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OFFICIAL REPORT
(HANSARD)

Thursday, May 30, 2013

The Honourable NOËL A. KINSELLA
Speaker

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

Debates Services: D'Arcy McPherson, National Press Building, Room 906, Tel. 613-995-5756
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THE SENATE

Thursday, May 30, 2013

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

Prayers.

SENATORS' STATEMENTS

CANADIAN NURSES FOUNDATION

Hon. Betty Unger: Honourable senators, on Thursday, May 2, I was honoured to be a guest at the 2013 Nightingale Gala held by the Canadian Nurses Foundation, the CNF, at the Ottawa Convention Centre. In terms of galas, this third annual event truly qualified. From the 500-plus distinguished patrons and guests to the beautifully decorated room and the delicious dinner service, it was truly a gala, but one with a serious agenda.

The CNF's Nursing 4.0 Campaign was to raise \$4 million to fund scholarships and research opportunities for Canadian nurses. That evening, to great applause from all, it was announced that the hard work had paid off; the \$4-million target had been reached.

Over the past 50 years, the Canadian Nurses Foundation has awarded grants to more than 1,500 nurses and nursing students. Not only have these awards transformed the lives of nurses, they have also created improved experiences and outcomes for millions of patients who have benefited from these investments in nurses.

The keynote speaker was Sarah Painter, who personifies the promise of the newest generation of Canada's nurses. She is currently employed as a registered nurse at the emergency department of the St. Boniface General Hospital in Winnipeg, Manitoba.

• (1340)

She spoke poignantly of feeling called to enter the nursing profession after spending time with her father as they waited together for his chemotherapy treatments, which, sadly, ultimately were unsuccessful in halting the spread of his cancer.

Sarah recalled that the caring and kindness of her father's attending nurses created in her the strong determination to become a nurse, and she is now enrolled in the Bachelor of Nursing Program at the University of Manitoba, thanks to the CNF.

There were other most interesting speeches and personal testimonials, but time does not permit me to talk about them.

In closing, I would like to quote from the letter written by His Excellency the Governor General of Canada, David Johnston, in writing to the CNF:

Every day, the staff and volunteers of the Canadian Nurses Foundation work hard to fund scholarships and research opportunities for Canadian nurses. By supporting them, we

are supporting their efforts to create a smart and caring community for the people they serve — and in turn, a smart and caring Canada for all.

Today, I am asking honourable senators to support the work of the CNF, whether it is in time, talent or resources.

DISTINGUISHED VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the Prime Minister's Gallery of a very distinguished member of Her Majesty's Privy Council, and our former colleague in the Senate, the Honourable Pat Carney.

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

Hon. Senators: Hear, hear!

NATIONAL ASSOCIATION OF FRIENDSHIP CENTRES

Hon. Mobina S. B. Jaffer: Honourable senators, on Thursday, May 23, the National Association of Friendship Centres, MPs Jean Crowder and Chris Warkentin, and I hosted a luncheon reception to celebrate friendship centres in Canada's urban communities.

The National Association of Friendship Centres' board of directors and staff were present at this event, as were their counterparts from the Assembly of First Nations, the Native Women's Association of Canada and the Canadian Building Construction and Trades Association.

The National Association of Friendship Centres' executive director, Mr. Jeff Cyr, and his colleagues, Ms. Farren Saulis, Ms. Heather King-Andrews, Mr. Rufus Jacob and Kelly Patrick, were the organizers of the event.

Friendship centres provide culturally enhanced programs and services to urban Aboriginal people. They facilitate the transition of Aboriginal people from rural, remote and reserve life to an urban environment. Friendship centres are the first point of contact for obtaining referral to culturally based socio-economic programs and services.

These centres support Aboriginal peoples whether they are searching for a place to live, seeking assistance with finding employment, having difficulty accessing health services or searching for a safe place to gather with other Aboriginal peoples.

Honourable senators, over 60 per cent of the Aboriginal population now lives in cities. Friendship centres across Canada serve this growing population, more than half of which is youth under the age of 25.

The impact that the friendship centres have on Aboriginal men and women is life-changing. Andrea Landry, a 24-year-old Aboriginal woman from northwestern Ontario, grew up in a

difficult home and often felt alone and isolated. Feeling like she had nowhere to turn, Andrea turned to drugs and alcohol at a young age.

When Andrea's mother took her to Thunder Bay Friendship Centre, Andrea realized that she was not alone. She met a counsellor, Sandra Kakeeway, who forever changed her life. Grateful for the help given to her during her time of need, Andrea later made the decision to help other people who were facing similar challenges to the ones she once faced. Andrea's quality of life completely changed because of friendship centres.

Honourable senators, Andrea's story shows how friendship centres can change the life of those in need. Friendship centres play a pivotal role in Canadian society. They act as engineers of social change and innovation, as sources of community strength, and as facilitators of community planning and development. Please join me in saluting the work of friendship centres.

BITUMEN-ADDING VALUE—CANADA'S NATIONAL OPPORTUNITY

Hon. Elaine McCoy: Honourable senators, last week I had the privilege of attending a conference called Bitumen-Adding Value: Canada's National Opportunity. I was a keynote speaker there, along with others such as the Honourable Frank McKenna. The conference was sponsored by the Canadian Academy of Engineering, in partnership with the Bowman Centre for Technology Commercialization, Alberta Innovates — Energy and Environment Solutions, and the Sarnia-Lambton Economic Partnership.

The conference consisted of senior government and industry leaders who endorsed the urgent need to increase the economic benefits that flow to Canada from the development of our energy resources. From the conference, an eight-point communiqué was issued, and I will read those eight points to you.

1. Lack of access to international pricing for Canada's oil products represents a value destruction of \$20 to \$30 billion per year.
2. An expanded pan-Canadian pipeline network is key to accessing both domestic and growing global markets.
3. Canada should launch national-scale energy projects as the foundation of its energy strategy and its pathway to sustainable wealth creation and jobs.
4. The Ontario and Alberta governments commit to dramatically enhance their value-added collaboration to improve energy supply chain opportunities, to enhance transportation networks and to develop new energy efficient and environmentally advanced technology.
5. A Sarnia/Lambton bitumen upgrading project to produce refinery ready crudes was identified as a high priority national-scale project, with a call for action, with strong support by a committed region.

6. Delegates urged Canada to shift to a more diversified value-added economy, away from its historic staple-based economy.
7. An Alberta Government/Industry study is being launched to identify pathways to increase the competitiveness of oil sand products in North American and International markets.
8. New technology is key for the long term sustainable development of Canada's natural resources. (The COSIA initiative was identified as an example of the commitment of oil companies to collaborate and share advances in improving environmental performance).

GOVERNOR GENERAL'S PERFORMING ARTS AWARDS

Hon. Douglas Black: Honourable senators, I rise to acknowledge the Governor General's Performing Arts Awards, which are being celebrated today through Saturday. These awards are Canada's highest honour for the performing arts. They represent the pinnacle of artistic achievement. It is our way as a country of celebrating and thanking the greatest artists who work in Canada and bring emotion, beauty and joy to our lives.

This year marks the twenty-first annual celebration of these awards. These honours are given each year to six extraordinary Canadians for their lifetime achievement in any of theatre, dance, classical music, popular music, film or broadcasting.

Past laureates have included Canadians such as Veronica Tennant, Neil Young, William Hutt, Mary Walsh, Angela Hewitt, Buffy Sainte-Marie, Rush and Yannick Nézet-Séguin.

The Ramon John Hnatyshyn Award for Volunteerism in the Performing Arts is also awarded to recognize outstanding voluntary service. Past winners have included Norman Jewison, Gail Asper and Sam "The Record Man" Sniderman.

Finally, since 2008, a mentorship program pairs a past recipient with a mid-career artist who can gain invaluable assistance and experience from working with a seasoned artist.

The recipients will be honoured in the House of Commons today, as well as at a reception hosted this afternoon by Speaker Scheer. This year's winners are violinist and teacher Andrew Dawes; filmmaker Jean Pierre Lefebvre; musician and producer Daniel Lanois; dancer, choreographer and teacher Menaka Thakkar; actor and arts advocate Eric Peterson; and actress Viola Léger.

Actress and filmmaker Sarah Polley is the winner of the NAC Award for Exceptional Achievement over the past performance year. Arts patron Jean-Pierre Desrosiers is the winner of the Ramon John Hnatyshyn Award for Volunteerism in the Performing Arts.

This year's mentorship program participants are playwright John Murrell of Banff, Alberta, and actress and playwright Anita Majumdar.

Tomorrow night, His Excellency the Governor General will present the recipients with their medallions at Rideau Hall.

• (1350)

On Saturday night, the National Arts Centre will stage a gala celebration with moving tributes and dazzling performances. I know that these awards serve to remind us all of the important contributions that Canadian artists make to our country. Canada is an arts nation. Let us celebrate our artists.

[*Translation*]

ACADIAN AND BLACK REPRESENTATION IN THE NOVA SCOTIA LEGISLATURE

NOTICE OF INQUIRY

Hon. Gerald J. Comeau: Honourable senators, I give notice that, two days hence:

I will call the attention of the Senate to how the NDP government is wiping out Acadian and Black representation in the Nova Scotia legislature and to the silence of their NDP friends in the Parliament of Canada on this travesty.

ROUTINE PROCEEDINGS

THE SENATE

CEREMONY FOR THE UNVEILING OF THE NEW SENATE TABLE CALENDAR IN HONOUR OF HER MAJESTY'S SIXTIETH ANNIVERSARY ON THE THRONE—DOCUMENT TABLED

The Hon. the Speaker: Honourable senators, I have the honour to table a transcript of the ceremony held yesterday for the unveiling of the new calendar in honour of Her Majesty's sixtieth anniversary on the throne.

Would there be agreement that a transcript of this ceremony be published as an appendix of the *Debates of the Senate* today and form part of the permanent record of the house?

Hon. Senators: Agreed.

(*For text of document, see Appendix, p. 4098.*)

THE ESTIMATES, 2013-14

MAIN ESTIMATES—TWENTIETH REPORT OF NATIONAL FINANCE COMMITTEE TABLED

Hon. Larry W. Smith: Honourable senators, I have the honour to table, in both official languages, the twentieth report, second interim, of the Standing Senate Committee on National Finance on the expenditures set out in the Main Estimates for the fiscal year ending March 31, 2014.

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

[Senator Black]

QUESTION PERIOD

PUBLIC SAFETY

INTELLIGENCE OPERATIONS— PARLIAMENTARY REVIEW

Hon. Roméo Antonius Dallaire: Honourable senators, my question is for the Leader of the Government in the Senate.

It has been a difficult week for everyone, but it seems that the same scenario keeps playing out over and over. I would like to draw your attention to and question you about the case of Sub-Lieutenant Delisle, who was arrested and imprisoned, as you are aware. He is no longer a member of the Canadian Forces. Intelligence agencies, namely CSIS and the RCMP, were kept in the dark, and an outside agency, namely the FBI, was involved in his arrest. It seems that not even the Department of National Defence was aware of what was happening.

On top of that, there is Mr. Porter who, interestingly enough, is the former head of the Security Intelligence Review Committee. He was arrested in Panama and, given the hour, should be on his way to Canada right now.

Things have changed a lot since the Cold War. We are facing much more sophisticated threats that are often quite surprising and unexpected.

Here is my question: should the government give parliamentarians more influence over coordination of these elements, which would improve accountability to Canadians?

[*English*]

Hon. Marjory LeBreton (Leader of the Government): I thank the honourable senator for the question. On the Delisle case, of course, there are many stories in the media about it. The

honourable senator would know that the government cannot and will not comment on operational matters of national security.

With regard to Arthur Porter and the news stories today about his efforts with respect to the Ivory Coast, there is no indication of knowledge of this by the government. As Senator Dallaire knows, he resigned his position over two years ago. The matters that he is presently involved with regarding events in the city of Montreal around the hospital and other private sector firms have absolutely nothing to do with the government or with the position he held and from which he resigned two years ago.

Senator Dallaire: The reason I would differ with the leader, if I may, in her last statement is the fact that the government does not want to give senators or MPs access to classified material that would permit them to conduct a review or an assessment, even to assess the effectiveness of our intelligence operations and provide recommendations to the government. It does not want to give that to us. However, the gentleman who was overseeing one of our major agencies and had been doing some pretty nasty stuff even before that ends up getting the job, probably because some of the vetting that should have been done, that maybe a group of parliamentarians could have reviewed, was not done.

Why not give us the power to influence in order to ensure that, in these complex times, all those agencies are actually working together and being more proactive, let alone trying to be reactive, as we are seeing now?

Senator LeBreton: It is called the separation of powers, Senator Dallaire, and the honourable senator and all of us know this very well. The fact is that operational matters of national security are the responsibility of the government. Many avenues are open to parliamentarians in both legislatures and through our committee system. This is not something that is new to this government; this is a long-established practice. It is the separation of powers.

There are matters that have to deal with our national security. Obviously, these matters are such that only those people who are directly responsible actually involve themselves in these matters.

Senator Dallaire: I would support that argument during the Cold War. We knew what the threat was; we knew where it was; we even knew how they would probably use the threat; and we were structured accordingly. Yes, parliamentarians, through the normal committee process, probably were able to garner all or nearly the information that they needed to do their jobs without requiring a security classification.

• (1400)

However, since the end of the Cold War, and particularly since 9/11, the threat has actually come within our land, on the borders and inside the country. The threat is from a variety of possibilities. We are a country that was actually built with the concept that no one would ever attack us. When I commanded the Quebec area, I visited all the hydro capabilities there, and a platoon of dummies could have stopped that hydro from going down to the New England states.

In these complex and ambiguous times, without having access to that secure material, yes, the executive will do its job, but where is the accountability by parliamentarians to the people they are

representing, with the process of governance we have, that they are also participatory in ensuring that our capabilities are being maximized and, in fact, are working effectively?

Senator LeBreton: Honourable senators, what Senator Dallaire is advocating, he knows full well and I know full well, is not how any government dealing with delicate security issues would handle this if there is a separation of powers.

There have been examples. I can think of one that many of us on this side were involved with during the Gulf War, when the then Prime Minister struck a committee of certain parliamentarians. Of course, they were then sworn to the Privy Council and were duty-bound to treat these matters with the utmost confidence and security. That is the only way that any government could possibly function, especially in this day and age with the technology and the many challenges that are faced in terms of information flow.

Obviously, honourable senators, there is a separation of powers. It is a long-established practice and it is a practice that I see zero chance of changing, no matter who the government is.

Senator Dallaire: Honourable senators, it is most discouraging, this possible inflexible position, when the scenario around us is changing every day.

Sure, in the Gulf War they brought you in. It took us seven months before we shot the first round. There was a lot of time to sort that out. Even in doing that, it was an ad hoc committee, which worked under a crisis scenario. That is not how we can handle the panoply and complexity of the threats that are present today, and it is certainly not getting ahead of the game before they actually use their capabilities.

I must, however, differ with the honourable senator with regard to separation of the executive and the legislative. The United States, U.K. and Australia — I even testified in front of the Dutch committee — have that capability. They have created these special committees in order to respond to that oversight and give depth to parliamentarians in their input, oversight and accountability of those complex systems and annually report on them. In fact, in one country, they even review their budget. I do not want to get into their operational exercises, but I just do not see why we could not be participatory as an added capability, demonstrating our responsibility to our people by being engaged at that level of security surveillance.

Senator LeBreton: Just to clarify, honourable senators, when I was talking about the example during the Gulf War, I was not a part of it; I was aware of it. It was a group of parliamentarians who were sworn to the Privy Council and brought in in an advisory capacity, so they were fully informed on the operational matters with regard to the Gulf War.

Honourable senators, the answer is the same. Right now, there are oversight committees for CSIS and the RCMP. There are many oversight committees within the structures that have been provided, for the very reasons that the honourable senator cites. Again, when we are dealing with operational matters of national

security that are very complex, I would suggest that no government would not follow the strict procedures of the division of powers.

We have oversight committees and parliamentary committees that are struck to look at the many areas of public policy, and even those parliamentary committees respect and acknowledge that there is certain information that, of course, they would not ask for because they know it is of such a nature that it would not be in the national interest to divulge this information.

SECURITY INTELLIGENCE REVIEW COMMITTEE—
STATUS OF DR. ARTHUR PORTER

Hon. Joan Fraser (Acting Deputy Leader of the Opposition): Honourable senators, I have a supplementary question. Speaking of privy councillors, when Dr. Porter was named to be the head of SIRC, he had to get a maximum-level security clearance and, as I understand it, was named a privy councillor. Have those two things been rescinded?

Hon. Marjory LeBreton (Leader of the Government): First, honourable senators, Senator Fraser is asking about an individual who was in a position and was obviously sworn to the Privy Council for that position. He resigned the position two years ago. The information we are dealing with now has absolutely nothing to do with the government.

The honourable senator is asking me about this in hindsight, but the fact is that, at the time, Dr. Porter was a highly sought-after and respected business person. That was then; this is now. There is now, obviously, other information, but I am not aware of what procedures would precipitate in removing a Privy Council designation. I would have to check on that, honourable senators, because I frankly do not know.

Senator Fraser: Would the leader please do that and let us know?

Senator LeBreton: Yes, I absolutely will.

[Translation]

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of the recipients of the 2013 Governor General's Performing Arts Awards, including our former colleague, the Honourable Viola Léger.

[English]

To each of the laureates, on behalf of all honourable senators, I welcome you to the Senate of Canada.

Hon. Senators: Hear, hear.

[Senator LeBreton]

PRIME MINISTER'S OFFICE

APPOINTMENTS PROCESS—ETHICAL STANDARDS

Hon. Jane Cordy: Honourable senators, Canadians are becoming more and more concerned by what they see as an ever-increasing number of questionable decisions by the Harper government.

This week in Panama, the police arrested Arthur Porter. He is behind bars. Barely two years earlier, Mr. Porter served as the Chair of the Security Intelligence Review Committee at the Prime Minister's request. Canadians have seen criminal charges laid against Bruce Carson, the Prime Minister's former acting chief of staff, and now the resignation of his latest chief of staff, Nigel Wright.

In the *National Post*, the headline for this morning's column by Andrew Coyne was "Moral code of Tories in question." Mr. Coyne writes that the government, at its highest levels, is displaying what he called "a culture of expediency." He says:

It's the whole moral code of this government that's in question.

By all accounts, Nigel Wright is an accomplished and widely admired individual. David Frum had this to say about him:

I've known Nigel Wright since the mid-1980s. I can think of nobody in politics in the U.S., U.K. and Canada whom I admire more.

I had never met Nigel Wright, but I had only heard positive things about the character of the gentleman. If an individual so highly regarded as Nigel Wright was not able to withstand the political culture of deception and expediency that is apparently so prevalent in the Prime Minister's Office, is this government considering revising its own ethical standards and improving how those standards are imparted to individuals working in its political offices?

• (1410)

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, I obviously will not comment on the writings of Andrew Coyne. Those are his views. I do not necessarily share those views, which will not be of any surprise.

Going back to Dr. Porter, at the time of his appointment he was a highly regarded, highly sought-after, outstanding citizen. Of course, he has long since left the position that he held. The events that he now finds himself involved in have absolutely no relation to the position that he held in the past and which he, of course, has left.

With regard to the various other cases the honourable senator raises, I could cite — but I will not because I will not get into this at the moment — many people in other political regimes who have found themselves in difficulty. These are for the courts to decide.

With regard to Mr. Nigel Wright, I, like David Frum, have known Nigel Wright since the mid-1980s. I know him to be an outstanding, intelligent human being and also a very caring human being. If you were to familiarize yourself with the extensive work he does for good causes and the money he gives to charity, he is an outstanding individual.

The fact of the matter is that this happens to be what happened. I know you do not like the answer, but Nigel Wright on his own made the decision to assist Senator Duffy in Senator Duffy's efforts to repay the taxpayer. He clearly made a mistake. He has said he made a mistake. He has said he will fully cooperate with anyone who is involved in looking into this, including the Ethics Commissioner. Because he is such an outstanding individual, I have no doubt that Nigel Wright will be fully forthcoming when he meets with the people who are looking into this matter.

The fact is that this was a decision he made. As I have said publicly, I have been in situations, and it is interesting that people from the other side who have worked for Liberal prime ministers have said the same thing. They can understand how it happened. Of course, they do not think he should have done this. That is the obvious point, but they can understand how it happened. It was a mistake, he said it was a mistake, and that is what happened.

Nigel Wright, being the outstanding person that he is — and he is a very outstanding and ethical person — I am quite sure when the authorities, whoever they are, make inquiries of Mr. Wright, that he will be fully forthcoming and completely honest.

Senator Cordy: These examples that we are seeing over and over and over again certainly go directly to the Prime Minister's judgment in selecting people for positions.

This week, I am sure all of us have been getting hundreds and hundreds of emails. Someone emailed me and quoted Sir Walter Scott, who said, "O what a tangled web we weave when first we practice to deceive."

It seems that over and over and over again the Harper government denies, minimizes and then attacks, whether it is the Liberals and the NDP in the House of Commons or the Liberals and the independents on this side of Parliament.

When will the Harper government change its attitude and become more open and transparent? When issues arise, instead of denying and minimizing them, when are they going to start acting immediately?

Senator LeBreton: Senator Cordy, first of all, the Prime Minister did not deny; he told the truth. I know the truth is hard for you to accept, but that happens to be the truth.

Now, you do not want me, I am sure, to get into a debate with you about ethics when we have a prime minister selling his golf course on the back of an envelope or interfering with the Business Development Bank; and out of the Prime Minister's Office the sponsorship scheme was run, and we are still looking for the missing \$40 million.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I hesitate to interrupt a good exchange, but we do have with us a very distinguished delegation of colleagues from the Parliament of Chile who are accompanying His Excellency the President of the Republic of Chile.

In the Prime Minister's gallery, we have the Honourable Joaquin Godoy, First Vice President of the Chamber of Deputies of the Republic of Chile, and his colleagues from that chamber, who I know are taking copious notes as we continue Question Period.

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

Hon. Senators: Hear, hear!

PRIME MINISTER'S OFFICE

APPOINTMENTS PROCESS—ETHICAL STANDARDS

Hon. Jane Cordy: Honourable senators, I go back to what I said earlier: deny, minimize and attack; touché, or as Andrew Coyne said, when it is brought to light, denying, minimizing and explaining it away.

Going back to my point about why you do not come forward immediately when dealing with things, when we look at former minister Peter Penashue, he overspent in the last general election; he accepted illegal donations in the last general election; he bought the election and won by 79 votes; after quite a lengthy period of time he stepped down, and all we kept hearing from the Harper government was what an honourable thing he did by stepping down. Now, he broke the law, but he stepped down. Are you still saying that it is honourable to step down after you have broken the law, or is it just not the right thing to do?

Senator LeBreton: Again, Peter Penashue represented Labrador, and he worked hard as a member of Parliament representing his riding. Elections Canada obviously pointed out election expense irregularities and he resigned. He resigned and offered himself up again to face the people. He was not successful, but that to me is an honourable thing to do.

I know that many people in that riding voted for him and some did not, but I do not think anyone would deny that he worked very hard and achieved terrific results for the people of Labrador.

PUBLIC SAFETY

CYBER SECURITY

Hon. Wilfred P. Moore: Honourable senators, my question is also for the Leader of the Government in the Senate.

I want to touch on what I asked yesterday with regard to the cyberattacks on our infrastructure and government departments by China, and that you please determine whether or not the Prime

Minister has taken this up with his counterpart from China and whether any other of our government departments have done anything about this. I think it is very important, leader. As you mentioned, and we agreed, this thing is growing. It is like trying to hit a piece of jelly; it is moving all the time, but we must get a handle on it.

In that regard, back on April 25, I asked you who was responsible for protecting our nation from cyberattacks, and you said this falls under the purview of Public Safety. Now, various government agencies are involved in this, so which agency is the lead agency?

• (1420)

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, first, Senator Moore actually asked about representations to the Chinese and I have taken note of that and sent it.

As we know, this is a very complex subject matter. It falls under the general purview of Public Safety, but as you quite correctly claim and state, many agencies and departments are involved in the whole cyber security file: National Defence, CSIS, and the RCMP, which falls under Public Safety. Of course, we have the Canadian Cyber Incident Response Centre.

The short answer to the question, Senator Moore, is that the lead on it is, of course, Public Safety.

Senator Moore: I have a supplementary question. My concern is how are these agencies working together? It came out this week about CSIS and the RCMP operating in silos and not sharing information with regard to the Delisle spy case. How do we know if the various agencies involved in protecting Canada from cyberattacks and intercepting information are sharing it? Is there a protocol in place for that? Maybe this is sort of salad days in terms of cyber warfare. That is what it is. It is theft. It is stealing our intellectual property and our military secrets. Maybe this is something for our Anti-terrorism Committee to look at, but how do we know? Is there a protocol in place where these people are communicating and sharing, not just covering their own fiefdom and bits of information?

Senator LeBreton: To the extent that the security people will divulge how they operate, which I am quite sure they will not, I will take your question as notice to seek at least some overview of what procedures are followed and make sure that they are all communicating with one another and working together.

Senator Moore: Yes, and working in a timely way, not like months later or until someone else passes it on. We want to know that there is concurrent sharing of information and sensitive materials.

[Senator Moore]

HEALTH

MENTAL HEALTH COMMISSION

Hon. Catherine S. Callbeck: Honourable senators, my question is to the Leader of the Government in the Senate.

Over a year ago, the Mental Health Commission came out with a national strategy for mental health. They called it “Changing Directions, Changing Lives.” Since that time, I have been asking a lot of questions about how this government plans to help implement that strategy.

Two weeks ago, I had a letter from the Minister of Health, who did not answer my questions, but the letter mentioned the 10-year mandate of the Mental Health Commission. That is the first time I had heard 10 years. Does the government plan to shut down the Mental Health Commission five years down the road?

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, first, I must point out that it was our government that established the Mental Health Commission. Senator Kirby was the chair of the initial study on health care and I was very pleased to be the deputy chair. He was the chair of the committee that produced the report entitled *Out of the Shadows at Last* — and Dr. Wilbert Keon was the deputy chair — that spawned recommendations for a National Mental Health Commission. Of course, when we formed government, we actually went to the expert on the area, which happened to be Senator Michael Kirby, and we appointed him as Canada’s first Mental Health Commissioner.

The honourable senator should also know that a year ago, in May 2012, the Canadian Mental Health Commission, in concert with the government, released a strategy document that is a resource for all levels of government, in industry and in the volunteer sector, to work on areas where we can work collaboratively to improve mental health in our country. I have heard nothing but good reports on how this is progressing, and I would be very happy to provide the honourable senator with as much information as I can on that particular endeavour.

VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, might I draw your attention to the presence in the Prime Minister’s gallery of a distinguished Canadian, Mr. Jeff Cyr, Executive Director of the National Association of Friendship Centres.

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

Hon. Senators: Hear, hear!

ORDERS OF THE DAY

IMMIGRATION AND REFUGEE PROTECTION ACT

BILL TO AMEND—THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Eaton, seconded by the Honourable Senator Gerstein, for the third reading of Bill C-43, An Act to amend the Immigration and Refugee Protection Act.

Hon. Art Eggleton: Honourable senators, I rise today to speak on Bill C-43. It is an amendment to the Immigration and Refugee Protection Act. Citizenship and Immigration Minister Jason Kenney came to the committee and said that this bill was intended only to deal with those involved in serious criminality, those people who have been abusing the system and staying in Canada far beyond a reasonable period of time and who have been convicted of what he called serious criminality. However, when we got to other witnesses subsequent to that, we heard over and over that this bill will capture more people than just those involved with serious criminality and it will have grave consequences for many.

Gordon Maynard came from the Canadian Bar Association. He is the chair of the committee that deals with these issues. He said quite plainly:

... it is important to understand these changes because these are terrible and harmful amendments.

Honourable senators, he said “these are terrible and harmful amendments” and he is from the Canadian Bar Association. He went on to say:

These amendments will cause many unnecessary and irrational deportations. Parents will be separated from children, husbands from wives; the deportations will involve persons who have lived here for decades, since childhood. Families, neighbourhoods and communities will all be harmed. The harms would be many and long lasting. It is not only these individuals and social units that will be harmed; Canada and Canadians will also suffer. We will lose our legacy of being just and fair.

That is from the representative of the Canadian Bar Association.

With this bill, the minister substantially broadens his power. He becomes the sole voice of discretion in allowing or denying the entry of temporary visitors into Canada based on what are called public policy reasons.

We had an expert witness, Reis Pagtakhan, tell us that the guidelines provided by the minister are vague and they can change from one day to another. He did put some on the website, but

they can change easily and the minister can adopt and adapt when he sees fit.

The minister did agree, when this matter was before the House of Commons, that there needed to be some break on this. He agreed to an annual report on the use of his discretion. However, I proposed to the committee that the minister report to Parliament within 30 days of his decision. This would provide tighter accountability than something that might come a year later as a list of line items. Unfortunately, the Conservatives on the committee did not support this reasonable amendment. I intend to put it again after I complete these remarks.

• (1430)

Honourable senators, clauses 9 and 10 of this bill eliminate the possibility of considering humanitarian and compassionate considerations as factors in balancing whether to deport individuals for national security, terrorism and organized crime related matters. On face value, this seems to make sense. However, as we heard at committee, the reality is that there is a broad spectrum of seriousness within these categories.

For example, most Canadians would likely share the view that a long-time permanent resident's brief and minimal involvement in a local gang as a youth ought to be balanced against their rehabilitation, their strong ties to Canada and proof of a successful and positive contribution to Canadian society. The proposed provision would not allow for the consideration of these factors and would treat all individuals as if they were full-fledged members of organizations like al Qaeda.

In many cases, inadmissibility may be based on involvement in events decades in the past, to various degrees of involvement or when a person was a youth. The person may have compelling circumstances, and the removal could have a devastating impact on Canadian-born children they may have had, spouses, family members and the community at large.

Ministerial discretion to consider humanitarian factors plays an important role in balancing the breadth of inadmissibility sections with positive personal considerations, yet that will be eliminated. It will become an automatic process of these people being turfed from the country.

Here is a real-life example of how this amendment will indiscriminately capture many individuals. It is the example of an Iranian girl that was discussed at the committee. As a teenager, she was involved with an opposition group to the Iranian regime, which we all deplore. She attended meetings. She went to demonstrations and handed out flyers. She was arrested because of her political activities and imprisoned for five years in the infamous Evin Prison, where she was tortured. She later fled to Canada. She has been found inadmissible on security grounds because of her association between the ages of 14 and 16 with a banned group. Would it not make sense for the minister to be able to look at the particular case and the particular circumstances on compassionate and humanitarian grounds and see if it is valid for her to stay in the country? However, that is what is being eliminated here. He will not even have those kinds of discretions. No chance. Send her back to Iran. Iran? My goodness, I hope not.

The witness Barbara Jackman, who is a well-experienced immigration lawyer, emphasized that this was a fundamental change in immigration law. She said:

I do not know if you realize that we have had legislation since 1910. We have always had a humanitarian discretion. It has never been limited. The minister has always been able to say people could remain on humanitarian grounds because they are human cases; they are human beings.

Furthermore, this amendment goes against the United Nations Convention on the Rights of the Child because the elimination of humanitarian and compassionate grounds will prevent consideration of the best interests of an affected child. This clause is inconsistent with the basic Canadian values of fairness and humanitarian compassion. A child who might have been born here could end up being sent out of the country with their parent, on an automatic basis, and that is a violation of the United Nations Convention on the Rights of the Child.

Honourable senators, clause 24 of this bill will deny access to the Immigration Appeals Division review to permanent residents sentenced in Canada to more than six months imprisonment. Now it is at the two-year mark. This would change it from two years down to six months. The two-year threshold is reduced, capturing many more permanent residents and subjecting them to automatic removal with no review by the Immigration Appeal Division of the circumstances of their case.

As witnesses pointed out, not everyone with a six-month jail sentence should be deported regardless of any circumstances. Many things can result in a six-month sentence, or more, that would not be considered in the category of what the minister was referring to as serious criminality, yet they could be caught by the law. Someone in possession, for example, of a small amount of marijuana or someone involved in trespassing or public mischief even comes into this category.

Most witnesses believe this change in the threshold for loss of appeal rights is unnecessary and excessively punitive. It will lead to bad decisions, unnecessary deportations and great hardship to the families in Canadian, notably families with Canadian-born children.

We must also consider the fact that provinces impose different sentences for different criminal activity. The six-month threshold could cause large disparities of deportation from one province to the next for minor criminality.

Furthermore, clause 24 of the bill treats a six-month conditional sentence exactly the same as imprisonment. Conditional sentences are intended to reflect situations of less serious criminality. One does not receive a conditional sentence for serious criminal activity. It is a more minor kind of criminality, and punishment and should not be considered so grave to justify loss of appeals, especially given the serious implications and consequences to the permanent resident.

Frequently a judge will give more than six months in a conditional sentence, whereas on straight jail time it might be something under six months. Under six months, you are fine, but

if you get the conditional sentence, you may not want it because it will take you over six months. Out you go, with no consideration of your particular case. It is automatic.

This section also denies access to the Immigration Appeal Division review for permanent residents convicted of foreign offences regardless of the sentence that the foreign country imposed. An example of this would be using a false or fraudulent document that under Criminal Code section 368 carries a maximum potential penalty of 10 years. For instance, a 20-year-old permanent resident goes down to the United States and uses fake identification on a driver's licence or whatever so he can get into a bar while visiting the U.S. He gets caught, and the U.S. court decides to fine him \$200. The bill does not require a threshold sentence, only a foreign conviction. This means offences such as these will lead to automatic deportation once this permanent resident declares the conviction when arriving home in Canada. Automatic deportation for a \$200 fine? Come on. The punishment is clearly not proportional to the crime. I will have a further amendment on that.

Honourable senators, according to clause 5, foreign nationals who would be required to attend an interview would be obliged to answer all questions for the purpose of an investigation documented by CSIS, as it says. There is no language in the provision to restrict this questioning to what is relevant to the person's application for admissibility. A representative from the B.C. Civil Liberties Association was concerned that the open-endedness of this provision could lead to a fishing expedition. It is unprecedented, contrary to Charter values and almost assuredly this particular measure is ripe for constitutional challenge. It is an open-ended kind of interview that CSIS can conduct, not necessarily totally relevant to the person's application.

Honourable senators, I direct your attention to clause 16. Many witnesses thought it was harsh and short-sighted. The clause states that the permanent resident or the foreign national continues to be inadmissible for misrepresentation for a period of five years. If someone does something on their application that turns out to be a misrepresentation, right now you can be banned from reapplying for two years, and this will change it to five years.

Again, the witness Reis Pagtakhan expressed that there are cases where misrepresentation may happen because the applicant was a victim of a shady representative who acted without the applicant's knowledge. We all know of such instances. We all know that there are people in the immigration consulting business who do not play by the appropriate rules. It is quite possible there may be some changes made to the application.

• (1440)

Bill C-43 would penalize the innocent in these cases. That is why I suggested an amendment that would have stated that the person "knowingly" misrepresented on their application. This would be fair and more consistent, I believe, with Canadian values. If we pass this legislation as it stands, individuals who are vulnerable because of language, cultural or medical reasons will be punished and inadmissible for a much longer period of time. I will move an amendment on this point as well.

Finally, honourable senators, when we craft legislation we should not impose retroactive penalties. We hear that often. In committee, witness Richard Kurland, a lawyer, said that imposing

with retroactive effect the penalty of removal from Canada is incompatible with some of the tenets of our criminal justice system. I tried, through amendment, to ensure that this would not be the case but, again, it was defeated, so I will move the amendment again here.

Honourable senators, I call upon you to amend this bill. Immigration policy should not be based solely on rigid, uncompromising punishments and procedures, but rather on individual due process and compassionate consideration of the circumstances where warranted. This bill does not achieve the intent of the minister and will do harm to many families living in Canada beyond those involved with serious criminality.

MOTION IN AMENDMENT

Hon. Art Eggleton: Therefore, honourable senators, I move that:

1. in clause 5, by deleting in line 14 “must answer truthfully all” and substitution in line 14 “answer truthfully reasonably required...”;
2. delete clauses 9 and 10 of the Bill;
3. in clause 16, by adding in line 8 the following:
“knowingly”;
4. delete clause 24 of the Bill;
5. in clause 8, by adding after line 2 on page 3 the following:
“(4) The Minister must, within 30 days of making a declaration under subsection (1) that a foreign national may not become a temporary resident, table in each House of Parliament a report on the reasons for the declaration.”;
6. in clause 32, by replacing lines 34 to 36 on page 10 with the following:
“respect of a person charged with an offence before the day on which section 24 comes into force.”

The first paragraph has to do with a CSIS interview.

The second paragraph deletes clauses 9 and 10 of the bill. These are the clauses that remove compassionate and humane grounds. This will send that girl back to Iran.

The third paragraph relates to a person who misrepresents on their application but does not do so deliberately or knowingly. This would provide for greater discretion. These are all discretions; they are not automatic. They are meant to take out the automatic and put in discretions. It does not mean that the person will not get a longer period of time or be deported, but it at least allows for some flexibility.

The fourth paragraph of the amendment would delete clause 24 of the bill, which is the amendment that deals with two years becoming six months, possibly catching a lot of other people.

This is a case where, instead of putting in “two years to six months,” they could have listed all of those serious things instead of the minor things. As Senator Campbell said in his remarks, it is sort of a lazy bill; it does not seem to want to spell things out sufficiently. It will cast the net so wide that it will catch not only the big fish but the little fish as well, unfortunately.

The fifth paragraph of the amendment explains that the minister may have very good reasons and we may be very supportive of it, but let us get it within 30 days, not a year later.

Finally, the sixth paragraph of the amendment removes the retroactivity provision.

I submit my amendment.

The Hon. the Speaker *pro tempore*: It has been moved by Senator Eggleton, seconded by Senator Robichaud, that Bill C-43 be not now read the third time, but that Bill C-43 be amended as follows:

Senator Carignan: Dispense.

The Hon. the Speaker *pro tempore*: Is there debate on the amendment?

Some Hon. Senators: Question.

Hon. Larry W. Campbell: I would like to ask the honourable senator a question. I am not sure at what point I can do that.

The Hon. the Speaker *pro tempore*: He has moved the amendments and they are before the chamber. We are open for debate on the amendments.

Senator Campbell: Can I ask a question on that?

The Hon. the Speaker *pro tempore*: You can debate it.

Some Hon. Senators: Question.

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

[*Translation*]

Hon. Fernand Robichaud: Honourable senators, Senator Campbell had some questions to ask in order to shed light on the amendments. He could make a short speech during which he would ask his questions and Senator Eggleton could respond by commenting on Senator Campbell's speech.

[*English*]

The Hon. the Speaker *pro tempore*: That invitation was impliedly put to the honourable senator.

Does the honourable senator wish to participate in the debate on the amendment?

Senator Campbell: I do, honourable senators. I am sorry for the confusion. It was caused entirely by me.

I am concerned about involving little fish. Just yesterday I was reading the paper and realized that one of the little fish that could be caught in this is someone whom I admire greatly and who I believe is a great Canadian; that is, of course, Lord Black. Lord Black was convicted in the United States, rightly or wrongly, and he is now in Canada. He has a conviction and is in Canada. I worry that he would fall under this and he would be deported to England. He is but one who could get caught in this.

I urge honourable senators to consider that if we can catch someone as insignificant as Lord Black, who else is out there? I ask honourable senators to consider the amendments and make this bill not a lazy bill but one that can do some good for Canadians.

Senator Eggleton: Honourable senators, I would like to talk about real little fish. Could the honourable senator tell me about his concerns with respect to little fish other than the one he mentioned, who may not be so little? I mentioned an Iranian girl. There are many other cases where people will not get consideration on humanitarian or compassionate grounds and will be caught because of the six months versus the two years, or who will get caught because they got a fine for an offence in the United States that could result in their deportation. It strikes me that those are a lot of little fish.

Could the honourable senator give us his thoughts on those fish?

Senator Campbell: Honourable senators, it again goes to the idea of the unforeseen circumstances of laws that we pass. The people whom this law is supposed to address are not people who would be welcome in Canada. As I said when we started work on this bill, many of these people already fell under the rules as they are and could have been approached by Immigration and sent out of the country.

I worry about those who received a six-month sentence. All of us here know people, or maybe even have friends, as I do, who have actually received six months. Certainly we have to punish people who have done something wrong, but the additional punishment we are asking for here will send people back to countries where their background might be but where they have not lived in many years. In sending them back to these countries, what are we doing? We are adding one more level of punishment to this.

• (1450)

I am not arguing there are not people who come to Canada who do wrong, who are convicted and have a long-standing record. As I said, it is not a right to be a Canadian, it is a privilege. We should be protecting that, but we should also be recognizing that small people and people who could end up with their lives at risk are affected by this bill.

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

Some Hon. Senators: Question.

The Hon. the Speaker pro tempore: I remind honourable senators that the question before us now is on the amendment.

[Senator Campbell]

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker pro tempore: All those in favour please say “yea.”

Some Hon. Senators: Yea.

The Hon. the Speaker pro tempore: All of those opposed please say “nay.”

Some Hon. Senators: Nay.

The Hon. the Speaker pro tempore: I believe the nays have it.

Some Hon. Senators: On division.

The Hon. the Speaker pro tempore: The motion in amendment is defeated on division.

[Translation]

Senator Robichaud: Honourable senators, I do not want to complicate things, but five motions in amendment were moved. Did we vote on all five in one shot? If that is clear to everyone, then there is no problem.

[English]

The Hon. the Speaker pro tempore: Honourable senators, I now go to the main motion. It was moved by the Honourable Senator Eaton, seconded by the Honourable Senator Gerstein, that Bill C-43, An Act to amend the Immigration and Refugee Protection Act be now read a third time.

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker pro tempore: All of those in favour of the motion please say “yea.”

Some Hon. Senators: Yea.

The Hon. the Speaker pro tempore: All of those opposed to the motion please say “nay.”

Some Hon. Senators: Nay.

The Hon. the Speaker pro tempore: The yeas have it.

And two honourable senators having risen:

The Hon. the Speaker pro tempore: I see two senators standing. Have the whips reached an agreement on a time for the vote?

Senator Munson: A fifteen-minute bell today. This is a special circumstance.

The Hon. the Speaker *pro tempore*: Is there an agreement on a 15-minute bell?

Senator Marshall: Yes.

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

Some Hon. Senators: Agreed.

The Hon. the Speaker *pro tempore*: The vote will be at 10 minutes after three o'clock.

Do I have permission to leave the chair?

Hon. Senators: Agreed.

• (1510)

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

YEAS
THE HONOURABLE SENATORS

Andreychuk	McInnis
Ataullahjan	McIntyre
Bellemare	Meredith
Beyak	Nancy Ruth
Black	Neufeld
Boisvenu	Ngo
Brale	Nolin
Carignan	Ogilvie
Champagne	Oh
Comeau	Oliver
Dagenais	Patterson
Demers	Poirier
Doyle	Raine
Eaton	Rivard
Enverga	Runciman
Fortin-Duplessis	Seidman
Gerstein	Seth
Greene	Smith (Saurel)
Housakos	Stewart Olsen
Lang	Tannas
LeBreton	Tkachuk
MacDonald	Unger
Maltais	Verner
Manning	Wallace
Marshall	Wells
Martin	White — 52

NAYS
THE HONOURABLE SENATORS

Callbeck	Hubley
Campbell	Jaffer
Chaput	Joyal
Cordy	Kenny

Cowan	Massicotte
Dallaire	Mitchell
Dawson	Moore
De Bané	Munson
Eggleton	Ringuette
Fraser	Rivest
Furey	Robichaud
Harb	Sibbeston — 25
Hervieux-Payette	

ABSTENTIONS
THE HONOURABLE SENATORS

Cools — 1

CRIMINAL CODE

BILL TO AMEND—THIRD READING—
DEBATE ADJOURNED

Hon. Vernon White moved third reading of Bill C-299, An Act to amend the Criminal Code (kidnapping of young person).

He said: Honourable senators, I am pleased to speak in support of private member's Bill C-299, An Act to amend the Criminal Code (kidnapping of young person).

This bill's pressing objective is to ensure that strangers who kidnap children are held to account for their crimes. Specifically, the bill would impose a mandatory minimum penalty of five years on those convicted of kidnapping a child.

The bill was amended by the House of Commons Standing Committee on Justice and Human Rights to ensure that its proposed mandatory minimum penalty does not apply to parents. As the sponsor has noted in both chambers, this bill is intended to address the phenomenon of stranger child abduction which so often leads to the direst of consequences.

Although parental child abduction is also a serious offence, it generally occurs in a different context and for a different purpose. Parental abduction of a child is undoubtedly a serious offence, with serious consequences for the child and other family members. However, there are a variety of factors at play in such cases, which frequently include custody and access disputes. As a result, a five-year mandatory minimum penalty would not be appropriate in these cases. I am pleased that the Standing Committee on Justice and Human Rights amended this bill to ensure that its application is consistent with its purpose. I voice my full support for Bill C-299, as amended.

• (1520)

There has been much discussion on the existing legal framework addressing cases involving kidnapping of children by strangers and, in particular, the difference between the applicable offences.

In addition to the kidnapping offence, subsection 279(1), which is before us today, there are two child-specific abduction offences in the Criminal Code that could apply to such cases: sections 280

and 281. Two other offences apply to abduction of children by their parents: sections 282 and 283, which are modelled on section 281.

The kidnapping offence prohibits kidnapping another person with intent to cause the person to be confined, imprisoned against their will or unlawfully transported outside of Canada or with intent to hold the person for ransom or to service.

Section 280 of the Criminal Code prohibits taking a person under the age of 16 out of the possession and against the will of their parent. Section 281 prohibits taking, enticing away, detaining, concealing, receiving or harbouring a person under the age of 14 with intent to deprive their parent of the possession of the child.

Some cases involving the kidnapping of children might also proceed under other offences, such as forcible confinement, subsection 279(2); one of the child-specific or general sexual offences, sections 151 to 153 or sections 271 to 273; or homicide, section 235, depending on the facts of a given and specific case.

Although the kidnapping offence and the stranger child abduction offences may apply to the same set of circumstances, such as any taking of a child by a person who is not the child's parents, the offences require proof of different elements. The kidnapping offence, which originates in ancient British law, protects the right to liberty; it requires proof that the complainant was confined or imprisoned against his or her will. It is an offence of general application, which would apply to anyone who kidnaps a child or an adult.

The stranger child abduction offences, on the other hand, appear to protect the custodial rights of parents. However, the Supreme Court of Canada has commented that these provisions only protect such custodial rights insofar as the parents act in the best interests of their children; therefore, the provision's ultimate purpose is the protection of children.

The child abduction provisions apply only to cases involving the taking of children — under the age of 16 in the case of section 280 and under the age of 14 in the case of section 281. In prosecutions under these offences, the Crown must prove that the taking of the child violated the parents' right to care or control of the child. Parental consent to the taking is at issue, rather than the consent of the child.

In cases proceeding under the kidnapping offence, jurisprudence indicates that the child's consent is rarely a live issue when the child is very young. There may, however, be evidentiary reasons to use the stranger child abduction offences when the child is older and there are allegations that the child went willingly with his or her kidnapper.

The kidnapping offence carries a higher penalty than do the child abduction provisions; a maximum penalty of life imprisonment is imposed for kidnapping and maximum penalties of five and ten years are imposed for sections 280 and 281 respectively. Unlike the child abduction provisions, which do not impose mandatory minimum penalties, the kidnapping offence carries mandatory minimum penalties, which will apply in specific contexts. For example, if a restricted or prohibited

firearm is used or if a firearm is used and the offence is committed in association with a criminal organization, a five-year mandatory minimum penalty is imposed in the case of a first offence and a seven-year mandatory minimum penalty is imposed in the case of a subsequent offence. In all other cases where a firearm is used, a four-year mandatory minimum penalty is imposed.

Bill C-299 would impose an additional mandatory minimum penalty of five years where the complainant is a person under the age of 16 and the alleged kidnapper is not the "parent, guardian or person having lawful care or charge" of that person. Since there is no requirement that these mandatory minimum penalties be imposed consecutively in cases where more than one mandatory minimum penalty applies, the sentencing judge would have discretion to impose any applicable mandatory minimum penalties, either consecutively or concurrently.

Furthermore, the proposed mandatory minimum penalty would apply to cases involving the kidnapping of children under the age of 16, which is consistent with mandatory minimum penalties imposed by the Safe Streets and Communities Act for sexual offences of general application. These reforms came into force in August of 2012.

I have also noted that the bill, as amended, exempts "parents, guardians and persons having lawful care of the child" from the application of the mandatory minimum penalty. Although others have already commented on the meaning of this phrase, the fact that the very same phrase has been interpreted in the context of the Criminal Code child abduction provisions reassures me that the sentencing judges shall have sufficient guidance to determine whether the mandatory minimum penalty should apply in a given case.

Another amendment, which I have not yet mentioned, was also passed by the Standing Committee on Justice and Human Rights. This amendment stipulates that a sentencing court must take into account the age and vulnerability of the victim when imposing a sentence on a person convicted of kidnapping a child.

Therefore, when imposing a sentence in a case involving the kidnapping of a child under the age of 16, this bill would ensure that the court would start with the applicable mandatory minimum penalties and then consider the age and vulnerability of the child, along with any of the aggravating factors, including those that are listed in section 718.2 of the Criminal Code, to determine the appropriate sentence in a given case. These aggravating factors include evidence that the offender abused a person under the age of 18 and evidence that the offender abused a position of trust or authority in committing the offence.

General sentencing principles also apply. Sentencing courts are required to treat offences involving the abuse of a child more seriously by giving primary consideration to the objectives of denunciation and deterrence, section 718.01 of the Criminal Code.

In my opinion, this bill creates a comprehensive sentencing framework for cases involving kidnapping of children, which should ensure that perpetrators receive the punishment they deserve and that is needed.

I am pleased to support Bill C-299 and I encourage all honourable senators to do so. Bill C-299, as amended, better reflects its purpose and, as a result, facilitates the application of its proposed mandatory minimum penalty in appropriate circumstances.

Without doubt, it is incumbent upon us to ensure that the criminal justice system responds to cases involving the kidnapping of children unequivocally — those who would target children in this manner must be severely punished. We must not forget that kidnapping cases so often involve the commission of the most heinous of crimes against children, such as sexual abuse and murder. Holding such offenders to account, preferably before they are able to subject children to this type of torture and suffering, is of paramount importance. This goal is precisely what Bill C-299 seeks to achieve.

Therefore, and with respect, I urge all honourable senators to join me in support of this important legislative initiative.

Hon. Mobina S.B. Jaffer: Would Senator White consider a question from me?

Senator White: Absolutely.

Senator Jaffer: Senator White, we were both members of the Legal Committee. One of the issues that came up with many of the witnesses is that the sentencing that is often given in kidnapping cases is longer than what this bill anticipates. If I am not mistaken, the number I remember is that often the sentence is 10 years. Why does the honourable senator think that this bill is necessary? We already have that in the code.

Senator White: Honourable senators, I agree that often the sentencing is longer than the mandatory minimums are requesting; however, the word “often” does not mean “always.” There are cases when we have to send the message, in particular when it comes to young people in this country, that we are not going to allow this to continue. The judge has the option to choose a consecutive or concurrent sentence. In those cases where the judge does not impose a great enough sentence to ensure the safety of Canadians, I think the option will be taken away from the judge and that five-year mandatory minimums — and in the case of second offences, seven years — will be appropriate.

Senator Jaffer: Would the honourable senator take a second question?

Senator White: I will take as many questions as the honourable senator wishes.

Senator Jaffer: I appreciate that. Forgive me; I am trying to track down what Justice Major said at the end of his presentation, so I am paraphrasing him. If I remember correctly, he said that mandatory sentencing really did not change anything; it did not make any difference.

The honourable senator has been in the system in the sense that he has been supervising the system for so long. Does he really believe that mandatory sentencing does make a difference?

Senator White: I can tell honourable senators that one more day in a jail, for someone who commits a crime such as this, will make a difference of one more day for Canadian citizens. At the end of

the day, some people need to be in jail for long periods of time to protect Canadians, and this is exactly the type of crime for which we should consider mandatory minimums.

Hon. Anne C. Cools: Would the honourable senator take a question from me?

Senator White: Absolutely.

Senator Cools: I am very aware that there seems to be a plethora of these amendments to the Criminal Code that are presented here as private members’ bills. There used to be quite a weighty tradition in this place that amendments to the Criminal Code and to any offences around the body of the person should originate and be initiated at the instance of the Attorney General of Canada, who is also, as honourable senators know, the Minister of Justice.

• (1530)

This causes me concern as to the large number of such bills. Has the honourable senator noticed this? If he has, does he have an explanation he could share with us?

Senator White: Honourable senators, I have been here 15 months. What I have noticed is that private members have great value and meaning in this place and in the other place. I appreciate that private members take serious consideration of serious matters, and each and every one of the private member’s bills I have seen come here deserve that consideration.

In my limited experience, to be honest, I cannot respond to whether or not the change has occurred or if it is healthy.

Senator Cools: I do respect the view that every private member’s bill should be given due consideration. I am just talking about classes of bills. Certain classes of bills have always been thought to be the purview of the Attorney General.

Remember, the Attorney General is simultaneously the Minister of Justice, but as Attorney General, he is also endowed with additional powers in respect to the protection of children because the Attorney General, after all, is the King’s attorney, the Queen’s attorney. Originally, he was what they called the *attornatus rex*, so he has an additional jurisdiction in the safeguard and protection of children.

It may just be my perception, and maybe I am off the wall and totally inaccurate, but it seems to me that offences and amendments to the Criminal Code in these sections of such enormous importance and of such enormity should be originating properly with the Attorney General, because then we know that the Attorney General has put the weight of the Department of Justice and all the drafters and resources at the behest of the bill.

Senator White: I thank the honourable senator for the question. That is the reason that each and every one of us should ensure that the witnesses brought before committees provide the right level of advice. I look at the amendments that were added to this piece of legislation. I think it is important for us to look to the

witnesses for that advice as to whether or not the legislation, as presented, or as amended, is appropriate for that place and this place.

(On motion of Senator Jaffer, debate adjourned.)

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

TWENTY-FOURTH REPORT OF COMMITTEE ADOPTED—MOTION IN AMENDMENT NEGATIVED

On the Order:

Resuming debate on the motion of the Honourable Senator Stewart Olsen, seconded by the Honourable Senator Ogilvie, for the adoption of the twenty-fourth report of the Standing Committee on Internal Economy, Budgets and Administration (Examination of Senator Harb's Primary and Secondary Residence Status), presented in the Senate on May 9, 2013;

And on the motion in amendment of the Honourable Senator McCoy, seconded by the Honourable Senator Cools, that the report be not now adopted, but that it be referred back to the Standing Committee on Internal Economy, Budgets and Administration for further consideration and report.

The Hon. the Speaker: Honourable senators, the question before the house is the motion in amendment moved by the Honourable Senator McCoy, seconded by the Honourable Senator Cools. Is there any further debate on the amendment?

Senator Carignan: Question.

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 McCoy, seconded by the Honourable Senator Cools, that the report be not now adopted but that it be referred back to the Standing Committee on Internal Economy, Budgets and Administration for further consideration and report.

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

Some Hon. Senators: No.

Some Hon. Senators: Yes.

The Hon. the Speaker: Those in favour of the motion will signify by saying "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: Those opposed will signify by saying "nay."

Some Hon. Senators: Nay.

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

Some Hon. Senators: On division.

The Hon. the Speaker: It is defeated, on division.

The question before the house is the main motion.

Hon. Mac Harb: Honourable senators, I rise to speak on the twenty-fourth report.

Canadians deserve to know the facts about whether public money is being spent according to Senate guidelines. Canadians also deserve to know that decisions of the Senate are not arbitrary and respect basic principles of natural justice, which are the foundation of our democracy.

Indeed, the preamble to the Canadian Charter of Rights and Freedoms states that Canada is founded upon principles that respect the rule of law.

As the Supreme Court said in the seminal case of *Dunsmuir*:

By virtue of the rule of law principle, all exercises of public authority must find their source in law. All decision-making powers have legal limits, derived from the enabling statute itself, the common or civil law or the Constitution. Judicial review is the means by which the courts supervise those who exercise statutory powers, to ensure that they do not overstep their legal authority. The function of judicial review is therefore to ensure the legality, the reasonableness and the fairness of the administrative process and its outcomes.

In essence, the Supreme Court reminds us that decision makers must respect basic principles of fairness, and that to ensure that those principles are respected, there must be a process of review.

In drafting the report, the Committee on Internal Economy and its subcommittee acted as quasi-judicial decision makers. That does not mean that it always acts as a quasi-judicial decision maker. However, when claiming to interpret guidelines, rules and the law, namely, in determining what is the legal meaning of "primary residence," and rendering a decision affecting the rights of an individual, its actions fall outside of its functions as a legislative or deliberative body.

His Honour has ruled that reviewing the fairness of these decisions is not a question of privilege. Rather, the review of these questions, according to the Speaker's ruling, must be done by the Senate.

Correspondingly, the Senate must ask itself not only whether the conclusions of the report are supported by facts and rules, but also whether the committee's process has respected the principles of fairness and has appeared fair in the eyes of the public.

In terms of the report before us, I want to raise three key points.

First, the independent auditors report did not find any problems with respect to my expense claims, but the Senate committee did not respect the auditors' findings. The Senate committee did not base their findings on the independent audit.

Second, the independent auditors noted the lack of any clear definition of what constitutes a “primary residence” in the Senate rules. Others came to this same conclusion, including the Prime Minister, who on May 9 said in the other place: “Mr. Speaker, external auditors and experts examined all these expenditures and said that the rules were not clear.”

On the same day, the Leader of the Government in the Senate said the definition was unclear.

Third, the Senate investigative and reporting process has been run contrary to basic principles of natural justice. The process denied me an opportunity to fully participate, and the retroactive application of its proposals is contrary to our fundamental understanding of fairness and justice.

Further, the fairness of the entire process leading to the drafting of the committee reports has been compromised, and it is a recognized principle that process not only needs to be fair but also needs to appear to be fair to the public.

Let me expand. My first point is that the independent auditors found no problems with my expense claims.

I suspect that many honourable senators have read the committee report, but I wonder how many have read the auditor’s report. Those who have read both will recognize that the Internal Economy Committee report does not reflect the conclusions of the independent auditors. Indeed, the committee’s report actually contradicts the independent auditors’ report. For example, the auditors concluded that my accounts were in order; no problems there, but the Senate’s Internal Economy Committee decided otherwise.

It is very important to make this distinction between these two documents because many media reports have implied or even stated that the independent audit found my expense claims to be improper and that I had made claims for expenses to which I was not entitled. The auditors did not make that finding; in fact, they found my claims to be in order and justified.

• (1540)

I would like to remind honourable senators of the actual rules and policies that were in place until June 4, 2012:

In order to claim living expenses in the National Capital Region (area within 100 kilometres off Parliament Hill), a senator must file with the Clerk, and keep up to date, a declaration designating a primary residence in the province or territory represented by the senator.

That is exactly what I did. At the time of my appointment, I was specifically told by the Clerk of the Senate that my declaration of primary residence respected the guidelines and rules. As senators, we should be able to rely on information and advice of the Clerk. Rule 3 of chapter 2.03 of the Senate administration states:

The Clerk of the Senate is the head of the Senate administration and is accountable as such to the Senate through the Internal Economy Committee.

Can I not have confidence in the opinion of that official?

This debate would raise different issues if I was, in fact, never at my declared primary residence. However, as the independent report found, the location where I spent the greatest number of my non-working days was at my declared primary residence.

Honourable senators, allow me to go over some of the important elements of the independent auditor’s report.

Section 5.2 of their finding states that:

The only definition of primary residence in the documentation we reviewed is found in the Senators Travel Policy which came into force on June 5, 2012. It is defined therein as:

the residence identified by the senator as his/her main residence and is situated in the province or territory represented by the senator.

Honourable senators, I meet this definition 100 per cent, without question or debate. Further, I treated, in fact, my home as my home.

The auditor went on to point out that further criteria for determining “primary residence” did not exist. This is my second key point.

Honourable senators, I cannot say it often enough: the independent auditors concluded my expenses were in order and were in full compliance with existing Senate rules and procedures. The audit found my explanation for time spent in Ottawa and at my designated primary residence and elsewhere was well documented and well justified. Yet the Senate committee, upon receiving this wealth of data that confirmed the legitimacy of my claims, produced this report we are discussing today, a report which directly contradicts the findings of the independent auditors.

The committee decided there was no ambiguity in the definition of “designated primary residence.” According to the committee, my “level of presence” at my home did not justify my primary declaration of residence. According to the committee, one should understand a primary residence as being the place where one spends the majority of one’s time.

Honourable senators, I would like to underline my argument with a very important fact. As honourable senators know, we have passed the twenty-fifth report, a report that was intended to update and clarify the rules and regulations surrounding senators’ expenses. This report that was adopted pointed out a number of changes to the existing rules. I have read through this report and its recommendations very carefully. There is absolutely no mention of a single new rule that stipulates the number of nights or the percentage of time that a senator must spend at his primary or, as the new report defines it, “provincial residence.” None; nowhere. It does not demand that a senator spend “the majority of his or her time” at his or her primary residence. There never has been such a requirement in the rules and it appears there will not be in the near future. Yet, this is the very standard I have been held to.

I am now faced with a one-time redefinition of the notion of “primary residence” with retroactive effect. The Senate must ensure that the rule of law is respected. It cannot allow new, arbitrary criteria to be applied retroactively. Such a precedent could apply to any policy and to any member of the Senate and is an obvious and glaring breach of natural justice.

In addition to these two points, honourable senators, my third point is that the process has been flawed throughout. We must distinguish the process of the independent auditors, which the Senate hired at great expense to the Canadian public, and the processes of the committee.

I was allowed to fully participate in the independent auditors’ process. However, I was not afforded a fair process by the Senate committee. I was not given proper notice of the meeting where the report would be discussed. I was not given a copy of the committee report to have it analyzed by my counsel. I was not given the opportunity to have my counsel present legal argument and case law establishing that the notion of “primary residence” is fluid and contextual and that it is never decided exclusively on the basis of days spent in one location.

We now know that the committee has asked for legal opinion on the matter of residency and yet voted on this report before having received it. This is certainly evidence that the committee was not convinced that the definition was clear and well understood by all and further evidence that it was ready to impose punishment without a thorough understanding of the applicable legal principles.

Honourable senators, Senate officers, financial officers who are required to pay expense allowances under Senate rules and regulations, approved my claims and paid for my claims. They were, therefore, obviously aware of the time spent in each place. The financial officers of Senate were evidently not aware that the number of days spent in one location was a criterion for the determination of allowable expenses. I was never questioned on the appropriateness of my claims and I was never made aware of any additional criteria I had to satisfy. Yet, here we are today.

In addition to the lack of fairness in my individual process, the entire process surrounding the committee’s report has been tainted with unfairness. The chair of the committee has stated that he does not know which outside advice made its way into the report, questioning the independence of the committee.

More recently, as reported in the *Ottawa Citizen* on May 29, the government Senate leader stated:

This whole episode has exposed some very serious problems in the Senate administration.

Honourable senators, let me remind you that according to rule 2 of chapter 2.02 of the Senate administrative rules, the Internal Economy Committee is, “responsible for the good administration of the Senate.” If, as the government Senate leader believes, there are problems with the Senate administration with respect to the audit reports, it entails that there are problems with the committee responsible for the administration of those reports.

[Senator Harb]

Canadians can no longer trust the process that led to the twenty-fourth report and deserve not only that the committee follow the basic elements of fairness, but also deserve that the committee should have operated in an open, fair and transparent manner.

Honourable senators, I would like to remind you of the conclusion of the independent auditor’s report. First, it noted in section 4.3, paragraph 3:

The regulations and guidelines applicable during the period of our review do not include criteria for determining “primary residence.” As such, we are not able to assess the status of primary residence declared by Senator Harb against existing regulations and guidelines.

The auditor’s report went on to say, in section 5.2.2.3:

Based on our analysis, it appears that Senator Harb visited his declared primary residence regularly —

I stress the word “regularly”. The report continues:

— with a minimum of three (3) days and a maximum of nineteen (19) days per month spent at the property during the period of our review.

According to the independent auditor’s report, I spent more non-working days at my declared primary residence and outside Ottawa, than in Ottawa.

The only substantive issue before Senate is whether the committee can arbitrarily create new rules and apply them retroactively and, in the process, disregard the role of the Senate administration that has been aware of my declaration of primary residence and living allowances.

This is not a situation where a number of my claims were rejected. In filing my claims, I followed all of the rules and guidelines as stipulated by the Senate. It is simply indefensible to now change the rules under which my claims were filed and retroactively hold me to this new account. It is indefensible to hold me accountable to rules that did not exist then and do not exist now.

Based on the substantive issue alone, the Senate should reject the adoption of the report. Canadians no longer trust the committee process. When the process and independence of the decision makers have been compromised, even making the entire process open to the public and to myself, like it should have been done in the first place, cannot correct the apprehensions of bias that reign over the committee and the process that led to the production of the committee report.

• (1550)

Hon. Anne C. Cools: Honourable senators, I would like to add a few words to this debate on the Internal Economy’s Twenty-fourth report on Senator Harb. I have in my hands the May 30 edition of the *Ottawa Citizen*. This article is by

L. Ian MacDonald. I am sure we know him very well. The article is called “Senate scandal degrades a valuable institution.” I am glad he sees this as a valuable institution. At the end of the article, he closes with the words:

But it’s precisely the diligent and financially upright senators who are most annoyed by the scandal in their midst, in that they’ve all taken a reputational hit. So they should be.

I thought honourable senators might be interested in that. I also want to underscore, repeat, make clear that I understand that Senator Harb just said that the Leader of the Government in the Senate has stated in another article that “this scandal has exposed very serious problems in the Senate administration.” I would like to say that the most dedicated, diligent and devoted staffs I have ever met in my entire life work for this institution.

Some Hon. Senators: Hear, hear.

Senator Cools: I have been concerned in recent years that their devotion has been over-bureaucratized, but I have never met in my life such diligent and devoted people. I do not think my experience is unique. Honourable senators, I have raised in my two speeches of May 21 and 28, 2013, some very important points. One of the first objections I had raised bears some repeating. It has to do with residence and the notion of senators who are in Ottawa for Senate business being viewed as residents of Ottawa.

I have served here at a time when we had a different regime of living expenses. In those days, it was not a very extravagant amount — a very modest amount — and every senator got the same amount. There was not a range that a senator could claim from dollar one to dollar thousands. It worked in those days, and it worked very well.

Honourable senators, my central point is that I want us to be mindful at all times that, in the name of accountability and transparency, this new system of primary and secondary residence was created. It was then, and is now, my view that they were artificial constructs; the terms “primary residence” and “secondary residence” were artificial constructs that were created at the time of major preoccupation in what some academics have called the “audit society.”

I wish to make this point again that these are artificial, and false, constructs, because for 150 years, since Confederation, members of Parliament and senators have come to Ottawa to do public business. They always had some sort of living expense in Ottawa. At no time were those senators and members, while in Ottawa, ever described as residents in Ottawa. At no time was their accommodation in Ottawa, even if they owned apartments or houses, ever described as “Ottawa residences.” I hope the proposed change that was adopted in the twenty-fifth report will fare a little better.

In my view, at the time, those constructs were doomed — let us use the Latin phrase — *ab initio*. It does not surprise me that there have been problems. Up to about 60 or 70 years ago, there

was all manner of accommodation for members; there were particular Ottawa individuals who ran boarding houses for members of the House of Commons. In any event, I think the point is well made. I would hope that the committee will bear some of these things in mind.

Honourable senators, the second point that I had raised some time back, and I still want to get to it, is that I have had serious problems accepting the Senate Internal Economy Committee’s twenty-fifth report’s notions and some of the recommendations; in particular, the whole notion that senators should furnish driver’s licences, health cards and relevant pages of their income tax forms each and every time the declaration is signed.

Honourable senators, I make no claims on those housing allowances, and I am not saying that is a good thing or a bad thing. I make no claims because this housing allowance process does not apply to senators like me. I am not sure what power this Senate committee has, and on constitutional power this committee is relying upon when they demand these and such documents. This is invasive. As I have said before, I accept that we are living in a proof-based society and that times have changed, and maybe more proof must be provided. For example, any person here who was not born in Canada knows they have to prove several times in a year, if not in a month, that they are Canadian citizens. Honourable senators, the point I am driving at is that the nature of this proof is extremely invasive, and I do not accept that this committee has any power whatsoever to do this. I would be happy to be proven wrong.

The important aspect of my complaint is not that we should have to prove who we are; the important aspect is that I do not believe that, for us to prove who we are, that the committee has to take ownership of any of our documents. We are not living in a perfect community, and we all know that one of the terrible aspects of this particular matter, as it has been before us for many months, is that terrible, dogged thing they call leaks to the media. The presence of those leaks does not inspire my confidence.

I would ask the Senate Committee on Internal Economy, Budgets and Administration again to consider, once and for all, creating a system or process where a very qualified and credentialed person, who is capable of looking at the documents and certifying that he or she has seen them. However, I am very wary of the fact that the committee has to take ownership and package our documents and keep them in filing cabinets. We know things just do happen. So much on that point.

Honourable senators, I wish to make that clear yet again: It is the ownership and possession of those documents that bother me. There are certain principles. Passports are between the king, queen, government and the citizen. There are very set rules about who can handle another person’s passport and have possession of it. Such rules and decorum also apply to income tax returns, this is invasive; this is personal information. I do not think it is necessary or warranted.

In any event, most honourable senators know what I think on the issues. I have been pretty clear in respect to due process, proper notice, natural justice and so on.

I have been very concerned that many senators on both sides have been very damaged by this process. I have seen the stress and strain in the faces of honourable senators for these last many weeks. It is no secret to say it has been a difficult time for all of us. I uphold those who have had to carry the brunt of this, on both sides, and those who are under suspicion. Accusations are not findings.

• (1600)

This institution, this Senate is renowned for its stability. Nowadays, there is much talk about abolishing the Senate, reforming the Senate, electing the Senate and doing all and everything. I always remind many individuals that the Fathers of Confederation were pretty smart fellows. When they created the Senate, they were crystal clear that they were creating an institution that would be hard to alter. That was said. If one ever reviews the debate exchanges at the time, there is one of them, and I found it in a letter and have not been able to find it again, but one of them stated explicitly that this Senate will last as long as this country will last. In other words, the Senate will last as long as Canada, because to alter the Senate is to alter the federation agreement. The Confederations debates are worthy reading and I invite all senators to do explore them.

The constitution of the Senate is intended to resist change, and we should put that into our heads. The Senate is supposed to be there as a beacon of stability in the constitutional system. It is intended that if there are changes in government, and let us understand this, and a new government comes in with a colossal majority in the House of Commons, the expectation is that those government members and those new government ministers will face in the Senate many government ministers of years and governments past. The Senate was intended to represent governments and populations and popular will past. This is how stability is created in governance systems. The Senate is intended to resist radical change.

Honourable senators, many senators here have felt hurt and violated by the coverage, and some of it has been really over the top, as they say. For the most part, the persons who come here have a lot of respect and a lot of affection in their different communities. Many of those individuals would have found a degree of warmth and comfort within those communities, and I encourage them to proceed with their good work. Bad things come and go, and this, too, will pass. This is the mystery of life.

Contrary to what many say, it is not the institution that is at risk. This institution is as solid as you can think — maybe sometimes not well managed, sometimes very well managed — but this institution will outlive most. I have now served under seven Prime Ministers, coming up to 30 years. I have done my best here and given my best. I think most of us have done that.

Honourable senators, I will close now by saying again that my concern at all times is that justice be done, that process be done and that at all times we exercise fairness and equity. In the heat of the moment, human beings make all kinds of terrible judgments,

[Senator Cools]

and that is why we have the law. The law will protect against passions because passions have a way of overtaking human reason.

In any event, I thank all honourable senators, and I thank Your Honour. I hope that we can repair the damage that has been done.

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

Hon. Senators: Question.

The Hon. the Speaker: It was moved by the Honourable Senator Stewart Olsen, seconded by the Honourable Senator Ogilvie, that the twenty-fourth report of the Standing Committee on Internal Economy, Budgets, and Administration (Examination of Senator Harb's Primary and Secondary Residence Status) presented in the Senate on May 9, 2013, be adopted.

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 "yeas" have it. The motion is carried, on division.

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

CANADA TRANSPORTATION ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-52, An Act to amend the Canada Transportation Act (administration, air and railway transportation and arbitration).

(Bill read first time.)

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

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

**STUDY ON LOBSTER FISHERY IN
ATLANTIC CANADA AND QUEBEC**

**TENTH REPORT OF FISHERIES AND
OCEANS COMMITTEE AND REQUEST FOR
GOVERNMENT RESPONSE ADOPTED**

The Senate proceeded to consideration of the tenth report of the Standing Senate Committee on Fisheries and Oceans, entitled: *The Lobster Fishery: Staying on Course*, presented in the Senate on May 28, 2013.

Hon. Elizabeth Hubley moved:

That the report be adopted and that, pursuant to rule 12-24(1), the Senate request a complete and detailed response from the government, with the Minister of Fisheries and Oceans being identified as minister responsible for responding to the report.

She said: Honourable senators, I am pleased to rise today in support of the Standing Senate Committee on Fisheries and Oceans' latest report entitled "The Lobster Fishery: Staying on Course." As many senators are already aware, the lobster fishery is an integral part of Atlantic Canada's economy and currently generates \$1.1 billion in exports annually. While the importance of the fishery has grown, its long-term sustainability and profitability have been called into question. Over the last five years, the industry has had to weather a perfect storm of global economic downturn, a strong Canadian dollar and a decrease in demand for Canadian lobster. As a result, prices have declined, costs have risen and many fishermen have struggled to make a living. This became obvious a few weeks ago when lobster fishers from P.E.I., Nova Scotia and New Brunswick tied up their boats to protest unsustainably low lobster prices.

• (1610)

Honourable senators, we are once again verging on a crisis situation. The Standing Senate Committee on Fisheries and Oceans first studied these deep challenges in the new climate facing lobster fishers in 2009. Their report tabled that same year, *Crisis in the Lobster Fishery*, laid out a number of short-term recommendations to address immediate concerns and help fishermen through the crisis. Now, four years later, the economic climate has improved but it is clear, as the current low prices demonstrate, that the fishery is still facing long-term structural challenges.

It was these challenges that our committee hoped to address through our most recent study. Over the past year, we heard from 50 witnesses, both in Ottawa and at public hearings in Moncton. We heard testimony from federal and provincial fisheries departments, harvesters, buyers, processors and researchers. They reminded us again of the importance of this industry and outlined the obstacles they faced as they look towards the future. Managing shore prices; landing gluts and supply chain quality; introducing new market initiatives; responding to Employment Insurance and DFO policy changes; and understanding the impacts of climate change, aquaculture, fishing effort and other effects on the long-term health of the lobster biomass were the key issues raised at the committee hearings.

While it was clear to the committee that government support is still required to ensure the lobster fishery's viability, it was also obvious that the industry itself must take the initiative to embrace change and innovation. Consequently, most of our recommendations call on all levels of government to partner with the industry in the immediate future while laying the groundwork for the industry to become self-sufficient over time.

For example, our first recommendation calls on the Department of Fisheries and Oceans, in partnership with the Atlantic provinces and Quebec, to consider the establishment of a program similar to the soon-to-end Atlantic Lobster Sustainability Measures Program. The Atlantic Lobster Sustainability Measures Program was announced in June of 2009, and it is predicted that when the program ends next year close to 600 lobster licences will have been retired and over 200,000 traps removed. The committee heard significant positive feedback from witnesses about this program and therefore recommends that the government continue this or a similar program.

Another of our key recommendations concerns the Lobster Council of Canada. Also created in 2009, the Lobster Council of Canada represents all sectors of the lobster industry. The council is currently undertaking a number of marketing initiatives to build a strong Canadian lobster brand and open up new international markets. These initiatives are promising and should help to raise prices along the supply chain from harvesters to wholesalers.

While the goal is for the lobster council to become self-sufficient and completely industry funded, it is not ready for that yet. This is why the committee recommends that the federal and provincial Atlantic and Quebec governments continue to provide funding to the council and also work to ensure that it has the appropriate framework necessary to move forward with its mandate.

In addition to these recommendations, the committee has four further recommendations. These include suggesting that DFO work with harvesters to better acquaint them with changes to its service delivery policies; calling on DFO and its provincial counterparts to consider establishing a program similar to the Atlantic Integrated Commercial Fisheries Initiative to support First Nations fishing communities; recommending that DFO continue to work with Lobster Fishing Area 25 stakeholders to find a solution to the problem of carapace size; and, finally, calling for further research on the lobster biomass and the factors affecting its health.

These recommendations build on the success of previous programs and lay the groundwork for the kind of long-term structural reforms that the lobster industry needs as it moves forward.

As always, it was a pleasure working with my colleagues on the Fisheries and Oceans Committee, and I thank our chair, Senator Manning, for his leadership.

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

(Motion agreed to and report adopted.)

[Translation]

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

SEVENTH REPORT OF COMMITTEE— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Smith, P.C. (*Cobourg*), seconded by the Honourable Senator Comeau, for the adoption of the seventh report of the Standing Committee on Rules, Procedures and the Rights of Parliament (*Amendments to the Rules of the Senate*), presented in the Senate on March 19, 2013.

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, I have not completed my research for this report. I move the adjournment of the debate for the remainder of my time.

The Hon. the Speaker: Honourable senators, again, as per the *Rules of the Senate* of Canada:

4-15. (2) Except as otherwise ordered by the Senate, any item of Other Business on the Order Paper and any motion or inquiry on the Notice Paper that has not been proceeded with during 15 sitting days shall be dropped from the Order Paper and Notice Paper.

As always, if there is unanimous consent to accept the adjournment of the debate for the remainder of Senator Carignan's time, seconded by the Chief Government Whip, Senator Marshall, I will give honourable senators the opportunity to decide.

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

Hon. Senators: Agreed.

(On motion of Senator Carignan, debate adjourned.)

SIXTH REPORT OF COMMITTEE— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Smith, P.C. (*Cobourg*), seconded by the Honourable Senator Comeau, for the adoption of the sixth report of the Standing Committee on Rules, Procedures and the Rights of Parliament (*Amendments to the Rules of the Senate*), presented in the Senate on March 6, 2013.

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, I got my notes mixed up, so I would also move to adjourn for the remainder of my time while I find the right ones. I will speak about this soon.

(On motion of Senator Carignan, debate adjourned.)

UNIVERSITIES AND POST-SECONDARY INSTITUTIONS

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Cowan, calling the attention of the Senate to the many contributions of Canadian universities and other post-secondary institutions, as well as research institutes, to Canadian innovation and research, and in particular, to those activities they undertake in partnership with the private and not-for-profit sectors, with financial support from domestic and international sources, for the benefit of Canadians and others the world over.

Hon. Andrée Champagne: Honourable senators, when Senator Cowan initiated this inquiry, he praised the work being done by our researchers at Canadian universities with support from governments and the private sector. If we read between the lines a little bit, we see that Senator Cowan was insinuating that our government does not value research.

• (1620)

Yet on October 22, 2012, Leona Aglukkaq, Minister of Health, announced a significant investment in innovative research to study how environmental factors can change DNA expression and impact our health. This work is being funded by the Government of Canada, in partnership with Genome BC, Génome Québec and the Japan Science and Technology Agency.

I had the honour of accompanying the minister to the Génome Québec Innovation Centre at McGill University in Montreal. This centre is world renowned for its research and expertise in the field of complex genetic disorders. When scientists say that Canada punches above its weight in research, they are referring to places such as the one I had the honour of visiting with our minister. I would like to quote something she said at the ceremony.

Our Government is proud to support research that will help build a more complete picture of the causes of human illnesses, specifically chronic and complex diseases including cancer, diabetes and mental illness. The goal of this research is to discover new treatments that improve the health of Canadians.

I can assure you that all the scientists in attendance were thrilled about the \$44 million in funding that our Minister of Health announced.

Through the Canadian Institutes of Health Research, our government created a new national initiative, the Canadian Epigenetics, Environment and Health Research Consortium, to support leading-edge research on the role of DNA and environment interactions in human health and disease. As a first phase, the Canadian Institutes of Health Research and various partners funded an innovative grant program and an epigenomic platform centre program to help Canada's DNA experts. This work allowed them to identify and define DNA, the proteins that are key to human health and our genetic heritage. This work helps to determine the causes of illnesses and find ways to treat them. Contrary to what some people would have us believe, our government is giving generously to the work done in these laboratories.

A complete genetic blueprint of the human body currently exists. Nevertheless, we are sadly still missing some important information. Why does one person get sick and not another? Researchers now know that something happens between the creation of the genetic fingerprint and the onset of the disease. This exciting new field of research, called epigenetics, helps us explain these differences and how they affect health.

Research shows that our first experiences in life, such as stress, hunger or exposure to chemicals, can change how our genes work. A deep understanding of the genetic process will help us find the causes of different pathologies and develop potential treatments. We have to invest a lot of time and effort to get the expected and desired results. However, in the near future, we will have more efficient and specific tools to help us predict and diagnose disease. These tools are currently being developed.

I would be remiss if I did not mention the recent announcement of a new mental health research network as part of the ambitious strategy for patient-oriented research, and the announcement of a significant investment in personalized medicine.

I am nearing the end of my speech, so I want to make sure that I emphasize how important it is for our government to support this kind of innovative and exciting research.

I found it surprising that, although he was the one who initiated this inquiry, Senator Cowan recently started looking at a negative aspect of the results of this research. He introduced Bill S-218. He seems concerned that these genetic tests can be used for the purpose of discrimination, and that certain people will be forced to take these tests and share the results. The concern is that these people would then be passed over when they are applying for a job or are in contention for a well-deserved promotion. Worse still, an insurance company could deny coverage to someone who was found to be more likely to develop diabetes or cancer.

Contrary to that point of view, I sincerely believe that this same information could guide physicians who use a preventive approach with patients and could even lead to an early diagnosis that would improve the chances of healing or remission.

You have already surmised that it is not possible for me to vote in favour of this bill, which focuses on a negative aspect of our scientists' discoveries.

(On motion of Senator Fraser, debate adjourned.)

[English]

POVERTY

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Robichaud, P.C., calling the attention of the Senate to the issue of poverty in Canada — an issue that is always current and continues to have devastating effects.

Hon. James S. Cowan (Leader of the Opposition): I see this is at day 15, Your Honour. We have had other issues to deal with in the last while and I have not finished my speaking notes. It will be soon, Senator Carignan. I think I will be speaking immediately after his comments on the rules.

With that understanding, I would like to take the adjournment for the balance of my time.

(On motion of Senator Cowan, debate adjourned.)

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. Mobina S. B. Jaffer: Honourable senators, it has been over 30 years since Canada ratified the United Nations Convention on the Elimination of All Forms of Discrimination against Women. This convention requires the state not only to condemn, prevent and punish all forms of discrimination against women but also to address the root causes of discrimination. Canada has failed to uphold this commitment, and calls for action by international human rights authorities have not been answered. Today, I wish to add my voice to those calling for a national inquiry on missing and murdered Aboriginal women.

Last December, Senator Lovelace Nicholas and Senator Dyck gave compelling and compassionate speeches on this topic. I want to thank them for their tireless dedication and unwavering commitment to this issue.

[Translation]

I am also pleased to point out that a motion moved by a Liberal MP to strike a special committee responsible for examining the issue of missing and murdered Aboriginal women and girls was unanimously adopted in the other place in February.

• (1630)

The motion called on the House of Commons to recognize:

That a disproportionate number of Indigenous women and girls have suffered violence, gone missing, or been murdered over the past three decades;

That the government has a responsibility to provide justice for the victims, healing for the families, and to work with partners to put an end to the violence; and

That a special committee be appointed, with the mandate to conduct hearings on the critical matter of missing and murdered Indigenous women and girls in Canada, and to propose solutions to address the root causes of violence against Indigenous women across the country.

This is an important step towards finding a solution to the problem of missing and murdered Aboriginal women in Canada. Nevertheless, it is critically important that there be a comprehensive and independent national inquiry into this matter.

[English]

As a senator from British Columbia, I would like to contribute to the debate in the Senate on this issue by outlining the findings of British Columbia's Missing Women Commission of Inquiry and by reporting on developments in British Columbia since the report's public release in December of last year. In so doing, I seek to acknowledge the positive steps that have been taken by also highlighting the urgent need for a commission of inquiry with powers to conduct a full-scale judicial investigation.

According to the Privy Council Office, commissions of inquiry are led by distinguished individuals, experts or judges and have the power to subpoena witnesses, take evidence under oath and request documents. A commission of inquiry's findings and recommendations are not binding. However, many have a significant impact on public opinion and the shaping of public policy.

To build on the work of the B.C. commission of inquiry and to ensure the rights of women and girls across Canada are protected, we need to take steps to identify and address the root causes of the problem.

A national commission of inquiry is the best vehicle to accomplish this task. In December 2010, the Lieutenant-Governor of British Columbia issued an order-in-council to establish the Missing Women Commission of Inquiry. Wally Oppal, a former Attorney General of British Columbia, was named commissioner.

[Senator Jaffer]

[Translation]

The Oppal Commission's mandate includes four main directives:

First of all, inquire into and make findings of fact respecting the conduct of the investigations conducted between January 23, 1997, and February 5, 2002, by police forces in British Columbia respecting women reported missing from the downtown eastside of the city of Vancouver;

Second, inquire into and make findings of fact respecting the decision of the Criminal Justice Branch on January 27, 1998, to enter a stay of proceedings on charges against Robert William Pickton of attempted murder, assault with a weapon, forcible confinement and aggravated assault;

Third, recommend changes considered necessary respecting the initiation and conduct of investigations in British Columbia of missing women and suspected multiple homicides.

Fourth, recommend changes considered necessary respecting homicide investigations in British Columbia by more than one investigating organization, including the coordination of those investigations.

[English]

The Missing Women Inquiry presented unique challenges. The years of continued institutional disregard for the missing women of Vancouver's downtown east side created anger and frustration in the families and community participants. There was an overriding skepticism in the inquiry process, combined with the significant doubts that the inquiry would make any difference at all.

I want to give special credit to Mr. Art Vertlieb, Q.C., who served as legal counsel to the commissioner. His skill, experience and commitment ensured that the necessary evidence was presented in the inquiry in a fair and respectful manner. His understanding of the issues, his compassion for the victims and his belief in the importance of the work of the inquiry was instrumental in producing a report that has truly made a difference.

On December 17, the Missing Women Commission of Inquiry released its report called *Forsaken*. The report includes four volumes: Volume I, *The Women, Their Lives and the Framework of Inquiry: Setting the Context for Understanding and Change*; Volume II, *Nobodies: How and Why We Failed the Missing and Murdered Women*; Volume III, *Gone, but Not Forgotten: Building the Women's Legacy of Safety Together*; and Volume IV, *The Commission's Process*.

The 1,148-page report also includes a 180-page executive summary. It is a lengthy, detailed and important text that tells a devastating story and recommends important policy actions.

Honourable senators, I would like to begin my overview by sharing the story of Sarah de Vries. Sarah de Vries was of a mixed racial background: White, Black, Mexican and Aboriginal. She

was adopted into a Vancouver family in April 1970. Throughout her life, Ms. de Vries maintained journals, some of which described the isolation she felt growing up as a woman of colour in a predominantly White community. She faced overt racism at school, part of which manifested in the form of verbal and physical abuse from her schoolmates. Her sister, Maggie, believes that a neighbour sexually abused Sarah repeatedly throughout her childhood.

By the time her parents divorced in the early 1990s, Ms. de Vries was increasingly troubled and unhappy. At the young age of 14, Ms. De Vries ran away and began experimenting with drugs. By the age of 17, she was living in the downtown east side of Vancouver. Throughout her time in the downtown east side, Sarah's journals chronicled the incidents of violence she encountered as a sex worker. She spoke of her powerlessness and marginalization, of her fear and of her hopelessness. Honourable senators, here is an excerpt from Ms. de Vries' journals:

So many women, so many that I never even knew about, are missing in action.

It's getting to be a daily part of life.

That's sad.

Someone dies and it's like someone just did something normal.

I can't find the right words.

It's strange.

A woman who works the Hastings Street area gets murdered, and nothing... It's a shame that society is that unfeeling.

She was some woman's baby girl, gone astray, lost from the right path.

She was a person.

Ms. de Vries' words are profound in their sadness, but also in their honesty. They are the best response to anyone who would question the report's title, *Forsaken*. If things were different, perhaps Ms. de Vries would have been a novelist, a poet, a journalist, or maybe even a politician. Instead, Ms. de Vries disappeared on April 14, 1998; just minutes after a friend had seen her standing at a corner.

Robert Pickton was charged in 2005 with the murder of Ms. de Vries after her DNA was found on the farm, but the charges were later stayed. According to the Canadian Police Information Centre, there are 1,559 missing women cases in Canada. I want to repeat that number: 1,559 missing women cases in our great country of Canada.

According to Sisters in Spirit, a research and education policy initiative facilitated by the Native Women's Association of Canada, and funded by the Government of Canada until its dismantling in 2010, there are now more than 582 missing and murdered Aboriginal women in Canada.

What is it about numbers that makes us feel so numb? The Oppal report rightly points out that the word "missing" is a gentle euphemism for the cruel reality that most of the women have endured. There are 582 lives that have been stolen and yet, as great a country as we are, we remain paralyzed. "Missing" and "murdered" may involve rape, assault, pain, torture and most definitely fear, but no words can effectively articulate the horror these women have faced.

When Commissioner Oppal announced the title of his 1,500-page report, *Forsaken*, he stated these women had been forsaken twice: once by society and a second time by the police.

[*Translation*]

Virtually all of the missing and murdered women were socially and economically marginalized.

They faced challenges such as abuse, poverty, addiction, racism, mental health problems, insecure housing, a lack of education and the intergenerational impact of residential schools.

• (1640)

These factors make them very vulnerable to all types of violence, including serial predation. According to the report:

Eradicating the problem of violence against women involves addressing the root causes of marginalization, notably sexism, racism and the ongoing pervasive effects of the colonization of aboriginal peoples—all of which contribute to the poverty and insecurity in which many women live.

Sex trade workers are treated as morally and socially distinct from other women. Society sees these women as less deserving of respect and protection. Consequently, the violence they experience becomes normalized and, in some cases, expected. The systemic problems that resulted in the disappearance and murder of aboriginal women were exacerbated by inadequate police work.

The critical police failures include: poor reports on missing women; faulty risk analysis and risk assessment; inadequate proactive strategies to prevent further harm to women in the downtown eastside area; failure to consider and properly pursue all investigative strategies, including a strategy for dealing with Aboriginal peoples; failure to follow major case management practices and policies; failure to address cross-jurisdictional issues and ineffective coordination; failure of internal review and external accountability mechanisms.

These police failures were the result of discrimination, systemic institutional bias, and political and public indifference; poor systems and limited and outdated policing approaches and standards; fragmentation of policing; inadequate resources and allocation issues; police culture and poor management of personnel; inadequate training and allegations of conspiracy and cover-up.

All of these elements contributed to the creation of a society that allows violence against Aboriginal women to continue.

[English]

Commissioner Oppal's report included an extensive list of 63 recommendations, including creating a regional police force and an independent committee to develop a proposed model and implementation plan for such a force; providing more public funds toward support services so that emergency centres for women in the sex trade can remain open 24 hours a day; developing and implementing an enhanced public transit system to provide safe travel between northern communities, particularly along Highway 16, referred to in my province as the Highway of Tears, where many Aboriginal women have gone missing; providing compensation for children of missing and murdered women; conducting equality audits on police forces with the aim of protecting marginalized and Aboriginal women from violence; funding more sex trade liaison officer positions and considering re-establishing the Vancouver Police and Native Liaison Society; and developing a Crown vulnerable women assault policy to provide guidance on persecution of crimes of violence against vulnerable women, including women engaged in the sex trade.

[Translation]

Since this policy was released, British Columbia has implemented its recommendations by adopting an action plan that involved appointing the former Lieutenant Governor of British Columbia, Steven Point, to lead an advisory committee on the safety of vulnerable women; committing \$750,000 in funding to allow the WISH Drop-In Centre Society to provide support services to vulnerable women; allowing the provincial Ministry of Transportation to develop a consultation plan to resolve transportation-related issues; and examining changes to policies related to equality and vulnerable witnesses within the Criminal Justice Branch of the provincial Ministry of Justice.

[English]

Sadly, since his appointment, which was seen as a good one, Mr. Point has resigned.

Honourable senators, I have taken this opportunity to speak today because I have met with the parents and the relatives of women who have disappeared. As a politician from British Columbia, I am very embarrassed. If these were women from another community, not the Aboriginal community, there would be such an outcry in our country. Instead, there is a deafening silence. Even my friends are not willing to hear what I have to say. There is a deafening silence because the women are Aboriginal. We should be embarrassed that over 500 women have gone missing, and in our great country of Canada there is a deafening silence.

Dawn Crey was a member of the Sto:lo First Nation. Her parents were residential school survivors. After witnessing her father die from a heart attack as a child, an event said to have impacted her significantly, her mother began drinking. Ms. Crey became addicted to drugs in her teens and struggled with mental health. At one point, she attacked the man she was staying with in a desperate attempt to be admitted to Colony Farm hospital, a mental health institution. Despite receiving treatment throughout

[Senator Jaffer]

her life, Ms. Crey was never able to conquer her addictions. She ended up downtown. In 1990, two women threw acid at Ms. Crey, severely scarring her face and scalp and causing her constant pain. Ms. Crey disappeared in 2000. Her DNA was later recovered from the Pickton farm. Murder charges were recommended but never laid.

Ms. Crey is gone, but she is not forgotten. In 2006, Christine Welsh made a film about missing and murdered Aboriginal women that features Dawn. The film is called *Finding Dawn*. Ms. Crey is only one victim who could have benefited from expanded support services at the WISH Drop-in Centre.

Honourable senators, I commend the work of Commissioner Oppal and the efforts of the British Columbia government since the report's release. The report is complicated and has many recommendations. It speaks to the tragedy that encompasses every corner of our country. Mr. Art Vertlieb, legal counsel to the missing women inquiry, told me that the RCMP has repeatedly asserted that the provincial inquiry has no jurisdiction to look into the management and operation of the RCMP. Any attempt by a provincial inquiry to do this is challenged — by law, it is not within the provincial inquiry jurisdiction. When the RCMP participated in the provincial Braidwood Inquiry on Tasers, this was strongly asserted. The RCMP was clear that they were only participating out of a spirit of cooperation. Honourable senators, to legally look at management, training and how the RCMP works in the area of missing and murdered women, a federal inquiry must be commissioned.

The RCMP is the principal police force in the majority of the provinces, the notable exceptions being the Ontario Provincial Police, the Sûreté du Québec and the Royal Newfoundland Constabulary. Considering the RCMP's role in protecting vulnerable women is one of the several reasons that we urgently need a national inquiry.

I stand before honourable senators to ask for support for the work of Senator Lovelace Nicholas and Senator Dyck.

(On motion of Senator Cordy, debate adjourned.)

FISHERIES AND OCEANS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Fabian Manning, pursuant to notice of May 28, 2013, moved:

That the Standing Senate Committee on Fisheries and Oceans be authorized to meet at 5:00 p.m. on Tuesday, June 4, 2013, even though the Senate may then be sitting, and that rule 12-18(1) be suspended in relation thereto.

• (1650)

Hon. Joan Fraser (Acting Deputy Leader of the Opposition): Honourable senators, I have a question. I have no inherent, strong objection to this motion, but I wonder if the honourable senator could tell us why he is asking for this accommodation.

Senator Manning: I thank the honourable senator for her question. Our committee has begun a new study on the aquaculture industry in Canada, and the Canadian Aquaculture Industry Alliance will appear before us next week. They are travelling from Nova Scotia. Arrangements have been made and we want to ensure that we do not end up on Tuesday evening with a group from outside the city that has travelled here and with whom we cannot have a meeting. We want to ensure that the appropriate provisions are in place.

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

Hon. Senators: Agreed.

(Motion agreed to.)

[Translation]

OFFICIAL LANGUAGES

COMMITTEE AUTHORIZED TO EXTEND DATE OF
FINAL REPORT ON STUDY OF CBC/RADIO
CANADA'S OBLIGATIONS UNDER THE
OFFICIAL LANGUAGES ACT AND THE
BROADCASTING ACT

Hon. Maria Chaput, pursuant to notice of May 28, 2013, moved:

That, notwithstanding the order of the Senate adopted on Wednesday, September 26, 2012, the date for the final report of the Standing Senate Committee on Official Languages in relation to its study on CBC/Radio-Canada's obligations under the *Official Languages Act* and some aspects of the

Broadcasting Act be extended from June 30, 2013 to December 31, 2013.

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

Hon. Senators: Agreed.

(Motion agreed to.)

ADJOURNMENT

MOTION ADOPTED

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

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 5-5(g), I move:

That when the Senate adjourns today, it do stand adjourned until Tuesday, June 4, 2013, at 2 p.m.

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

Hon. Senators: Agreed.

(Motion agreed to.)

(The Senate adjourned until Tuesday, June 4, 2013, at 2:00 p.m.)

Appendix

(See p. 4074.)

**ON THE OCCASION OF THE UNVEILING
OF THE SENATE TABLE CALENDAR**

**SENATE CHAMBER
MAY 29, 2013**

[English]

The Hon. the Speaker: Honourable senators, we will now proceed to an event to unveil the new calendar in honour of Her Majesty's sixtieth anniversary on the throne. I invite you to stay for this short ceremony.

I invite the table officers to stand alongside.

With your agreement, honourable senators, it would be appropriate to have this event recorded by our stenographic reporters so that it may be prepared as a document to be tabled. Is it agreed?

Hon. Senators: Agreed.

The Hon. the Speaker: Also, honourable senators, I seek your consent to have photographers on the floor to provide a photographic record. Is it agreed?

Hon. Senators: Agreed.

The Hon. the Speaker: Honourable senators, the impetus for this splendid project was the Diamond Jubilee of Her Majesty Queen Elizabeth II. Her Majesty was made aware of this initiative and we received the following message from Her Majesty the Queen, which I have the high honour of reading to you. Her Majesty writes:

I am pleased that a splendid pyramid-shaped calendar bearing my cipher has been commissioned to adorn the Table in the Senate Chamber where I have had the pleasure to read the Speech from the Throne on two separate occasions.

Surmounted by St Edward's Crown, this calendar commemorates the Diamond Jubilee of my reign as Queen of Canada and the sixtieth anniversary of my Coronation. Its prominent location in the Senate Chamber will serve as a visible testament to the important function and role of the Crown in the Parliament of Canada.

[Signed] Elizabeth R.

[Translation]

The prominence given to the crown in this calendar, as Her Majesty herself recognized, underscores the role and presence of the Crown in the Senate and in our parliamentary system.

Since it is a calendar, it should come as no surprise that its completion and presentation is on time, although just under the wire. Sunday, June 2, marks sixty years since the Queen's coronation, the last day that can be properly linked to the Diamond Jubilee.

[English]

The creation of the calendar as a Diamond Jubilee project was promoted by our Art Advisory Working Group over a year ago and approved by the Standing Committee on Internal Economy, Budgets and Administration. A silversmith was identified and a basic design was approved. Thanks to the diligent efforts of the Honourable Senator Fortin-Duplessis and the Honourable Senator Moore as well as the generosity of many senators, the table officers and other senior personnel, past and present, money was raised to cover the costs for this commission. The Honourable Senator Joyal took on the responsibility for monitoring its progress, from start to finish. Both Senator Joyal and Senator Fortin-Duplessis will provide the details of these efforts in a few moments.

First, it is time to finally see the result of all this work and to view the new Senate Diamond Jubilee table calendar. —We would thank all honourable senators for paying for it, together with the table officers and others. With great pleasure, I invite the Leader of the Government in the Senate, the Honourable Senator Marjory LeBreton, and the Leader of the Opposition in the Senate, the Honourable Senator James Cowan, to come forward to the table and unveil the Diamond Jubilee calendar.

I recognize the Honourable Senator Joyal to explicate.

[Translation]

Hon. Serge Joyal: Honourable senators, distinguished guests in the gallery, a number of projects for various audiences were carried out in 2012 to celebrate the Diamond Jubilee of Her Majesty Queen Elizabeth II, Queen of Canada.

Ours was the only legislative body in Canada to have carried out special projects to mark the Diamond Jubilee for future generations.

The calendar unveiled this afternoon represents the Senate's third significant gesture to commemorate this historic milestone in Her Majesty's reign. The splendid stained glass window above the Senate entrance to the Centre Block and the stone corbel of the Queen carved by Dominion Sculptor Phil White — who is in the gallery and whom I would like to personally acknowledge —

in the Senate foyer are two of the major initiatives accomplished by the Speaker of this chamber. As we celebrate this remarkable event, we are also beholden to the Speaker for ensuring that restoration of the portrait of Queen Victoria — which hangs in the Senate foyer and once hung in the Parliament of the United Province of Canada prior to 1867 — was completed in time for the Jubilee year.

Mr. Speaker, we are deeply grateful.

[*English*]

The sovereign has a special place in the Senate Chamber. It is here that, for the first time in our history, Her Majesty read two Speeches from the Throne, first in 1957 and then in 1977. The Senate is also the chamber where the Queen or her representative, the Governor General, comes to Parliament to perform their constitutional duties. This explains why Her Majesty's throne and that of her husband, occupy the focal point of the chamber.

The bust of Queen Victoria, our sovereign at the time of the birth of Confederation and the great-grandmother of the present Queen, adorns the gallery over the throne. Moreover, the two pillars of the arches of the ceiling of the chamber, in the front of the public gallery at the back, present on the left the King of France's royal coat of arms and, on the right, the British monarch's coat of arms.

[*Translation*]

With that background in mind, I felt it was appropriate for us to express our gratitude to Her Majesty by creating a permanent testament to the unique nature of the Canadian Crown here in the Senate chamber.

[*English*]

It appeared to me that it is in acknowledging the underlying principle of the Queen in Parliament, embodied in our very system of constitutional monarchy, that the design of this commemorative calendar had to be conceived. However, the challenge resided in interpreting this principle in a visual manner. In other words, how to render the principle visible?

The commemoration of the Diamond Jubilee of Her Majesty also presented us with an opportunity to permanently improve the heritage within our chamber.

It is quite obvious to us and to visitors that certain areas reserved for decorative elements within the chamber are in need of completion. One should be aware that after Parliament was destroyed by fire in 1916, most of the public budget devoted to ornamentation in the building was consumed by the House of Commons, leaving the Senate Chamber with some gaps.

For instance, the front panels of the two public galleries, at the end and in the front, were left empty, as were the walls over the wooden panelling behind the senators' seats on each side. It was only later, in 1921, that eight large war paintings commissioned and donated by Lord Beaverbrook were installed in the chamber to adorn the place. They are a permanent reminder of the sacrifices for freedom made by Canadians and Europeans during the First World War.

• (1610)

Finally, various necessary items on the clerk's table had been designed as temporary objects, as was the previous calendar, awaiting their replacement by better artwork by Canadian artists. Moreover, a commemorative project by senators could not be initiated at the expense of the public purse at a time when there are important reductions of personnel and services imposed upon Canadians.

I personally presented to our Speaker the proposal of commissioning a calendar for the clerk's table and sought his support for this commemorative initiative. It appeared to him in his wisdom that the preferred avenue was to appeal to the wallets of individual senators, as well as to those of all of the officers at the table, to make this undertaking possible. He is really wise, our Speaker.

What is particularly notable about this project is that it was quickly endorsed by the Art Advisory Working Group of the Senate and approved by the Internal Economy Committee. I would like to thank the chair of the committee, Senator Tkachuk. I would also like to thank Senator Moore and Senator Fortin-Duplessis, the chair and deputy chair, respectively, of the Art Advisory Working Group of the Senate. Senators Frum, Ataullahjan and Callbeck were only too happy to invite honourable senators to provide their contributions. I am personally deeply grateful to all of them for volunteering as solicitors for the project. Their natural kindheartedness no doubt made for an easier collection.

I also remain grateful to the honourable senators and all of the officers of the chamber who have risen to the occasion and made it possible for us to mark the commemoration of the Queen's Diamond Jubilee in our own original way here in the Senate Chamber.

[*Translation*]

Why did we choose to have a calendar made?

Our attention was first drawn to the clerks' table and the fact that, when the Parliament Buildings were rebuilt, there was no budget to commission an original ornamental calendar stand to display the Senate calendar. The House of Commons commissioned an impressive calendar from Paul Beau, an ornamental iron artist from Montreal who crafted many of the best ornamental metalwork pieces in the Parliament Buildings.

The House of Commons calendar is decorated with specific symbols. At the base are the emblems of the four European cultural groups that were recognized at the time of Confederation: the French, the British, the Irish and the Scottish. In the middle are vine tendrils, which symbolize the passing of time. At the top is the Tudor crown. The symbolic significance of the House of Commons calendar is obvious: the different Canadian communities united in a dominion will prosper in the future under the Tudor crown. This crown, a symbol of the imperial era, was seen on coats of arms from the late 19th century until 1931, when the Statute of Westminster was passed. This crown is no longer used today.

Our calendar had to be different from that of the House of Commons.

Nearly a century later, in 2012, I felt it would be a good time to think about the evolution of the Crown in Canada, as our fellow Canadians see it today. Unlike her predecessors on the throne, Queen Elizabeth II has held the specific title of Queen of Canada since she began her reign. A law that was passed by Canada's Parliament on February 11, 1953, confirms that, but it was not really conceivable before 1931. For example, on page 239 of the April 30, 1897, *Senate Debates*, we learn that when the Senate was debating a bill to commemorate the 1897 Diamond Jubilee of Queen Victoria, Queen Elizabeth II's great-grandmother, a certain group made the suggestion that "Her Majesty [Queen Victoria also be given] the title of Queen of Canada", but at the time, senators did not understand the merits or the appropriateness of this suggestion and rejected it on the grounds that it was — and I quote the *Senate Debates* from the time — "fanciful". At that time, it was unthinkable for an institutional distinction to be made between the Crown of the United Kingdom and the Crown of Canada. Yet, some 55 years later, Queen Elizabeth II was given that very title — Queen of Canada — at her coronation on June 2, 1953.

I thought it would be a very good idea to commemorate Her Majesty's Diamond Jubilee with a visual representation of the distinctive evolution of the Crown in Canada on this new calendar.

How did we do this?

We wanted to show that, in Canada, the Crown traces its history back to the French Crown, represented by a shield featuring the fleur-de-lys, the emblem of the French sovereign.

[English]

It is the one honourable senators will see on both sides — the fleur-de-lys, which is the emblem of the French sovereign, under the Crown of which we have been living as a country for more than 250 years.

[Translation]

It also traces its history back to the British Crown, represented by a shield featuring the Tudor rose.

[English]

If honourable senators look on the other side, they will see the Tudor rose, which is the emblem of the British Crown.

[Translation]

These two symbols are placed on either side at the base of the calendar. The two Crowns, French and English, established in a new country...

[English]

The maple leaf branches seen on both sides symbolize the fact that those two Crowns have taken root in Canada.

[Senator Joyal]

[Translation]

This evolution is symbolized by the maple leaf branches that are rooted at the base and rise up the four corners.

[English]

One sees that the four branches at the base of the calendar rise up into those branches of maple leaves all along the side of the calendar.

[Translation]

They represent the new identity that was created when the two Crowns were transplanted to Canadian soil. They gave rise to the new title of Queen of Canada, represented by St. Edward's Crown at the top. This crown was worn once by Her Majesty at her coronation in June 1953, during a solemn and ancient ceremony at Westminster Abbey.

[English]

Honourable senators will remember that it is this crown, the St. Edward's Crown, that the Queen is wearing on the Jubilee Medal that the Speaker gave to each of us in February 2012.

[Translation]

The Queen's Jubilee, which we are commemorating, is represented by the four diamonds featuring Her Majesty's cipher, "EII R" — Elizabeth II Regina — and the number 60, placed on a garland of maple leaves, which is found on the top of the calendar, on the crenels of a square tower, over which sits the crown.

[English]

Those have the symbols or emblems of the jubilee, as honourable senators will remember and, as they will see on the program, they are clearly what makes this jubilee a Canadian celebration. It is clearly identified with Her Majesty's name, since there is the cipher of Her Majesty — E2R — and the number 60, so that we will remember forever that this celebration is for the sixtieth anniversary of the crowning of Her Majesty.

The general shape of the calendar is a pyramid. As we know, even dating back to ancient Egypt, and for the Chaldeans and the Maya, for instance, pyramids symbolize eternal life. The crown that adorns the top of the pyramid over the crenels of a square tower, symbolizing its secular fortitude, is the embodiment of our nation and its continuing existence. It is also a reminder that it is under the Crown that Canada has become a vibrant democracy, with an unparalleled respect for the rights and freedoms of its citizens.

• (1620)

[Translation]

Honourable senators, we are particularly grateful to Montreal goldsmith Manuk Inceyan, art conservator Paul Maréchal, and Dominion Sculptor Phil White for their original contribution to this commemorative calendar. They are here in the gallery, and we would like to extend our sincere thanks to them. The French

firm Texier gilded the ornamentation on the calendar. We benefited from the assistance of Marie-Agnès Saury. We would also like to thank David Monahan, art conservator at the House of Commons, who made it easier for us to access the calendar that sits on the clerk's table in the other chamber. Obviously, we did not want to simply copy the House of Commons calendar, as I explained earlier. We wanted to create an original calendar with the symbolism we chose to highlight.

[English]

Honourable senators, it is right and just that Her Majesty, Queen Elizabeth II, is acknowledged as the Queen of Canada. We should all feel very proud and grateful for having lived during the reign of such a remarkable sovereign. Through her 22 visits here, the Queen has developed a profound understanding and appreciation of this country. She knows the Canadian identity in all its linguistic and cultural complexity. Her own words testify to this. In 1967, during the Centennial celebrations, the Queen put it this way:

[Translation]

The experiment that has been conducted for 100 years in this country, with some failures, of course, but also with increasing hopefulness, cannot leave our torn era indifferent.

It seems to me that it is in that direction that Canada will be great; not by its power, but by giving, by its radiance, by its example.

[English]

Ten years later, while in Montreal for the Olympic Games in 1976, Her Majesty revealed again her deep understanding of the fundamental character of Canada:

[Translation]

To achieve that ideal requires great generosity, an open mind and the determination to understand and appreciate others. Canadians have amply demonstrated those qualities throughout their history. That is what makes Canada great.

[English]

During the Queen's long reign, she has been advised by eleven Canadian prime ministers. She has crossed the country from coast to coast. Her Majesty has followed the development of Canada over the years, witnessing its astounding successes and also its more difficult moments. As a nation, we are privileged to have been able to strengthen our unity under such an exceptional and selfless Queen.

This gilded calendar in commemoration of the Diamond Jubilee of Her Majesty Queen Elizabeth II, Queen of Canada, represents a respectful testimony of our gratitude and admiration of Her Majesty's prosperous Canadian reign, and we should all be proud of it.

[Translation]

Hon. Suzanne Fortin-Duplessis: Honourable senators, clerks and senior Senate officials, when the members of the Senate's Artwork Advisory Working Group met for the first time, they

wanted to undertake one final commemorative project to celebrate the Diamond Jubilee of Queen Elizabeth II.

We chose to commission a new Senate calendar, first because it is a lasting and visible reminder of Her Majesty's many visits to Canada and second, because it emphasizes the importance of the Crown in this chamber, the only place in the country where the three parts of our Parliament come together.

As you may know, the working group did not have the funding to create this calendar. This project could not have been carried out without the generous personal contributions of my honourable colleagues, the table officers and senior officials of the Senate.

I would like to express my deepest appreciation and point out that your valuable support is now engraved on this plaque. The plaque will be affixed to the base of the calendar as soon as the donor list is completed.

I would also like to thank my colleague and Deputy Chair of the working group, the Honourable Wilfred P. Moore, for his diligent efforts with his caucus to solicit donations.

I am very grateful to the Honourable Catherine Callbeck, the Honourable Linda Frum — who could not be here with us today because her father has passed away — and the Honourable Salma Ataullahjan for working tirelessly to help us attain our objectives.

My sincerest thanks to the Honourable Serge Joyal, who was the instigator of this project and took responsibility for monitoring its progress with Manuk Inceyan, the goldsmith. I also want to thank you for the background you just gave us. It was extremely interesting.

I am also very grateful to Charles Robert, the clerk of the working group, for his generosity, the knowledge he shared with us and his exemplary guidance throughout this adventure.

Finally I would like to acknowledge the contribution of my executive assistant, Carole Hupé, who helped coordinate this project. She was the one who sent you the letters with the photocopies of what our calendar could be. She too deserves our sincere thanks.

Proudly and prominently displayed on the clerks' table, close to the mace, the new Senate calendar is a tangible sign of our respect for the sovereign and her exemplary service to Canada during her 60-year reign.

[English]

The Hon. the Speaker: Honourable senators, this concludes our ceremony. Let me thank all who participated under the great leadership of Senator Joyal. I thank everyone for their contribution.

If you have a few minutes, I would be happy to receive you in my chambers. I would also ask our collaborators in the gallery to please join us.

(Proceedings concluded.)

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