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Thursday, October 9, 2014

The Honourable PIERRE CLAUDE NOLIN
Speaker *pro tempore*

CONTENTS

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THE SENATE

Thursday, October 9, 2014

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

Prayers.

[*Translation*]

SENATORS' STATEMENTS

CANADIAN LIBRARY MONTH

Hon. Maria Chaput: Honourable senators, the Canadian Library Association has proclaimed October Canadian Library Month. This is an initiative to make Canadians more aware of the vital role that libraries play in their everyday lives. Libraries contribute significantly to the personal, professional, academic and creative development of all Canadians.

I want to pay tribute to an extraordinary person, the late Sister Elisabeth de Moissac, who was a librarian and teacher at the Grey Nuns convent in Sainte-Anne-des-Chênes, Manitoba, in the 1950s.

As a teacher and as a librarian, she instilled in me a love of books and writing, while making me realize that reading contributes to a sense of belonging to a community, to the pleasure of learning and discovering.

If she were still with us, Sister Elisabeth de Moissac would be smiling and would be proud of her pupil, who today, in the Senate, as a senator, is acknowledging the essential role of libraries and their contribution to culture and lifelong learning.

I want to congratulate and thank the members of the Canadian Library Association for reminding us about the importance of libraries, and I want to assure the association of my support. Thank you.

MENTAL ILLNESS AWARENESS WEEK

Hon. Paul E. McIntyre: Honourable senators, as you know, Mental Illness Awareness Week is this week, from October 5 to 11. This is a week for educating people and raising awareness of mental illness.

The theme of the campaign is ACT!ON Mental Health. The campaign is organized by the Canadian Alliance on Mental Illness and Mental Health. The alliance has announced the names of the five Canadians selected for the twelfth annual Faces of Mental Illness campaign. They represent strength, courage and resilience.

In any given year, one in five people in Canada experiences a mental health problem or illness, which means that the vast majority of Canadian families are affected by mental illness. Only one in three people who experience a mental health problem or illness reports that he or she has sought and received services and treatment.

In addition, of the Canadians who die every year as a result of suicide, most were confronting a mental health problem or illness. There is a strong correlation between low mental well-being and mental illness.

On the other hand, high mental well-being is characterized by optimism, happiness, self-esteem, resilience and good relationships with others. It is important to note that mental well-being is closely related to physical health. Many studies have shown that physical activity and the regular consumption of fruits and vegetables are directly related to mental well-being. Physical activity and the regular consumption of fruits and vegetables can improve that aspect of well-being while fighting problems such as cancer and heart disease.

I would like to note that the people who need mental health services and support face two obstacles: the first is stigmatization and the second is access to services and support. Improving access to services and support is therefore critical. Individually and as a society, we must ensure that people with mental illness and their family members get the support they need.

As you know, mental illness, just like physical illness, can take many forms. Mental illness is feared and misunderstood by many people. Greater awareness will help get rid of that fear. We should not forget that all mental illnesses can be treated. Thus, we need to learn more about mental illness.

Therefore, I urge you to support and promote awareness and understanding of mental illness and to advocate for access to the necessary services and support. ACT!ON Mental Health!

DUKE OF EDINBURGH'S AWARD

Hon. Joseph A. Day: Honourable senators, last Monday I had the honour of attending the presentation ceremony for the Duke of Edinburgh's gold award in Quebec City.

As the proud honorary legal counsel to the Duke of Edinburgh's Award program, I had the honour of watching 26 young Canadians receive the gold award from the Governor General of Canada, the Right Honourable David Johnston.

I am pleased to note that some of the 26 recipients were Junior Canadian Rangers from Blanc-Sablon and others were from different regions of Quebec.

[*English*]

The Duke of Edinburgh's Award program was founded in 1956 in the U.K. by His Royal Highness Prince Philip, Duke of Edinburgh. Today, the award exists in over 140 countries, and more than 8 million youth have participated thus far.

The award program was established in Canada in 1963, and since that time, over 500,000 young Canadians have participated. There are currently 44,000 registered participants in the program in Canada, which is offered in all ten provinces and three territories.

• (1340)

The award is a program in which participants set their individual goals in different fields such as community service, skills, fitness and adventure challenge. The award is open to all young Canadians between the ages of 14 and 24 and comprises three levels: bronze, silver and gold. To date, 5,000 Canadians have achieved one of the award levels, and among them 309 men and 408 women have achieved the highest award, the gold award.

Honourable senators, this program is exceptional not only because it allows the participants to develop skills that will help them achieve their future goals, but it also helps make them more confident while developing a greater appreciation for the environment. The Duke of Edinburgh's International Award is a great example of how we can encourage and inspire our youth to test their limits while overcoming new challenges, thereby helping them shape their own futures.

This past Monday, while seeing these young Canadians coming on stage one by one to receive their well-deserved awards, one could not help but be filled with joy and hope — joy to witness the tremendous potential that our Canadian youth possess, and hope because we are seeing tomorrow's leaders, knowing the future of Canada is in good hands.

[*Translation*]

The winners at the gold level of the Duke of Edinburgh's Awards also reflect the beauty of Canada's diversity. Once again, I would like to congratulate them on their accomplishments.

Honourable senators, I invite you to encourage the young people in your region to take part in this excellent program, which, I am sure, will change their lives forever.

THE LATE ULRICK CHÉRUBIN

Hon. Jean-Guy Dagenais: Honourable senators, I would like to take a few minutes today to pay tribute to a mayor in Quebec whom I truly admired. I would like to talk about the Mayor of Amos, in Abitibi, Ulrick Chérubin, who passed away suddenly on September 25 at age 70.

This man's journey, both in life and in politics, was nothing short of extraordinary. Born in Jacmel, Haiti, Mr. Chérubin came to Canada in 1970 at age 27. He first settled in Trois-Rivières, where he studied at the Université du Québec to become a teacher. A few years later, after teaching theology at Cap-de-la-Madeleine, he decided to immerse himself further in the Canadian landscape by moving further north to Amos, in Abitibi. One could say that he was not afraid of the frigid temperatures or of being away from his loved ones. His integration as a new Canadian was extremely successful. The Haitian quickly became an "Haïtibien."

Professor Chérubin and his family became very involved in the Amos community. Some 20 years after arriving in Canada, he switched from teaching to politics, first becoming a municipal councillor. Later, probably inspired by his compatriot René Coicou — the first black mayor in Quebec, who was Mayor of Sept-Îles — Mr. Chérubin ran for mayor in 2003 and was elected Mayor of Amos. In November 2013, his constituents elected him for a fourth consecutive term with 73 per cent of the vote. Few people enjoy such electoral success.

This mayor's dedication wasn't bound by his city's limits. I personally saw him at meetings of the Fédération québécoise des municipalités. He was a true leader in the municipal world, and everyone loved Mayor Chérubin.

In 2004, he received the prestigious Jackie Robinson Award from the Montreal Association of Black Business Persons and Professionals for being a pioneer in Canada's Black community.

I would like to conclude with a recent anecdote that demonstrates his commitment. In the fall of 2013, Mayor Chérubin signed up as a contestant on the popular television show *Le Banquier*, Quebec's version of the show *Deal or No Deal*. He was chosen from among thousands of contestants, and he took home $222,500 from the show. He decided to put that money toward the centennial celebrations for the city of Amos in 2017.

As you can see, Amos has lost a great mayor, and Quebec and Canada have lost a great Haitian-Canadian.

I ask all senators to join me in paying tribute to him for everything he did for his community.

[*English*]

NATIONAL CHRONIC CEREBROSPINAL VENOUS INSUFFICIENCY SOCIETY CONFERENCE

Hon. Jane Cordy: Honourable senators, I had the privilege — and it was a privilege — to attend the National CCSVI Society Conference held in Saskatoon this past weekend. It was my privilege not only because of the excellent speakers who were at the conference but, more importantly, because of the wonderful people who met with me and told me their stories.

They are my heroes: people who do not give up. These Canadians have been working passionately to make changes to the treatment of those with multiple sclerosis. Michelle Walsh, who was pregnant when I first met her and now has a healthy baby boy after having venoplasty, is a member of the MS advisory panel set up by Premier Wall in Saskatchewan.

Dr. Bill Code's story is remarkable. He was diagnosed with MS when he was 42 and was confined to a wheelchair. After undergoing the venoplasty procedure and making lifestyle changes he now travels the world, lectures and enjoys all aspects of his life. One would never guess that he has MS.

Sandra Birrell was told by her neurologist that she shouldn't continue to study because of her MS. Sandra successfully defended her PhD dissertation two weeks ago and is now Dr. Sandra Birrell.

Honourable senators, these are just a few of the champions of MS that I spoke with on the weekend. They are moving forward and making a difference. We heard from MPs Ralph Goodale and Kirsty Duncan, both of whom are strong patient advocates. We heard from the Honourable Mark Docherty, an MLA from Regina who travelled to Romania to have the venoplasty procedure done and who spoke about his experiences.

Other speakers were Dr. Bernhard Juurlink, Dr. Mark Haacke, Dr. Michael Arata, Dr. Bill Code, Dr. Robert Zivadinov, Dr. Gordon Hasick, Kerri Cassidy from CCSVI Australia, Dr. Helen Kavnoudias, Dr. William Shaw and Dr. Teri Jaklin.

As each of the experts spoke during the conference, a lot of common themes emerged. Physicians and researchers working on MS have discovered similarities with Parkinson's, chronic fatigue, Lyme disease and dementia. As Dr. Zivadinov said, CCSVI is definitely bigger than MS.

We heard over and over again that there is a need for more study in this area and that there is no one-size-fits-all solution for Canadians with MS. The importance of a healthy diet and movement and exercise was emphasized, which I think is good advice for all of us whether we have MS or not. Lifestyle changes have also been shown to improve arterial compliance. As someone said, life is not a spectator sport. Get out of the bleachers.

Honourable senators, we must move forward with better investigation and protocols to collect the information to detect the prevalence of CCSVI. We should be open-minded. Those with MS deserve our support.

ROLLING RAMPAGE ON THE HILL

Hon. Yonah Martin (Deputy Leader of the Government): Honourable senators, I wish to add some words of acknowledgment today. We had the fourth annual Rolling Rampage on the Hill. Our former colleague Vim Kochhar, Chair of The Canadian Foundation for Physically Disabled Persons, is the visionary behind the event, and Senator Munson and I co-chaired this year. We are all winners, but we have some actual winners in this room that I will recognize in a moment.

We also had over 1,000 students from the Ottawa and Gatineau region, children who, in spite of the rain, ran around the track with such heart and ferocity. We also had wheelchair athletes from around the world; their athleticism is amazing. They proved to us that the wheelchair is no longer a symbol of disability but one of hope, freedom and opportunity for those who cannot walk. They show us what they can do and what we can all achieve if we set our minds to it.

I would like to recognize my staff, Kristin Doyle, Senator Munson's staff, Christian, and others who helped coordinate. Many people contributed.

I want to especially recognize some of the winners of today's parliamentary race — gold medalists, unseating Minister Bal Gosal's team from last year. The Liberal MPs — the Red Tide they call themselves — were left in the dust by the Red Devils. In the spirit of cooperation, we had Senators Massicotte, Greene, Black and Campbell — the gold medalists!

Hon. Senators: Hear, hear!

Senator Martin: They proved that athleticism, team work, strength and sophistication — all of the above — are reflective of this Red Chamber.

• (1350)

[*Translation*]

Hon. Pierrette Ringuette: Honourable senators, Senator Martin just told us about the event. I'd like to congratulate our colleagues who proved that they were able to rise to the challenge and that the Senate is not filled with sleeping seniors.

[*English*]

There is also a moral to this event. It's a great event, and I wish to thank the organizers. It also proves that when we work together, we win.

Hon. Senators: Hear, hear!

VISITORS IN THE GALLERY

The Hon. the Speaker *pro tempore***:** Honourable senators, I wish to acknowledge the presence in the Governor General's gallery of members of the family of Senator D. Smith.

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

Hon. Senators: Hear, hear.

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE

Hon. David P. Smith: Honourable senators, I rise to pay tribute to the Standing Senate Committee on Social Affairs, Science and Technology, which I sat on this morning for the first time ever, replacing Senator Merchant. They were dealing with Bill C-17, an Act to amend the Food and Drugs Act.

By coincidence, today I have family members visiting with me. There is my brother George, the pastor of a church in Palm Springs at the age of 80; his wife Barbara, who is much younger, of course; my nephew, Mark Smith, who is the in-house counsel at the U.S. headquarters of the Red Cross in Washington, right across from the White House; and his wife, Kathy, who is on the faculty of Johns Hopkins University School of Medicine, which is regularly touted the best medical school in the States.

Here is what is interesting. Those two know the medical world very closely. A couple of motions were made today in committee that didn't carry, but they were very impressed by the thoroughness of the work the committee had done. We had the materials, so they looked through them.

I have sat in both chambers. It's often said that Senate committees do better work — and I commend Senator Eggleton for his leadership here; Senator Seidman as well — but I was very touched when we came out of there because they were in awe of this committee. I want to pay tribute to my colleagues on that committee.

Hon. Senators: Hear, hear!

[*Translation*]

ROUTINE PROCEEDINGS

FOOD AND DRUGS ACT

BILL TO AMEND—FOURTEENTH REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE PRESENTED

Hon. Kelvin Kenneth Ogilvie, Chair of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Thursday, October 9, 2014

The Standing Senate Committee on Social Affairs, Science and Technology has the honour to present its

FOURTEENTH REPORT

Your committee, to which was referred Bill C-17, An Act to amend the Food and Drugs Act, has, in obedience to the order of reference of Thursday, September 18, 2014, examined the said bill and now reports the same without amendment.

Respectfully submitted,

KELVIN K. OGILVIE
Chair

The Hon. the Speaker *pro tempore***:** When shall this bill be read the third time?

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

FOREIGN AFFAIRS AND INTERNATIONAL TRADE

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO REFER PAPERS AND EVIDENCE FROM STUDY ON BILL S-10 DURING FIRST SESSION OF THE FORTY-FIRST PARLIAMENT TO CURRENT STUDY ON BILL C-6

Hon. Suzanne Fortin-Duplessis: Honourable senators, on behalf of the Honourable Senator Andreychuk, I give notice that, at the next sitting of the Senate, she will move:

That the papers and evidence received and taken and work accomplished by the Standing Senate Committee on Foreign Affairs and International Trade during its study of Bill S-10, An Act to implement the Convention on Cluster Munitions, during the First Session of the Forty-first Parliament, be referred to the committee for the purposes of its study of Bill C-6, An Act to implement the Convention on Cluster Munitions, during the current session.

QUESTION PERIOD

TREASURY BOARD

PROGRAM REDUCTIONS—REPORT OF COMMISSIONER OF OFFICIAL LANGUAGES

Hon. Maria Chaput: Honourable senators, my question is for the Leader of the Government in the Senate and, once again, concerns the annual report of the Commissioner of Official Languages.

In his report, the Commissioner indicates, with regard to the Deficit Reduction Action Plan, that several federal institutions conducted their expenditure reviews without taking into account all of the obligations under Part VII of the act.

The Commissioner points out that since federal institutions are required to take positive measures to enhance the vitality of official language communities, they are also required not to undermine it.

Mr. Leader, perhaps this was not unforeseeable. When we learned in October 2011 that the government had directed senior officials to cut departmental expenses by 5 to 10 per cent, I asked the Senate whether the government had taken measures to ensure that official language minority communities would not be unduly affected.

It is important to note that I was not asking that they be given preferential treatment, but that they not be disproportionately affected.

Your predecessor answered, and I quote:

> I do not believe that those of us who sit on the committee of Treasury Board reviewing the recommendations from various departments would allow any government department to try to find savings disproportionately at the expense of any one group, in particular with regard to official languages, which is the law of the land. The government, by its actions, is fully committed to it.

Mr. Leader, my question is this: Does the Treasury Board have a follow-up process and will an analysis be conducted to determine the impact that these cuts have had on official language minority communities? If an analysis is done, will the communities be able to actively participate in it, react to it and share their concerns with the Treasury Board?

Hon. Claude Carignan (Leader of the Government): I would like to thank you for your question, senator. The deputy heads are responsible for managing their organizations and identifying cost-saving measures. They must ensure that their official language obligations are met.

• (1400)

The departments have found savings measures that are fair, balanced and moderate in order to reduce the deficit. I would like to draw your attention to what the Commissioner said at a press conference, and I quote:

> I think that, in the vast majority of cases, the institutions are aware of their responsibilities. There has been a steady increase in the number of people whose language level is appropriate to their position.

On page 29 of his report, he states:

> In 2013-14, all federal institutions evaluated demonstrated that they take measures to create an environment conducive to the use of both official languages and to encourage the use of English and French in the workplace in regions designated as bilingual for language-of-work purposes.

Senator, the Commissioner aptly said that the institutions were doing their job within the context of the Official Languages Act.

Senator Chaput: Another repercussion of the deficit reduction program is the increased number of complaints related to the linguistic designation of positions. According to the Commissioner, some departments set language requirements for positions without carefully reviewing the work that the incumbents must do. As well, some organizations see a position's language requirements as simply a box to check, and not as mandatory professional skills.

My question is the following. This kind of approach by some departments in no way demonstrates your oft-repeated commitment to the vitality of both official languages. Doesn't it seem instead that this commitment is sacrificed fairly easily? What does your government intend to do to rectify this situation before it becomes catastrophic?

Senator Carignan: As I said, the deputy heads must ensure that their official languages obligations are met. In fact, as indicated on page 29 of the report, the Commissioner of Official Languages recognizes that measures are being taken to create an environment conducive to the use of both official languages and to encourage the use of English and French in the workplace in regions designated as bilingual.

Hon. Claudette Tardif: Leader, you often mention the Commissioner's quote on page 29 of the report. However, I think we should specify that it refers only to the section on language of work, in Part V of the act. That quote does not apply at all to Part VII of the act, which pertains to the development and advancement of official language minority communities.

The Commissioner said that awareness is being raised about language of work. He also indicated that there was still a lot of work to do in terms of Part IV, Part VI and Part VII of the act.

Will the government show the leadership required to implement the Commissioner's recommendations and put its own house in order to show political leadership when it comes to the official languages?

Senator Carignan: Senator, I will not engage in a debate here using quotes from various pages. The important thing is to thank the Commissioner for his report and say that we will examine his recommendations. Our government remains committed to upholding both official languages. Canadians will continue to receive government services in the language of their choice.

As far as language training is concerned, it will continue to be provided to public servants who need it. I would like to repeat what the Commissioner of Official Languages said at a press conference in summing up his report:

> I think that, in the vast majority of cases, the institutions are aware of their responsibilities. There has been a steady increase in the number of people whose language level is appropriate to their position.

PUBLIC SAFETY

FIREARMS CONTROL

Hon. Céline Hervieux-Payette: Honourable senators, my question is for the Leader of the Government in the Senate. Quebec is prepared to put in place its own gun registry and wishes to retrieve the data from the national registry.

Quebec taxpayers paid for this registry, which your government scrapped. What is more, the federal government acknowledged that it would not hurt to share the data. Why is the Prime Minister so determined to ignore the will of Quebecers and the decision of his own government? Why are my colleagues from Quebec not trying to convince Mr. Harper to honour Quebecers' wishes?

Hon. Claude Carignan (Leader of the Government): You are back in Ottawa, senator. To hear your questions over the past few days, one would think you were in the National Assembly of Quebec. You're in the wrong building. You want to be in the Supreme Court to ask questions like that.

As you know, the matter was argued before the Supreme Court this week. I will therefore not comment on a case that is currently being deliberated in the highest court in the land.

Senator Hervieux-Payette: I would like the leader to know that I haven't left Ottawa. I am still a senator from Quebec and I represent Quebecers in this chamber. However, this week, the public safety minister introduced Bill C-24 to amend the Firearms Act, legislation that threatens public safety — at least according to Quebecers.

This bill would give Minister Steven Blaney the authority to classify firearms in order to oppose decisions made by the RCMP to protect Canadians. This happened recently when the Sûreté du Québec wanted to restrict access to the firearm used in the attempt against Pauline Marois, the former premier of Quebec.

Leader, how can the government, with a simple snap of the minister's fingers, put Canadians in danger, just to serve an ideology? How can it use this bill as a fundraiser for the Conservative Party?

Senator Carignan: Senator, the bill was introduced and contains various provisions, including a provision concerning mandatory training before a licence is issued. The bill was introduced in the other place and is called the Common Sense Firearms Licensing Act.

Its objective is to strengthen restrictions on the ownership of firearms by individuals convicted of an offence involving domestic violence. I believe you should be pleased, and once debate has ended, I will be curious to see whether you vote for this provision.

The bill would make it mandatory for first-time applicants to take a firearms safety course. The bill improves oversight by providing for the discretionary authority of the chief firearms officer to be subject to limit by regulation.

The bill would combine the possession only licence and the possession and acquisition licence into one licence, which would give new rights to 600,000 people. It would also create a renewal grace period at the end of the five-year licence period. Furthermore, the bill would automatically authorize the transport of restricted firearms when a licence is issued. Finally, the bill would give the government the final say on classification decisions when it deems that they are incorrect.

I think this is an innovative and balanced bill that eliminates unnecessary bureaucracy while providing measures to protect the public, especially with respect to domestic violence offences.

• (1410)

I don't see why you think it's partisan. I think this bill is in the public interest. Once again, I have a feeling that you'll probably vote against the bill, but I urge you to study it conscientiously before your exercise your right to vote.

Senator Hervieux-Payette: I'd just like to comment that I hope you will lend me the card your answer is written on so that I can address each point. I will address one of them: domestic violence. Everyone knows that there are already provisions in the Criminal Code restricting access to firearms for violent spouses. However, it's not the government that imposes a penalty; it's the judge who decides based on the specifics of individual cases. It is so like your government to think you can also boss our courts around.

Since your government announced its intention to limit the authority of chief firearms officers — in other words, in Quebec we would have one person, one safety officer for all of Quebec — and to make decisions in the interest of public safety as well as to relax firearms oversight, I'd like to know why it bothers the Conservative government so much that Quebec can take measures to protect its citizens and ensure their safety when those courses have always been mandatory. The current method of registering each firearm is vastly superior to a single registration because, in many cases, the permit gets relegated to the bottom of a drawer. Isn't this measure letting the firearms lobby get its foot a little further in the door?

Senator Carignan: Senator, I don't know why you're arguing against a bill that will strengthen the firearms prohibitions for offences related to domestic violence. I don't understand why you're arguing against a bill that would make classroom participation in firearms safety training mandatory for first-time firearms owners. I don't understand why you're arguing against a bill that would provide for the discretionary authority of the chief firearms officer to be subject to a regulatory framework.

The bill has been introduced in the other place, and will go through the stages before coming here to the Senate, when we will have the opportunity to debate it. It will probably be sent to the Standing Senate Committee on Legal and Constitutional Affairs. There will be hearings with witnesses, and we will be able to look at the impact of the bill as a whole, as we do with any bill.

[*English*]

Hon. Joan Fraser (Deputy Leader of the Opposition): Honourable senators, at Westminster they have a name for a certain type of clause in bills. They call them "Henry VIII clauses." Henry VIII, for those who have forgotten, was one of the most arbitrary, bloodthirsty monarchs the English ever had to suffer under, who had two of his wives beheaded. A Henry VIII clause is one that gives unlimited powers — or nearly unlimited powers — to somebody, usually, of course, the government. It seems to me that the portion of this bill which gives the minister the power to override the considered expert view of the RCMP about weapons classification is a perfect example of a Henry VIII clause.

Would you be willing to advise your colleague, Minister Blaney, that he should revise his views if he doesn't wish to go down in history as the Canadian version of Henry VIII?

[*Translation*]

Senator Carignan: I'm pleased to hear you talk about Henry VIII clauses and remind senators that this barbarian had people beheaded. We're currently involved in a combat mission because there are barbarians like him who are beheading people, but you have a friend in the other place who voted against that mission. You should be ashamed.

[*English*]

Senator Fraser: That was a beautiful "Calandra" answer, yes, indeed.

If you are unwilling to take my question orally — the real question, nothing to do with Mr. Calandra — I wonder if you would be willing to take it as notice, leader?

[*Translation*]

Senator Carignan: Senator, I think I answered the question about providing a framework for the powers of the chief firearms officer. The bill will be studied, and if you wish to suggest any amendments you may do so as part of the process.

[*English*]

AGRICULTURE AND FORESTRY COMMITTEE

STUDY ON BEE HEALTH

Hon. George Baker: Mr. Speaker, I'd like to ask a question of importance to the Senate. My question is directed toward the chairman of the Standing Senate Committee on Agriculture and Forestry. He hasn't been given notice, but he doesn't really need notice because he's a very experienced politician from the province of New Brunswick who has a very impressive history in politics.

Two weeks ago a national television news service in the United States conducted an interview with a scientist from a university in California, who referenced a very important study being done by the Senate of Canada.

Some Hon. Senators: Hear, hear.

Senator Baker: Therefore, I'm asking the chair of the Standing Senate Committee on Agriculture and Forestry: Why did the committee decide to undertake such an important study?

[*Translation*]

Hon. Percy Mockler: Honourable senators, I am honoured to receive a question from the dean of Canadian parliamentarians here in our chamber.

[*English*]

However, honourable senators, yesterday I was listening to the chair of the Fisheries Committee when he said "40 years as a parliamentarian" in response to a question from the dean of Canadian parliamentarians. I did some research. I know that the chair, Senator Manning, has a great mind, as they all do who come from that great province of Newfoundland and Labrador. But it brings me to add a few other statistics that we should consider for the benefit of all senators.

Our colleague Senator Baker is in a league of his own, as of today, with 40 years, 3 months and 8 days as a parliamentarian.

Some Hon. Senators: Hear, hear!

Senator Mockler: As we look at history, coming up to 2017 when he retires, he will be trailing Sir Wilfrid Laurier with 43 years.

That said, Senator Baker, you have a legendary reputation for the thoughtful questions you used to ask — and I followed it in Question Period in the other place. I must say that I am very pleased to receive this bouquet of questions from you today about the work of the Standing Senate Committee on Agriculture and Forestry related to bee health. In providing you with an answer, I hope that I will provide a honey of an answer.

Honourable senators, this is a study of which our committee is very proud, as it was proposed by senators on both sides of the house and demonstrates how the Senate and its committees can do good policy work regardless of the partisan nature.

• (1420)

The question is very important. There's no doubt in my mind that it has taken on a dimension of its own. Why? Bees are not only important for honey production, but they also play a key role in both the agricultural system and the preservation of a healthy ecosystem more broadly. Honeybees are vital for the pollination of crop plants, fruits and vegetables. One third of all plants or plant products eaten by humans today are directly or indirectly dependent on bee pollination.

Honourable senators, in Canada up to 35 per cent of bee colonies were lost annually since 2008. In the spring and summer of 2012, Health Canada's Pest Management Regulatory Agency received a significant number of pollinator mortality reports mainly from the corn-growing regions of Ontario and Quebec; and, yes, approximately 70 per cent of the affected dead bee samples tested positive for residues of neonicotinoid insecticides to treat corn seed.

Given the importance of bees in agriculture, the committee would like Senator Baker to understand the factors that may affect bee health and ways to preserve bee health in agricultural production because Canada is the best at producing agriculture.

Hon. Senators: Hear, hear.

Senator Baker: Honourable senators, his comparing me to Sir Wilfrid Laurier, I note, given the honourable chairman's past successes in politics, that in this context of today's subject, I would compare him to Muhammad Ali. He may not float like a butterfly during elections, but he sure stung like a bee with 20 years in politics and many cabinet roles.

Canadians are very concerned about this subject because practically our entire food chain depends on pollination by bees, our berries as well as our vegetables. Did the committee arrive at any value of pollination in Canada or worldwide? Did the committee look at the value of honeybees in that respect?

Senator Mockler: Honourable senators, yes, we looked at that. I'd like to share this with all honourable senators:

> In Canada, the value of honeybees to the pollination of crops is estimated at over $2 billion annually. Worldwide, their contribution to human food is estimated at more than $200 billion. Canadian honey and other hive products are valued at about $200 million annually in Canada. Canadian beekeepers produced over 75 million pounds of honey in 2013.

Honeybees, honourable senators, are vital for the pollination of crop plants, fruits and all vegetables. The pollination of canola is also a major activity for the Canadian honeybee industry. To continue, Senator Baker, most flowering plants need pollination in order to reproduce, and bees are responsible for about 70 per cent of that pollination.

Senator Baker: Honourable senators, could the chair estimate when the report of the committee and the marvellous work of its members will be done? How many meetings did the committee hold? What is the experience?

I was thinking a moment ago, when he was saying that they were going to produce this report, that Rimsky-Korsakov became famous with the *Flight of the Bumblebee*. Perhaps the honourable chair will become famous with the "plight of the bumblebee."

Hon. Senators: Hear, hear.

Senator Mockler: I'll always remember watching on TV in the other house, when I was a little younger, a response to a question from Senator Baker by then Minister Crosbie. When asked about potatoes, he reminded him that a baker is always concerned with potatoes.

Honourable senators, the committee heard from more than 70 witnesses. We conducted nearly 40 hours of hearings and held 25 meetings, hopefully to be in a position to table our report in early 2015.

There's no doubt in my mind that we join together to thank and recognize the senators from both sides who sit on the committee for their remarkable dedication. I would certainly like to recognize the Clerk of the committee, Mr. Kevin Pitman, and other staff for their dedication to the work of the committee.

Hon. Dennis Dawson: Honourable senators, as Chair of the Transport Committee, I hope that some day I'll get the honour of having a question asked by the Honourable Senator Baker.

Could we amend your report to add the study about the birds and the bees? I know it's Thursday afternoon and I didn't give you notice of the question, but if you could amend your study on the birds and the bees, I'd like to hear you answer as eloquently as you did for the senator on the question of agriculture.

The Hon. the Speaker *pro tempore***:** Senator Mockler, do you want to answer that?

Senator Mockler: We'll send him a CD of the birds and the bees.

[*Translation*]

DELAYED ANSWER TO ORAL QUESTION

Hon. Yonah Martin (Deputy Leader of the Government): Honourable senators, I have the honour to table, in both official languages, the answer to the oral question asked by the Honourable Senator Sibbeston on February 13, 2014, concerning natural resources and energy in the North.

ENERGY

NORTHWEST TERRITORIES—ALTERNATIVE ENERGY SOURCES

(Response to question raised by Hon. Nick G. Sibbeston on February 13, 2014)

The Government of Canada recognizes that many of Canada's remote and northern communities face unique challenges associated with the use of diesel for their energy needs. At the same time, there are significant environmental benefits that can be realized in these communities through the replacement of inefficient and expensive diesel generation. The Government of Canada is firmly committed to helping Canadians use energy more efficiently, develop cleaner energy technologies and boost the production of energy from renewable resources.

The New Building Canada Plan (NBCP), the largest long-term infrastructure plan in Canadian history, provides funding for a 10-year period, including the $10-billion Provincial-Territorial Infrastructure Component (PTIC) for projects of national, local or regional significance. Green energy is one of the eligible categories under the PTIC. The PTIC provides $9 billion for national and regional projects and $1 billion through the Small Communities Fund for projects in communities under 100,000 residents. Under the PTIC, each province and territory will receive a base amount of $250 million plus a per capita allocation over the 10 years of the program. The per capita amount is based on 2011 figures.

Natural Resources Canada

Energy efficiency and renewable energies have been identified as priorities to decrease the cost of energy and our reliance on diesel fuel in the North. Natural Resources Canada (NRCan) manages the Clean Energy Fund and the ecoEnergy Innovation Initiative, which fund a number of demonstration projects in the North. A list of current projects is provided in Appendix 1.

In addition, NRCan will support federal research in the area of renewable energy for northern and remote communities between 2015 and 2019. This research will also support the deployment of solar photovoltaic (PV) systems used by the government of the Northwest Territories which is currently implementing its Solar Energy Strategy. This strategy is aiming to meet 20 per cent of the average electricity load in 25 diesel powered remote communities.

With respect to energy efficiency in the North, NRCan runs a number of initiatives and programs on housing and buildings.

Housing

NRCan has been working with northern jurisdictions and program stakeholders to improve energy efficient of their housing stock. This has been possible through the adoption of the EnerGuide Rating System for new and existing houses, and the R-2000 standard for energy-efficient new homes. Since 2007, accomplishments achieved through these programs in northern communities include:

- Maintaining a network of four licensed service organizations, over 45 certified energy advisors and 20 builders who have increased the stock of energy efficient housing through the construction and labelling of over 240 new homes to the EnerGuide and R-2000 Standards;
- Increasing Canadians' understanding of responsible energy use as a result of over 1,200 EnerGuide home energy evaluations highlighting recommended upgrades for saving money and reducing energy consumption;
- Realizing savings of almost 14,000 gigajoules as a result of energy upgrades and new construction using NRCan programs — equivalent to the energy it takes to heat over 220 homes for one year;
- Integrating the EnerGuide rating as a mandatory by-law requirement for new homes built in the cities of Yellowknife and Whitehorse to ensure new stock is energy efficient.

Buildings

The 2011 National Energy Code for Buildings of Canada is currently under consideration by Yukon and Nunavut for potential adoption in 2015-2016. The two territories are analyzing the parameters for adoption (market, legislative process, compliance, etc.) to inform their final decisions. The Northwest Territories (NWT) already has a building energy standard comparable to the Code.

The ENERGY STAR Portfolio Manager building energy benchmarking tool is used by a number of building managers and owners of the North. Yukon registered three buildings, NWT has 10 buildings and Nunavut has two buildings in the tool. They all see the benefit in energy benchmarking to track energy use, compare performance to similar buildings, and take action to reduce energy use. These numbers will like rise, as the tool was launched less than a year ago, in August 2013.

Regarding energy management training, since 1997, NRCan has offered 19 'Dollars to Sense' workshops to the Territories. These workshops offer hands-on, effective training to industry, institutions and businesses to help them find, plan, finance and monitor money-saving energy reductions.

Aboriginal Affairs and Northern Development Canada

In addition, Aboriginal Affairs and Northern Development Canada (AANDC) plays a supporting role with respect to energy in the North as the territorial governments have jurisdiction and regulation over electrical production, transmission and distribution, and public or private utilities that are responsible for power generation and distribution.

In 2007, through the Government of Canada's Clean Air Agenda, AANDC received $15 million over four years (2007-08 to 2010-11) to implement the ecoENERGY for Aboriginal and Northern Communities Program. The program funded community energy planning, integration of small renewal technologies into community buildings and feasibility work for larger renewable energy projects. Over 113 projects in 97 communities were funded across the country.

In 2011, the ecoENERGY for Aboriginal and Northern Communities Program was renewed and received $20 million over five years (2011-12 to 2015-16). In its first three years of operation, the program funded 96 projects in 88 communities.

Since 2007, AANDC's ecoENERGY program has specifically supported 34 projects across 25 communities in the North, with a total investment of over $3.2 million. This includes over $350,000 for projects in the Yukon, over $1.2 million for projects in Nunavut primarily for residual heat/district heating projects and solar projects, and over $1.5 million for projects in the NWT primarily for biomass and solar projects.

AANDC's Canadian High Arctic Research Station (CHARS) will also play an increasing role with respect to alternative energy in the North. The Station will map renewable energy sources at scales appropriate to investment, provide a platform and funding for testing and refining renewable energy technologies used south of 60º to work under Northern conditions, and foster research into renewable/diesel integration systems and storage from variable renewable sources such as wind.

(*For Appendix 1, see Appendix, p. 2266.*)

[*English*]

ORDERS OF THE DAY

CRIMINAL CODE

BILL TO AMEND—SECOND READING—
DEBATE ADJOURNED

Hon. Denise Batters moved second reading of Bill C-36, An Act to amend the Criminal Code in response to the Supreme Court of Canada decision in *Attorney General of Canada v. Bedford* and to make consequential amendments to other Acts.

She said: Honourable senators, I am pleased to commence second reading debate in support of Bill C-36, the proposed protection of communities and exploited persons act.

Bill C-36 establishes a made-in-Canada approach toward the issue of prostitution. It marks a paradigm shift in how our criminal justice system views prostitution. Under this bill, prostitution is no longer treated as a nuisance, as the law viewed it before, but is instead recognized for the serious sexual exploitation that it is. Bill C-36 acknowledges that so many of the individuals who sell sexual services do so out of desperation or coercion, and that they are often victims themselves. That is why this bill criminalizes the purchase of sexual services, while it largely provides immunity from prosecution for the sellers of sex.

This proposed legislation responds to the Supreme Court of Canada's December 2013 *Bedford* decision that found three Criminal Code prostitution-related decisions unconstitutional. The court's one-year suspension expires on December 20, 2014; therefore, timing is critical. That is why both the House of Commons Committee on Justice and Human Rights and our Standing Senate Committee on Legal and Constitutional Affairs held special sessions this summer to study this bill.

• (1430)

Bill C-36 responds to the Supreme Court of Canada's concerns that existing Criminal Code provisions prevented the following: the sale of sexual services from fixed indoor locations, which the court found was the safest way to sell sexual services; hiring legitimate bodyguards or others who could provide protection; and negotiating safer conditions for the sale of sexual services in public places.

Bill C-36 addresses these concerns directly. It removes the provision prohibiting selling sex from a fixed address. It allows for the hiring of legitimate bodyguards or other third parties to protect prostitutes and provide them with services in a non-exploitive relationship. Further, it removes the prohibition against public communication for the purposes of prostitution, as long as that communication is not at or near school grounds, playgrounds or daycare centres. Bill C-36 includes this exception with a view to protecting our most vulnerable citizens, our children.

Bill C-36's objectives are clearly defined in its preamble. They clarify that once the bill is in force, prostitution would be treated for what it is — a form of sexual exploitation. Put simply, the bill is aimed at protecting those involved in prostitution, while ensuring the protection of our Canadian communities from prostitution's harms. Specifically, the bill seeks to reduce prostitution with a view to abolishing it, as much as possible.

These objectives recognize that women and children are disproportionately and negatively impacted by prostitution, which is an inherently dangerous activity. Society at large is harmed by the normalization of the sale of sex as a commodity, which is a gendered practice. Communities, including our children, are negatively impacted by the harms associated with prostitution, including the risk of being drawn into a life of exploitation.

The scope of Bill C-36's proposed offences is consistent with these objectives. The proposed purchasing and advertising offences target the demand for prostitution. In particular, the purchasing offence makes the prostitution transaction illegal. Sellers, the prostitutes, are only immunized from prosecution for their role because they are viewed as victims in a transaction that is so often defined by power and balance between the purchaser and the seller. Also, the proposed material benefit and procuring offences target those who capitalize on the demand for prostitution.

The proposed communicating offence, as amended by the House of Commons Justice Committee in July, directly targets activities that are harmful to children. The amended offence prohibits communicating for the purpose of selling sexual service, but only in public places that are next to school grounds, playgrounds and daycare centres. Of course, these are places designed for use by children.

Opponents of our new distinctly Canadian approach, as outlined in Bill C-36, cling to a handful of arguments, none of which hold water. Chief among them is the canard that a more permissive approach — either decriminalization or legalization — will make prostitutes safer.

Honourable senators, there is no way to make prostitution safer. Prostitution is inherently unsafe. Whether it is on the street or behind closed doors, there are no guarantees. It is a transaction conducted in private, which involves necessarily making oneself vulnerable for money. There is inherently risk in that scenario.

Critics argue that criminalizing johns will compress the negotiations for sex acts, giving prostitutes less time to screen their clients. There is no amount of time for screening, no amount of familiarity which will guarantee a prostitute's safety.

Our parliamentary committees heard witnesses, former prostitutes, who recounted their stories: Bridget Perrier, who was raped for 43 hours by a john she had serviced before and thought she knew; and Cassandra Diamond, who worked in a brothel, a supposedly safer indoor location, where prostitutes were lined up and paraded before clients with no ability to screen them at all.

Screening clients online is no better. Recent media reports from Newfoundland indicate a disturbing trend there. Prostitutes in St. John's, after chatting online or on the street with a client, agree to a rendezvous with what they think is a single client, only to find themselves forced into a hotel room where they are gang raped by 20 men. Prolonged screening helps no one once you are behind closed doors.

Even outside of prostitution an individual's potential for violence is not always discernible. Abused women's shelter workers spoke to our committee of their female clients who experienced domestic violence for the first time after years of dating or even marriage. No amount of screening can guarantee safety.

Our Canadian government recognizes that decriminalizing or legalizing prostitution will not keep prostitutes safe, nor will it protect the vulnerable in Canadian society. Research shows that

when the state facilitates the purchase and sale of sexual services through decriminalization or legalization of prostitution, the sex industry grows.

Supply and demand are interrelated factors. This is a basic economic principle. What happens when demand for purchased sex increases? The supply has to increase as well. How does the sex market address that demand? Largely by targeting the most vulnerable groups — those who are desperate, trafficked and children — all to meet the demand. Research shows that decriminalization of prostitution results in higher rates of human trafficking for sexual exploitation.

Expansion of the sex industry does not just occur in certain regulated zones where decriminalization or legalization is implemented. It also occurs outside those zones where there is no regulation. As well, coerced prostitution and human trafficking flourish in both the legal and illegal sectors.

Clearly, decriminalization and legalization of prostitution does not provide increased protection to those involved in the sex trade. Furthermore, research shows that the material conditions of prostitutes in decriminalized or legalized regimes have not noticeably improved. These more permissive approaches to prostitution have, therefore, failed to achieve their goals.

The negative consequences that flow from decriminalized or legalized prostitution are exactly what Bill C-36 seeks to prevent. Prostitution is an extremely dangerous activity that poses a risk of violence and psychological harm to those subjected to it, regardless of the venue or legal framework in which it takes place, both from those who purchase sex and from the third parties who profit from it.

Throughout House of Commons and Senate committee discussions on Bill C-36, pro-sex work activists have pushed for a change in social attitudes towards prostitution. They think it should be legalized and viewed as legitimate, empowering work, a career option to be chosen as any other. Yet who among us would want our children, our sisters, our mothers to choose it?

For the vast majority of prostitutes in Canada, life is not like *Pretty Woman*, and we should not perpetuate that myth for young Canadian women. I come from Saskatchewan and I can assure you that the average prostitute in my hometown of Regina is not shopping on Rodeo Drive and flying off into the sunset on Richard Gere's jet. It is far more likely she is a 14-year-old Aboriginal girl, recently beaten by her pimp, working a street corner in the freezing cold to afford her next drug fix.

How can we close our eyes and pretend that coercion, violence and exploitation are not a significant part of the world of prostitution? Survivors of the sex trade know firsthand the results of the inequality inherent in prostitution.

Former prostitute Timea Nagy testified before the house committee that "70 per cent to 95 per cent of people were physically assaulted while in sex work." She also expressed the view that ". . . prostitution is not a profession. It's an oppression."

The brave former prostitutes who testified before the house and Senate committees told similar stories. Speaking about her time as a prostitute, Bridget Perrier stated:

> . . . I made a lot more money as a child than I did as an adult. They paid me a lot more when they knew I was 12 years old.

She was subjected to degradation, dehumanization and a rape that left internal injuries so severe that she cannot have children naturally. She said:

> I serviced many johns who felt privileged to use and abuse me, and when they were satisfied, they discarded me like I was used Kleenex. . . .
>
> These johns did things to me that they couldn't or wouldn't do to their spouses or intimate partners.

The johns knew sex with a prostitute wasn't truly consensual sex. They could ask or demand things of a prostitute to which they knew their wives or intimate partners would never consent.

• (1440)

Another former prostitute, Larissa Crack, described repeated rapes by johns at the age of 14, addiction to drugs at 15 and being trafficked through legal establishments for money. She stated simply this:

> The bottom line was that [the johns] had paid for me and, therefore, I had become their property.

Prostitution is a transaction, an exchange of money for the use of another's body. Inherent in that transaction is an exploitation of another person's being for the purchaser's own sexual gratification. If it were truly consensual sex, no money would need to change hands in order for both parties to be involved. That money is required indicates coercion. The balance of power is in the hands of the purchaser who has bought the prostitute as a commodity. It is not a stretch to think that such an unequal transaction may lead some purchasers to assume they have the right to do whatever they want to that body they have purchased.

Some have argued that criminalizing the purchasing of sex will drive prostitution underground. This argument simply doesn't stand up. I think Professor Janine Benedet put it best when she stated before our Legal Affairs Committee:

> There is something ironic about the argument that men must be allowed the unrestricted opportunity to buy sex from women in order to keep women safe from those very same men.

Professor Benedet went on to draw a comparison with the offence of purchasing a person under the age of 18. No one disputes the constitutionality of such a measure or even argues that it will drive child prostitution underground. Even if the prostitute involved in the sale of sex is an adult, other inequalities — poverty, addiction, abuse history, et cetera — are

frequently present in the exchange with a john. Furthermore, many adult prostitutes begin in the sex trade as children. Consent and equality are not so clear-cut in the dark world of prostitution.

It is overwhelmingly men who make up the vast majority of sex purchasers and overwhelmingly women who serve as prostitutes. There have been some who have attempted to frame the male clients who buy sex as nice guys.

Our Senate Legal Affairs Committee heard testimony from a male prostitute who felt his female clients were sweet women. Even if that were true, and I submit that is a matter for debate, the laws of Canada do not apply differently to nice guys or sweet women, nor should they apply differently based on our gender. Indeed, there is a social attitude about prostitution that needs to change, that of men's entitlement to purchase women for sex.

The Canadian Charter of Rights and Freedoms does not protect the right of men to buy and exploit women; however, section 15 of the Charter does protect the fundamental right of all Canadians to equality, regardless of gender.

The *Bedford* case has given us a chance to take a hard look at the available evidence, to listen to those who have lived a life in prostitution and, ultimately, to choose an approach that responds to this evidence. Ignoring the voices of those who have courageously come forward to share their stories of abuse at the hands of pimps and johns is simply not an option. If Bill C-36 means that the tiny minority of people who claim to freely choose prostitution as their profession cannot do so, then that is the necessary result of protecting the vast majority of vulnerable people who are exploited by prostitution.

Canadian society cannot afford to allow decriminalization to result from the *Bedford* decision. Decriminalization is not benign. It results in a greater number of the vulnerable being drawn into a life of exploitation. As Canadian legislators, we cannot ignore the compelling and often heartbreaking stories of those who have lived this reality. We have this moment to choose the kind of society in which we want to live. This is an opportunity for our nation to define what Canadians value.

Canadians stand for the protection of the vulnerable. We stand for the equality of all Canadians, women and men. All Canadians deserve to be treated with dignity and respect, and to be protected from exploitation. That is why I support Bill C-36, and that is why I urge all honourable senators to join me in saying no to decriminalization and yes to Bill C-36.

Some Hon. Senators: Hear, hear.

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

ADJOURNMENT

MOTION ADOPTED

Hon. Yonah Martin (Deputy Leader of the Government), pursuant to notice of October 8, 2014, moved:

> That when the Senate next adjourns after the adoption of this motion, it do stand adjourned until Tuesday, October 21, 2014 at 2 p.m.

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

Hon. Senators: Agreed.

(Motion agreed to.)

CORRECTIONS AND CONDITIONAL RELEASE ACT

BILL TO AMEND—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Boisvenu, seconded by the Honourable Senator Patterson, for the second reading of Bill C-479, An Act to amend the Corrections and Conditional Release Act (fairness for victims).

Hon. George Baker: Thank you, Mr. Speaker. I have just a few words on this particular piece of legislation. As senators know, this is the infamous bill that was forwarded to the Senate from the Commons that had an error in it. It wasn't the bill that was passed by the Commons, and this is now the replacement bill, the bill that should have been before the Senate.

Senators, I would like to, for a moment, explain the importance of each senator who moves motions on bills. Senator Batters did it a moment ago. Senator Batters' speech outlined the purpose of the bill, the purpose of different clauses of the bill, and I'm going to try just for a moment to illustrate the importance of that and the fact that what Senator Batters said is going to be referenced either by our courts or by quasi-judicial bodies or tribunals for years to come.

I'm going to give an example using Senator Boisvenu because Senator Boisvenu moved the second reading of the bill that's before us, and I'm going to illustrate that by using a piece of case law that quotes Senator Boisvenu extensively but arrives at the conclusion that what Senator Boisvenu was proposing is unconstitutional.

That's not the fault of Senator Boisvenu. Senator Boisvenu was giving a second reading on a government bill and was repeating, generally, what the Minister of Justice had said before our committee. So let me start by taking the most recent references concerning the Senate. I did a check this morning and found that there have been 72 references in case law to Senate speeches and committee proceedings since the beginning of the year. These are from our courts, our quasi-judicial bodies and our tribunals. The House of Commons speeches were in 27 references. That's 72 for the Senate and 27 for the House of Commons.

• (1450)

So you can see the importance of what somebody says in a committee of the Senate or in the Senate Chamber concerning certain bills and certain matters. Your Honour will know how, when you're chair of a committee, you can be referenced way down the road, through the years, forever. And the word "Nolin" is used many times in many court judgments.

Let me start this way. Here are a couple of recent ones to illustrate the point. The British Columbia Court of Appeal, on March 3, 2014, in 2014 BCCA 80, referenced a subcommittee of the Banking Committee concerning roadside screening demand. That's in impaired driving cases. I haven't read the case completely, so I don't know what the connection is.

It's interesting to note they are using the transcript of proceedings of the Standing Senate Committee on Banking, Trade and Commerce — minutes of evidence, December 16, 1952 — 1952 — in a judgment that was given just a couple of months ago. For those interested, that can be found at paragraphs 67, 68, 69 and 70 of that particular judgment by the Court of Appeal of British Columbia on March 3 of this year.

To bring us up to date, on September 8 of this year, we go to the *Commissioner of Official Languages v. the CBC* in a Federal Court decision, 2014 FC 849. They are quoting a Senate report extensively — forming the basis of a Federal Court judgment — that was tabled here in April 2014. Let me read from paragraph 14:

> A public hearing was held on June 19 and 20, 2014. On that occasion, the parties agreed to have the Report of the Standing Senate Committee on Official Languages, *CBC/Radio-Canada's Language Obligations*, tabled in April 2014 [Senate report], filed in the Court record.

And there is the report filed in the court record, and there is the signature of the affidavit of Gary W. O'Brien, Clerk of the Senate. He goes on to explain what the authorization was for that particular committee report.

That committee report forms the basis of a very long and complicated decision of the Federal Court, outlining what the Senate committee did, where they went and what they recommended. Before the conclusion, the Federal Court of Appeal said:

> It is therefore not surprising that the Senate Committee Report notes that "[t]he attention paid to official-language minority communities in this decision is important.

And then the decision is made.

That's a current decision of a current report, tabled here in the Senate.

I could go on: *Figueroa v. Canada*, 2014 FC 836. I don't know what this involves, but it involves a writ of mandamus, which is when you get a writ from the court to order somebody to do something — a minister or a government department to do something. In this case, it's the Minister of Public Safety.

But in this report, they reference proceedings of the Special Senate Committee on Bill C-36. I said to myself, "How can we have a court judgment in September 2 of this year concerning Bill C-36 when Bill C-36 is the bill concerning prostitution that Senator Batters — "

Until I go down to paragraph 20, where the court says:

> The interpretation of mistaken identity advanced by the respondent is a logical answer and coincides with the ministerial position taken before the Proceedings of the Special Senate Committee on Bill C-36, on December 4, 2011.

So that was a previous Bill C-36.

Now I get to the case, and there are 72 of these cases, as I said. A lot of them have to do with tribunals in which committee work in the Senate is referenced. People's words are taken into account by a tribunal decision or a disciplinary decision of a disciplinary body, which is established under provincial law — mainly nurses' associations, doctors, lawyers and so on — where they use the proceedings of the Senate and various opinions expressed.

Let me get to *R. v. Michael*, 2014 ONCJ 360. This is the Ontario Court of Justice. They declare the victim fine surcharges we passed to be unconstitutional. This was the first of the decisions. They quote Senator Boisvenu extensively. I gave him a copy of this huge report. I don't know how many pages there are — 50, 60 or 70 pages in the decision. It quotes Senator Boisvenu extensively. I will read a bit from page 44 of the decision:

> . . . *Debates of the Senate* 41st Parliament, 1st session, Number 133, (5 February 2013) at 3194-3196, Hon Pierre-Huges Boisvenu, moving second reading "By introducing this bill the Conservative government is following through on its commitment to focus on holding criminals accountable, to make that a key part of its legislative agenda, and to make it the basis for the rehabilitation process for these criminals.

I won't read all of it. It goes on and on quoting Senator Boisvenu.

Then it quotes the Honourable Rob Nicholson, who appeared before a Senate committee. The reason for the quotes is to establish the purpose of the legislation. We're only talking about two or three years ago; this was 2013, *Debates of the Senate*; that was last year, quoting Senator Boisvenu in second reading to establish the intent of the legislation.

I won't say anything beyond that. The conclusion of the court is that the bill that we passed is unconstitutional. Now, this is a lower court; this is the Ontario Court of Justice. There is then an appellate review by the Superior Court of Ontario, the Court of Appeal and then the Supreme Court of Canada along the way.

Now I come to this bill, and the reason I mentioned Senator Boisvenu — and I warned him I was going to do this — is because he has introduced this particular bill that we have before us. As I say, all bills that pass the House of Commons must have a sponsor in the Senate. Of course, you reflect on what the purpose of the bill is in giving your speech, but you do it knowing

that you could be quoted. And you are quoted; you are quoted somewhere, sometime — either today or in years to come, as I've just pointed out to you in the references this year.

Now, what does this bill do? Here is what Senator Boisvenu said the bill does. I'm just taking one sentence from one provision of the bill.

Let me read that provision, Your Honour, because you're a lawyer of some renown; you know the meaning of words that are used in legislation.

• (1500)

It says here that this bill applies in respect to an offender even if they were sentenced, committed or transferred to a penitentiary before the day on which this clause comes into force.

You would call that, honourable senators, a retrospective piece of legislation — not retroactive, retrospective — in that it would apply today, but it would also apply to an act that had taken place in the past but would take effect from the day this legislation is passed, which could affect that person's sentence. That's the bill.

Senator Boisvenu said this last week, at page 1510 of the *Debates of the Senate*, at second reading:

> If the PBC refuses to grant parole to a violent offender, the offender could have to wait for up to five years before he can submit another application.

The present law is two years. This changes it to four years.

I went back to find out why this provision was put in this bill, and I discovered that the amendment was made in the bill on Tuesday, March 4, 2014, at the Standing Committee on Public Safety and National Security. It was moved by Ms. Roxanne James. She said this at 4 o'clock in the afternoon. She starts by saying the government moves an amendment by adding after line 31, on page 5 in the previous amendment, but the amendment is being made by her, as an individual. She said:

> This clause clarifies that Bill C-479 will affect the following classes of federal offenders: offenders currently serving . . . a sentence after the first scheduled parole or detention review following the coming into force of this particular bill.
>
> The reason for this amendment is that currently, as the bill was drafted, it would only apply to offenders who had not yet been sentenced at the time the law was changed, and in fact we wouldn't see the fruits of this particular bill until many years into the future.

The purpose of the amendment, the purpose of this clause of the bill, as proclaimed by Senator Boisvenu, as proclaimed by Ms. Roxanne James, is to implement a retrospective provision in law to apply to persons who have already been sentenced in connection with parole.

On March 20, 2014, the Supreme Court of Canada decision in *Whaling v. Canada*, struck down a provision that we had enacted concerning parole. Let me read a couple of sentences. Paragraph 8 says:

> The question before this Court is whether the retrospective application of the delayed eligibility for day parole to incarcerated offenders who had been sentenced before the APR provisions were repealed violated the respondents' right, guaranteed by s. 11(*h*) of the *Charter*, not to be punished anew for their offences.

Paragraph 9 states:

> This appeal affords the Court the opportunity to revisit the purpose of s. 11(*h*) and to define its scope.

Section 11(*h*) in the Charter, you'll recall, is double jeopardy. You recall that very well.

The court continues:

> For the reasons that follow, I find that s. 11(*h*) applies to the respondents' claim. The retrospective application of delayed day parole eligibility violated the respondents' s. 11(*h*) right not to be "punished . . . again", and that violation was not justified under s. 1 of the *Charter*.

Paragraph 44 says, about double jeopardy:

"*Wigglesworth* made it clear . . ."

Remember that case? Honourable senators will recall we had an argument in the Senate concerning *Wigglesworth* and I was certain that I was absolutely correct. The Speaker argued against it, and the next thing I saw was the Canadian Criminal Lawyers' Association claiming the Speaker was right and I was wrong.

I still think I was right. It says, at paragraph 44:

> *Wigglesworth* made it clear that the protection against double jeopardy may be triggered not only by proceedings that are criminal or quasi-criminal in nature, but also by non-criminal proceedings that result in a sanction with true penal consequences. Where a person is charged in respect of "a private, domestic or disciplinary matter . . . intended to maintain discipline, integrity or to regulate conduct within a limited private sphere of activity" . . . s. 11(*h*) may still be engaged if the true penal consequences test is met . . . a true penal consequence which would attract the application of s. 11 is imprisonment or a fine which by its magnitude would appear to be imposed for the purpose of redressing the wrong done to society at large rather than to the maintenance of internal discipline within the limited sphere of activity.

I'll just read two more.

At paragraph 51, it says a retrospective change to parole eligibility, which is what this bill is, "may have the effect of extending an offender's term of incarceration. Incarceration is "the most severe deprivation of liberty known to our law."

This is paragraph 54:

> In my view, where an offender has been finally acquitted of, or finally found guilty and punished for, an offence, s. 11(*h*) precludes the following further state actions in relation to the same offence: . . . retrospective changes to the conditions of the original sanction which have the effect of adding to the offender's punishment . . . The case at bar . . . It is not the repeal of the APR provisions that is alleged to be unconstitutional, but the retrospective application of that repeal, which altered the parole expectations of offenders who had already been sentenced.

It goes on in a repetitive fashion, at paragraph 60:

> At one extreme, a retrospective change to the rules governing parole eligibility that has the effect of automatically lengthening the offender's period of incarceration constitutes additional punishment contrary to s. 11(*h*) of the *Charter*.

Paragraph 62 says:

> The fact that delayed parole eligibility can be imposed in the sentencing process confirms my view that retrospectively imposing delayed parole eligibility on offenders who have already been sentenced constitutes punishment.

The final quote:

> The effect of the retrospective application provision . . . was to deprive the three respondents of the possibility of being considered for early day parole . . .

I would submit that, given all of that evidence from the Supreme Court of Canada, one clause of the bill may — I'm not saying it does, because I'm not qualified to arbitrate this, but I would say it appears to on the face of it — violate the decision that was made in *Whaling v. Canada*.

• (1510)

All of that, senators, just to point out that everything that's said in this Senate and everything that's said in the committees and committee reports is of great importance to a great many people who sit on tribunals and quasi-judicial bodies and to the judges in our courts. The evidence is very clear that it's being used. If your words today don't have an effect next week or next month, they may have an effect 50 years down the road as far as that provision is concerned.

It just points out the importance of the Senate. If somebody does not understand the importance of the Senate, you would have to go to our tribunals, our disciplinary boards, and look at their decisions and look at where they're going to find the substance, the essential elements of their decisions. They go to the Senate.

I conclude by saying it's not a criticism of Senator Boisvenu that I'm making, because Senator Boisvenu believes firmly in certain things, and when he supports a government bill, he is giving the position of the Government of Canada. He then must bear the responsibility of being quoted into the future, indefinitely, when these matters are addressed.

The Hon. the Speaker *pro tempore***:** Continuing debate?

Some Hon. Senators: Question.

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

It was moved by the Honourable Senator Boisvenu, seconded by the Honourable Senator Patterson, that this bill be read the second time. Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

Some Hon. Senators: On division.

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

REFERRED TO COMMITTEE

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

(On motion of Senator Boisvenu, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.)

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

FIFTH REPORT OF COMMITTEE—MOTIONS IN AMENDMENT AND SUBAMENDMENT—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator White, seconded by the Honourable Senator Frum, for the adoption of the fifth 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 June 11, 2014;
>
> And on the motion in amendment of the Honourable Senator Cowan, seconded by the Honourable Senator Fraser, that the report not now be adopted, but that it be amended by:
>
> 1. Replacing paragraph 1.(j) with the following:
>
> "That an item of Other Business that is not a Commons Public Bill be not further adjourned; or";
>
> 2. Replacing the main heading before new rule 6-13 with the following:
>
> "Terminating Debate on an Item of Other Business that is not a Commons Public Bill";

3. Replacing the sub heading before new rule 6-13 with the following:

"Notice of motion that item of Other Business that is not a Commons Public Bill be not further adjourned";

4. In paragraph 2.6-13 (1), adding immediately following the words "Other Business", the words "that is not a Commons Public Bill";

5. In the first clause of Paragraph 2.6-13 (3), adding immediately following the words "Other Business", the words "that is not a Commons Public Bill";

6. In the first clause of paragraph 2.6-13 (5), adding immediately following the words "Other Business", the words "that is not a Commons Public Bill"

7. In paragraph 2.6-13 (7) (c), adding immediately following the words "Other Business" the words "that is not a Commons Public Bill";

8. And replacing the last line of paragraph 2.6-13 (7) with the following:

"This process shall continue until the conclusion of debate on the item of Other Business that is not a Commons Public Bill".

And on the subamendment of the Honourable Senator Mitchell, seconded by the Honourable Senator Day, that the amendment be not now adopted but that it be amended by adding immediately after paragraph 8 the following:

9. And that the rule changes contained in this report take effect from the date that the Senate begins regularly to provide live audio-visual broadcasting of its daily proceedings.

Hon. James S. Cowan (Leader of the Opposition): Colleagues, I am pleased to speak in support of Senator Mitchell's subamendment to the fifth report of our Standing Committee on Rules, Procedures and the Rights of Parliament. But before I speak to that subamendment directly, I would like to take this opportunity to address two separate but related matters.

First, I wish to take note of an exchange that took place between Senators Fraser and Nolin on the committee report on Thursday, September 18, 2014, when I was regrettably but unavoidably absent from the chamber. That exchange had its roots in the debate that took place earlier that week when I moved my amendment to the committee report.

On Tuesday, September 16, after making clear my reasons for opposing this report, I moved an amendment to the report of the Rules Committee, saying:

> In my opinion, until the other place agrees to revise its own procedures to give Senate bills fair treatment, any changes we make to our Rules to allow for the more expeditious consideration of private members' bills should apply only to our own bills, and not to those that arrive from down the hall.

My amendment would exclude all Commons public bills from the fast-track proposal for private members' business advocated by my friends opposite.

Senator Nolin then asked me this question:

> . . . I just read your amendments. Do we understand that by including your amendments in the proposed change to the rule you would accept amending the rule for the new process if they're not bills coming from the House of Commons?

In other words, would I accept this proposed change to our rules so long as it did not apply to legislation arriving from the House of Commons?

I declined to answer yes or no to this question. Instead, I said:

> I proposed an amendment. I want the amendment debated and, at the end of the debate, I and my colleagues here and colleagues on the other side will vote. I'm not saying now how I would vote at such a time. I want to hear the debate.

Frankly, it would have been presumptuous for me to declare, without listening to any further debate, or any other concerns that colleagues in the chamber might want to raise, that so long as my amendment was adopted, I would support the report. What would be the purpose of debate in this chamber if we all made up our minds before hearing all the arguments?

Following my response, Senator Nolin then asked for what I believed was a clarification of the true impact of my amendment. He said:

> The way I read the amendments being proposed by Senator Cowan, if we. . .

. . . and I stress to my colleagues Senator Nolin's use of the word "if" in his question. To repeat, he said:

> The way I read the amendments being proposed by Senator Cowan, if we adopt these amendments and adopt Senator White's motion, as amended by Senator Cowan, ultimately we would be adopting a new procedure for quick voting, time allocation, for Senate bills, but not for House bills. This is how I read Senator Cowan's amendments.
>
> Am I right or wrong?

That is Senator Nolin.

Not wishing to rush into an answer, and wanting to ensure that I was interpreting his new question correctly, as a question as to the technical impact of my amendment rather than a question about my voting intention, I responded as follows:

> I'd like to look at that question and review the amendments I have made to be absolutely sure before I respond, so I will do that and perhaps I will speak to you about that.
>
> Thank you for the question.

The next day, after reviewing Senator Nolin's question as it appeared in our *Debates*, and assuring myself that he was seeking information about the technical impact of my proposed amendment, I sent him this short letter, which has already been tabled in the chamber:

> "Dear Pierre Claude,
>
> Having now had an opportunity to review yesterday's Debates, I wish to confirm that the effect of my amendment would be to leave absolutely unchanged the Senate's current treatment of any legislation arriving here from the House of Commons.
>
> The practices we have followed for decades would continue with respect to those bills if the Fifth Report of our Standing Committee on Rules, Procedures and the Rights of Parliament were adopted with my amendment

Colleagues, this was a simple, matter of fact and direct answer to his question about the technical impact of my amendment. In a nutshell, my letter explained that if the rule changes were adopted with my amendment, the effect would be to leave unchanged our decades-old practices of dealing with House of Commons legislation. In my letter, I did not say that I would support the new rule change if only my amendment were accepted. In my speech of September 16, I had spoken against the proposed rule changes. I said at that time that I was not prepared to take the plunge or roll the dice on proposals to change our rules before we as a body had conducted a thorough review of how we could better do our jobs in light of the decision of the Supreme Court of Canada in the Senate Reference.

To reiterate my position: I oppose these rule changes. I have opposed these proposed rule changes from the very beginning for a variety of reasons. But if the government majority in this chamber is determined to ram them through, the very least it could do is agree to not apply them to private members' bills coming from the House of Commons, certainly until such a time as the House of Commons agrees to give our bills equal treatment in that place.

I trust this clarifies and removes any confusion from what I believed were my earlier carefully chosen and clear words on the matter.

The second matter I wish to refer to before turning to the substance of Senator Mitchell's subamendment is a statement made yesterday by Senator Frum during her speech. She argued that these proposed new rule changes would give individual senators more power. She said:

> Under our current rules, the decision to bring bills forward for a vote or not is decided by negotiations between our two deputy leaders on the government and opposition sides.

• (1520)

Senator Frum made it sound as if everything is orchestrated and controlled by our two deputy leaders.

As Senator Fraser explained yesterday, the whole Order Paper is called for consideration every day, and every senator can speak on any item. When an item on the Order Paper is called and one of our two deputy leaders says "stand," what they are really saying is "with leave of the Senate, and notwithstanding the order of the Senate made at the last sitting, further consideration of this item of business be postponed until the next sitting of the Senate." It requires unanimous consent for our deputy leaders to stand an item. When Senator Martin or Senator Fraser says "stand," any senator can say "no," thereby denying unanimous consent.

If any senator says "no," then one of three things will happen. Either a senator will rise to participate in the debate or rise to move the adjournment of the debate, and failing one of those two things occurring, the Speaker, after noting the debate appears to have concluded, would call for the vote.

Contrary to what Senator Frum described, it's not up to the deputy leaders to decide when a vote will be held on an item before the Senate. They may make predictions and at times even give undertakings to one another about the course of business, but in the final analysis, the Senate decides when a vote is actually held on any item. It is the Senate's decision.

Furthermore, the power of every senator to deny unanimous consent when either leadership attempts to delay matters by standing an item of business should not be underestimated. Likewise, neither should the ability to move legislation along through good-faith negotiations be underestimated. As I noted yesterday, the majority's need for negotiations — which do, as we saw in the spring, produce results — would be removed and would become unnecessary if these rules ever came into effect.

Turning now to Senator Mitchell's subamendment, I believe it is worthy of our strong support because if this proposal to change our rules is truly tied to televising our proceedings, as the other side has presented the issue, there is no logical reason to oppose it. If it is opposed, it can only be because the proposal has, in reality, absolutely nothing to do with broadcasting. If this subamendment is defeated, the subterfuge will be clear to anyone who is watching what is going on in this chamber.

Let me recap how this proposal came before us.

On February 11, 2014, the Rules Committee created a Subcommittee on Broadcasting because, in the words of Senator White, the committee chair, ". . . it may require changes to the Rules to have camera access in the Senate."

On May 13, 2014, the Subcommittee on Broadcasting presented a report to the Rules Committee with the proposed rule changes we now have before us.

What do these new rules have to do with televising our proceedings? Is there anything in them about camera access? Nowhere do words such as "broadcasting," "television," "video," "cameras" or anything like that appear anywhere in these new rules proposed by the Subcommittee on Broadcasting. So where is the link between the new proposed rules and televising our proceedings?

At the May 13 meeting of the Rules Committee, when this report was presented by the Subcommittee on Broadcasting, Senator Nolin said:

> The subcommittee is considering ways in which Senate rules and practices should be adjusted to deal with the possibility of broadcasting. . . . Since it is very likely that the sessions will be broadcast, the committee entrusted the subcommittee with the responsibility of studying ways to ensure that the meetings are more interesting to viewers, among others.

So these proposed new rules are, in Senator Nolin's opinion, a way of ensuring that the proceedings of the Senate are more interesting to viewers when we begin broadcasting our proceedings. He repeated that argument later in the meeting, saying:

> Broadcasting is sort of like the backdrop. We are anticipating that it will be broadcast one day, and the idea behind all of this is to improve the quality of the "televisual product" of Senate meetings, at the end of the day.

Colleagues, Senator Mitchell's subamendment is very simple. It takes at face value the explanations of Senators Nolin and White and says that since these proposed changes are for the benefit of viewers when the Senate starts to broadcast its proceedings, they should come into effect at such time as regular broadcasting begins.

Needless to say, if our friends opposite vote against this very reasonable proposal, it will confirm the suspicions of some of us on this side that the proposed changes to our rules have nothing whatsoever to do with televising our proceedings but are instead rooted in some other objective that is on the government's mind.

Some Hon. Senators: Hear, hear.

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

• (1530)

[*Translation*]

AGRICULTURE AND FORESTRY

MOTION TO AUTHORIZE COMMITTEE TO STUDY CANADIAN AGRICULTURAL INCOME STABILIZATION PROGRAM — DEBATE ADJOURNED

Hon. Pierrette Ringuette, pursuant to notice of June 11, 2014, moved:

> That the Standing Senate Committee on Agriculture and Forestry be authorized to study the following:
>
> The assessment and appeals process of the Canadian Agricultural Income Stabilization Program (CAIS), including the replacement programs; AgriStability and AgriInvest;
>
> The definition, including legal precedent and regulatory framework, and application of the terms "arm's length salaries" and "non-arm's length salaries" as used by CAIS and related programs, as well as a comparison of those definitions and the application used by Revenue Canada and Employment and Social Development Canada; and
>
> That the Committee submit its final report no later than March 31, 2015, and retain all powers necessary to publicize its findings until 180 days after the tabling of the final report.

She said: Honourable senators, the motion you have before you follows from the regular consultations I held in my region, which is an agricultural area, and from the comments I received from many farmers in my region. Indeed, there were a lot of complaints about the application of the program. I would like to give you an overview of what the program is about.

[*English*]

AgriStability is based on margins and its federal-provincial agreements. In program margins you're allowed income minus your allowable expenses in a given year. This has been a cornerstone of making sure that we have a viable agriculture industry in this country.

As I said earlier, this is a federal-provincial agreement. My specific motion says the federal government is administering, through its Winnipeg office, the programs for Manitoba, New Brunswick, Nova Scotia and Newfoundland and Labrador, but all the other provinces administer the program. British Columbia, Saskatchewan, Alberta, Ontario, Quebec and P.E.I. administer their federal-provincial agreements.

The major cause of concern is twofold.

[*Translation*]

First, there is the interpretation that the department, in applying the program, makes in situations that involve costs associated with persons who deal at arm's length with the farm business and with persons dealing at non-arm's length.

Honourable senators, I have been in politics for 27 years. I can tell you that, in the last 27 years, these two concepts at the federal level have been viewed and reviewed by various courts in our Canadian system, for instance in cases involving Employment Insurance contributions or benefits, or the Canada Revenue Agency, with respect to whether an item could be recognized as an expense and whether a person dealt at arm's length or at non-arm's length with a particular entity. Our court system determined that there were four criteria that had to be applied in Canada, be it at the federal or provincial level, to determine whether there was an arm's length or non-arm's length relationship.

[*English*]

In English it's arm's length or non-arm's length.

[*Translation*]

Based on my discussions with the agricultural community in my region, what constitutes arm's length or non-arm's length is determined according to Canadian case law.

I therefore asked the Department of Agriculture to explain how, as a federal organization, it could fail to comply with what the EI program and Revenue Canada had to comply with. Why does the Department of Agriculture not follow Canadian case law when it comes to arm's length and non-arm's length items?

I wrote twice to the minister and twice he answered, "I received an opinion from the Department of Justice telling me that our application is correct."

At no time did the minister dare to provide me with the document from the Department of Justice. I am not a lawyer, but I have been working in the system long enough to know that all the case law from the past several decades flies in the face of the minister's statement.

The second point I must raise is that in my discussions with the program administrators in Winnipeg, it was mentioned that there is an appeal process within the process and an appeal tribunal for farm organizations.

It turns out that all appeals by farm organizations that are sent to Winnipeg and deal with those two points are automatically rejected by the administration; they are not even sent to the appeal tribunal.

Honourable senators, there is a blatant flaw, at least in terms of the two points I presented, for our labour organizations. I think that is completely unacceptable because, in my humble opinion, if we cannot provide justice and apply case law to our farm organizations, we are definitely going in the wrong direction.

Senator Baker, who usually does excellent research on the jurisprudence for all his files, would see that it is not a coincidence that Revenue Canada accepts the courts' decisions concerning the four criteria for determining whether an expense or income item is non-arm's length or arm's length. This is not a question of goodwill. It is not acting out of the goodness of its heart, but accepting the rulings of the courts in this area.

As I said, I tried to explain this to the minister two times, but I never received a response. You can see from my motion that I am asking the committee to report before the end of March because next year the federal and provincial governments will be renegotiating all these agricultural agreements as well as their application.

• (1540)

I would also like to draw to your attention what I wrote to the minister.

[*English*]

The Canadian Agricultural Income Stabilization program cannot unilaterally declare itself exempt from Canadian case law regarding the application of facts for the concept of arm's-length wages and non-arm's-length wages. The program's managers in your department have a responsibility to recognize the case law for these concepts and apply it in their analysis, as in the case of our courts and of all public and private sector organizations in Canada. What has been happening in the private sector between corporations, and so on, has also been referred to courts. The four criteria are applicable not only in regard to government entities but also between private corporations in dealing with each other.

The analysis must be based a priori on all four of the following criteria: remuneration paid, terms and conditions of employment, duration of work performed, and nature and importance of the work performed.

I have attached 20-some pages of the most recent jurisprudence on the issue. The court has said that in regard to an expense or a payment, the fact that a person might be a relative of an entity does not necessarily mean that that person is not at arm's length — that is, a dependent — and vice versa. The fact that a person is not related to an entity does not mean that that person is not dependent.

The courts have made it clear throughout the years and have provided that the Government of Canada, the Canada Revenue Agency, the CPP — all these programs — must look at arm's length and non-arm's length with those four criteria. It is unacceptable that this federal-provincial agreement and its administration, through its Winnipeg office, would not comply with the jurisprudence that has been made throughout the years in this country.

I'm hoping that, for the sake of our farming communities and for the sake of the events that are coming in the next year in regard to the renegotiation of the AgriStability agreements, you will move this motion forward to committee as soon as possible so that we can have quite a deliberation on the issue and make sure that our farming communities are treated in an equitable and legal way.

(On motion of Senator Martin, debate adjourned.)

(The Senate adjourned until Tuesday, October 21, 2014, at 2 p.m.)

APPENDIX 1

Projects undertaken under the Clean Energy Fund and the ecoENERGY for Innovation Initiative

Clean Electricity

Project/Activity Title	Arctic or Remote Community	Funding	Project/Activity Description
Community-based Geothermal Demonstration in Remote First Nations Community	Arctic Community (Renewables)	CEF: $483k Total project: $1.14M	Borealis GeoPower partnered with the Town of Fort Liard and the Acho Dene Koe, the resident First Nation, to assess the potential for geothermal to provide heat and power to the Northwest Territories hamlet. https://www.nrcan.gc.ca/energy/funding/current-funding-programs/cef/12410
Yukon Bioenergy Demonstration Project	Arctic Community (Bioenergy)	ecoEII: $500K Total project: $1.007M	Yukon Energy Corporation completed a Front End Engineering Design (FEED) study to confirm the viability of electricity generation in the Yukon using small-scale gasification technology and locally-derived biomass feedstock in the form of salvage or waste wood. http://www.nrcan.gc.ca/energy/funding/current-funding-programs/eii/16138
FEED of Xstrata's Raglan Renewable Electricity Micro-Grid and Smart Grid Pilot Demonstration	Arctic and Remote Communities (Renewables)	ecoEII: $720K Total project: $2.009M	TUGLIQ Energy Co and Xstrata-Nickel Raglan Mine completed a FEED study that refined the technical and economic parameters of a wind/storage/diesel hybrid system in northern conditions and completed an environmental assessment that has been used towards the demonstration that will provide a penetration of wind energy on a diesel grid of more than 30%. http://www.nrcan.gc.ca/energy/funding/current-funding-programs/eii/16152
Iqaluit Smart Grid	Arctic Community (Smart Grid)	ecoEII: $1.662M Total project: $3.379M	The Iqaluit Smart Grid Initiative has been kicked off and significant research and assessment has been completed on the Iqaluit distribution system. http://www.nrcan.gc.ca/energy/funding/current-funding-programs/eii/16161

CONTENTS

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