.

During that time, he became a friend of Russian Ambassador Alexander Yakovlev and subsequently hosted President Mikhail Gorbachev in Canada in 1983.

Minister Whelan firmly believed that it was this trip to Canada, especially visiting farms and towns and seeing our productive agricultural sector, that planted the seed of glasnost in the Soviet Union.

Senator Whelan's real legacy was the work he did on behalf of the rural community and the marketing boards he put in place. His vision was to ensure, in his words, that a farmer could get a good return on his investment and the consumer could get a good quality product at a reasonable price. This way, everyone won.

My family also won when Senator Whelan became a part of our lives. As Canada's Minister of Agriculture, Senator Whelan met my father when he spoke at an agricultural meeting in British Columbia. My father was a recent refugee, and Senator Whelan encouraged him to go into poultry farming.

Those who serve in Parliament know that family time is sacrificed for public commitments. Eugene always had his very supportive wife, Elizabeth, and three very loyal daughters, Terry, Susan and Cathy, by his side.

His daughter Susan was elected to the House of Commons and went on to become Minister of International Cooperation.

As Special Envoy to the Peace Process in Sudan, I had the pleasure of working with Susan, who was just as committed as her father to the betterment of humanity.

In the last few years, I came to know Senator Whelan very well through his very devoted assistant, Linda Clifford. For years, Linda was his rock in Ottawa. She later came to work for me, and so I was privileged to share many long conversations with Senator Whelan.

Until last week, I shared my *Hill Times* subscription with him. Senator Whelan always wanted to know what was happening in Ottawa and even to his last days was outspoken about what we should be doing in Parliament to help Canadians.

Eugene, my friend, now I will have to read *The Hill Times* on my own. I will deeply miss our discussions about events in Ottawa.

Rest in peace, Senator Whelan. We will long remember your greeting: "May the little people be kind to you."

• (1340)

[Translation]

#### BLACK HISTORY MONTH

##### NOTABLE BLACK BRITISH COLUMBIANS

**Hon. Yonah Martin:** Honourable senators, I would like to begin by recognizing contributions made by a number of British Columbians who paved the way for the Black community in my province.

[English]

This year, as part of the Black History Month series, Canada Post released a stamp commemorating the life of Seraphim "Joe" Fortes. This year, 2013, is the 150th anniversary of his birth. Vancouverites simply called him Joe.

Joe Fortes figured prominently as Vancouver's first official lifeguard, patrolling English Bay and teaching children to swim. He was beloved by the people of Vancouver. During Vancouver's centennial in 1986, the Vancouver Historical Society named Joe Fortes the Citizen of the Century in Vancouver.

[Translation]

Another well-known British Columbian I became acquainted with recently is Harry Jerome. The son of a railway porter, Harry was once the fastest man in the world, setting a world record of 10 seconds in the 100 metres.

[English]

He won a bronze medal for Canada in the 100 metres at the 1964 Tokyo Olympics. He was named an Officer of the Order of Canada in 1970. Sadly, Harry passed away in 1982 at the age

of 40. However, his legacy lives on in the Vancouver Sun Harry Jerome International Track Classic, an international meet held in Swangard Stadium — a place where I ran the 100 metres as a high school student — and in the form of the bronze statue of him located in Vancouver's Stanley Park. In the year 2010, he was named a Person of National Historical Significance.

Daniel Igali, a British Columbian and Olympic gold medalist, left his country of birth, Nigeria, due to political unrest. He sought refugee status and became a Canadian citizen in 1998. While studying and training at Simon Fraser University, Daniel excelled in wrestling. He became a world champion wrestler in 1999 and won a gold medal for Canada at the 2000 Sydney Olympics. Who can forget his patriotic victory dance that ended with him kissing the Canadian flag?

[Translation]

Finally, I wish to recognize the contribution made by Orville Lee, a star football player at SFU. He was drafted first overall by the Ottawa Rough Riders in the 1988 CFL draft. Later that year, he won the CFL's Most Outstanding Rookie award.

[English]

Orville now runs the Pathfinder Youth Centre Society, helping at-risk youth in Surrey, British Columbia, with his wife, Ruth. They are making a difference in the lives of many young people.

Honourable senators, as we near the end of Black History Month, I am proud to speak of these accomplished African-Canadians from British Columbia who have bettered and are bettering the lives of others. They are part of the proud legacy of Black Canadians.

Last, I wish to recognize Senator Donald Oliver, who was the force behind Black History Month being recognized in the Senate and in Canada, and I thank him for his leadership.

### P.E.I. WOMEN'S INSTITUTE

**Hon. Catherine S. Callbeck:** Honourable senators, for the past century the Federated Women's Institutes of Canada has been a vital part of our communities across the country. Throughout the changes and challenges of rural life, its members have been and continue to be strong and effective advocates in promoting the quality of life in rural communities through improvements in education, health and the rural economy.

Members of the Federated Women's Institutes of Canada can take great pride in the organization's many achievements over almost 100 years. These dedicated women have served to enhance community spirit and pride, and have created an increased awareness of many of the issues affecting people in rural areas. They regularly demonstrate the leadership that has helped to make our communities better places in which to live and work. Indeed, they have gained a reputation for their untiring efforts to bring rural women together, both here at home and around the world.

I have often heard it said that the Women's Institute is the backbone of any rural community. The institute in my home province of Prince Edward Island is very active. There are nearly

100 branches on the Island with nearly 1,000 members. For the P.E.I. centennial, they have planned a variety of special and traditional events, including a well-attended New Year's Levee, the launch of the P.E.I. Women's Institute history book, a provincial convention, an anniversary gala, the Log 100 Fitness Challenge and Old Home Week.

Honourable senators, over the past 100 years, the P.E.I. Women's Institute has made an outstanding contribution, especially to rural areas across the country. Please join me in congratulating the P.E.I. Women's Institute on their one-hundredth anniversary and in wishing them continued success in the future.

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## ROUTINE PROCEEDINGS

### AGRICULTURE AND AGRI-FOOD

#### USER FEE PROPOSAL—REPORT TABLED AND DEEMED REFERRED TO AGRICULTURE AND FORESTRY COMMITTEE

**Hon. Claude Carignan (Deputy Leader of the Government):** Honourable senators, pursuant to Section 4 of the User Fees Act, I have the honour to table, in both official languages, the Canadian Food Inspection Agency's User Fee Proposal for Importer Licensing for Non-federally Registered Sector products.

After consultation with the Opposition Leadership, the designated committee chosen to study this document is the Standing Senate Committee on Agriculture and Forestry.

**The Hon. the Speaker:** Honourable senators, pursuant to rule 12-8(2), this document is deemed referred to the Standing Senate Committee on Agriculture and Forestry.

### CONTROLLED DRUGS AND SUBSTANCES ACT CRIMINAL CODE

#### BILL TO AMEND—FIRST READING

**Hon. Mobina S. B. Jaffer** introduced Bill S-216, An Act to amend the Controlled Drugs and Substances Act and the Criminal Code (mental health treatment).

(Bill read first time.)

[ Senator Martin ]

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

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

## TRANSPORT AND COMMUNICATIONS

### NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY OF EMERGING ISSUES RELATED TO CANADIAN AIRLINE INDUSTRY

**Hon. Dennis Dawson:** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That, notwithstanding the Order of the Senate adopted on June 15, 2011, on March 27, 2012, and on November 1, 2012, the date for the presentation of the final report by the Standing Senate Committee on Transport and Communications on emerging issues related to the Canadian airline industry be extended from March 28, 2013 to April 30, 2013.

## FISHERIES AND OCEANS

### NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY THE REGULATION OF AQUACULTURE AND FUTURE PROSPECTS FOR THE INDUSTRY

**Hon. Fabian Manning:** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the Standing Senate Committee on Fisheries and Oceans be authorized to examine and report on the regulation of aquaculture in Canada and future prospects for the industry;

That the committee report from time to time to the Senate but no later than June 30, 2014, and that the committee retain all powers necessary to publicize its findings until October 31, 2014.

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## QUESTION PERIOD

### CITIZENSHIP, IMMIGRATION AND MULTICULTURALISM

#### COMMUNITY HISTORICAL RECOGNITION PROGRAM—REMAINING REDRESS FUNDS

**Hon. Lillian Eva Dyck:** Honourable senators, in 2006, Prime Minister Harper issued a formal government apology and offered \$20,000 in compensation to those who had paid the head tax or to the spouses of those who had paid it. In addition to that,

a program was initiated called the Community Historical Recognition Program to address some of the history of Chinese-Canadians.

Just to remind honourable senators, from 1885 to 1923, 97,000 Chinese immigrants to Canada had to pay a discriminatory head tax to enter this country. At the time, that tax was equivalent to about one or two years' salary, and it was a major source of revenue for the government. In addition, from 1923 to 1947, an act of Parliament almost entirely blocked Chinese entry into Canada. There were maybe only 11 or 12 Chinese who were able to get into the country.

• (1350)

This morning in *The Globe and Mail*, there was an article that surprised me and disappointed me when I read that half a million dollars aimed at educating Canadians about the head tax and the history of the Chinese immigrants was never spent and that it is being returned or clawed back to government coffers. Susan Eng, one of the Chinese-Canadians who campaigned for the government apology and who sat on the citizen advisory committee that gave out the \$5 million, said the committee did not even know that 10 per cent, or half a million dollars, had not been spent.

Why was the citizen's advisory committee not provided adequate and up-to-date, audited information on the funds expended and remaining in the Community Historical Recognition Program, so that they would have known that a balance of half a million dollars was left?

**Hon. Marjory LeBreton (Leader of the Government):** I thank the honourable senator for the question. I well remember the historic day with the many members of the Chinese community in the galleries of the House of Commons when the Prime Minister made the official apology on the Chinese head tax issue. I am not aware of the article in *The Globe and Mail* this morning and all of the details surrounding it, unfortunately, so I will have to take the honourable senator's question as notice and provide a written response.

**Senator Dyck:** I thank the leader for doing that because it is an important issue.

Also, according to the article, a spokeswoman for Mr. Kenney said the government had intended to spend all the money but it just did not happen. In fact, they say that the Chinese Canadian National Council for Equality had been meant to be a recipient of a grant worth \$400,000, but because the council did not file the necessary paperwork, they were not eligible.

Could there not be an exception made, or could the program not be extended? It sounds like it was simply an administrative issue of not filing paperwork on time in order for this group to get the money. Could that be re-investigated?

**Senator LeBreton:** Honourable senators, absolutely. I will add that question to the one that the honourable senator previously asked and I will seek further information from the department for her.

**Senator Dyck:** As a follow-up, honourable senators, I would like to quote what two people who are involved in the Chinese Canadian history have to say. Mr. Brad Lee, who is a writer, researcher and a big part of the redress campaign, says that he believes the Community Historical Recognition Program funds are seen as “blood money” by many Chinese Canadians. That money should not be taken back by the government, but should be used as part of the redress campaign. He says further:

Redress funds when they are promised must be paid out in full because they're part of an official apology...

I would hope that would add to the leader's request.

Furthermore, Professor Henry Yu from the University of British Columbia, who is a famous historian, says:

You can't make right something that happened 100 years ago, but what you can do is address the legacies of that wrong. That's where education is crucial. Apparently, this kind of program is necessary to correct the deficiencies in our history.

Why cannot Minister Kenney at least extend the deadline to fund the Chinese Canadian National Council for Equality?

**Senator LeBreton:** I have noted the quotations raised by the honourable senator. Let us be clear. Many governments of all political stripes left this issue unresolved. No apology was offered. It was a terrible situation. I am proud to be part of the government and I am proud of the Prime Minister who officially apologized.

With regard to all the issues the honourable senator raised, I will get the responses for her.

**Senator Dyck:** I agree with the leader, honourable senators. The previous government, although it was a Liberal government, did not issue an apology, so the government has done a good thing by putting forward the apology and the programs. I am asking her to extend them a little longer time.

#### IMMIGRATION HISTORY

**Hon. Lillian Eva Dyck:** Honourable senators, my second question is with regard to an email I received on February 1 along the same sort of lines. It came from Immigration Watch. It was addressed to a senator in the chamber, but I believe that probably all senators got it. It was not addressed to me, but to someone on the other side. It was entitled “Our School Textbooks Have Distorted Our Immigration History.” A very large part of this email had to do with false information about the Chinese history in Canada.

I am not sure whether the leader recalls receiving this email message as well, and I know it is putting her on the spot.

**Hon. Marjory LeBreton (Leader of the Government):** As honourable senators know, like most senators, I receive a lot of email and I personally try to respond or I have someone in my office respond. I do not recall receiving it, but I may have. I

receive hundreds and hundreds, probably because I am the Leader of the Government in the Senate, and lately I have been receiving emails with regard to the Senate, as I am sure we all are, some of which are difficult to read.

If the honourable senator would be good enough to give me a photocopy of the email, I will certainly see if, in fact, I did receive it. I probably did. I will be happy to respond.

**Senator Dyck:** I thank the leader for that.

The email came from a group called Immigration Watch. They are rewriting Canadian history and complaining about the information in textbooks. They are spreading information that is not true, so I think it is important that we not allow this to be sent without some kind of recourse.

They claim that only Chinese labourers were required to pay the head tax and that, of course, is not true. A historian friend of mine has written me and said that the example they cite is incorrect. A person named, Mr. Chew Lai Keen brought his wife from China to Quesnel, British Columbia, and he had to pay a \$500 head tax for his wife. Although Immigration Watch claims it was only the labourers, the spouses also had to pay.

In addition, Immigration Watch claims that the “Chinese Exclusion Act” is incorrect as it is stated in the textbooks, because Chinese businessmen, students and a small number of Chinese diplomats did not have to pay the head tax and were not allowed to enter Canada after 1923. Again, my historian friends have assured me this is incorrect. Dr. Peter Li from the University of Saskatchewan has estimated that fewer than 10 Chinese immigrants arrived in Canada between 1923 and 1947 and therefore this organization's information is false.

Would the Leader of the Government in the Senate agree that such incorrect information ought to be combatted by programs such as the Community Historical Recognition Program?

**Senator LeBreton:** First, honourable senators, I cannot, as Leader of the Government, answer for information that appears perhaps in textbooks or wherever it may appear.

When the Prime Minister stood and made the historic apology to our Chinese-Canadian citizens, I recall that a sum of money was allocated for various Chinese community projects to support and educate people on what happened here. If my memory serves me correctly, organizations went through a process to make application for those funds. I would have to get the details.

Organizations that send us emails often have information that perhaps we were not even aware of. I will be happy to check to see if there is any role or anything that falls within the federal government's responsibility.

Regarding the people who write the books that make it into our system somehow or other, whether history books or otherwise, unfortunately, I do not think there is any government that can completely monitor and correct every bit of misinformation that might be out there.



• (1400)

However, we have the proper record of the honourable senator's question, and I will be happy to try to answer, as much as possible, everything that was put on the record.

**Senator Dyck:** I thank the leader for that response. I agree that it is difficult for any government to keep track of this sort of thing. I am merely emphasizing the importance of that program set up in 2006 by the leader's government. This has a current context because now there are Chinese labourers coming to work in British Columbia mines, and there is a rising tide of discrimination against these workers. The email from Immigration Watch says:

... Mainland China has become the world's largest cheap Labour Contractor.

They go on to say:

... the entire world needs to target China with a new "Chinese Labourer Head Tax"....

When I read this, I thought it was terrible. The first friend that I sent it to — the historian — said that it made her blood boil because it is an example of racism.

Would the Leader of the Government in the Senate agree that anti-racism and anti-discrimination efforts, such as those taken by the leader's own program, are important and ought to be undertaken continuously to combat the spread of such misleading information about Chinese Canadians?

**Senator LeBreton:** First, honourable senators, workers under the Temporary Foreign Worker Program come from various countries in the world. Obviously, no government would condone discrimination against any individual who comes into this country under the Temporary Foreign Worker Program.

With regard to the situation in the mine in British Columbia, I think the issue there was some people felt that a number of these positions were not offered to people already living in Canada. No one condones racial discrimination in any form, whether it is against our citizens, people who visit this country or people working here on a temporary basis. Again, one would like to educate people not to be racist or insensitive. Minister Kenney and others, through the various programs that the government embarks upon, work hard to combat problems like this.

To the degree that I can respond to the honourable senator's list of questions and where they actually fall within the purview of the federal government, I would be happy to try to answer them.

[Translation]

## NATIONAL DEFENCE

### RESERVE FORCE—BUDGET

**Hon. Roméo Antonius Dallaire:** Honourable senators, my questions are an attempt to clarify the Minister of Defence's intentions regarding his announcements about making the Armed Forces more efficient in a time of budget cuts. Some key information is lacking, so it is difficult to understand his thought process and objectives.

First, the Minister has stated several times, as have the generals, that no personnel will be cut. Staff will be redirected to meet new requirements, but the numbers will remain the same. We know that there were cuts to the number of full-time reservists. That is not the issue; those cuts were fully explained.

But given the funds that remain after the cuts and changes that have already been implemented, how can they explain their plan to reduce the number of reservists because there is not enough money to give them class A pay, which means part-time pay, particularly in ground forces?

[English]

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, when the new Chief of Defence Staff was appointed, the Prime Minister was very clear that, as we went forward and looked for savings across the government in various departments, the reservists' budget was not to be cut. Our reservists are very important to the overall structure of the Canadian Armed Forces. They are in communities all across the country and are the people we call upon when there is a need to boost the numbers in our forces. I have not seen any examples or proof that in fact the budget of the reservists will be cut.

**Senator Dallaire:** The reserves have been essential in our operational effectiveness. For some units, 25 per cent of their effective force is composed of reservists. One of the great deficiencies of the reserves is that their pay envelope — because they are paid on a daily basis — is part of the O & M envelope. In National Defence, there are capital acquisition costs, personnel costs and then O & M. The reservists' pay is in O & M, and that is now absorbing all of the cuts. Not only is their quality of life being cut, but we are now seeing the reserve pay budget being cut to the extent that some units are down close to 40 per cent. I could provide numbers and units, if necessary, particularly in the army.

Can the leader tell us, if she could query the minister, why he is letting the reserves take such a massive cut in this exercise of rationalization that the government is putting the forces through?

**Senator LeBreton:** We are a bit ahead of ourselves, honourable senators. The Prime Minister was very clear with regard to our reserves. When Minister Flaherty tables Budget 2013, we will actually know about each department.

Again, one of the instructions to the department was to focus on administrative areas. As I mentioned a moment ago, the Prime Minister was clear when the new Chief of Defence Staff was appointed that the front line and the front-line operations of the Canadian Armed Forces were not to be sacrificed and that the cuts should be on the administrative and back end of the process. Let us not get ahead of ourselves. Let us not respond to rumours about what is cut and what is not cut until we actually see the budget.

**Senator Dallaire:** I am afraid that my use of the English language was not appropriate because I was not querying the leader on future cuts. God knows what they will be. I am talking about what is already being implemented after two years of significant cuts that are hitting the operational area of

an important department, which the Prime Minister said he does not want to happen. Does that mean the Minister of Defence is operating on his own? Is he working under a different set of rules?

These are facts, honourable senators, and that is what I am querying the leader about. Will she please go to the minister and get an answer on how is it possible that he is going against the direction of the Prime Minister, let alone his own direction two years ago that said he would not cut people? If I am correct, reservists are still people.

**Senator LeBreton:** Again, the honourable senator gets up and makes these statements. I would really appreciate it if he would provide me with a document that actually points out what he is saying, because since 2006 we have boosted defence budgets by 27 per cent, or over \$5 billion in annual funding.

The honourable senator gets up and talks about cuts here and there, yet we as a government have made unprecedented commitments to our Armed Forces and to the men and women in the Armed Forces, whether it is equipment, uniforms, et cetera. We put significant dollars into the Department of National Defence. Obviously, given the considerable resources consumed with sustaining our troops in Afghanistan, moving forward with our drawdown will have an impact such that there will be monies that can be used elsewhere in DND.

• (1410)

Let us wait to see the overall budget for the Department of National Defence, as it comes up with a plan going forward, before we start making accusations that the government is making wholesale cuts all over the department.

**Senator Dallaire:** Honourable senators, we are still disconnected here. Capacity was built up to fight a war, and in fact they were effective and victorious. We are all proud of that. Since the war has ended, and certainly because of a responsibility we have to the Canadian people with regard to finances, a realignment is required. We are not fighting a war now; we are back home, anticipating and building on that capacity and the experience of our people for whatever the government may require us to do.

In making those decisions, the Minister of National Defence and the Prime Minister spoke of the reservists with great pride and said that we have to keep these people. In fact, the Minister of National Defence stated clearly at the sixtieth anniversary of the military college in St. Jean that institutions like that will have to grow to continue to meet the demands of future conflicts. However, the numbers in the estimates are already showing these cuts. That is what I am trying to understand. Is the minister going down a different path from the direction he has received? Can the leader give us a feel for these cuts?

I will throw out another element to these cuts. I have been speaking about reserves and how they and the O & M budget have been absorbing the cuts. It is interesting to note that a majority of major Crown projects relate to anything above \$100 million. This is the capital program that was not supposed to be cut. Major Crown projects in DND have been moved to the right. When a major Crown project is moved to the right, the government does not spend as much money in the years that the funds are moved out of.

Can the leader give us a list of the major Crown projects that have been moved to the right or de-escalated, such as the Arctic ships that were supposed to number eight and now it is six? Someone even said it might be four. Can she please give us a feel for that exercise to provide a sense of where we are before we start the new estimates and the next cuts?

**Senator LeBreton:** First, if the honourable senator is relying on estimates, they are estimates; that is why they are called estimates and do not include the total budgets for the department.

As I said, we have made unprecedented commitments to the Canadian Armed Forces since 2006. Also, as I pointed out, Canada is no longer fighting an expensive war in Afghanistan. In going forward we are focusing on reducing the administrative tail — that was actually the Prime Minister's word — while maintaining the operational teeth in Canada's Armed Forces.

I can only say to the honourable senator that the government, of which I am proud to be a part, remains committed to providing our military and our military men and women with all the support they need to do their important work, while at the same time being very respectful of taxpayers' dollars.

As the honourable senator knows, all government departments have gone through a review of their spending portfolios. Our efforts are to make administrative changes, but not change front-line services and not reduce the front-line forces of the military.

**Senator Dallaire:** Can the leader guarantee us that her government will not imitate the previous Conservative government that was in power in the late 1980s? At that time, Minister Perrin Beatty said they would breach the capability commitment gap. They produced a white paper. They would buy all that equipment and have the people to achieve that aim. Within two years that whole program was destroyed. In fact, within three years the white paper was unrecognizable and was not even useful.

Right now, the *Canada First* paper, which is a policy paper, I suppose —

**Senator Tkachuk:** Who cancelled the helicopters?

**Senator Dallaire:** — is also disconnected from the capabilities. Can the leader guarantee that history will not repeat itself?

**Senator Tkachuk:** Who did not buy the helicopters?

**Senator Dallaire:** I am talking, not you.

Can the leader guarantee that she will not repeat history with the current exercises that are going on with the Armed Forces, building them up and then bringing them down?

**Senator LeBreton:** First, the honourable senator talked about Perrin Beatty in the 1980s. What I will commit to is that we will not repeat the actions of the previous Liberal government that cancelled the helicopter program and disbanded the airborne. That is the only commitment I can make to the honourable senator.

As I said before and as the Prime Minister said at the time that the new Chief of Defence Staff was named, the efforts in the Department of National Defence going forward are to review and make cuts in the administrative area, while maintaining the capacity of our Canadian Forces and our Canadian men and women to do their jobs with the equipment they need.

**Senator Cowan:** Search and rescue.

**Senator Munson:** Search and rescue.

**Hon. Hugh Segal:** Honourable senators, I have a supplementary question for the Leader of the Government in the Senate.

I know that the thousands of Canadians and their families involved in the reserves are deeply appreciative of the support they have received from this government over the years, specifically of the commitment that the leader was kind enough to cite of the Prime Minister, in his letter on the matter, that whatever cuts might be necessary so that National Defence does its fair share, the sharp end and the reserves be preserved from that kind of problem.

I believe that the Prime Minister meant what he said, as does the Minister of National defence. However, the leader will know from her long experience serving both on that side of the house and this side, and as a distinguished adviser to leaders of the opposition and to prime ministers, that sometimes the bureaucratic interpretation of a direction from the Prime Minister is not quite as precise as we would hope.

Would the leader give some consideration to asking the Clerk of the Privy Council to write the Deputy Minister of National Defence and ask him to report back as to how he intends to ensure that the Prime Minister's direction is actually maintained and put into place?

**Senator Tkachuk:** Good idea.

**Senator LeBreton:** I thank the honourable senator for that question. He and I, because we held the positions of chief of staff and deputy chief of staff in a prime minister's office, saw that actually happen when instructions were given. Somehow or other, when it went through the bureaucratic filter, it came out looking quite different.

All of that is to say that I share the honourable senator's view that the Prime Minister is serious about the reserves. He knows the importance of the reserves across the country and how they impact on the communities.

I will be happy to take the honourable senator's suggestion to the Prime Minister and the Minister of National Defence to seek such assurances from the civilian side of National Defence that they clearly understand what the Prime Minister has said many times.

• (1420)

## ORDERS OF THE DAY

### CORRUPTION OF FOREIGN PUBLIC OFFICIALS ACT

#### BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Johnson, seconded by the Honourable Senator Raine, for the second reading of Bill S-14, An Act to amend the Corruption of Foreign Public Officials Act.

**Hon. David P. Smith:** Honourable senators, I rise to speak at second reading of Bill S-14 to amend the Corruption of Foreign Public Officials Act.

The bill comprises six key amendments that will update Canada's anti-bribery laws. These amendments make sense and bring us in line by implementing some of the international commitments we have made. In fact, Bill S-14 is a direct response to Canada's international anticorruption commitments that have been made over the years.

In 1998, the Liberal government ratified the Organisation for Economic Co-operation and Development Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and became a party to the convention. Bill S-14 updates obligations made under that convention and others, including the United Nations Convention against Corruption and the Inter-American Convention against Corruption.

In 2011, in its report card on where Canada stood, the OECD voiced concern about Canada's legislative and institutional framework governing anti-bribery. It is nice to see the government stepping up to the plate, responding and respecting international commitments. After reading the OECD report card, comparing it with the proposed legislation and taking into consideration the importance our party places on our reputation abroad, this is a bill that we support.

The OECD convention aims to stop the flow of bribes with the goal of creating a level playing field for business by eliminating questionable activities, such as bribery, that may have been used previously by business to get a leg up on the competition. With six amendments to the Corruption of Foreign Public Officials Act, Bill S-14 will bring our laws more in line with the OECD convention.

I regret that Honourable Senator Johnson is not in the chamber today because I had planned to compliment her on her speech on Bill S-14. I understand that she is doing missionary work in Washington, D.C., with Senator Mercer and others. Senator Johnson gave a great description of the bill in her comments.

Borrowing heavily from Foreign Affairs, I will reiterate the basics of the bill. Briefly, the six amendments are the following.

First, the bill will give the Canadian government the power to prosecute Canadians or Canadian companies for bribery in other countries. This means that, regardless of where the bribery occurs, if one has Canadian nationality, one is accountable to the Canadian government.

Second, the bill will get the ball rolling on eliminating facilitation payments. The way things are now, any payments made to any foreign public official to speed things along in a task that is part of his or her job does not constitute a bribe. Needless to say, different countries have different cultures, standards, ethics and norms. Some Canadians would just hold their nose and make the payments. These payments will no longer be tolerated. This amendment will require cabinet approval, so it will follow in time. Once the bill is passed, it will be set in motion.

Third, the bill will empower the RCMP with the exclusive ability to lay charges under the act. Currently, the RCMP International Anti-Corruption Unit is made up of two teams, one in Ottawa and one in Calgary. This amendment will strengthen its role. Our hope is that the government will ensure adequate resources to go along with this. Nowhere does the bill address this, but we will monitor the situation to ensure that the government provides the necessary backup.

Fourth, the bill clarifies what is meant by the word “business” by simply removing the words “for profit” in the definition to ensure that the act applies to all types of businesses, including not-for-profits and charity organizations.

Fifth, the bill will increase the penalty for a foreign bribery offence. Currently, the maximum is five years in jail and unlimited fines. The bill will increase it to 14 years.

Sixth, the bill proposes a “books and records of account” offence that is restricted in scope to the bribery of foreign officials or hiding the bribery. The maximum penalty will be 14 years and unlimited fines.

The Department of Foreign Affairs recently reported in its thirteenth report to Parliament to date that 39 states have ratified the OECD convention, including 34 OECD members and 5 non-member states: Argentina, Brazil, Bulgaria, Russia and South Africa.

Adopting the measures in Bill S-14 will send an important signal to the international community that we take our commitments seriously and will act on them. As Winston Churchill once said, “The price of greatness is responsibility.” We in Canada have been blessed with greatness, and it is up to us to be exemplary and to show nations struggling along that path to greatness how important accountability is on that journey.

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

**Hon. Senators:** Question.

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

(Motion agreed to and bill read second time)

## REFERRED TO COMMITTEE

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

(On motion of Senator Carignan, bill referred to the Standing Senate Committee on Foreign Affairs and International Trade.)

[Translation]

## EMPLOYMENT INSURANCE ACT

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

**Hon. Pierre-Hugues Boisvenu** moved that Bill C-316, An Act to amend the Employment Insurance Act (incarceration), be read the third time.

Honourable senators, I am pleased to speak today at third reading of Bill C-316, An Act to amend the Employment Insurance Act.

Honest Canadians — the silent majority we rarely hear from in Senate committees — will be relieved to learn that people who voluntarily exclude themselves from the labour market by committing a crime will no longer be able to add 52 additional weeks to the 52 regular weeks of employment insurance benefits offered to honest workers.

I want to give two examples that show the contradiction that this bill will resolve. When an honest worker voluntarily leaves his employment to switch career paths, for example, this person is not entitled to employment insurance. He loses that right. However, if someone commits a crime, he voluntarily removes himself from his employment. So that individual should not be entitled to employment insurance.

The people who support maintaining this privilege for criminals were upset by this argument. Unlike what its detractors say, this bill does not take away a criminal's right to employment insurance. It simply removes a privilege that honest workers do not have: receiving 104 qualifying weeks instead of the 52 weeks allowed for 99 per cent of workers.

• 1430

[English]

Worse, the brothers, sisters, mothers and fathers of victims of crime sometimes decide to voluntarily withdraw from the labour market in order to take care of a child victim of sexual assault. After doing so, they do not qualify for Employment Insurance. These parents should be entitled to Employment Insurance benefits instead of the criminal who assaulted their child.

[Translation]

Honourable senators, it is time to dispel certain myths. Criminals in provincial prisons are, for the most part, dangerous criminals. It is disingenuous to believe or suggest that provincial prisons are full of people who do not pay their

finest, such as parking tickets. The people who are in provincial prisons, the people who have voluntarily taken themselves out of the labour force, are thieves, sex offenders, impaired drivers, and members of street gangs or organized crime.

In fact, Kim Pate of the John Howard Society admitted that most people who commit crimes are given soft sentences, that is, they serve their sentences in the community.

I quote:

[*English*]

Most people who commit a crime and are convicted and sentenced receive a community-based sentence; they continue on with their employment, so there is no loss of employment in that regard.

[*Translation*]

In Quebec, 51 per cent of the inmates in provincial prisons receive social assistance, whereas only 5 per cent receive unemployment insurance.

The myth that this bill will greatly penalize women is also false. Ms. Pate answered one of my questions and confirmed that the majority of prisoners, or 90 per cent, are men.

Furthermore, this bill does not penalize offenders serving a sentence of less than two years. In fact, apart from the sentence, anyone who chooses to commit a crime must inevitably assume responsibility for it as a member of society.

The issue of rehabilitation was raised when Bill C-316 was studied. I would like to remind honourable senators of what rehabilitation is. Rehabilitation is and remains a process initiated by the individual to change his criminal behaviour. The state, by giving offenders privileges they do not deserve, is not doing anything to encourage them to make the effort to rehabilitate themselves.

That is why, honourable senators, this bill is fair and responsible towards honest workers who contribute to the employment insurance fund. Thus, on their behalf and that of all Canadians, I urge you to pass Bill C-316.

[*English*]

## FISHERIES ACT

### BILL TO AMEND—SECOND READING NEGATIVED

On the Order:

Resuming debate on the motion of the Honourable Senator Harb, seconded by the Honourable Senator Poy, for the second reading of Bill S-210, An Act to amend the Fisheries Act (commercial seal fishing).

**Hon. Mac Harb:** Honourable senators, I rise —

**The Hon. the Speaker *pro tempore*:** Honourable senators, if the Honourable Senator Harb speaks now, it will have the effect of bringing an end to this debate.

**Senator Harb:** Unless someone else wishes to speak, I would like to exercise my right of final response. If any other senator wishes to speak on this bill, I will be happy to hear what they have to say.

Honourable senators, I wish to thank you for providing us with the opportunity to debate this issue based on fact and on the economics of the dying commercial seal hunt.

To recap, markets for seal products are gone, commercial sealing has been an unviable industry for the past several years, and the government has failed sealers and their communities by not providing compensation or alternatives.

We see Canadians' tax dollars used in support of this industry, including last year's \$3.6-million bailout to the sealing industry and the Canadian government's \$10-million challenge of the European Union ban on seal products at the World Trade Organization.

The government has failed the First Nations and Inuit hunters by not taking advantage of their exemptions under the EU ban. We have seen continued government mismanagement of the multi-billion-dollar fishery. We have seen scientists muzzled and their reports on the seal hunt and the fishery muzzled or ignored. We have seen decisions made based on misleading anecdotal evidence of those who, due to a lack of factual scientific information, or sometimes due to sheer political opportunism, blame seals instead of humans for preventing the recovery of fish stocks.

Honourable senators, we cannot continue to ignore the science or our responsibilities for responsible ocean management.

Unfortunately, I do not have the time to correct the record on all the errors presented by those opposed to ending the hunt, but I will touch on a few.

For example, in speaking to this issue, Senator Manning said:

The commercial hunting of seals is critical to the livelihood of more than 6,000 sealers in rural communities across Atlantic Canada, Quebec and the North. Sealing can provide as much as 35 per cent of a sealer's annual income.

Six thousand sealers? That is not the fact. Only a few hundred sealers were active last year, and only because of a government loan to a foreign-owned processing plant.

Thirty-five per cent of income? In fact, sealers earned just a few hundred dollars each in the past several years. It may have been higher in days gone by, but those days are gone for good.

We were told that seals are hampering the recovery of the groundfish. Yet, scientist after scientist has told both the Department of Fisheries and the Senate committee studying seals that this is just not so. Saying something over and over does not make it true.

[Translation]

Senator Manning admitted that overfishing and mismanagement are harming fish stocks. He then went on to describe the grey seal and what it eats. He described in great detail the study done by the Standing Senate Committee on Fisheries and Oceans on grey seals. However, the commercial seal hunt targets primarily harp seals. From what I understand, it is difficult to tell them apart.

Senator Manning and others made the usual arguments, namely, that seals are carnivores, that seals eat fish and, therefore, common sense should tell us that seals have an impact on the recovery of fish stocks.

As scientists have explained to us, marine ecosystems are much more complex than that. In reality, the most recent studies show that the harp seal is not responsible for cod stock recovery problems because of its predatory habits or because of any competition it represents.

[English]

Human activity must be addressed before seals are pinned with any blame. The fact that we are still fishing cod in areas that are endangered 20 years after the collapse of the stock speaks to a blind ignorance of scientific evidence and the fact that we are failing to manage human impacts on the marine ecosystem.

• (1440)

Instead, we look at any other solution that would not require us to change fishing practices or lose votes.

As for polling, while the honourable senator has quoted polls saying some Canadians support the hunt if it is sustainable, I challenge him to find a poll that says Canadians support the use of their tax dollars to prop up this dying industry. The polls I have seen show that at least 70 per cent are opposed to scarce tax dollars being spent on supporting this unviable industry. The numbers may in fact be higher.

Here is another quote from Senator Manning:

Seal quotas are determined on the basis of an ecosystem approach and considerations such as ice conditions, climate and the abundance of seal herds.

While the quotas should be based on these criteria, sadly politics trumps science every time. In 2012, DFO scientists recommended that the seal hunt quota be reduced by 100,000 because of the negative impacts of climate change

[ Senator Harb ]

on the ice-dependent harp seals. What did the fisheries minister do? He ignored the advice of his own scientists, and instead of decreasing the quota as they recommended, he raised the quota by 25 per cent, up to 400,000 seals.

Another quote from Senator Manning:

Through the efforts of government, seal populations are managed using a precautionary framework...

This is simply not the case. In fact, the Canadian government does not employ a precautionary approach in setting seal quotas, and independent scientists have criticized the Canadian government's seal management plans as reckless and irresponsible.

The honourable senator moved on to spend considerable time pointing fingers and laying blame for the lack of market for these commercial seal products. It is well and good to huff and puff about why the markets are gone, but at the end of the day, the markets will still be gone. It is time for the blame game to stop and for the government to take a real leadership role and work with stakeholders in this industry to move them into the future.

Senator Manning's comments seemed to be largely focused on the findings of the Fisheries Committee's recent study into grey seals — findings that did not reflect the testimony given by witnesses, by the way — but in any case, that study was into grey seals. Harp seals were not studied by the committee, nor were any aspects relating to the commercial seal hunt studied. This is why the bill needs to proceed to committee stage for further study.

Senator Patterson spoke nicely and professed great support for Northern and Aboriginal hunters, but let me be frank. The government could have prevented many of the problems he described if it had acted proactively, as I stated in my comments, instead of using these hunters as icons for the commercial seal hunt and delaying efforts to set them up in what could have been an enviable marketing position.

Senator Patterson spoke at length, as did I, about the challenges and social issues communities in the North face and the role that seals and seal hunting have played in Inuit communities.

Yet, Senator Patterson has failed to acknowledge that the bill permits continued commercial Aboriginal sealing and that, with the help of government, markets for Aboriginal seal products would open once again. This bill allows for continued Aboriginal subsistence and commercial sealing. The EU ban also contains an Inuit exemption. Rather than helping Aboriginal peoples market their products, the government has attempted to confuse their hunt with the East Coast commercial hunt.

Honourable senators, this bill, coupled with government support, will benefit Aboriginal people and allow for the trade in their products. With the commercial East Coast hunt ended, the stigma associated with seal products will fade and demand for Aboriginal products will rise.

Just last week, a group of Canadian international trade lawyers filed a “friend of the court” brief at the World Trade Organization hearings to oppose Canada’s official position on the European Union ban.

This brief pointed out that Canada’s representatives at the World Trade Organization have attacked the European ban because it has an exception for seal products that are the result of subsistence hunting by Aboriginal peoples. According to Canada, treating traditional Aboriginal hunting differently is “ethnic” discrimination.

However, the lawyers point out:

Canada’s argument flies in the face of centuries of Canadian law. The Canadian Constitution enshrines respect for the cultural autonomy and traditions of our aboriginal peoples. Legal distinctions based on those principles are recognized as valid, and even close to sacred, in Canada’s own laws and constitution.

Yet, our government is throwing these principles under the bus in its wild efforts to overturn a legal, democratic ban.

[Translation]

Senator Patterson says that the seal hunt only concerns the regions where it takes place. I would say to him that this concerns all Canadians. The commercial seal hunt is funded by Canadian taxpayers through millions of dollars of direct and indirect subsidies.

The commercial seal hunt seriously tarnishes Canada’s international reputation and hinders its tourism industry.

The commercial seal hunt jeopardizes the Canada-Europe free trade agreement, which represents billions of dollars.

Senator Patterson claims that the global movement to abolish the commercial seal hunt is all about money. On the contrary, international support for banning the hunt shows beyond a doubt that people both in Canada and around the world want the commercial seal hunt to end.

[English]

In conclusion, honourable senators, while I am not surprised that much misinformation was entered into the record during this debate, I am optimistic that we can correct these errors and address the very serious economic issues facing this unviable industry by sending this bill to committee for study. It has just been announced that the grey seal hunt has been cancelled this year because there is no market for it. The harp seal is expected to be in the same boat, I suspect. I thank honourable senators for having the courage to allow this historic debate to begin, and I am asking them to find the courage once again to send this bill to committee.

It is more than apparent that we need to get some real answers about the current state of the industry and the crisis facing our ground fishery, a crisis that has little to do with seals and much to do with the human mismanagement of our ocean and its resources.

I call on honourable senators, therefore, to support the motion to move this bill on to committee. Canadians are counting on them.

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

**Hon. Senators:** Question.

**The Hon. the Speaker:** It was moved by Senator Harb, seconded by Senator Poy, that Bill S-210, An Act to amend the Fisheries Act, be read a second time. Those in favour of the motion will signify by saying “yea.”

**Some Hon. Senators:** Yea.

**The Hon. the Speaker:** Those opposed to the motion will signify by saying “nay.”

**Some Hon. Senators:** Nay.

**The Hon. the Speaker:** The motion is defeated.

(Motion negatived.)

• (1450)

## STUDY ON CURRENT STATE AND FUTURE OF ENERGY SECTOR

### FOURTH REPORT OF ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES COMMITTEE ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Neufeld, seconded by the Honourable Senator Martin, for the adoption of the fourth report of the Standing Senate Committee on Energy, the Environment and Natural Resources, entitled: *Now or Never: Canada Must Act Urgently to Seize its Place in the New Energy World Order*, deposited with the Clerk of the Senate on July 18, 2012.

**Hon. Judith Seidman:** Honourable senators, on November 7 of last year, Senator Neufeld moved the adoption of the fourth report of the Standing Senate Committee on Energy, the Environment and Natural Resources, titled *Now or Never: Canada Must Act Urgently to Seize its Place in the New Energy World Order*. In his speech, the senator offered his insight into the purpose and vision behind this report and invited honourable senators on the committee to do the same.

A member of this committee since my nomination to the Senate in 2009, I am pleased to speak about the *Now or Never* report, which was submitted after three years of careful study. We heard from leading energy thinkers, research groups, industry

stakeholders, national regulators, federal, provincial and territorial representatives, Aboriginal leaders, environmental groups and youth delegates.

From the outset, the committee agreed the final report had to be accessible to the average Canadian reader. This decision reflected the committee's perception of the lack of energy literacy and awareness in Canada. It is this idea of energy literacy and its many implications that I would like to discuss today.

*Now or Never* defines energy literacy as "understanding how energy impacts society." This broad definition includes an understanding of complex systems such as international supply and demand as well as the more basic awareness of household consumption. Above all, an energy literate citizen recognizes that energy pervades all aspects of our lives.

If attained, a collective energy literacy has the potential to facilitate the social licence industry needs to operate. The report puts it this way:

Social licence to build and operate exists when a particular project or activity has ongoing approval within a community-at-large and/or amongst relevant stakeholders.

One cannot have social licence if the people and communities affected are uninformed about the issues at stake. If social licence is not earned and maintained, concerns will grow and development will stall.

As an energy-trading nation, Canada also has an international audience to consider and must earn social licence both at home and abroad.

The relationship between energy literacy and social licence is central to the *Now or Never* report. Priority No. 1 includes a recommendation that "Canadian governments begin an ongoing dialogue at the highest political level, setting the long term energy goals and securing the social licence from Canadians and the world necessary to proceed."

In an effort to contribute to this dialogue, the committee itself adopted new mediums of communication. The committee regularly used Twitter, and the website [Canadianenergyfuture.ca](http://Canadianenergyfuture.ca) provided an online forum for Canadians to express their views on energy issues as the study progressed.

Honourable senators, we have heard that the average Canadian has little insight into the role that energy plays in daily life; yet, as witnesses observed, it is often the consumer who absorbs a price increase or adapts to a required change in behaviour. How then do we ensure that Canadians understand their responsibilities as energy consumers?

My own home province of Quebec offers a number of good examples. Hydro-Québec provides tools to help Quebecers track and analyze their energy use. Their Dare to Compare service allows residents to see how their energy consumption compares to similar households in the region. The service also calculates the difference in dollars and kilowatt hours and offers tips on how to save energy and reduce costs.

Hydro-Québec also offers a home diagnostic test that provides a detailed, personalized evaluation of household energy use. Residents are able to see how much money they can save, whether it is through the installation of a new appliance or a change in behaviour. This tool not only builds awareness of energy consumption but also presents practical solutions and incentive for change.

Hydro-Québec actively markets both of these services, including advertisements in monthly statements and telephone calls to residents to encourage participation. With initiatives like these, Hydro-Québec is promoting energy awareness and building the foundation of an energy literate society.

When the committee began this study, we were aware of a number of powerful myths surrounding energy and the environment in Canada. These myths have the potential to misinform the public and draw attention away from important issues. The *Now or Never* report aims to dispel some of these myths, and there is no doubt that leaders in industry and government have an important role to play. Industry, in particular, has an obligation to provide facts to the public. If communities are engaged in the planning stages, they will be better positioned to play a positive role in future developments.

Hydro-Québec demonstrates leadership in providing facts to the public. Québec Hydropower: Energy for the Future is a website dedicated to myths and realities surrounding the hydro power industry. For example, the myth that hydro power is a significant source of greenhouse gases is countered by the reality that Hydro-Québec accounts for only 0.4 per cent of the GHG emissions from the country's electric utilities, despite producing 33 per cent of the total electricity generated in Canada.

Another myth addressed is that hydro power projects destroy the natural ecosystem. In reality, 40 years of research has shown that a body of water, such as the Baskatong Reservoir in the Gatineau Valley, "is an aquatic ecosystem comparable to a natural lake."

Honourable senators, citizens who are well-informed on energy matters have the capacity to facilitate social licence for development projects in their communities. We can see the effect strong social licence has on the success and speed of adoption of energy projects. For example, Hydro-Québec has developed the Electric Circuit, the first charging network for electric vehicles in Canada. Public support for this initiative has been growing since its official launch on March 30, 2012. Since then, 17 private and institutional partners have joined, including the Montreal airports, Université de Sherbrooke, and Fairmont Hotels & Resorts.

By the end of 2012, the cities of Montreal, Rivière-Rouge and Joliette had all announced their intention to install public charging stations in their municipalities. The Electric Circuit now has over 90 stations in operation, with 150 more planned for development.



Public charging infrastructure is a critical step towards making electric cars a reality in Quebec, and the social licence needed to develop this infrastructure is in place. In fact, support is so strong that the Electric Circuit is expanding beyond Quebec. A new partnership has formed to develop charging infrastructure in the Ottawa-Gatineau region. This is just one example of how social licence can set important and innovative projects in motion.

In Quebec, advancements in electric technology are expanding into public transportation systems as well. Next winter, Bombardier will test their new Primove technology in Montreal. This cutting-edge technology allows buses to be “charged by underground induction stations when they stop to let passengers... on and off.” It also removes the need for overnight plug-ins and allows buses to carry lighter, smaller batteries. Tests in Montreal will ensure the buses perform in harsh winter conditions. Similar tests will occur in the German city of Mannheim, using an urban passenger route.

Undoubtedly, this collaboration between tech and energy industries was bolstered by public support for the development of clean transit technology.

Honourable senators, there is no question the energy issues we face today can be complicated, nuanced and divisive. Yet, a prosperous and sustainable energy future can be realized only within an energy-literate society.

• (1500)

The *Now or Never* report concludes with this call to action:

If Canada is to successfully meet these challenges, there is an urgent need for us to change. Change means diversifying our markets. Change means innovating. Change means consuming energy efficiently. Change means improving our environmental performance. Change means earning social license. Change starts with each of us as energy citizens.

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

**Some Hon. Senators:** Question.

**The Hon. the Speaker:** It was moved by the Honourable Senator Neufeld, seconded by the Honourable Senator Martin, that the fourth report of the Standing Senate Committee on Energy, the Environment and Natural Resources, entitled *Now or Never: Canada Must Act Urgently to Seize its Place in the New Energy World Order*, be adopted.

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

**Hon. Senators:** Agreed.

(Motion agreed to.)

## MISSING AND MURDERED ABORIGINAL WOMEN

### INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Lovelace Nicholas, calling the attention of the Senate to the continuing tragedy of missing and murdered Aboriginal Women.

**Hon. Catherine S. Callbeck:** Honourable senators, this item stands in the name of Senator Jaffer. I have spoken to her. She has agreed that I would speak today and that it would be adjourned in her name.

Honourable senators, I rise today to add my voice to the important inquiry brought forth by Senator Lovelace Nicholas on missing and murdered Aboriginal women. Having listened to speeches from other honourable senators on this topic, I feel compelled to join with them in condemning the senseless violence that we as Canadians have ignored for too long.

As Canadians, we are fortunate to have a safe, functioning democracy where ballots, not bullets, decide who will govern. We pride ourselves on a remarkably high standard of living, universal health care and the knowledge that we can speak our minds or practise the religion of our choice and never have to fear persecution. Regardless of sexual orientation, gender or ethnic origin, we are all equal and will be treated as such.

Yet, for hundreds of young Aboriginal women, Canada has been anything but a safe haven — far from the just and equal society we pride ourselves on being.

We have heard the statistics before from honourable senators, but they are so disturbing that I believe they bear repeating time and time again. The official number of cases of missing and murdered Aboriginal women, according to the Native Women's Association of Canada, is 583, though many argue that it has now risen to well over 600. Approximately two thirds of women were murdered, and a quarter of the cases are unresolved disappearances. Roughly half of the official murders and disappearances, which date back to 1975, have occurred since the year 2000. Therefore, these tragedies are becoming more frequent, not less, and this cannot continue.

André Picard, in an article in *The Globe and Mail*, points out that 500-plus Aboriginal women going missing or being murdered is the equivalent of 18,000 white women going missing or being murdered. It is inconceivable to think how disproportionately Aboriginal women have been victimized.

According to research done by gang expert Michael Chettleburgh, 90 per cent of urban teen sex workers in Canada are Aboriginal, and about 75 per cent of Aboriginal girls under the age of 18 have been sexually abused.

There are no words to describe how sad, frightening and unimaginable these statistics are. Behind those numbers is a mother who has lost a daughter, a husband who has lost a wife, and a child who will grow up without a parent. There is no doubt that not enough attention has been given to this tragic situation.

I firmly support the calls for a national inquiry that have been heard from both sides of this chamber. How many more innocent young women have to die before we act?

Honourable senators, this cannot and should not be a partisan issue; it is a problem that has spanned multiple governments, not just this one. However, as two of my fellow senators have already mentioned, it was this government that ended the funding to the Sisters in Spirit initiative, an initiative that was finally giving us a glimpse into what was really happening to Aboriginal women.

As Senator Dyck stated in her speech:

I cannot stress enough the importance of this groundbreaking research by Sisters in Spirit and the Native Women's Association of Canada. For the first time, we were able to statistically collect, track and investigate cases of missing and murdered Aboriginal women and girls. With this research, the first cracks of light were coming to the darkest corners of our Aboriginal communities. This research then allowed the Sisters in Spirit team to investigate the root causes of violence against Aboriginal women...

Since that original funding provided by the Liberals was cut, this government pledged \$10 million in Budget 2010 to address the issue of missing and murdered Aboriginal women. However, as Senator Dyck also mentioned in her speech, that \$10 million has been allocated for a new RCMP missing persons unit. That unit will not even be operational until next year and will not focus specifically on Aboriginal women. Honourable senators, I fear that this will do little to solve the problem.

This government had an incredible opportunity to work with the Sisters in Spirit initiative, recognize the groundbreaking work they have been doing and support them further with more money and resources. However, instead of providing them with the funds they undoubtedly deserve, this government has other priorities for the taxpayers' dollars. For instance, the government spent \$185,000 on focus groups to test ads for Natural Resources Canada — ads that then cost taxpayers another \$5 million to broadcast. They shelled out \$1 million for a fake lake and another \$60,000 for tickets to sporting events for visiting dignitaries. They wasted \$40,000 to announce the new \$20 bill and spent an incredible \$40 million on media monitoring.

Think about what the NWAC and the Sisters in Spirit could do with that \$40 million. Think of the women who could be helped, the lives that could be saved and the tragedies that could potentially be avoided.

My party is on record as supporting a national inquiry. Just two weeks ago, the Liberals in the other place used their opposition day to bring forth a motion that would create a special committee of MPs to examine the issue of murdered and missing Aboriginal women. I am happy to say that last night that motion finally passed in the other place.

This is a good first step, but it in no way replaces the need for a national inquiry. The government continues to refuse to move forward with that idea time and time again. The question is "why?" There are no good answers, honourable senators. However, an op-ed written in the *Toronto Star* on December 9, I believe, brings up some important points. The author states:

A public inquiry would unavoidably raise questions about broader socio-economic problems in First Nations communities and the extent to which those are the result of an unresolved history of failed government policies. It would also have to explain why 50 per cent of violent crimes against Aboriginals go unprosecuted, compared to 24 per cent in the general population, likely revealing unpleasant truth about our justice system in the process.

• (1510)

However reluctant the government may be to open up these unsettling questions, it is long past time we got the answers.

I must add, honourable senators, that the most recent allegations — and they are just that, allegations — against the conduct of some RCMP officers in British Columbia seem to only fuel this narrative about how our justice system treats the Aboriginal population.

A national inquiry will no doubt shine a light on one of the darkest aspects of our society, drawing attention to the Third-World conditions that so many Aboriginal Canadians are forced to live in, where clean water and adequate housing are more of a dream than a reality for far too many.

In the shadow of Idle No More, there is no better time than now to face the facts and accept the responsibility for what is happening to our Aboriginal population, regardless of how uncomfortable those facts may be. The sooner we admit what is really happening and grasp that we, as a country, might not be as equal or fair as we think we are, the sooner we can help put an end to the disproportionate suffering of so many Aboriginal women and girls.

Honourable senators, there is a section of Highway 16 that stretches between Prince George and Prince Rupert, British Columbia. Over the past 35 years, 18 women have gone missing or have been killed along that 800-kilometre stretch. Aboriginal leaders place the number as high as 43. The "Highway of Tears," as it is now known, has become a centrepiece for murdered and missing Aboriginal women. We owe it to the women who travelled that highway, only to have their journeys cut tragically short, and to the hundreds more who have gone missing or been killed to have a national inquiry. Their deaths cannot continue to be ignored.

The information and answers that come from a national inquiry could be instrumental in ensuring that future generations of Aboriginal women do not have to live their lives in fear. We have a duty to these 583 women and their families to ensure that these unimaginable tragedies end once and for all. A national inquiry is the first step to fulfilling that duty.

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

## QUESTION OF PRIVILEGE

### SPEAKER'S RULING RESERVED

On the Order:

Resuming consideration of the question of privilege of the Honourable Senator Cools, respecting the actions and words of a Library of Parliament Officer, the Parliamentary Budget Officer, as widely reported in last week's press, notably on Friday, February 22, 2013.

**Hon. Gerald J. Comeau:** Honourable senators, first allow me to thank Senator Cools for having brought this extremely important subject to our attention.

Senator Cools has, over the years in this chamber, demonstrated a very intense interest in clarifying the responsibilities and duties of parliamentarians. I think we can all be very thankful for her deep knowledge of the subject.

Senator Cools has much to offer on the question of mandates of officers of Parliament, employees of Parliament, and so on, whom they work for, whom they report to, funding arrangements between officers of Parliament, et cetera. The Library officer to whom she refers in her question of privilege is another case of a question of mandate and jurisdiction that she has brought to our attention, and I thank her again for that.

As parliamentarians, it is our responsibility and duty to be aware of the mandates of our officers of Parliament. It is also up to us, as parliamentarians, to confirm our relationship with the officers of Parliament. Senator Cools has presented some powerful arguments and cool logic regarding the responsibilities placed before us under the Parliament of Canada Act, which we passed in order to authorize this office.

Yesterday, Senator Mitchell intervened with his personal assessment of the value of the Parliamentary Budget Officer, but his intervention was irrelevant to the subject because Senator Cools had not, in any way — and I listened to her speech carefully — referred to the quality of his work. I do not know what his intervention was for.

Senator Fraser raised a number of points. Her first point was that a question of privilege should be raised at the first available opportunity. In fact, this is what Senator Cools did. She referred to that in her opening comments, namely that the newspaper article to which she was referring was dated February 22, which was during the break week. We only came back on February 26. Senator Cools did, in fact, bring her question of privilege at the very first opportunity. This was regarding the fact that the Library officer had made comments at the international level, if I recall correctly, questioning the jurisdiction and the mandate under which he was operating. In fact, Senator Cools did proceed carefully on that point.

Senator Fraser also questioned whether it was an important enough subject. I suggest that Senator Cools did make an extremely important case that the subject is one to which we should be paying attention. What is more important than an employee of Parliament, for whom this mandate and jurisdiction

was made under the Parliament of Canada Act, questioning his own mandate and jurisdiction? If the Library of Parliament officer does not know his mandate and jurisdiction and seeks to have this issue placed before the court, it places us in a situation where we will not go to see a Parliamentary person who does not know what his jurisdiction and mandate is. Therefore, it is a very important subject that needs to be addressed by this chamber.

Senator Fraser's third point was that we should not be looking at issues that are before the courts. I think we have to be careful there. I do not think there is a rule whereby matters that are before the court are automatically excluded from comments by Parliament. I think Parliament can look at items that are before the court. However, with complete respect for what the courts are, in fact, looking at, we have to be mindful that we cannot interfere with the case before the court. We have to be completely respectful of the role of the court — in this case, the Federal Court — in that we do not attempt to intervene in what they are working on.

For these many reasons, I think Senator Cools has raised an extremely important subject that needs to be looked at by this chamber.

• (1520)

In his public comments upon his return from the OECD meeting, the Parliamentary Budget Officer indicated that he is not aware of the full extent of his job. Honourable senators can be helpful as a chamber in clarifying the jurisdiction and mandate of the Parliamentary Budget Officer. However, this is dependent upon the Speaker's ruling. If the Speaker were to determine that there is a *prima facie* case that this should be looked at further, then it should be referred to the Standing Senate Committee on Rules, Procedures and the Rights of Parliament for further investigation, to be followed by a report to the Senate.

**Hon. Claudette Tardif (Deputy Leader of the Opposition):** Honourable senators, I will begin by acknowledging that Senator Cools has raised some interesting questions with regard to the role, responsibilities and mandate of the officer of the Library of Parliament. I would agree that the Senate should look into this. A separate motion has been moved by Senator Comeau that would look at the whole area of officers of Parliament in general, not just the Parliamentary Budget Officer, and their relationship with the two houses, in particular the Senate.

Today, we are dealing with a question of privilege. If it is a question of privilege, I agree with Senator Fraser that there is a serious problem with the timing. If Senator Cools wished to have her issue given priority under rule 13-3, she was required to bring it to the attention of the house at the earliest opportunity; but that was not done. The judicial proceedings initiated by the Parliamentary Budget Officer, about which Senator Cools complained, have been ongoing for some months. If she believes that a Parliamentary Budget Officer's application to the Federal Court is such a threat to all honourable senators and their privileges, then this matter should have been raised in this chamber when the application was made to the Federal Court, not months later. As rule 13-3(2) provides, the question of privilege should have been raised as a substantive motion following notice.

Since I do not believe that this question of privilege is properly before honourable senators, I hesitate to delve into the substance of the issue, thereby implying that I agree with the procedure Senator Cools has followed. I do not agree, particularly given the fact that the Parliamentary Budget Officer made his application to the Federal Court on November 21, 2012. That was more than three months ago. Waiting three months cannot, even under the most generous interpretation, be interpreted as having been raised at the earliest possible opportunity.

Nevertheless, at the risk of giving this question of privilege the procedural legitimacy I do not believe it deserves, I will share a few observations with honourable senators. First, Senator Cools claimed that the Federal Court has no jurisdiction over this matter. She quoted section 2(2) of the Federal Courts Act, which provides that:

For greater certainty, the expression “federal board, commission or other tribunal”, as defined in subsection (1), does not include the Senate, the House of Commons, any committee or member of either House, the Senate Ethics Officer or the Conflict of Interest and Ethics Commissioner...

However, Senator Cools told this chamber that the Parliamentary Budget Officer is an officer of the Library of Parliament. He is not an Officer of Parliament; he is not a member of the Senate or the House of Commons; he is not a member of any committee of Parliament; and he certainly is not the Senate Ethics Officer or the Conflict of Interest and Ethics Commissioner. Section 2(2) does not mention him at all.

When the position of the Senate Ethics Officer was created, the Federal Courts Act was amended to include it in section 2(2). When the position of Parliamentary Budget Officer was created, the Federal Courts Act was not amended. The Parliamentary Budget Officer was not included in section 2(2). It is clear that there is no mention of the Library of Parliament in section 2(2). If the Library of Parliament is not specifically excluded, how can any of its officers be presumed to be excluded? I therefore do not agree that section 2(2) applies to the Parliamentary Budget Officer.

Honourable senators must remember that the basis of the Parliamentary Budget Officer's application to the court concerned the mandate he was given by Parliament, which is contained in statute law in the Parliament of Canada Act. Section 79.3(1) of the PCA says, “The Parliamentary Budget Officer is entitled... “ I repeat “is entitled.” The PBO has a legal statutory right to do something. What does he have a legal right to do? Section 79.3(1) of the PCA states:

... the Parliamentary Budget Officer is entitled, by request made to the deputy head of a department within the meaning of any of paragraphs (a), (a.1) and (d) of the definition “department” in section 2 of the *Financial Administration Act*, or to any other person designated by that deputy head for the purpose of this section, to free and timely access to any financial or economic data in the possession of the department that are required for the performance of his or her mandate.

The Parliamentary Budget Officer feels that he is not receiving the information he is legally entitled to receive and is going to court to enforce his rights, as every Canadian has a right to do. During the Pearson airport legislation controversy in the mid-1990s, the mantra of the Progressive Conservative opposition in the Senate was that everyone has a right to their day in court. The Parliamentary Budget Officer is seeking his day in court.

What the Parliamentary Budget Officer is doing, as an employee of the Library of Parliament, is not all that unusual. On December 14, 2012, Mr. Edgar Schmidt, a lawyer in the Legislative Services Branch of the Department of Justice, applied to the Federal Court for a declaration that the Department of Justice, his own department, was failing to fulfill its obligations under the Statutory Instruments Act and the Department of Justice Act.

Honourable senators, my most serious problem with Senator Cools' proposal is that she is asking the Speaker of the Senate to make a prima facie finding that the Parliamentary Budget Officer has breached the privileges of the Senate, without giving him an opportunity to present his side of the story. He is to be stigmatized by such a finding as an employee working in Parliament without having an opportunity to say a single word in his defence. That is unfair; and that is wrong. Frankly, I do not believe that the Parliamentary Budget Officer has breached the privileges of senators. If Senator Cools believes that he has acted improperly, I suggest that she move a motion to invite him to appear before the Senate in Committee of the Whole to answer honourable senators' questions before this place rushes to judgment, or at least before it rushes to lay charges.

Honourable senators, I respectfully contend that neither the Senate nor any senator has been impeded in the performance of their parliamentary duties as a result of statements made by the Parliamentary Budget Officer.

[Translation]

**Hon. Claude Carignan (Deputy Leader of the Government):** Honourable senators, I must admit that I was quite impressed by the point raised by Senator Cools. I reread her argument this morning, in French. This helped me to better understand all the nuances that she presented to us.

A number of points were raised, including extremely important legal matters related to the offices. The Senate is not an office, but what ability does it have to sue an officer of the Library of Parliament? That is a question the lawyers will surely ask at the Federal Court. But there is more to it than that. A full analysis was done of the mandate of this officer of the Library.

• (1530)

I want to emphasize that I am talking about an officer of the Library of Parliament and not an officer of Parliament. There is also the complete analysis of the legislative framework for the Federal Court's authority to intervene with respect to the power to monitor and control a federal office and how the federal law protects parliamentary privilege.

There is also the analysis of the specific mandate that was given to Kevin Page in his capacity as the Parliamentary Budget Officer. Senator Fraser talked about the fact that the request was submitted in November and that the question of privilege was raised today. Senator Cools very clearly established that the comments that were made last week were what led her to raise the question of privilege and that they constitute an important part of the breach. In my opinion, the question of privilege was raised at the earliest opportunity.

I would like to point out what was said. Parliamentary Budget Officer Kevin Page said that some foreign observers were shocked. He made comments that were harmful to participants and to the reputation of the activity. These observers were shocked at the difficulty they encountered when trying to learn the government's secrets.

Does the PBO's role involve finding out government secrets? Mr. Page is taking the government to court because it refuses to divulge information related to the billions of dollars it intends to cut from departmental spending. We are therefore talking about the intention to restructure or prioritize spending. Does the PBO's role involve finding out secrets? Does the PBO's role involve verifying the government's intention to make cuts?

Senator Cools cited section 79.3 (1) in reference to Mr. Page's mandate:

...the Parliamentary Budget Officer is entitled, by request made to the deputy head of a department...to free and timely access to any financial...data...

This shows that it is factual, that it already exists.

... or economic [data] in the possession of the department that are required for the performance of his or her mandate.

What is required for him to perform his mandate? The existing factual and financial data. Why are they required? They are required to analyze Canada's financial situation, the government's estimates and trends.

In order for the data to be required, they must exist. When he says such things as:

I am being blocked, prevented from unlocking the secrets to discover the purpose of the various financial aspects that we want to examine.

He cannot begin to examine the government's intentions. At first glance, he seems to be overstepping his mandate and there are serious questions about a breach of privilege.

Mr. Speaker, I know that you are well versed in parliamentary law, and I have complete trust in your judgement. I wanted to highlight these issues that seem to be important issues in Senator Cools' argument, and which I believe address the question of the delay and whether the matter was raised at the first opportunity. But it is a process and these are statements that I believe warrant our attention.

[English]

**Hon. Anne C. Cools:** Honourable senators, I rise to speak on my question of privilege, which was suspended yesterday. I would like to thank honourable senators for their interventions, some of which I found very thoughtful. The problem with these issues is that they are large and complicated and never as simple as they seem. They require a fair amount of work to even discern and uncover what is happening in reality. I would like to thank honourable senators for these interventions.

Maybe I can begin with this: I have conformed with all the Senate rules in raising a question of privilege in every single way. That is undoubted.

I would also like to say to all that it does not matter what date the Library officer commenced his proceeding. What matters is when I became aware of the substance and the depth of what was in that proceeding. I hasten to add that that proceeding has not even begun yet, so those who think it began in November are mistaken. It has not begun. As a matter of fact, pleadings are due in the next two or three days and the hearing itself is set for March. Therefore, it has not begun. Regardless, this is a very wrong approach. What matters is when I became aware of what was happening.

I will also tell honourable senators that I did not acquire this knowledge from just reading these newspaper articles last week. I probed. I went to the court documents to discover what was happening. The newspaper reports are quite different. Their descriptions of what is going on are quite different from what is really going on.

Perhaps I can take just a second to put ourselves into the right ballpark. I am not interested that much in whether or not the Library officer is a federal tribunal. My concern — I will begin with this, and I shall end with this — is that this officer has subjugated the Parliament of Canada Act to the jurisdiction of the courts. The Parliament of Canada Act is an act that borders on sacredness, because it embodies all the powers and privileges of Parliament. Let us be clear that that is what I am trying to show.

I have given this much thought. In my speech yesterday, I deliberately cited Mr. Justice Iacobucci when he decided that the Federal Court of Canada had no jurisdiction over the Parliament of Canada Act. This position of the Library officer is totally different from the Auditor General and the other so-called officers of Parliament. The Parliament of Canada Act is very clear that this officer is a Library officer whose functions are research-based and who is subject to the control and the direction of the Speakers of the two houses. There is no doubt whatsoever about the line of command and the location and the locus of authority for actions. There is no doubt whatsoever.

Honourable senators, in these last weeks of the Parliamentary Budget Officer's term, his actions escalated. Most egregious are his Federal Court proceeding and his new international foray. All these deny our constitutional framework and offend the privileges of Parliament. Yesterday I strived to be clear here that I was

taking issue with his unconstitutional and unparliamentary actions. I took no issue with his competence, his work, his research, his analysis, his merits or his qualities, or even the position itself. I was clear and most circumscribed. I took issue with his unconstitutional and unparliamentary actions aimed to enlarge his powers in his peculiar power game.

• (1540)

I took issue with those actions and nothing else. I repeat: not the man, not the position, not the courts, not the journalists, not the reporters. I strive hard for clarity, because we are in an era now where there is so much confusion. Almost no one seems to be able to discern what is happening.

Honourable senators, in her comments yesterday, Senator Fraser conceded that the portions of my speech based on the library officer's remarks at the international meeting meet the "earliest opportunity" test for a *prima facie* case of privilege. However, she has tried to force a situation. She has tried to make my comments on this officer's case a separate issue. She is dividing my comments into separate parts, some which do not meet the earliest opportunity test and therefore are not timely by the *Rules of the Senate*.

I reject that totally, honourable senators, as false thinking. These events are all emanations of the same issue, the same problem, inextricably linked and inseparable. This library officer's remarks at last week's international meeting are the unacceptable culmination of an escalating problem. This officer's remarks constitute the breach that prompted my question of privilege, which is therefore timely.

Honourable senators, Friday's *Ottawa Citizen* reported that the international participants were shocked. This could have come about only in one of two ways: Either the situation that Parliament has created is shocking, or the situation was presented to the international participants in a shocking style. I am disinclined to believe that the Senate will conclude that Parliament has created a shocking situation. The question, therefore, remains: Was the way in which the library officer presented the situation both shocking and contemptuous? Surely, it was.

Honourable senators, my comments on this library officer's court proceedings provide background that is essential to this question of privilege and relate directly to the remedy I seek. This officer's breach establishes his lack of understanding of the parliamentary context and the parliamentary *modus operandi*. The 2009 joint committee report on this officer and his court proceeding provide background. The remedy is with the responsible parliamentary powers. I explained that yesterday.

Honourable senators, I do not want to shock anyone, but I have read that 2009 joint committee report only in the last several days. It is a very fine report. I commend it. The committee was chaired by Senator Carstairs and Peter Goldring. I hate to tell honourable senators that I did not know that report and had not read it until recent days. If senators recall, in those years when the Parliamentary Budget Officer took form, I was otherwise preoccupied with an engagement with ovarian cancer. I hate to admit it, but I did not read that until the past week, and I do not

like anyone to suggest that I missed the earliest opportunity to read it. I know it now, and I am not parting with that information easily.

Honourable senators, the remedy is with the responsible parliamentary powers. Senator Fraser has suggested that we wait until the court case is decided. This can hardly be serious. I can hardly take that as a serious suggestion. She did not use the word "*sub judice*," but I believe she was alluding to the *sub judice* convention. It is not even a convention. That is not even the right word. She did not use the name, but the purpose of this *sub judice* rule is to protect the rights of participants to a fair trial and justice, usually in criminal cases.

We can look at Beauchesne, sixth edition, page 153. There is a whole section on it. It is very clear that it does not apply in civil cases as it does in criminal cases. If you look at page 154, citation 510, it says:

The Speaker has pointed out "that the House has never allowed the *sub judice* convention to stand in the way of its consideration of a matter vital to the public interest or to the effective operation of the House.

That is only one citation. There are many. In this case that *sub judice* convention could not possibly have an application, because here the participant is the Senate. It is us. It is we. It is the Senate in the person of the library officer — an officer in the service of Parliament — and it is in the Senate in the person of His Honour the Speaker. This *sub judice* rule does not and cannot apply to prevent the Senate from discussing its own internal affairs.

Honourable senators, this library officer has wilfully, loudly and publicly distanced himself from this place in spectacular and provocative ways, while daring all and any to challenge him for his unconstitutional activities. He has been poaching game in the political and exclusive forest of Parliament, not for a library officer whose tasks are research and independent analysis, and not politics.

As my friend the late Alberta Appeal Court Justice John McClung would say, he has been privateering in Parliament's sea lanes. Such piracy is out of order and unconstitutional and contrary to the *lex parliamenti*. His political technique in this power game has been to repudiate and disable the two Speakers and the library's rights, duties and powers under the Parliament of Canada Act.

This act is a nuisance to him. He has asked the Federal Court to seize jurisdiction over this act and to bless his actions and also, while blessing his actions, to invest these unparliamentary actions with its authority. He is seeking the authority of the court to bestow upon him ministerial powers over deputy ministers and departments, which powers are not enacted in the Parliament of Canada Act, which he has repudiated in the first case.

Honourable senators, the proper exercise of constitutional power requires unstinting adherence to definite moral, legal and constitutional principles. Our human condition and imperfect nature informs that those who exercise power must rely on well-tested principles. Not to do so is to rely on personality, self-interest, ambition and vanity. St. Augustine called this *libido dominandi*, the lust for dominion, the lust for power. Human suffering and injustice are the inexorable result when high principles are abandoned.

Honourable senators, I have great respect for the Federal Court, created by statute, moved by second reading, by the then Attorney General Minister John Turner, under whom I served later, when he was Prime Minister and then Leader of the Opposition. In 1970, he kept an eagle eye on the drafting of that act. I affirm that always in our proceedings we have a constitutional and moral imperative to be respectful of Her Majesty's courts and judges, as they have of us in their proceedings. I uphold their constitutional duties to hear our citizens' claims, as I uphold our citizens' sacred rights to justice and redress in their courts for wrongs suffered by them. The courts, the Senate and the House of Commons and the ministry are coordinated institutions of our constitution. Their privileges, being grants of select portions of the sovereign Queen's prerogative, are jealously and closely held. The relations between them are that of constitutional comity, which they are bound to uphold. This comity permits the Constitution to work and avoids constitutional trenching and collision. It provides its balance and equilibrium.

I have great esteem for the judges of the Federal Court. Not long ago, I spoke at a Toronto memorial for its late former Chief Justice, my friend Julius Isaac. I always called him Mr. Justice. I honour him today, and I honour all former colleagues — of whom I have many, including Mark MacGuigan, a former Attorney General who served well on that bench. I am very well acquainted with this court.

• (1550)

Honourable senators, I want to make it clear that the initiative for this proceeding is not the court's; it is not the court's, but the Library officer's. I take issue with his actions, not the court's; it is his actions that are breaches of privilege. This officer's court proceeding is not for the court's relief for a wrong. This is what I meant yesterday when I said we have to be clear on the nature of his proceeding. This proceeding is not for his relief for injustice or wrongs suffered by him, or of any just complaints that compel the offended to seek the court's relief to right wrongs; nor is this the suit of any ordinary citizen in search of justice.

When one invokes the *sub judice* rule, one should understand that this action is not in that group of actions for a relief of wrongs whatsoever. This is no ordinary matter. This is a court proceeding of a solo Library officer, on his own authority, seeking the court's declaration to give him an exclusive ministerial power over deputy ministers in respect of access to ministerial information.

Honourable senators, this is a power not held by the houses, their members or their officers. The first question that has to be answered is: If he claims it according to the Parliament of Canada Act, how did he acquire it? Where did it come from? Did it drop out of the sky? I think not.

Many do not seem to understand the legal term power. Parliamentarians have no share in the administration and supervision of government departments or their deputy ministers and personnel. The Parliament of Canada Act under section 18 of the Constitution Act, 1867, does not give us such jurisdiction, either.

This Library officer has asked the court to enlarge his mandate, his powers, by a declaration of an unknown power that he claims is vested in him or that he seeks to be vested in him. Honourable

senators, his preposterous claim that ministerial power can rest in a Library officer is a frontal attack on the houses and their members, and is an unfriendly attack on responsible government. It is contempt of Parliament.

Her Majesty's ministers, by commissions, have exclusive direction and supervision of the public service and deputy ministers. I repeat: Powers not held by the houses, members and certainly by no Library officer whose sole role is research and independent analysis.

The Parliament of Canada Act neither intended nor enacted any ministerial power for this Library officer, nor can the Federal Court declare such power in him. That he has put the court and us in this position is a deplorable and unfortunate matter. This is un-parliamentary, a high breach of our privileges and a high contempt of His Honour the Speaker Noël Kinsella, because it violates his role as a high person in Parliament, and his role in the Library of Parliament. Remember that the Library of Parliament is a resource- and knowledge-based institution; it is a very unique and important thing.

Honourable senators, this Library officer's actions to submit the Parliament of Canada Act to the review of the Federal Court has put some serious parliamentary questions before us that need to be answered and for which he should answer before us; he should have the opportunity to appear before us. I completely agree with Senator Tardif in that. He did appear before the joint committee studying his operations in 2009. He should appear before us.

The questions are — and these are parliamentary questions I am posing — whether he accepts the relationship of the Library officers to the Senate Speaker and to the houses, and on what authority did he seek and obtain from the Speaker to initiate this out-of-Parliament proceeding for the determination of a matter that is in the exclusive cognizance of the houses and should be determined by proceedings in the houses?

There is another parliamentary question. I remind senators that I spent many years doing estimates for two different governments. Who is paying the costs of these proceedings, and by which estimates vote will they be authorized? Has he received approval of the Speaker of the Senate for these expenditures, the estimates of which the Speaker must approve?

I said this yesterday: The relationship of the two Speakers to the houses is an executive one, and the Speakers sign the estimates for the houses. Also, I do not mean just a signature; I mean they approve the estimates for the Library of Parliament.

These are parliamentary questions that need to be answered, especially now that we are coming into a peculiar time in the supply cycle, as we know that March is. Therefore, we should have these questions answered as soon as possible, because we are moving into this fiscal supply period of the previous year and moving into the first supply period of the next.

Honourable senators, the Federal Courts Act gives no jurisdiction to the Federal Court over the Parliament of Canada Act, or over the Parliamentary Budget Officer. This Library officer's actions in pretending such jurisdictions are a breach of our Speaker and our privileges.

Section 101 of the Constitution Act, 1867 is the source of constitutional power for Parliament to create courts. By section 101, Parliament in 1875 created the Supreme Court of Canada and also the old Exchequer Court that became the Federal Court of Canada in 1970.

The 1970 Federal Court Act transferred jurisdiction for federal governance matters from the superior courts of the provinces to the exclusive jurisdiction of the new Federal Court. This created a much-needed single, uniform jurisdiction and court for the whole country. This act and its later Federal Courts Act defined the constitutional power for its own jurisdiction over the copious federal organizations and governance functions funded by the public purse and for federal government matters, such as Crown liability, taxes, customs, maritime law, administrative law, the national parole boards — all those bodies. This act was authorized by section 101 of the Constitution Act, 1867 under Part VII, Judicature. It states that the courts created under it are for “the better Administration of the Laws of Canada.”

Honourable senators, the laws of Canada, over which the Federal Court has jurisdiction, are those enacted by Parliament under section 91 of the Constitution Act, 1867, for “the Peace, Order and good Government of Canada.” This is a term of art. Section 91 is under Part VI of the Constitution Act, Distribution of Legislative Powers, with the subheading Powers of the Parliament.

Honourable senators, the Parliament of Canada Act is not one of those section 91 laws. It is not subject to the Federal Court, which has been my point from the beginning. I am winding down.

Honourable senators, the Federal Courts Act was a balance of constitutional, comity, provincial and federal interests, judicial independence, parliamentary sovereignty, and other large justice principles. Subsection 18.3(1) of the Federal Courts Act — the grounds for this Library officer’s proceeding — is clear on the act’s jurisdiction over federal boards, commissions and tribunals. The critical words in that section 2.(1) that I believe Senator Tardif might have overlooked, are the words “powers conferred by or under an Act of Parliament,” meaning that the power of those bodies must be conferred by an Act of Parliament. Its section 2.(1) also defines “the laws of Canada” as:

“laws of Canada” has the same meaning as those words have in section 101 of the Constitution Act, 1867.

This means section 91 laws. I repeat that the laws of Canada over which the Federal Court has jurisdiction are those acts of Parliament enacted under section 91, creating those “federal boards commissions and other tribunals.” The Parliament of Canada Act is not one, and is not a section 91 enactment.

Honourable senators, the fact is that the Federal Courts Act, section 18.3(1), by which this Library of Parliament officer is proceeding, has no jurisdiction over the Parliament of Canada Act. The Constitution Act, 1867, conferred on Parliament and its houses the sovereign and exclusive jurisdiction over their

privileges, immunities and powers and their internal proceedings. Sovereignty and exclusivity are just that — once conferred, they must rest there. Sovereignty cannot be transferred, nor can Parliament take unto itself a power to transfer it to any court. This is absolutely fixed in law by the Constitution Acts of 1867 and 1982.

Honourable senators, the interpretation provisions are clear that in the Federal Courts Act the Senate and the House of Commons are not federal boards, commissions or tribunals. This Library of Parliament officer has a mandate to provide services to the Senate and the House of Commons. It is in these houses that he has remedies. It is to the Senate and the House of Commons that this officer should bring any purported failures of the government to comply with the Parliament of Canada Act. The faithful discharge of his duties demand that he bring his complaint not to the international realm nor to the courts; he should bring his complaints to the Senate and the House of Commons.

In the case *Canada (Auditor General) v. Canada (Minister of Energy, Mines and Resources)*, the Auditor General has been held by the Supreme Court of Canada to have a remedy in Parliament and not in the court when information was not being provided by the government. The Supreme Court affirmed that this was the remedy for a servant of Parliament in the *grundnorm* of the sovereignty of Parliament.

Honourable senators, the problem is that this Library of Parliament officer has repudiated parliamentary principles and important constitutional conventions. By avoiding parliamentary processes and remedies, and by taking his complaints to external bodies and international organizations, he has chosen to violate these principles and to breach the privilege of Parliament, showing his evident contempt for them. This Library of Parliament officer is clearly in contempt of this Senate. The ability of the Senate to credibly carry out its functions is affected. This is a clear breach of our privileges. If the Speaker finds a *prima facie* case of a breach of privilege in these matters, I am prepared to move the required motion.

**The Hon. the Speaker:** Honourable senators, pursuant to rule 2-5.(1), the Speaker is able to determine when he or she has heard enough from the contributions of all honourable senators to make a decision required of the Speaker. I am at that point now.

In concluding, I wish to thank all honourable senators for their very helpful contributions. It makes the work of the Speaker easier, who, pursuant to the rules, does not decide on the merit or the content of the question but simply whether a *prima facie* case exists.

I shall take the matter under advisement.

(The Senate adjourned until Thursday, February 28, 2013, at 1:30 p.m.)



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