



# DEBATES OF THE SENATE

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OFFICIAL REPORT  
(HANSARD)

Thursday, April 25, 2013

The Honourable NOËL A. KINSELLA  
Speaker

## CONTENTS

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

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## THE SENATE

Thursday, April 25, 2013

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

[English]

Prayers.

## SENATORS' STATEMENTS

### CRIMINAL CODE CANADA EVIDENCE ACT SECURITY OF INFORMATION ACT

#### BILL TO AMEND—MESSAGE FROM COMMONS

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons returning Bill S-7, An Act to amend the Criminal Code, the Canada Evidence Act and the Security of Information Act, and acquainting the Senate that they had passed this bill without amendment.

[Translation]

### ROYAL ASSENT

**The Hon. the Speaker** informed the Senate that the following communication had been received:

#### RIDEAU HALL

April 25, 2013

Mr. Speaker:

I have the honour to inform you that the Right Honourable David Johnston, Governor General of Canada, signified Royal Assent by written declaration to the bill listed in the Schedule to this letter on the 25<sup>th</sup> day of April, 2013, at 12:45 p.m.

Yours sincerely,

Stephen Wallace  
*Secretary to the Governor General*

The Honourable  
The Speaker of the Senate  
Ottawa

Bill Assented to Thursday, April 25, 2013:

An Act to amend the Criminal Code, the Canada Evidence Act and the Security of Information Act  
(*Bill S-7, Chapter 9, 2013*)

### WORLD MALARIA DAY

**Hon. Mobina S. B. Jaffer:** Honourable senators, today the international community is observing World Malaria Day.

In past years, I have shared heartbreaking stories about innocent children who have lost their lives to this preventable and curable disease. Today I would like to speak about the incredible work that one Canadian woman has done to combat malaria and to save children's lives.

Gail Fones, a registered nurse from Winnipeg, Manitoba, first worked in Uganda in 2005 to assist Ugandan nurses with the development of a community clinic. Since her initial visit, she has returned to Uganda once every year, sometimes even twice. Reflecting on the motivation for her volunteer work in Uganda, Ms. Fones wrote:

There is no greater joy than to know that children you've helped are no longer suffering from this killer disease as a result of the malaria education their families have received, and because they are now sleeping under bed nets.

Honourable senators, I first met Ms. Fones while I was visiting Uganda, and I was immediately taken aback by her compassion and determination to reach out to communities whose cries so often fall upon deaf ears.

Ms. Fones, who is a mother of three and a proud grandmother of eleven, reaches out to other mothers and grandmothers by living in their villages and teaching them how to protect their children from malaria. One of her fondest memories of working in Uganda is when she had the opportunity to sit down with several new mothers in Katogo. I accompanied her. Ms. Fones was able to answer important health care questions and to stress the importance of ensuring that the new mothers' families were protected by insecticide-treated mosquito nets and life-saving vaccinations.

Over the years, she has had the pleasure of visiting these mothers and watching their children grow up to be happy and healthy. Simply taking the time to listen to the health concerns of other mothers, giving them the support they require, and providing them with bed nets that cost as much as your morning coffee has protected these children from contracting malaria and afforded them the opportunity to grow up and one day have children of their own.

Ms. Fones is currently the Chair of the Board of Directors for the Buy-a-Net Malaria Prevention Group. Buy-a-Net, founded by Debra Lefebvre in 2004, is Canada's first grassroots, volunteer

organization focused on disease prevention and poverty reduction through fundraising and generating awareness for prevention and treatment of malaria. Buy-a-Net works with Ugandan community-based groups to tackle malaria through education, bed nets and medication. To date, Buy-a-Net has protected and treated approximately 300,000 Ugandans from malaria.

Honourable senators, between 2000 and 2010 an estimated 1.1 million lives were saved because of the work done by individuals like Ms. Fones. Today, on World Malaria Day, I urge all honourable senators to recognize the difference that one Canadian can make, while at the same time acknowledging that we have a long way to go in our fight against malaria.

### BOSTON MARATHON TRAGEDY

**Hon. Paul E. McIntyre:** Honourable senators, thank you for giving me the opportunity to conclude a senator's statement I started last Thursday regarding the events of the Boston Marathon on Monday, April 15. Time would not allow me to convey condolences.

Briefly, I would like to take this opportunity to express my deepest condolences for the innocent victims present at the Boston Marathon and the thousands of friends and family members who were undoubtedly affected by this tragic event. Our thoughts are with you during this difficult time.

Honourable senators, I would equally like to take a moment to recognize the heroic efforts of those who ventured back to the bomb site to assist the wounded, as well as those who continue to dedicate their time and services to help the victims. Although criminal acts such as these are often intended to strike fear in the hearts of humanity, it is important to not dwell on this fear but instead to focus on the symbolism of the Boston Marathon and the resilience of the runners who participated in it.

During these difficult times, we should take inspiration from these marathon runners, as they truly embody the endurance and grit that enable the human spirit to overcome adversity.

[Translation]

### THE HONOURABLE VIOLA LÉGER, O.C., O.N.B.

#### CONGRATULATIONS ON RECEIVING GOVERNOR GENERAL'S PERFORMING ARTS AWARD

**Hon. Joseph A. Day:** Honourable senators, I would like to offer my heartfelt congratulations to a former colleague, the Honourable Viola Léger.

As many of you will remember, Senator Léger sat in this chamber from 2001 to 2005 and represented the province of New Brunswick.

She was a performance artist and a distinguished public servant. She also represented the interests of Canadians working in the arts. I was delighted to learn that she has won the prestigious Governor General's Performing Arts Award. I am very pleased that Senator Léger's work has been recognized with this award.

[ Senator Jaffer ]

• (1340)

During her time here in the Senate, she was a passionate supporter of the arts in Canada. She had previously also worked as an educator, and in 1985, she founded her own theatre company in New Brunswick. In 1999, she established the Viola Léger Foundation to support theatre production and professional training for Acadian theatre artists. Her passion for her work in the performing arts and her dedication to promoting Acadian culture around the world are a source of pride for all Acadians and all artists. This award recognizes not only Senator Léger's talent, but also her work to support the arts in Canada and to promote Acadian culture.

In a recent interview, Senator Léger emphasized the word "together." She wanted to stress that we realize our dreams and achieve our goals together and that with the help of our friends and families and support from the community, success is possible. By emphasizing this concept, Senator Léger continues to demonstrate not only her humility, but also the importance of supporting Canadian artists.

Honourable senators, like many of you, I had the privilege of working with Senator Léger, and I wish her every success on this happy occasion. Congratulations, Senator Léger, on this wonderful recognition, the Governor General's Performing Arts Award.

### KEN SPENCER AWARD FOR INNOVATION IN TEACHING AND LEARNING

**Hon. Rose-May Poirier:** Honourable senators, every year, the Ken Spencer Award is presented to a Canadian school for innovation in teaching and learning and to recognize teachers and educators who are breaking new ground. After a long selection process, this year's Ken Spencer Award went to École Camille-Vautour in Saint-Antoine, New Brunswick, for creating the Studio PURE program.

Through the vision and dedication of teachers Kevin Ouellette and Monique Saulnier, the Camille-Vautour entrepreneurial community school was able to set up the Studio PURE program. Studio PURE stands for pedagogy that is unique, renewed and entrepreneurial. The purpose of this program is to make young people responsible for their own learning while preparing them for today's ever-changing society.

Mr. Ouellette and Ms. Saulnier's innovative idea involved increasing the use of new technologies and making the individual education of students a priority by allowing each student to progress at his or her own pace. The students are able to choose the entrepreneurial projects that they are most interested in, which makes them more motivated.

An important component of the program is community involvement. For example, one of the students' upcoming activities involves putting on a show and selling art in order to raise funds for an organization that helps sick children. This is one of many initiatives designed to help students integrate into today's society.

The Department of Education's evaluations have shown that the progress that has been made after just one year is remarkable. There has been a major improvement in all of the academic subjects evaluated, particularly French reading, where the success rate has doubled. This shows that when young people are involved in developing a learning plan based on their own interests and abilities, they can always reach their full potential.

Studio PURE's entrepreneurial community approach is also used throughout the entire school. For example, Grade 2 students in the Studio Copaincamí program are going to be launching a collection of books that they wrote themselves at the Frye literary festival. This collection will be made up of books written by young people for young people using the various stages of writing. The initiatives that are being developed by École Camille-Vautour in Saint-Antoine provide a new, dynamic and rewarding approach to the education of our young people that, at first glance, seems as though it could be duplicated on a large scale. With the new technologies that have completely changed the world in which we live, perhaps it is time to review the way our young people are being taught.

Honourable senators, I invite you to join me in congratulating the innovative creators of Studio PURE on winning the Ken Spencer Award and in encouraging the educators at École Camille-Vautour in their wonderful efforts to teach our young people.

[English]

## BOEING CANADA

**Hon. Janis G. Johnson:** Honourable senators, I am proud to announce a significant new development in Manitoba's, and indeed Canada's, aerospace industry. Boeing Canada announced this week that it is planning a major expansion of its Winnipeg plant to manufacture key components for the new 737 MAX jet and parts for the 787 Dreamliner.

The expansion is planned primarily to construct the one-piece composite acoustic inner barrel on the newly designed engine nacelle inlet for the 737 MAX. This state-of-the-art technology will reduce engine noise by up to 40 per cent.

Boeing's decision to produce the latest in quiet engine technology in the province of Manitoba is a huge win for our aerospace sector. It will contribute to the existing lineup of components already made at the Winnipeg site, such as landing gear doors and the pylons that connect the engines to the aircraft. This will also ensure that the facility remains in full production, with over 1,600 employees.

Honourable senators, this is exactly the kind of long-term, value-added manufacturing that our country requires, not only to maintain but also to attract and foster a stronger industrial capacity in Canada. Our government has identified this key priority from the get-go. Most recently, in Economic Action Plan 2013 we launched the Canada Job Grant, working in partnership with the provinces, to meet our country's labour market demands

for the near to long term. It is my hope that over time we will bridge the gap between the positions that are available in the high-skilled sector and the hundreds of thousands of Canadians looking not just for jobs but for careers over a lifetime.

Boeing's Winnipeg production facility has operated for 42 years, and I am confident that with this expansion, along with the skilled and committed workforce Manitoba has to offer, the construction of aerospace components will continue for many years.

I salute and congratulate the 1,600 employees at Boeing's Winnipeg facility for their skill and dedication, which have contributed to making Manitoba a centre of aerospace excellence.

## VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, before calling for tabling of documents, I wish to draw your attention to the presence in the gallery of the Honourable Bruce Fitch, the Minister for Environment and Local Government of the Province of New Brunswick. He is accompanied by Rob Kelly, the executive director of the department.

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

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

## ROUTINE PROCEEDINGS

### FISHERIES AND OCEANS

BUDGET AND AUTHORIZATION TO ENGAGE  
SERVICES AND TRAVEL—STUDY ON THE  
REGULATION OF AQUACULTURE AND  
FUTURE PROSPECTS FOR THE INDUSTRY—  
NINTH REPORT OF COMMITTEE PRESENTED

**Hon. Fabian Manning,** Chair of the Standing Senate Committee on Fisheries and Oceans, presented the following report:

Thursday, April 25, 2013

The Standing Senate Committee on Fisheries and Oceans has the honour to present its

### NINTH REPORT

Your Committee, which was authorized by the Senate on Tuesday, March 5, 2013 to examine and report on the regulation of aquaculture in Canada and future prospects for the industry, respectfully requests funds for the fiscal year ending March 31, 2014, and requests, for the purpose of such study, that it be empowered to:

- a) engage the services of such counsel, technical, clerical and other personnel as may be necessary;

b) adjourn from place to place within Canada; and

c) travel inside Canada.

Pursuant to Chapter 3:06, section 2(1)(c) of the *Senate Administrative Rules*, the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that committee are appended to this report.

Respectfully submitted,

FABIAN MANNING  
*Chair*

(For text of budget, see today's Journals of the Senate, Appendix, p. 2180.)

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

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

• (1350)

## INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

### TWENTY-FIRST REPORT OF COMMITTEE TABLED

**Hon. David Tkachuk:** Honourable senators, I have the honour to table, in both official languages, the twenty-first report of the Standing Committee on Internal Economy, Budgets and Administration, which deals with reports on international travel.

## CRIMINAL CODE

### BILL TO AMEND—TWENTY-FIFTH REPORT OF LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE PRESENTED

**Hon. Bob Runciman,** Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, April 25, 2013

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

### TWENTY-FIFTH REPORT

Your committee, to which was referred Bill C-309, An Act to amend the Criminal Code (concealment of identity), has, in obedience to the order of reference of

Wednesday, February 6, 2013, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

BOB RUNCIMAN  
*Chair*

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

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

## CANADA NATIONAL PARKS ACT CANADA-NOVA SCOTIA OFFSHORE PETROLEUM RESOURCES ACCORD IMPLEMENTATION ACT CANADA SHIPPING ACT, 2001

### BILL TO AMEND—NINTH REPORT OF ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES COMMITTEE PRESENTED

**Hon. Richard Neufeld,** Chair of the Standing Senate Committee on Energy, the Environment and Natural Resources, presented the following report:

Thursday, April 25, 2013

The Standing Senate Committee on Energy, the Environment and Natural Resources has the honour to present its

### NINTH REPORT

Your committee, to which was referred Bill S-15, An Act to amend the Canada National Parks Act and the Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act and to make consequential amendments to the Canada Shipping Act, 2001, has, in obedience to the order of reference of Wednesday, March 27, 2013, examined the said Bill and now reports the same with the following amendment:

*Clause 13, page 6:*

Replace lines 3 to 11 with the following:

**“13. (1) Subsection 4(1) of the French version of the Canada National Parks Act is replaced by the following:**

**4. (1)** Les parcs sont créés à l'intention du peuple canadien pour son bienfait, son agrément et l'enrichissement de ses connaissances, sous réserve de la présente loi et des règlements; ils doivent être entretenus et utilisés de façon à rester intacts pour les générations futures.

**(2) Section 4 of the Act is amended by adding the following after subsection (1):**

(1.1) For greater certainty, nothing in this Act limits the authority of the Minister to fix fees under section 23 or 24 of the *Parks Canada Agency Act*.”.

Respectfully submitted,

RICHARD NEUFELD  
*Chair*

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

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

**CANADA-UNITED KINGDOM  
INTER-PARLIAMENTARY ASSOCIATION**

BILATERAL VISIT, MARCH 16-24, 2012—  
REPORT TABLED

**Hon. Jim Munson:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canada-United Kingdom Inter-Parliamentary Association respecting its Bilateral Visit to Northern Ireland and Westminster, London, United Kingdom, from March 16 to 24, 2012.

**BANKING, TRADE AND COMMERCE**

**NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO  
STUDY THE ABILITY OF INDIVIDUALS TO  
ESTABLISH A REGISTERED DISABILITY  
SAVINGS PLAN**

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

That the Standing Senate Committee on Banking, Trade and Commerce be authorized to examine and report on the ability of individuals to establish a registered disability savings plan (RDSP), with particular emphasis on legal representation and the ability of individuals to enter into a contract, and;

That the Committee submit its final report to the Senate no later than June 30, 2013, and that the committee retain all powers necessary to publicize its findings until 180 days after the tabling of the final report.

**NATIONAL STRATEGY ON RADICALIZATION**

**NOTICE OF INQUIRY**

**Hon. Mobina S. B. Jaffer:** Honourable senators, pursuant to rule 5-6(2), I give notice that, two days hence:

I will call the attention of the Senate to radicalization in Canada, and the need for a national strategy that more

proactively addresses terrorism by emphasizing a community-based approach to preventing radicalization and to facilitating deradicalization.

**QUESTION PERIOD**

**FISHERIES AND OCEANS**

**BRITISH COLUMBIA—WILD SALMON**

**Hon. Elizabeth Hubley:** Honourable senators, my question is to the Leader of the Government in the Senate.

It has come to my attention that the Department of Fisheries and Oceans in Ottawa is dragging its feet on releasing key scientific reports on British Columbia's wild salmon stocks. These documents contain important information about the health of sockeye conservation units on the Fraser River. They were apparently ready in draft form last year and could have been released to the Cohen commission but were likely deliberately withheld. This year, they still have not been released, despite the approaching 2013 fishing season and the need of regional fisheries managers to set catch limits.

Why has the Department of Fisheries and Oceans been dragging its heels in releasing these important scientific reports? When can we expect them to finally be made public?

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, obviously, the government was most appreciative of Mr. Justice Cohen and his team for their extensive report. Going forward, we will work with the stakeholders and partners and review the report's findings and recommendations extremely carefully.

Since 2006, our government has been actively working to build, protect and conserve B.C. salmon. For example, we have invested significantly, between \$16 million and \$19 million each year, in West Coast salmon research. The short answer, honourable senators, is that the department is at the moment working very closely with stakeholders with regard to the Cohen report.

**Senator Hubley:** I have a supplementary question. The fact that the report is being withheld raises other issues that I think are key and should be considered as well. Seven of the twenty-four conservation units in the watershed have been designated as red zones, and another four have been rated red amber. That classification means that the salmon population in those areas is considered at risk of extinction.

The other thing to consider here is that it also raises questions about the impact of climate change, because the salmon that are in trouble are exposed to the warmer river temperatures for a longer period of time.

This report was put together by 34 of our top fisheries scientists and managers, and they are certainly disappointed that that information has not been released. They have also suggested that, in fact, the withholding of the finalized publication of such important work amounts to the muzzling of scientists because of the suppression of their research. Would the leader provide an answer to me on that as well?

**Senator LeBreton:** I actually gave the honourable senator the answer in my answer to her first question.

• (1400)

We all know that the salmon fishery in British Columbia is complicated in many ways. A few years ago there were no salmon of a particular type and the next year they had them in abundance. There are many issues surrounding the fishery that the government is working on closely with the people they should be working with, and those are the stakeholders involved in the fishery.

As I mentioned in my first answer, we have committed significant funds to the research on West Coast salmon. Honourable senators will remember that in Budget 2013 we proposed to dedicate all funds collected through the sale of the Salmon Conservation Stamp to the Pacific Salmon Foundation.

Clearly this is an extremely important industry, not only to people in British Columbia and those involved in the salmon fishery, but also to Canadians. The government is working closely and prudently with the various stakeholders involved in the fishery.

**Senator Hubley:** I appreciate that answer. I have no doubt that the government is working diligently at resolving this issue. However, might the leader find out when exactly DFO will release its wild salmon policy that has been promised for the last 10 years?

**Senator LeBreton:** The honourable senator is telling me this was a promise made originally by the government that was in place 10 years ago. As this is something that goes back 10 years — she said 10 years, Senator Tardif — I suppose I could ask the Department of Fisheries to give me a chronological explanation for all the various issues they have had to face with regard to the salmon fishery. That would be rather a huge document, I imagine, so I will be very specific in my request to the Department of Fisheries and ask them what further steps they intend to take with regard to the report of Mr. Justice Cohen.

## THE SENATE

### SPECIAL COMMITTEE ON ANTI-TERRORISM— PROPOSED STUDY ON RADICALIZATION

**Hon. Mobina S. B. Jaffer:** Honourable senators, my question is to the Leader of the Government in the Senate. Today I gave notice of an inquiry that will call the attention of the Senate to the issue of radicalization in Canada. I have been doing research on this issue for several years, but I believe that in the Senate we do

our best work together in committee. I have corresponded with the Chair of the Senate Anti-terrorism Committee about a study on radicalization before, and I understand the formal process for initiating a Senate committee study.

Most committees, including the Anti-terrorism Committee, must receive an order of reference from the Senate before they can study an issue. This would mean a motion for the Anti-terrorism Committee to study radicalization. I understand, of course, that we would require widespread support in the Senate.

That is why I wrote to the leader first on January 7 and then on April 3 to ask her to support my proposal. Unfortunately, I have not heard from her. The importance of studying processes of radicalization in Canada has received greater attention recently due, in part, to the terrorist attacks in Algeria, the United States and, sadly, now in our country.

What we do not know about radicalization, how it happens, how to prevent it and how to reverse it, far exceeds what we do know.

The leader has expressed her and the government's recognition of the capacity of Senate committees to produce important, valuable studies on Canadian public policy before. Would the government support the Senate Anti-terrorism Committee conducting a study on radicalization in Canada?

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, I must point out that when the Senate struck the Anti-terrorism Committee it was specifically to deal with legislation. We were very clear about that at the time.

We just passed a very important piece of legislation that originated here in the Senate, in the form of Bill S-7. It passed through the House of Commons and I believe will be assented to this afternoon.

I am well aware of the senator's interest in this area. As a matter of fact, I signed a letter to her earlier today thanking her for sending me the transcript of her appearance on a radio show "The Current."

Having said that, as Leader of the Government in the Senate, I can address the very good legislation and many measures we are taking to combat terrorism. I cannot, obviously, pass judgment on the requests that various senators make or the motions they put down in the Senate. Clearly, that is the purview of the Senate.

## HUMAN RESOURCES AND SKILLS DEVELOPMENT

### PARENTAL LEAVE—HEALTH BENEFITS

**Hon. Jane Cordy:** Honourable senators, on March 26 of this year, in response to questions in this chamber from Senator Munson, the leader stated that the government is working to resolve the Jane Kittmer EI case, which the Harper government has chosen to appeal to the courts. This appeal by the Harper government, if successful, will deny about \$5,000 to Jane Kittmer, who was denied Employment Insurance sickness benefits because she was diagnosed with breast cancer while on maternity parental

benefits. This is despite a precedent-setting case involving Natalya Rougas, when an EI umpire ruled that she was indeed entitled to sick benefits in addition to her maternal and parental benefits.

By the way, the Conservative government has done away with the EI umpires in last year's budget, so there will be no more EI appeals to an umpire. If the department misinterprets the spirit of the law, there will be no umpires for people to appear before.

This court appeal by the Harper government is despite the passage of Bill C-44, the Helping Families in Need Act. This court appeal has not helped Jane Kittmer and her family. Has the Jane Kittmer case been resolved and has the Harper government dropped its court appeal?

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, I recall Senator Munson's question. I have nothing at this moment to report further to my answer at that time that the government was working to resolve this particular case.

**Senator Cordy:** It would be very easy to resolve if the Harper government would drop its court appeal in the case.

The Leader of the Government in the Senate stated that the Jane Kittmer case falls under legislation from the previous government. The Prime Minister also stated, "The fact of the matter is this is a case under the previous rules . . ." In fact, that is not correct. Even though the leader and the Prime Minister have stated that, in fact Bill C-44 is a clarification of a bill passed by the Liberal government in 2002.

Bill C-49, which was passed in 2002, removed the caps or the anti-stacking rules and removed the barrier to making sickness claims while on parental leave. In fact, I asked Minister Finley, when she appeared before our committee, if this was just a clarification in lieu of the umpire's decision. She said that, yes, in fact it was just a clarification, not new legislation. The comment that it is previous legislation, which is what the leader and the Prime Minister have both said, is incorrect.

By the way, the Conservatives voted against Bill C-49 in 2002, so perhaps that is why the Harper government has appealed the Jane Kittmer case.

Again I ask: Why is the Harper government denying benefits to Jane Kittmer?

**Senator LeBreton:** I thank the honourable senator for the question. I have nothing more to add to what I reported when Senator Munson asked the question in late March and to what I said to Senator Cordy in my first response. I will take her second question as notice and seek further information.

**Hon. Terry M. Mercer:** Honourable senators, I want to continue along on Senator Cordy's line of questioning on this issue. I want to provide senators with a little history so that everyone is up to speed and understands why we are so frustrated by this.

In 2002, Bill C-49 was brought in by the Chrétien government. Its intent was to ensure that a person who falls ill during parental leave would be able to extend their leave and be eligible for sickness benefits. However, the department did not interpret the bill this way, resulting in some people not having their benefits extended.

• (1410)

In 2010, Natalya Rougas of Toronto was diagnosed with cancer and applied for sickness benefits while on parental leave. She was denied. In 2011, Ms. Rougas appealed the decision. The EI umpire agreed that she could claim sickness benefits during her parental leave period. Stephen Moreau was counsel to Ms. Rougas. That is important for something later.

In December 2012, Bill C-44 was introduced by the current government. From the proceedings of the Standing Senate Committee on Social Affairs, Science and Technology, I will quote Minister Finley on December 5, when she said:

The third component of this proposed legislation will amend the Employment Insurance Act to facilitate access to sickness benefits for parents should they fall ill while receiving Employment Insurance parental benefits.

That sounds pretty simple to me.

She went on to say:

This new measure, which would come into effect in early 2013, would benefit approximately 6,000 Canadians a year and would be available to insured workers and self-employed workers who opt into the EI program.

During that meeting Senator Cordy asked the minister about that section of Bill C-44 and if it was to clarify what was already the law. Minister Finley went on to say:

In fact we did include that piece, the third portion of this bill, in response to that court decision, to make sure that it was codified and clarified.

Thank you, minister.

From the proceedings of the Standing Senate Committee on Social Affairs, Science and Technology on the next day, December 6, Stephen Moreau, who honourable senators will remember was Ms. Rougas's lawyer, appeared as a witness before the committee. He said at the time:

I believe that the House of Commons and the Senate have already supported the notion of a sickness benefit during parental leave through provisions in Bill C-49 passed in 2002.

He went on to say:

I thank the government for Bill C-44, but I must say that Bill C-44 is not strictly speaking necessary. It clarifies but is not a necessary provision.

Later the same month, in December 2012, another EI umpire ruled that Jane Kittmer was entitled to the same provisions as Ms. Rougas in conjunction with the rules laid out in Bill C-49 and then again in Bill C-44. I think that is pretty self-explanatory. The minister was clear. I think the lawyer was clear. Everyone has been clear. Now the government has appealed that decision, a decision complying with a bill that they themselves introduced and was introduced by the previous government.

The question, honourable senators, is —

**Some Hon. Senators:** Oh, oh!

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

**Senator Mercer:** — very simply: Why?

**Senator LeBreton:** I can assure honourable senators my answer will not be nearly as long as the question.

The Kittmer case, of course, as I reported before, is before the courts. This matter deals with legislation that was passed by the former government.

On behalf of Minister Diane Finley, I would like to thank Senator Mercer for appropriately and properly quoting her testimony into the record, because, thanks to her and our government, we have passed the Helping Families in Need Act to provide parents who fall ill while on parental leave access to EI sickness benefits.

**Senator Mercer:** Honourable senators, the leader did not hear us criticize the fact that the bill passed. That is the point. The point is the bill passed and the rules were changed, but now the government is appealing a case of a woman who desperately needs the assistance that is due to her under the act.

The leader and the government have their hands on the switch that can change this immediately. They can flip the switch and cancel the appeal. Then Ms. Kittmer will have her money and the justice that she so rightly deserves in this country.

**Senator LeBreton:** Honourable senators, as I have pointed out to Senator Munson, Senator Cordy and now to Senator Mercer, obviously this is a unique case that fell within the previous legislation. I did indicate that efforts were being made to resolve this matter. Obviously, I stand by that.

The fact of the matter is that this government brought in a new piece of legislation, and Senator Mercer properly reported the words of the Minister of Human Resources and Skills Development. Of course that is a wonderful piece of legislation and it will help families in need to provide parents who fall ill while on parental leave with access to EI sickness benefits. That is what this government has done.

There is this unique case of Jane Kittmer and I can only report what I reported before, that this is being looked into.

## INTERNATIONAL TRADE

### TRADE DEFICIT

**Hon. Grant Mitchell:** Honourable senators, our Conservative colleagues here will not want to hear what I am about to say, but in the interests of openness and transparency, I will say it anyway.

When the Conservatives took over, Canada had, courtesy of the excellent economic management of the Liberals, a positive balance of trade, a surplus of \$18 billion. Recent figures indicate that, under the Conservatives, the balance of trade is now negative; it is a deficit of \$67 billion. That is a turnaround, in the worst possible way, of \$85 billion. It costs a lot of jobs when that happens.

Could the Leader of the Government in the Senate give us an idea if she has any insight or if they have done any studies to explain why this very serious turnaround in the wrong direction has occurred under the Conservative government?

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, trust Senator Mitchell to have an almost complete set of blinkers on.

The fact of the matter is the economic conditions in the 1990s and the position that Canada found itself in in the mid-1990s were a direct result of the free trade agreements negotiated and signed by the Mulroney government and also the tax structuring that took place under the Mulroney government in the 1980s and early 1990s.

Honourable senators, I do not know whether Senator Mitchell has noticed, but the world went through a very severe economic downturn. One need only watch the news — and I watch BBC and news channels where some real serious news is reported — to know that there is obviously a very tenuous situation in Europe. Our neighbours to the south are still wrestling with the effects of the economic downturn. Senator Mitchell has actually said these very same words ever since we formed the government, so he is consistent if nothing else.

However, the fact of the matter is our government is dealing with an economic situation in the world that is extremely challenging, but, as most economists and most leading world economic organizations keep pointing out, Canada is still in the best position in the G7 and has managed its way through these economic conditions better than any other country in the G7.

**Senator Mitchell:** The Leader of the Government is back to the Monty Python saying, “That parrot is not dead; that parrot is not dead.” That is what we hear over and over from the leader. That is her answer: That parrot is not dead.

• (1420)

The Prime Minister makes the case that the single greatest breakthrough for the Canadian economy is increased trade, and yet he has delivered on almost no significant trade deals. In fact,

the one significant trade deal that he keeps talking about is the European trade deal, and that has been postponed I do not know how many times. It is way past the original deadline from the negotiations.

Can the leader give us any idea of exactly when the Prime Minister may be able to deliver on his promise of a free trade or some kind of trade deal with Europe? Can she give us some insight into that or into what the Prime Minister has been doing?

**Senator LeBreton:** Actually, as honourable senators know, we have concluded successfully quite a number of trade agreements, which is really significant because through the whole era of the Chrétien government, they signed no trade agreements, zilch, none.

The honourable senator talks about Monty Python. I am glad he made that reference because I have often sat here thinking he would be the perfect character in a Monty Python movie.

**Senator Mitchell:** That is interesting. For a government that is so interested in trade, what initiatives has the Prime Minister taken to take businesses, premiers and senior officials around the world on trade missions, which were so successful during the 1990s and in the early 2000s under the Liberal government?

**Senator LeBreton:** The Prime Minister has taken Canadian business leaders with him on his international travels, including on his last trip to China. Much is made of the trips that the former Prime Minister Jean Chrétien took to China. If you go back and check the record, our trade numbers with China went down as a result of Chrétien's visits there.

I do think so. Check the record, Senator Moore.

If anyone has been following the very important work of International Trade Minister Ed Fast — obviously, they do not read government releases on this front because it is such bad news for them — the fact is Minister Fast is making great progress. We have signed trade agreements with many countries, and we are, of course, working very hard on the European trade agreement and others as we speak.

**Senator Mitchell:** While Minister Fast has been working so hard and diligently, the trade deficit has gone from \$18 billion positive to \$67 billion negative, so maybe the best thing would be to fire International Trade Minister Fast. Maybe that would work to fix things.

The other thing is that the one overwhelming impact of the government's foreign trade or foreign international relations policy is that it has fundamentally diminished Canada's reputation in the world. Has the government given any thought to the fact that our diminished reputation in the world may be one reason our trade balance is so bad — because traders and commercial interests around the world just do not have Canada at top of mind any more, do not have the respect they once had for us?

**Senator LeBreton:** That is so typical of the Liberal left Ottawa media thing. That is so ridiculous it does not even require a response. The fact is, honourable senators, the situation in the world economy today is such that the trade numbers are affected. We have signed many trade agreements. Canada is still, in the view of every major economic forum in the world, the place to do business and is leading in our ability to manage these extremely difficult economic times.

## NATIONAL DEFENCE

### CYBER SECURITY

**Hon. Wilfred P. Moore:** Honourable senators, my question is also for the Leader of the Government in the Senate. On Tuesday of this week, the Honourable Senator Cowan asked a question with regard to national security and its oversight by Parliament. My question relates to the unconventional attacks on our country, in particular cyber attacks, which I began with yesterday. I was drawn to this issue by the appearance of U.S. Army General Keith Alexander before the Committee on Armed Services of the United States Senate.

At that time, he cautioned that committee about the cyber threats and attacks and their impact on the operation of critical infrastructure in that country. That is in addition to the theft of intellectual property, such as the cyber theft by China of the F-35 design and technology.

General Alexander reported that there had been 140 attacks on Wall Street in the past six months. Obviously, such cyber attacks would wreak havoc on Canada's economy.

Who is responsible for protecting our nation from cyber attacks?

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, I thank the senator for the question. Obviously, this whole issue of cyber security literally changes daily. This falls under the purview of Public Safety, but there are many agencies of government involved, not only CSIS, the RCMP, border security and the Department of National Defence. There are any number of government departments and agencies that are taking this issue of cyber security extremely seriously.

We recently made a significant investment of \$245 million, as honourable senators probably know, in our cyber security strategy designed to defend against economic threats, hacking and cyber espionage. Obviously, we are in a position to respond at all times very quickly to emerging situations, but I do not think it is any secret that this problem is growing and changing almost daily.

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## ORDERS OF THE DAY

### IMMIGRATION AND REFUGEE PROTECTION ACT

#### BILL TO AMEND—SECOND READING

On the Order:

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

**Hon. Art Eggleton:** Honourable senators, I have reviewed the comments that have been made in the chamber by Senators Campbell and Jaffer on Bill C-43, and I share many of the concerns they have raised. Therefore, I will save my substantive comments for third reading of this bill in the hope that when we get it to committee — and I think it is coming to the Standing Senate Committee on Social Affairs, Science and Technology, of which I am a member — we will give it sober second thought.

That sounds logical, does it not — sober second thought? I have yet to see very much of it because when it comes to government bills, the members opposite automatically put up their hands in favour of the bill. They have decided this even before they hear any of the witnesses. The witnesses bring forward a lot of valuable information that could lead to amendments, but is anyone opposite interested in amendments? It appears not. We have not seen that in other government bills on immigration issues, nor on any other issues, but I do hope that we will not waste the time of the witnesses, that we will listen to them and that if they have useful suggestions on amendments, we might be able to get to do that.

If that goes well, then we may not have a lot of debate at third reading, but I will hold over my comments until I see how it comes out of committee.

• (1430)

**The Hon. the Speaker:** Is there further debate, honourable senators?

**An Hon. Senator:** Question.

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

**Hon. Senators:** Question.

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

**Hon. Senators:** Agreed.

**An Hon. Senator:** On division.

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

#### REFERRED TO COMMITTEE

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

(On motion of Senator Carignan, bill referred to the Standing Senate Committee on Social Affairs, Science and Technology.)

### STUDY ON USER FEE PROPOSAL

#### AGRICULTURE AND AGRI-FOOD—TENTH REPORT OF AGRICULTURE AND FORESTRY COMMITTEE— DEBATE ADJOURNED

The Senate proceeded to consideration of the tenth report of the Standing Senate Committee on Agriculture and Forestry (Canadian Food Inspection Agency's User Fee Proposal for Importer Licensing for Non-federally Registered Sector Products, without amendment), tabled in the Senate on March 21, 2013.

**Hon. Donald Neil Plett** moved the adoption of the report.

**The Hon. the Speaker:** Is there debate?

**Senator Tardif:** I move the adjournment in the name of the Honourable Senator Callbeck.

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

**Hon. Senators:** Agreed.

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

### CANADA POST CORPORATION ACT

#### BILL TO AMEND—THIRD READING

**Hon. Donald Neil Plett** moved third reading of Bill C-321, An Act to amend the Canada Post Corporation Act (library materials).

He said: Honourable senators, I rise today to speak to Bill C-321, An Act to amend the Canada Post Corporation Act (library materials), introduced by my colleague the Member of Parliament for Brandon—Souris, Mr. Merv Tweed.

Bill C-321 moves to guarantee a postal rate for libraries which will provide books to Canadians at a reduced postal rate. This legislation also allows for inter-library loans, allowing both rural and urban libraries to have access to vast library collections from across Canada. Additionally, the bill seeks to expand the definition of "library materials" to include CDs, DVDs and other audiovisual materials.

As the Canadian Library Association stated, Bill C-321 is critical to guaranteeing the long-term sustainability for the discounted library rate, "which contributes to the public policy goals of literacy, lifelong learning, inclusion, and vibrant communities."

This is the fifth time this important piece of legislation has been introduced, and I am very pleased to see that it passed unanimously in the other place.

I had the pleasure of participating in the Standing Senate Committee on Transport and Communications when it studied Bill C-321. I would like to thank the members of the committee for their interest and for their efficiency in getting this important bill to its final stages.

I would specifically like to thank the Chair, the Honourable Senator Dennis Dawson, as well as the bill's supposed critic, the Honourable Senator Terry Mercer, who was not critical but, rather, very supportive of the legislation.

I would also like to thank my colleagues on both sides of the chamber, whose cooperation will allow for this legislation to benefit Canadians sooner.

**Hon. Terry M. Mercer:** Honourable senators, I will not take much time on this, but I did want to say that this is a worthwhile piece of legislation. It is important for rural Canada; it is important for Atlantic Canada, in particular, with so many small communities. It gives all Canadians access to some of the best libraries in the country. Indeed, some of the best libraries in the world are in this country.

It behooves us to recognize that this costs Canada Post a fair dollar. There is a big loss that goes with this for Canada Post, but they also recognize that it is part of their responsibility to their shareholders, the Canadian public and, more important, their responsibility to rural Canadians to provide this service. I would urge all honourable senators to support this legislation.

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

**Hon. Senators:** Question.

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

**Hon. Senators:** Agreed.

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

## CONTROLLED DRUGS AND SUBSTANCES ACT CRIMINAL CODE

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

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

She said: Honourable senators, over the last month I have had the pleasure of exchanging emails with hundreds of Canadians on the subject of mental health treatment for offenders. I wanted to

learn more about their concerns, their experiences and their ideas on how to promote human rights, including safety for all Canadians.

One email that I received was from Sheila Pratt of Maple Ridge, British Columbia. Sheila was a primary school teacher for 30 years. She wrote:

At some point during the year, I'd speak with my students about what they wanted to be when they grew up. There were future farmers, nurses, astronauts, doctors, bus drivers, teachers, and many others.

Sheila continued:

I never met a single child who wanted to grow up to be a substance abuser or a drug dealer. Somewhere along the way, someone or something failed them.

Honourable senators, Bill S-216 would create the same provisions for mental health treatment that already exist for drug treatment in the Controlled Drugs and Substances Act and the Criminal Code. In introducing Bill S-216, I am proposing that the criminal justice system address access to mental health treatment in the same way that the criminal justice system addresses access to drug treatment.

The existing drug treatment provisions, found in sections 10(4) and 10(5) of the Controlled Drugs and Substances Act and in section 720(2) of the Criminal Code, provide for the delay of sentencing for drug treatment and, if the Attorney General consents, the waiver of mandatory minimums where the drug treatment has been successfully completed.

• (1440)

Maintaining consistency between the way that criminal law addresses mental health treatment and the way that it addresses drug treatment makes sense because the criteria and the goals of mental health courts and drug treatment courts are similar. They both emphasize addressing the root cause of the criminal behaviour rather than simply punishing symptoms by incarcerating someone. They are based on the understanding that where convicted persons suffer from mental health or substance abuse issues, jail will not solve the problem.

Senator Runciman, Senator Fraser, Senator White and I have all addressed Senator Runciman's inquiry on mental health treatment for offenders, and we all touched on the same theme. In responding to Senator Runciman's inquiry, we clearly identified a need to view mental health needs equally alongside other health needs.

As Senator Runciman wrote in a recent *Toronto Sun* op-ed:

By failing to provide adequate treatment for mentally ill offenders, our prisons are more dangerous than they need to be, for both staff and inmates, and public safety is at risk, since putting mentally ill inmates back on the street leads to more crime and, tragically, more victims.

To quote the Correctional Investigator of Canada, Mr. Howard Sapers:

Prisons are not hospitals, but some inmates are in fact patients.

Provisions in the Controlled Drugs and Substances Act and in the Criminal Code that address substance abuse by offenders should also extend to offenders' mental health needs.

Honourable senators, clause 43(2) of Bill C-10, which this Parliament passed only recently, amended the Controlled Drugs and Substances Act to enable the offender to participate in a drug treatment court program approved by the Attorney General. That amendment was designed to take advantage of existing specialized drug treatment courts and services.

Clause 1 of Bill S-216 would amend the same act to enable the offender to participate in a mental health treatment court program approved by the Attorney General. The proposed amendment would also take advantage of existing specialized mental health treatment courts and services.

Mental health courts started to appear in various cities across Canada after drug treatment courts had demonstrated that problem-solving courts had a role to play in our justice system. The first mental health court in Canada was created in Toronto. In the past several years, mental health courts have been established in many different cities across the country.

Mental health courts focus on people whose mental illness was a strong contributor to their being before the criminal court. These courts may offer pretrial diversion for less serious offences or delayed sentencing to allow for treatment or, where the offences committed are more serious, sentences that are tailored to mental health needs, such as a placement for treatment in a mental health facility rather than a jail term.

Mental health courts were developed through the varied and informal responses of local community stakeholders who acted upon the need to create them. Due in part to the administration and delivery of health care services being the responsibility of each province or territory, diverse mental health court models exist.

The Toronto model uses repeated bail appearances, similar to drug treatment courts, where the accused appears before the judge very frequently, and there are court support workers based at the courthouse.

The Ottawa Mental Health Court started without any additional funding, with its partners pooling their resources to create it. The Canadian Mental Health Association provided outreach workers, and the Crown attorney assigned a particular assistant Crown attorney to the cases before the mental health court.

New Brunswick has a model in which the accused person signs on and follows the program to benefit from a specified predetermined outcome.

Yukon has a community wellness court, which deals with individuals affected by alcohol or drug addiction, mental health issues or a cognitive deficiency, including fetal alcohol spectrum disorder.

In mental health courts, Crown attorneys work with staff from participating agencies in deciding on legal outcomes, such as peace bonds under section 810 of the Criminal Code, probation orders or conditional sentences and probation. The sentence will generally be more lenient than what the convicted person would otherwise have received. This incentive process helps to ensure further treatment and monitoring.

Mental health court programs allow people who may not be eligible for diversion due to the serious nature of the offence that they have committed to work toward an improved outcome if they are connected with mental health services.

Honourable senators, Bill C-10, passed during the Second Session of the Thirty-Ninth Parliament, created a provision to allow for the delay of sentencing to enable the offender to attend a treatment program under section 720(2) of the Criminal Code.

Bill S-216 adds an explicit reference to mental health treatment programs, in addition to the addiction treatment and domestic violence counselling programs that are already listed under section 720(2). Just as is the case for drug treatment programs, the mental health treatment program must be approved by the province. This explicit reference to a mental health treatment program could encourage the development of additional mental health treatment programs within the provincially operated treatment systems.

Bill S-216 emphasizes the frequent relationship between drug addictions and mental health disorders and the need to tailor treatment to the specific circumstances of the individual. For example, offenders who have mental health disorders may not be able to manage drug treatment programs and may be better served by mental health court approaches.

Bill S-216 would also allow for mental health treatment that does not fall within pre-approved programs upon the approval of the court and the consent of the Attorney General. It would address situations where mental health courts or approved treatment programs are not available so that improved outcomes do not depend on geography more than they do on the nature of the offence or the convicted person. This provision also provides flexibility to the scheme, as it would capture cases where treatment is being administered by a particular mental health practitioner and consistency of ongoing treatment is preferable.

Requiring the Attorney General's consent to individual treatment reflects current practices and would help to reassure people that it is not simply a means to escape a mandatory minimum. This proposed amendment provides court-supervised options and flexibility.

Finally, honourable senators, in clause 43(2) of Bill C-10, subsection (5) introduced the following provision on minimum punishment:

If the offender successfully completes a program under subsection (4), —

In other words, a drug treatment program.

— the court is not required to impose the minimum punishment for the offence for which the person was convicted.

Bill S-216 does exactly the same thing for offenders who complete a mental health treatment program. As is the case for existing drug treatment provisions under the Controlled Drugs and Substances Act, by allowing for the waiver of a mandatory minimum sentence, the bill offers an incentive for convicted persons to begin the path toward healing while maintaining society's interest in penalizing criminal conduct.

Furthermore, the court retains the power to order the incarceration of a convicted person but is provided the discretion to waive the mandatory period of incarceration, just as Bill C-10 allowed for offenders who undergo drug treatment. This flexibility would allow the court to waive a mandatory minimum sentence in order to allow for ongoing treatment.

As is the case for drug treatment under the Controlled Drugs and Substances Act, the discretion of the court to waive the mandatory minimum period of incarceration would only be triggered by the successful completion of mental health treatment. The provisions do not require that the convicted person be cured; the provision as drafted leaves these decisions within the court's discretion.

Honourable senators, this bill is not revolutionary. It simply builds on an important provision from Bill C-10 that deals with drug treatment. We have drug treatment courts and drug treatment programs and legal provisions to better incorporate these tools into the criminal justice system. We also have mental health treatment courts and mental health treatment programs. We need to ensure that there are adequate legal provisions to better incorporate these tools into the criminal justice system, too.

• (1450)

Senators Runciman, Fraser, White and I have all spoken about the importance of ensuring that offenders can receive the mental health treatment they need, which will also help to keep Canadians safe. This bill is a natural next step on an issue that all honourable senators recognize matters deeply to all Canadians.

(On motion of Senator Carignan, debate adjourned.)

[Translation]

## INTERNATIONAL BOUNDARY WATERS TREATY ACT INTERNATIONAL RIVER IMPROVEMENTS ACT

### BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Finley, seconded by the Honourable Senator Demers, for the second reading of Bill C-383, An Act to amend the International Boundary Waters Treaty Act and the International River Improvements Act.

**Hon. Grant Mitchell:** Honourable senators, I am pleased to rise today to speak at second reading of Bill C-383.

[English]

Honourable senators, I have a couple of things to say about this bill.

**The Hon. the Speaker *pro tempore*:** This bill stands in the name of the Honourable Senator Tardif.

**Senator Mitchell:** The honourable senator has given me permission to proceed. I want to tell her I appreciate that.

Honourable senators, I will begin by saying that I am supportive of this bill to the extent that it does accomplish one thing in particular, and that is it would prohibit the removal of water from transboundary water systems. As I understand it, these are rivers. Currently, removal of water from a basin or a lake that crosses a border is prohibited so that bulk water removal is prohibited, where commercial sale would be the ultimate goal in many cases of those kinds of water bodies. This bill simply strengthens the act by addressing the question of rivers, for example.

The bill would also add something to the International River Improvements Act that would first change the International Boundary Waters Treaty Act. The International River Improvements Act would be changed to accomplish two things. Currently, certain kinds of construction or maintenance of international river improvements require licensing. Bill C-383 would add to that pipelines, which apparently have been excluded from that definition, and it would also prohibit an international river improvement that would link a Canadian body of water to an international river. That kind of project might ultimately be utilized for facilitating the export of water.

Honourable senators, these changes address a very important, almost visceral, emotional issue for many Canadians — certainly Canadian farmers. They are very concerned about water and the idea that water could be easily sold commercially — Canadian water in the U.S., for example. In fact, that is exactly what it

would address. I know in southern Alberta, where I am from, there is grave concern about water shortage. There is always a tension and a concern that there needs to be strong protections.

During the NAFTA debate, an overriding concern was that somehow NAFTA would free up the possibility of water exports in a serious and significant way. It really got to the hearts of people. As I say, it is an emotional concern, certainly among farmers, but I believe in some sense for all Canadians.

I would venture, as I often do, into the realm of climate change, because, of course, these concerns are going to be heightened — they already are being heightened — by the effects of climate change. Drought is a serious issue in many parts of Alberta and certainly in southern Alberta. Anything that will make drought conditions worse, such as climate change, certainly can and does add to the sensitivity of the issue.

Honourable senators, there are a couple of concerns I would have about this bill. It is probably taken care of but I just want to be sure. There are already agreements that allow for the export of water to support a community on one side of the border or the other, and it would be important to note that those are absolutely properly protected. It is also true that there is still the possibility, which is not covered in current legislation nor in this bill, particularly with new technologies and new economies of these technologies, that someone could transport a lot of water using trucks or ships from a Canadian inland water source. It is not transboundary; it does not cross the border in any way; it does not flow across the border; but it could be a lake somewhere in northern Alberta where some enterprising entrepreneur could take trucks full of water and drive them south. It is not clear that has actually been taken care of anywhere in existing legislation and, apparently, it will not be taken care of in this legislation, either.

Honourable senators, I would raise those concerns, which include the concern that there are existing dependencies of international waters between Canadian and U.S. communities and that there is still the possibility that inland water bodies could be used as sources of water for bulk export. Nothing is really taken care of, as I understand it, and it would just be nice to hear that it has been. Beyond that, I am okay with the bill.

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

**Hon. Senators:** Agreed.

(Motion agreed to and bill read second time.)

## REFERRED TO COMMITTEE

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

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

## AGRICULTURE AND FORESTRY

### BUDGET AND AUTHORIZATION TO ENGAGE SERVICES AND TRAVEL—STUDY ON RESEARCH AND INNOVATION EFFORTS IN AGRICULTURAL SECTOR—ELEVENTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the eleventh report of the Standing Senate Committee on Agriculture and Forestry, (budget—study on research and innovation—power to hire staff and to travel) presented in the Senate on April 23, 2013.

**Hon. Donald Neil Plett** moved the adoption of the report.

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

**Hon. Senators:** Agreed.

(Motion agreed to and report adopted.)

## INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

### TWENTIETH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the twentieth report of the Standing Committee on Internal Economy, Budgets and Administration, (budgets of certain committees—legislation) presented in the Senate on April 18, 2013.

**Hon. David Tkachuk** moved the adoption of the report.

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

**Hon. Senators:** Agreed.

(Motion agreed to and report adopted.)

## NATIONAL SECURITY AND DEFENCE

### BUDGET—STUDY ON STATE OF DEFENCE AND SECURITY RELATIONSHIPS WITH THE UNITED STATES—TENTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the tenth report of the Standing Senate Committee on National Security and Defence, (budget—study on Canada’s defence and security relationships with the United States) presented in the Senate on April 18, 2013.

**Hon. Daniel Lang** moved the adoption of the report.

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

**Hon. Senators:** Agreed.

(Motion agreed to and report adopted.)

• (1500)

BUDGET AND AUTHORIZATION TO TRAVEL—STUDY  
ON THE STATE OF OPERATIONAL READINESS OF  
CANADIAN FORCES BASES—ELEVENTH REPORT OF  
COMMITTEE ADOPTED

The Senate proceeded to consideration of the eleventh report of the Standing Senate Committee on National Security and Defence, (budget—study on Canadian Forces Bases—power to travel) presented in the Senate on April 18, 2013.

**Hon. Daniel Lang** moved the adoption of the report.

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

**Hon. Senators:** Agreed.

(Motion agreed to and report adopted.)

STUDY ON PRESCRIPTION PHARMACEUTICALS

TWENTIETH REPORT OF SOCIAL AFFAIRS, SCIENCE  
AND TECHNOLOGY COMMITTEE AND REQUEST  
FOR GOVERNMENT RESPONSE ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Ogilvie, seconded by the Honourable Senator Rivard, that the twentieth report (interim) of the Standing Senate Committee on Social Affairs, Science and Technology, entitled: *Prescription Pharmaceuticals in Canada: Post-Approval Monitoring of Safety and Effectiveness*, tabled in the Senate on March 26, 2013, be adopted and that, pursuant to rule 12-24(1), the Senate request a complete and detailed response from the government, with the Minister of Health being identified as minister responsible for responding to the report.

**Hon. Art Eggleton:** Honourable senators, I rise to speak on a report that is part of an ongoing four-part study on prescription pharmaceuticals. This particular report deals with post-approval monitoring of prescription drugs. I want first to express, as Deputy Chair of the Standing Senate Committee on Social Affairs, Science and Technology, thanks to the chair, Senator Ogilvie, to Senator Seidman, who is also part of the steering committee, and to all of our committee members for the work done on this, as well as appreciation to all of the staff, particularly Sonya Norris, who was our Library of Parliament researcher and who worked quite capably on this study.

The study involved a series of expert witnesses from the health care field. We heard from Health Canada officials, representatives of the pharmaceutical industry, patient advocates, medical, ethical and legal academics and representatives of various national organizations that are concerned with pharmaceutical policy. We learned that an effective post-approval drug monitoring system for prescription pharmaceuticals is of vital importance to the health and safety of Canadians. Serious adverse drug reactions, or ADRs, harm and kill thousands of Canadians each year. The Canadian Nurses Association said that, in fact, they are one of the top 10 leading causes of death in Canada. MP Terence Young, who came before the committee, said it was the fourth leading cause of death in North America. This is enormously important information, and it shows the seriousness of this matter.

That is not where all of these ADRs end. We also have a number that are hidden from view. They contribute to hip fractures due to falls, to car accidents, to the increase in disability payments and to longer hospitalization. All this from the adverse effects of drugs. Visits to emergency rooms, excessive diagnostic testing and unnecessary medical procedures all add to the concerns about adverse effects.

For a drug to come to market, it must go through a clinical trial, which frequently includes only a small number of patients, who are selected on the basis of certain characteristics. These characteristics do not necessarily represent the general population, called “the real world,” where people might have multiple health problems, be of a different age or be taking other drugs as well. In fact, women and children are rarely included in drug trials, yet they are just as likely to be prescribed those drugs. That is called off-label use and will be the subject of our next report.

Once a drug receives approval, Health Canada is responsible for monitoring the safety of the drug to protect Canadians from unnecessary harm. However, the committee learned that Health Canada does not have the legislative authority nor the infrastructure to be as effective as it should be in this regard. One witness said there is a lack of prioritization of a culture of safety, and that is reflected in a comparative lack of resources for pharmacovigilance, a failure to improve safety monitoring, a reliance on passive adverse drug reaction collection systems, a lack of transparency, and allowing vested interests to dominate decision making because of weak conflict-of-interest provisions.

Those are many things to be concerned about. In other words, a lot of effort and money are being put into getting the drugs on the market, but little is being done to ensure they are safe once they are available to the general population. The follow-up — the post-approval process — is what we are talking about.

Witnesses reported an imbalance of funding and staffing resources directed to drug safety and protection as compared to drug approval and fast-track approval — in other words, get it out the door; Approve it, but do not give as much money to following it up.

There is, currently, an inadequate system of collecting adverse drug reaction reports from medical practitioners and the public, and, to this point, there is no concrete plan to create a better one.

We also heard concern about Health Canada's overreliance on information provided by the drug industry, their unwillingness to clarify decisions that they make and their reluctance to act on information that is brought forward.

These are all disturbing revelations. We have some suggestions for how we can start towards rectifying them. We have 19 recommendations in the report. Let me cover just a few of them, in general categories, to give you the flavour of the direction we think we should go in.

The committee is recommending, in Recommendation 1, that the Government of Canada introduce legislation that includes authorities for drug management. We are saying that Health Canada should have the authority to require post-approval study, the authority to require label changes, the authority to require reassessment of drug safety and effectiveness and on and on. There are a number of things they do not have the authority to do now. All they can do, in many cases, is say "pretty please" or "We would like you to do this."

Adverse drug reactions are one of the top 10 killers of people in this country. We need more authority. Now, the government originally did bring in a bill on this. It was called Bill C-51. It was brought in in 2008, but it died in the latter part of the year when there was one of those prorogations. It has never seen the light of day since. This is a unanimous report, so both sides of this house are agreeing on this. We are saying that additional authorities must be given.

A couple of recommendations deal with the life-cycle approach to drug management. It is not good enough to do the clinical trials to approve a drug and then to do very little thereafter. In fact, we think the entire life cycle of the drug needs to be monitored. Its safety and effectiveness need to be determined on an ongoing basis.

We also feel — and this follows up on something I said a few moments ago — in Recommendation 4, that the Minister of Health should work to achieve equal funding for both pre- and post-approval regulatory activities. Bring the post-approval up and give it the status and the funding that it needs to be more effective for Canadians.

Then we have a series of recommendations, numbers 5 to 8, that deals with a new entity called the Drug Safety and Effectiveness Network, or DSEN. This is a creature of the Canadian Institutes of Health Research, and, quite frankly, it is the best new thing for some time in dealing with these kinds of issues. We want to ensure that it keeps going, that it gets the funding it needs and that it gets funding independent from CIHR. We think it should be responsible for its own budget. We would like to make it a little more at arm's length from CIHR because CIHR also cooperates a lot with the pharmaceutical industry and has members of the pharmaceutical industry on its board. These are the applicants who might be under examination in something that the Drug Safety and Effectiveness Network is doing, so there needs to be a little more arm's-length distance there. We point that out. We think that it needs to be a permanent entity with ongoing, sustained funding and that DSEN should be responsible for its own budget. They are doing research that is quite helpful. It is not the whole answer, but it is certainly part of it.

A couple of other recommendations deal with this question of electronic health records. This has been going on for so long. So much of the answer to dealing with the flow of information, from the industry to Health Canada to the physicians to the patients to every stakeholder involved in this whole process, would be there if we could only push along the electronic health records process. It is taking forever. This provides so much opportunity for us to answer so many of these questions. I know the chair and Senator Seidman have been very vocal about this, as indeed I am attempting to be today.

• (1510)

Another series of recommendations deals with what the patient should know, honourable senators. When you get your prescription drug, frequently the drugstore will give you a piece of paper telling you a bit about it and some possible adverse reactions you might have.

We feel that Health Canada's patient information leaflets should be part of what the public receives and that the patient information leaflet should contain a phone number or a website for reporting adverse drugs reactions. Many people simply do not know how to report to Health Canada. They will probably talk to their physician if there is an adverse reaction, or they will just drop the drug and forget about it.

Also, one cannot be sure that the doctor will necessarily provide the information to Health Canada, as there is no compulsion. The only part of the process where there is some compulsion, some mandatory reporting, is the industry itself. However, the industry may not find out about this. If the patient information leaflet from Health Canada is provided along with prescriptions, then people will receive more of a warning.

We picked up another kind of warning from the United States and the United Kingdom. In the United States they call it the "black box" and in the United Kingdom they call it the "black triangle." These are little alert symbols on the prescription label that alert professionals and consumers to new products, as well as to products that have been linked to serious adverse reactions. It is a warning system. It has been used, as I said, in those two countries, and we are suggesting something similar to that in terms of a labelling requirement.

Finally, honourable senators, let me mention something we have raised before, in our first report. We have had a difficult time with Health Canada not being open and transparent in these processes. The Auditor General is also having difficulties with Health Canada in that regard. I do not know what it is; maybe they do not have the resources or whatever, but there needs to be a lot of improvement. They tell us they will improve things, but the proof is in the pudding. We continue to point out, as we do in Recommendations 18 and 19 of this report, that there needs to be greater transparency, particularly in the case of post-approval monitoring activities.

Honourable senators, those are 19 recommendations that I think are worthy of our support. They have the unanimous approval of the Standing Senate Committee on Social Affairs, Science and Technology. I hope we can pass this bill and get a response from the government, as is required by the additional motion that Senator Ogilvie appended to the report.

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

(Motion agreed to and report adopted.)

## RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

### MOTION TO AUTHORIZE COMMITTEE TO STUDY CASE OF PRIVILEGE RELATING TO THE ACTIONS OF THE PARLIAMENTARY BUDGET OFFICER—MOTION TO REFER TO COMMITTEE OF THE WHOLE— DEBATE CONTINUED

On the Order:

Resuming debate on the motion, as amended, of the Honourable Senator Cools, seconded by the Honourable Senator Comeau:

That this case of privilege, relating to the actions of the Parliamentary Budget Officer, be referred to the Standing Committee on Rules, Procedures and the Rights of Parliament for consideration, in particular with respect to the consequences for the Senate, for the Senate Speaker, for the Parliament of Canada and for the country's international relations;

And on the motion of the Honourable Senator Tardif, seconded by the Honourable Senator Cowan, that the question be referred to a Committee of the Whole for consideration.

**Hon. Joan Fraser:** Honourable senators, the motion before us concerns extremely serious issues, and their importance is only heightened by this week's Federal Court ruling in the matter of the Parliamentary Budget Officer versus the Speakers of both houses. As Senator Joyal reminded us on Tuesday, it is extremely rare to have such stark disagreement between our Speakers and the courts.

Just as a little reminder, honourable senators, on the one hand, we have our Speaker's ruling that states, when the Parliamentary Budget Officer asked the courts to decide the question of his mandate, "he disregarded the established authority and organizational structure of which he is a part." Our Speaker said:

The question of his mandate is solely for Parliament to determine. The officer's actions run contrary to the constitutional separation of powers between the branches of government.

The Speaker said that, therefore, our privilege, the Senate's privileges, had been infringed, or he found a *prima facie* case.

On the other hand, we have an equally forceful ruling from the Federal Court, which said this week — having examined the legislation establishing the Parliamentary Budget Officer, the Accountability Act noting that the PBO's mandate was set out in some detail in that bill — said that "Parliament has no right to ignore its own legislation," and that "if the legislation infringed

upon parliamentary privilege, and I say it did not," — that is, the judge says — "then such privilege was legislatively waived," because we wrote the mandate into the legislation. As I say, there is stark disagreement, really unusually so.

It therefore seems to me that if we are to adopt this motion, we should do so after amending it as proposed by Senator Tardif, because these are matters that go to the heart of the nature and powers and identity of the Senate. I think it would be valuable for all senators to have the opportunity to examine these matters in a Committee of the Whole. Then we might choose to send the matter on to the Rules Committee, where it could be examined either on its own merits or in the light of Senator Joyal's valuable suggestion that perhaps it is time for the Rules Committee to look at the whole question of parliamentary privileges as it applies to the Senate of Canada.

Parliamentary privilege, honourable senators, is one of the most complex issues any of us will ever have to address, short perhaps of atomic physics, nuclear physics. It goes back centuries and it is really extremely complex. I tend to agree that it is probably time we looked at it in the light of modern times.

Meanwhile, however, I thought it would be appropriate to consider a couple of elements of our own comparatively recent history in the Senate. I propose to give honourable senators two examples of how we in the Senate have addressed the relationship of the Senate, key servants of Parliament, and the courts. I do so because, although in both cases the debates in this place were of high level and prolonged and passionate, most of the senators here now sitting in the Senate were not then among our members. Therefore, I thought perhaps it might be helpful to rehearse the history a little bit. I believe that, where at all possible, it is highly desirable for parliaments in general, and the Senate in particular, to be consistent with ourselves, to know what we did, to know why we did it, and then see if we believe that we should reverse our precedents or abide by them.

The first question that I want to draw to your attention involves the establishment of the Senate Ethics Officer, who is, as honourable senators know, an employee of the Senate.

• (1520)

At the time, when it was proposed that the Senate have an ethics officer and a conflict of interest code, the debates here were among the most passionate I have ever heard, and among the most detailed. The study of that matter went on for months. Honourable senators, the debates were here, they were in committee, in subcommittee and in caucus, on both sides. Senators were really caught up in this issue, because it was a tremendous change in the nature of this body to establish an ethics officer and a conflict of interest code.

One of the things about which senators on both sides were most concerned was whether the actions of the Senate Ethics Officer would be justiciable: whether we, or anyone, could appeal his actions to the courts. There was a strong conviction among, I would say, a majority of senators that, precisely to preserve parliamentary privilege, the actions of the Senate Ethics Officer should not be justiciable; they should be a matter for the Senate to consider and to handle.

For that reason, when the law was passed, it set up the appointment process, set up the fact that there could be a Senate Ethics Officer, how the salary should be fixed and how the appointment should be done. Then it said, under the marginal note “duties and functions”:

The Senate Ethics Officer shall perform the duties and functions assigned by the Senate. . .

The duties and functions of the Senate Ethics Officer are carried out within the institution of the Senate.

There was nothing else about the SEO’s mandate. In Committee of the Whole study of that bill the Leader of the Government in the Senate at the time, the Honourable Jack Austin, said to the Senate:

I want to be clear. This bill enables the appointment of a Senate ethics officer. It leaves it to the Senate to do everything else. The duties and responsibilities of that Senate ethics officer are the responsibility of the Senate and senators. . . . The Senate will decide what the Senate ethics officer will do. Also, it will decide the rules that apply to the members of the Senate.

In Committee of the Whole the then Minister of Justice, The Honourable Irwin Cotler, one of Canada’s most famous lawyers on the international scene, said:

. . . in order to ensure that in performing those assigned duties and functions the ethics officer is answerable only to the Senate — and this is an important principle of public accountability that has to be appreciated — the bill would clothe the ethics officer with the privileges and immunities of the Senate and offer protection from the jurisdiction of the courts.

On that basis, we passed the legislation establishing the Senate Ethics Officer, having made as sure as we knew how to do it that it would be an internal matter: internal mandate, internal discipline, no recourse to the courts.

Honourable senators, that was in 2004. Two years later — only two years later — we were called upon to consider the Accountability Act. The enormous majority of senators who considered the Accountability Act had already participated, had been here for the prolonged and intense debate about the Senate Ethics Officer. It was the Accountability Act, honourable senators will recall, that established the Parliamentary Budget Officer.

What has struck me as increasingly important is the fact that the Parliamentary Budget Officer was handled completely differently. The mandate was written into the legislation in

some detail. Just to recall, the mandate of the Parliamentary Budget Officer, according to section 79.2 of the Parliament of Canada Act, is to:

. . . provide independent analysis to the Senate and to the House of Commons about the state of the nation’s finances, the estimates of the government and trends in the national economy. . .

To undertake research and provide information for committees and:

. . . when requested to do so by a member of either House or by a committee of the Senate or of the House of Commons, or a committee of both Houses, estimate the financial cost of any proposal that relates to a matter over which Parliament has jurisdiction.

The act goes on to say, in the light of the preceding mandate:

. . . the Parliamentary Budget Officer is entitled. . . to free and timely access to any financial or economic data in the possession of the department that are required for the performance of his or her mandate.

It is the exact opposite approach to what we did with the SEO. With the PBO we wrote it into the law in considerable detail: this will be this person’s mandate.

The bill’s sponsor, our estimable Speaker *pro tempore*, Senator Donald Oliver, actually said, when explaining what the bill implied:

With expert staff and legislated access to government information, the parliamentary budget officer will strengthen Parliament’s ability to scrutinize government spending and to analyze economic trends.

Here, too, in connection with the accountability bill, there were prolonged and passionate studies and debates in this place. In fact, in neither case was it an example of those occasions where sometimes things slip through that we are not aware of because we have not had time to examine them properly. Both of these bills were examined to a fare-thee-well, and when we adopted them we knew what we were doing. We adopted them both.

It seems to me that there is a common thread here. If we want to protect one of our servants from the courts, we remain silent in law on his mandate. If we are willing to subject him to justiciable situations, we write his mandate into the law. That is in essence, I think, what the Federal Court ruling said. Others may differ but, honourable senators, this is an important issue, which is why I think Senator Tardif’s suggestion that we all get at least a first chance to examine it is a very good one.

My final word on this is simply that wherever we go, as we proceed down this road, we must remember what we have done in the past, why we did it and why it is desirable to be consistent with ourselves.

(On motion of Senator Cools, debate adjourned.)

• (1530)

[*Translation*]

That when the Senate adjourns today, it do stand adjourned until Tuesday, April 30, 2013, at 2 p.m.

**ADJOURNMENT**

**MOTION ADOPTED**

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

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

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

**Hon. Senators:** Agreed.

(Motion agreed to.)

(The Senate adjourned until Tuesday, April 30, 2013 at 2 p.m.)

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## CONTENTS

Thursday, April 25, 2013

	PAGE
<b>Criminal Code</b>	
<b>Canada Evidence Act</b>	
<b>Security of Information Act (Bill S-7)</b>	
Bill to Amend—Message from Commons . . . . .	3773
<b>Royal Assent</b> . . . . .	3773

### SENATORS' STATEMENTS

<b>World Malaria Day</b>	
Hon. Mobina S. B. Jaffer . . . . .	3773
<b>Boston Marathon Tragedy</b>	
Hon. Paul E. McIntyre . . . . .	3774
<b>The Honourable Viola Léger, O.C., O.N.B.</b>	
Congratulations on Receiving Governor General's Performing Arts Award.	
Hon. Joseph A. Day . . . . .	3774
<b>Ken Spencer Award for Innovation in Teaching and Learning</b>	
Hon. Rose-May Poirier . . . . .	3774
<b>Boeing Canada</b>	
Hon. Janis G. Johnson . . . . .	3775
<b>Visitors in the Gallery</b>	
The Hon. the Speaker . . . . .	3775

### ROUTINE PROCEEDINGS

<b>Fisheries and Oceans</b>	
Budget and Authorization to Engage Services and Travel— Study on the Regulation of Aquaculture and Future Prospects for the Industry—Ninth Report of Committee Presented.	
Hon. Fabian Manning . . . . .	3775
<b>Internal Economy, Budgets and Administration</b>	
Twenty-first Report of Committee Tabled.	
Hon. David Tkachuk . . . . .	3776
<b>Criminal Code (Bill C-309)</b>	
Bill to Amend—Twenty-fifth Report of Legal and Constitutional Affairs Committee Presented.	
Hon. Bob Runciman . . . . .	3776
<b>Canada National Parks Act</b>	
<b>Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act</b>	
<b>Canada Shipping Act, 2001 (Bill S-15)</b>	
Bill to Amend—Ninth Report of Energy, the Environment and Natural Resources Committee Presented.	
Hon. Richard Neufeld . . . . .	3776
<b>Canada-United Kingdom Inter-Parliamentary Association</b>	
Bilateral Visit, March 16-24, 2012—Report Tabled.	
Hon. Jim Munson . . . . .	3777
<b>Banking, Trade and Commerce</b>	
Notice of Motion to Authorize Committee to Study the Ability of Individuals to Establish a Registered Disability Savings Plan.	
Hon. Irving Gerstein . . . . .	3777

<b>National Strategy on Radicalization</b>	
Notice of Inquiry.	
Hon. Mobina S. B. Jaffer . . . . .	3777

### QUESTION PERIOD

<b>Fisheries and Oceans</b>	
British Columbia—Wild Salmon.	
Hon. Elizabeth Hubley . . . . .	3777
Hon. Marjory LeBreton . . . . .	3777
<b>The Senate</b>	
Special Committee on Anti-Terrorism—Proposed Study on Radicalization.	
Hon. Mobina S. B. Jaffer . . . . .	3778
Hon. Marjory LeBreton . . . . .	3778
<b>Human Resources and Skills Development</b>	
Parental Leave—Health Benefits.	
Hon. Jane Cordy . . . . .	3778
Hon. Marjory LeBreton . . . . .	3779
Hon. Terry M. Mercer . . . . .	3779
<b>International Trade</b>	
Trade Deficit.	
Hon. Grant Mitchell . . . . .	3780
Hon. Marjory LeBreton . . . . .	3780
<b>National Defence</b>	
Cyber Security.	
Hon. Wilfred P. Moore . . . . .	3781
Hon. Marjory LeBreton . . . . .	3781

### ORDERS OF THE DAY

<b>Immigration and Refugee Protection Act (Bill C-43)</b>	
Bill to Amend—Second Reading.	
Hon. Art Eggleton . . . . .	3782
Referred to Committee . . . . .	3782
<b>Study on User Fee Proposal</b>	
Agriculture and Agri-food—Tenth Report of Agriculture and Forestry Committee—Debate Adjourned.	
Hon. Donald Neil Plett . . . . .	3782
<b>Canada Post Corporation Act (Bill C-321)</b>	
Bill to Amend—Third Reading.	
Hon. Donald Neil Plett . . . . .	3782
Hon. Terry M. Mercer . . . . .	3783
<b>Controlled Drugs and Substances Act</b>	
<b>Criminal Code (Bill S-216)</b>	
Bill to Amend—Second Reading—Debate Adjourned.	
Hon. Mobina S. B. Jaffer . . . . .	3783
<b>International Boundary Waters Treaty Act</b>	
<b>International River Improvements Act (Bill C-383)</b>	
Bill to Amend—Second Reading.	
Hon. Grant Mitchell . . . . .	3785
Referred to Committee . . . . .	3786

	PAGE
<b>Agriculture and Forestry</b>	
Budget and Authorization to Engage Services and Travel— Study on Research and Innovation Efforts in Agricultural Sector—Eleventh Report of Committee Adopted.	
Hon. Donald Neil Plett. . . . .	3786
<b>Internal Economy, Budgets and Administration</b>	
Twentieth Report of Committee Adopted.	
Hon. David Tkachuk . . . . .	3786
<b>National Security and Defence</b>	
Budget—Study on State of Defence and Security Relationships with the United States—Tenth Report of Committee Adopted.	
Hon. Daniel Lang . . . . .	3787
Budget and Authorization to Travel—Study on the State of Operational Readiness of Canadian Forces Bases—Eleventh Report of Committee Adopted.	
Hon. Daniel Lang . . . . .	3787

	PAGE
<b>Study on Prescription Pharmaceuticals</b>	
Twentieth Report of Social Affairs, Science and Technology Committee and Request for Government Response Adopted.	
Hon. Art Eggleton . . . . .	3787
<b>Rules, Procedures and the Rights of Parliament</b>	
Motion to Authorize Committee to Study Case of Privilege Relating to the Actions of the Parliamentary Budget Officer—Motion to Refer to Committee of the Whole—Debate Continued.	
Hon. Joan Fraser . . . . .	3789
<b>Adjournment</b>	
Motion Adopted.	
Hon. Claude Carignan . . . . .	3791

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