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OFFICIAL REPORT
(HANSARD)

Thursday, December 5, 2013

The Honourable NOËL A. KINSELLA
Speaker

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THE SENATE

Thursday, December 5, 2013

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

Prayers.

SENATORS' STATEMENTS

QUESTION OF PRIVILEGE

NOTICE

Hon. James S. Cowan (Leader of the Opposition): Colleagues, I rise pursuant to rule 13-4(4) to explain that the Question of Privilege I will raise later today concerns the alleged interference with the Deloitte audit of Senator Duffy's expenses, which, if true, breaches the privileges of the Senate, of its Standing Committee on Internal Economy, Budgets and Administration and each of us. It breaches those privileges because it strikes at the heart of the Senate's independence, particularly its independence of action over its own internal affairs.

The sworn affidavit of RCMP Corporal Horton alleges a complex scheme by the Office of the Prime Minister to improperly influence the independent audit commissioned by our Committee on Internal Economy into the expenses of Senator Duffy, beginning with actually manipulating the content of the press release announcing the commission of the audit to Canadians.

These allegations of interference have led many Canadians to believe that the Senate does not function as an independent body. This denigrates the Senate in the eyes of Canadians and consequently affects our ability to fulfil our constitutional responsibilities as an effective legislative chamber.

Should the Senate find that a prima facie Question of Privilege has been established, I am prepared to move a motion referring the matter to our Standing Committee on Rules, Procedures and the Rights of Parliament.

[*Translation*]

LE STUDIO PURE DE L'ÉCOLE CAMILLE-VAUTOUR

Hon. Rose-May Poirier: Honourable senators, in April, I shared with you the story of Studio PURE at the École Camille-Vautour in Saint-Antoine, New Brunswick. At that time, Studio Pure had just won the Ken Spencer Award for Innovation in Teaching and Learning, in recognition for their efforts.

Last week, the provincial government announced an investment of $535,000 for francophone schools in New Brunswick to support entrepreneurial educational projects. This initiative will enable students to carry out projects that will help them develop their sense of community involvement and leadership. Students will be encouraged to develop qualities and behaviours that will benefit them for the rest of their lives: self-confidence, a sense of responsibility, leadership, creativity and cultural pride. This funding creates a structure that encourages students to further integrate in the community, with the support of educational and community partners.

So far, the Studio PURE approach has yielded excellent results. The educational outcomes are evidence of this achievement: the completion rate in mathematics has increased by 10 per cent while that in reading and French is said to have risen by 43 per cent in just two years. This is quite remarkable.

Based on this community and entrepreneurial approach, teachers develop integrated learning scenarios. Young students carry out a number of projects while following the learning content prescribed by the Department of Education. Studio PURE students created, for example, a humanitarian microenterprise to raise money for charity. They raised over $7,000 in donations for sick children. This was a great initiative.

Among the changes made by the teachers, integrating new technologies in young people's education was a major boon. Teachers Kevin and Monique used such resources as blogs, social media and YouTube to spark new energy in the classroom. During the province's Anti-Bullying Awareness Week, they put together a video to help prevent bullying. In addition, they also developed a *Téléjournal,* a newscast that is produced and presented by students. Clearly, they are not short of ideas.

Lastly, since winning the Ken Spencer Award, the recipients have been getting congratulatory messages from all over. Recently, the Canadian Education Association publicized the history of Studio PURE and the positive impact it has been having on students. The recipients were even visited by a delegation from Mexico who wanted to observe their activities in order to understand how they work.

Honourable senators, Studio PURE's innovative approach is definitely one of the 21st century. Through new technology and incentives for community involvement, our youth will be better prepared for the future.

Honourable senators, please join me in congratulating Kevin Ouellette and Monique Saulnier.

NATIONAL DAY OF REMEMBRANCE AND ACTION ON VIOLENCE AGAINST WOMEN

Hon. Claudette Tardif: Honourable senators, I wish to draw your attention to the National Day of Remembrance and Action on Violence against women, which is tomorrow, December 6.

Established in 1991 by the Parliament of Canada, this day marks the sad anniversary of the murders of 14 young women at l'École Polytechnique de Montréal in 1989. They were killed

because they were women. Since that tragic day, some progress has been made in Canada. Not so long ago, many forms of violence against women were trivialized.

• (1340)

Domestic violence was seen as a private matter. Too many victims kept quiet because they were ashamed or fearful or because they thought they were to blame. In many cases, even when victims spoke up about violence, they were sent home and nothing was really done.

Far too many women felt isolated and trapped, and as a result, violence sometimes led to greater tragedy. Over the past 10 decades, measures promoting basic rights and gender equality, the creation of shelters and other victim assistance organizations, awareness campaigns and plenty of hard work in the field by feminist organizations have had a positive impact on the lives of many women.

All of these efforts have encouraged victims to break their silence or have prevented violence from happening in the first place. They have awakened women to the fact that they have the right to live free of violence. At a more basic level, these efforts have spurred cultural change that now enables us to take significant and meaningful action to curb violence against women.

Honourable senators, despite that progress, violence against women is still a serious problem. Around the world, one in three women will be beaten, raped or battered by a partner at some point in her life. In Canada, despite undeniable progress, every day over 3,000 women and their 2,500 children turn to various emergency shelters to escape domestic violence.

On average, one woman is killed by her partner every six days. Over the past 30 years, there have been nearly 600 known but unresolved cases of missing or murdered Aboriginal women, mothers and sisters.

This violence continues for several reasons: impunity, silence, lack of support and resources, and a culture that still does not value women in many respects.

Just last week I read an article condemning sexual violence on Canadian university campuses and the fact that some police officers still place part of the blame on the victims.

Honourable senators, tomorrow, thousands of Canadians will gather to participate in one of many vigils that will be held across the country, joining their voices to condemn the violence experienced by women across Canada and around the world.

L'ÉCOLE POLYTECHNIQUE DE MONTRÉAL

VICTIMS OF TRAGEDY

Hon. Suzanne Fortin-Duplessis: Honourable senators, December 6, 1989 will forever be remembered as a dark day in Canadian history. The tragedy at École Polytechnique de Montréal showed us one of the most horrible sides of humanity. Fourteen young women were brutally murdered by a crazed gunman who also wreaked havoc on the lives of those who were injured or who witnessed the events and could do nothing to stop them.

Twenty-four years later, we mark this sad anniversary so that a tragedy like this is never forgotten or ignored. Together, we must condemn all barbaric acts of violence — against women, children and even men — and we must never take this violence lightly.

Although many years have passed since that sad day in December 1989, violence against women remains a disturbing reality, and we are reminded of that fact all too often.

I rise in this chamber today so that we never forget Geneviève Bergeron, Hélène Colgan, Nathalie Croteau, Barbara Daigneault, Anne-Marie Edward, Maud Haviernick, Barbara Klucznik-Widajewicz, Maryse Laganière, Maryse Leclair, Anne-Marie Lemay, Sonia Pelletier, Michèle Richard, Annie St-Arneault and Annie Turcotte.

We remember these young women, who had a very bright future ahead of them as pioneers in a field that few women had been part of before them.

Again, I want to say how saddened I am when I think about that terrible day in 1989. Some of my current colleagues in the Senate were, like me, members in the other place at the time. We were shocked and horrified to hear the news when we left Parliament on Wednesday, December 6, 1989.

We must all strive to eliminate violence against women. I sincerely hope that no Canadian will ever suffer the same tragic fate as these young women and their families.

I ask you to join me in remembering the December 6, 1989, tragedy at École Polytechnique. Eliminating violence against women is not simply a dream, but a goal that we should all share.

[*English*]

SAMBRO ISLAND LIGHTHOUSE

Hon. Jim Munson: Honourable senators, this is a statement on the preservation of the Sambro Island Lighthouse in Nova Scotia and, hopefully, the preservation of many other lighthouses in this country. First lit in 1758, Sambro Island Lighthouse is the oldest surviving lighthouse in North and South America. It is also one of the most historically significant lighthouses in Canada. Standing at the mouth of the busy Halifax Harbour and surrounded by many rocks and shoals, this lighthouse has been a beacon and a symbol of hope for generations. Some even call it Canada's Statue of Liberty — for almost half of the 20th century — an emblem of arrival for hundreds of thousands of immigrants to this country. In wartime, it was the final sight of Canada for armed personnel shipping out and their first sight of home upon returning.

After well more than two centuries of enabling safe passage for fishers and travellers, this lighthouse has been declared surplus by Fisheries and Oceans Canada. The department no longer funds its maintenance. Ironically, though its light and foghorn have helped human beings navigate their way through rough conditions, it is those same conditions — high winds and harsh weather — that are now eroding its structure.

People who live in the community of Sambro Island have a deep connection to the lighthouse. Local individuals and volunteer groups have worked hard to petition and raise awareness of its historic, environmental and touristic significance. Because of the Senate, seven lighthouses in four provinces have been designated heritage lighthouses under the Heritage Lighthouse Protection Act. They will be maintained and protected as symbols of Canada's maritime heritage. Unfortunately, the Sambro Island Lighthouse and the Sambro Island community cannot meet the requirements for this designation.

Efforts to preserve this piece of Canadian history need to reach further. On Tuesday and again today, MPs from all parties, including Geoff Regan, are presenting to colleagues in the House of Commons two petitions from the Nova Scotia Lighthouse Heritage Society. There are over 5,000 supporting signatures. The petitions call for federal funding and parliamentary leadership in developing a strategy to preserve the iconic structure.

Honourable senators, I encourage you to support this important initiative. It is a matter of keeping faith with those who are citizens of this country. For my part, I am fully endorsing these petitions, and I'm hoping to have the help of my colleagues from across the country. These are not only Maritime lighthouses — For example, in Louisbourg, where Senator MacDonald is from. I know he will support me. Across the country, there are a number of these lighthouses that must be saved. It is extremely important. My great great uncle James Munson was the first lighthouse keeper in New Brunswick at, as we would say in English, Cape Enrage.

[*Translation*]

The Acadians call it "Cap Enragé."

[*English*]

In closing, this is just the start of preserving these lighthouses. Stay tuned; there will be an inquiry.

TEENAGE SEXUAL TRAFFICKING

Hon. Mobina S. B. Jaffer: Honourable senators, last summer I went with International Justice Mission Canada to Calcutta to work on issues of teenage sexual trafficking in Calcutta, India. Having worked extensively on this issue in Canada and abroad, I felt both honoured and privileged to join forces with International Justice Mission, one of Canada's most reputable human rights organizations. However, despite my years of experience working with victims of sexual violence, nothing could have prepared me for what I was about to experience.

• (1350)

Although touring the red-light district and setting eyes on thousands of women and girls who had been raped, beaten and objectified had been a heartbreaking experience, the most life-changing experience for me was sitting down and speaking with some of these young trafficking victims. These women and girls had been snatched away from their families and their homes and brought to brothels. In these brothels, their traffickers stripped them of their innocence, mercilessly beat them and brutally raped them before selling them, 12 to 20 times a day, to strangers who, too, would forcibly rape them.

However, despite the extreme hardship these women and girls had endured, speaking to them was like speaking to my own daughter. When we all sat down on the floor in a circle, they asked me questions and I, in turn, would ask them questions. Their questions were like questions girls anywhere in the world would ask. They spoke of clothes, food, Bollywood movies and popular songs.

Honourable senators, these young girls reminded me of the young girls I met in Canada because they are no different than our young girls in Canada. They had the same hopes and aspirations; they had the same hobbies, interests and celebrity crushes. This is precisely why we should fight for their rights and work hard to protect them, just as hard as we would fight to protect our own daughters. These girls are also our daughters.

Honourable senators, over 2 million women and girls are trafficked every year. Although we may not be able to take away the pain and suffering so many women and children have already endured, we can reconfirm our commitment to ensuring that this does not continue to happen. We can help rehabilitate young victims like the ones I spoke to in Kolkata, and we can work as a government and a country to help ensure that traffickers of children are held accountable for their actions.

Honourable senators, let us reconfirm our commitment to fighting the battle against human trafficking so our children all over the world will be safe. Thank you.

MISSING AND MURDERED ABORIGINAL WOMEN

Hon. Lillian Eva Dyck: Honourable senators, tomorrow, Friday, December 6, is the National Day of Remembrance and Action on Violence Against Women. This day was established by the Parliament of Canada to mark the anniversary of the murders in 1989 of 14 young women at École Polytechnique de Montréal. They were murdered by a misogynist who targeted them because they dared to study in an area traditionally seen as a male domain.

As honourable senators know, violence against Aboriginal women is a national disgrace. On October 4, Member of Parliament Dr. Carolyn Bennett and I invited families of

missing and murdered Aboriginal women to Parliament Hill for a round-table discussion with parliamentarians. The event began with a smudging ceremony. This was an historic event, as it was the first time that an Aboriginal smudging ceremony was allowed to take place inside the Aboriginal Peoples Room in Parliament. We also hung prayer cloths in the traditional colours of the medicine wheel in the four directions.

It was fitting that these Aboriginal traditions took place in the Aboriginal Peoples Room. Elders Thomas Louttit and Irene Lindsay conducted the smudging ceremony to cleanse our spirits, our hearts, our bodies and our minds, and to create a sacred circle for families to share their stories, for us to hear them and for a good outcome.

The families told us that they wanted a national inquiry on missing and murdered Aboriginal women, and they also had other wide-ranging suggestions on ways to help families like themselves. They suggested that legislation could be developed to address the need for time off from work, and EI benefits, to address health insurance for PTSD or other health-related effects due to these traumatic events; to address the lack of rights of the parents of the missing or murdered Aboriginal person, including custody and visitation of children of the missing or murdered person, and burial arrangements.

They told us that funding for grassroots support groups and for conducting searches for the missing or murdered Aboriginal women was needed. They also told us that more police training is needed in several areas, such as how to deal with cases of missing and murdered Aboriginal women, how to conduct searches in Aboriginal communities, how to have better communication and updates with families, and how to interact respectfully and listen to families.

There was broad consensus that families feel invisible and unheard, the severity of their loss denied and the depth of impact on families ignored. They expressed a need for ways to protect children of missing and murdered Aboriginal women from re-victimization by the media coverage of the stories during court proceedings. At the same time, they suggested public education programs to raise awareness. The family members stated that an intergenerational cycle of re-victimization is occurring.

I want to thank Elders Louttit and Lindsay, the Native Women's Association of Canada, and families of Sisters In Spirit for their participation at the round table, and the family members who shared their ideas and stories with us. I hope that all honourable senators take to heart what these families have shared and that we can work together to implement their suggestions.

Some Hon. Senators: Hear, hear!

VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, it is always a welcome opportunity to recognize young Canadians who visit the Parliament of Canada and, in particular, the Senate of Canada. Today I draw your attention to the presence in the Speaker's Gallery of Ms. Emily Plett, the granddaughter of our colleague Senator Plett.

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

Hon. Senators: Hear, hear!

[*Translation*]

ROUTINE PROCEEDINGS

NATURAL RESOURCES

STATE OF CANADA'S FORESTS—
2013 REPORT TABLED

Hon. Yonah Martin (Deputy Leader of the Government): Honourable senators, I have the honour to table, in both official languages, the report on the state of Canada's forests for 2013, pursuant to subsection 7(2) of the Department of Natural Resources Act.

[*English*]

MUSEUMS ACT

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

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

Thursday, December 5, 2013

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

THIRD REPORT

Your committee, to which was referred Bill C-7, An Act to amend the Museums Act in order to establish the Canadian Museum of History and to make consequential amendments to other Acts, has, in obedience to the order of reference of Wednesday, December 4, 2013, examined the said bill and now reports the same without amendment.

Respectfully submitted,

KELVIN K. OGILVIE
Chair

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

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

SIOUX VALLEY DAKOTA NATION GOVERNANCE BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-16, An Act to give effect to the Governance Agreement with Sioux Valley Dakota Nation and to make consequential amendments to other Acts.

(Bill read first time.)

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

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

• (1400)

COMMONWEALTH PARLIAMENTARY ASSOCIATION

BRITISH ISLANDS AND MEDITERRANEAN REGIONAL CONFERENCE, FEBRUARY 11-15, 2013— REPORT TABLED

Hon. A. Raynell Andreychuk: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Commonwealth Parliamentary Association respecting its participation at the Forty-third British Islands and Mediterranean Regional Conference, held in Stanley, Falkland Islands, from February 11 to 15, 2013.

MID-YEAR EXCO MEETING, MARCH 17-22, 2013— REPORT TABLED

Hon. A. Raynell Andreychuk: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Commonwealth Parliamentary Association respecting its participation at the Mid-Year EXCO Meeting, held in Grand Cayman, Cayman Islands, from March 17 to 22, 2013.

WESTMINSTER SEMINAR ON PARLIAMENTARY PRACTICE AND PROCEDURE, JUNE 17-21, 2013—REPORT TABLED

Hon. A. Raynell Andreychuk: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Commonwealth Parliamentary Association respecting its participation at the Sixty-second Westminster Seminar on Parliamentary Practice and Procedure, held in London, United Kingdom, from June 17 to 21, 2013.

MID-YEAR EXCO MEETING, MAY 8-13, 2010— REPORT TABLED

Hon. A. Raynell Andreychuk: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Commonwealth Parliamentary Association respecting its participation at the Mid-Year EXCO Meeting, held in Ezulwini, Lobamba, Swaziland, from May 8 to 13, 2010.

CANADA-UNITED STATES INTER-PARLIAMENTARY GROUP

NATIONAL GOVERNORS ASSOCIATION WINTER MEETING, FEBRUARY 22-25, 2013— REPORT TABLED

Hon. Janis G. Johnson: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canada-United States Inter-Parliamentary Group respecting its participation at the National Governors Association Winter Meeting, held in Washington, D.C., United States of America, from February 22 to 25, 2013.

PACIFIC NORTHWEST ECONOMIC REGION ANNUAL SUMMIT, JULY 14-19, 2013—REPORT TABLED

Hon. Janis G. Johnson: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canada-United States Inter-Parliamentary Group respecting its participation at the Pacific NorthWest Economic Region (PNWER) Twenty-third Annual Summit, held in Anchorage, Alaska, United States of America, from July 14 to 19, 2013.

ANNUAL MEETING OF THE COUNCIL OF STATE GOVERNMENTS-WEST, JULY 30 TO AUGUST 2, 2013—REPORT TABLED

Hon. Janis G. Johnson: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canada-United States Inter-Parliamentary Group respecting its participation at the Sixty-sixth Annual Meeting of the Council of State Governments-WEST (CSG-WEST), held in Las Vegas, Nevada, United States of America, from July 30 to August 2, 2013.

ANNUAL MEETING OF THE SOUTHERN GOVERNORS' ASSOCIATION, SEPTEMBER 6-9, 2013—REPORT TABLED

Hon. Janis G. Johnson: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canada-United States Inter-Parliamentary Group respecting its participation at the Seventy-ninth Annual Meeting of the Southern Governors' Association, held in Louisville, Kentucky, United States of America, from September 6 to 9, 2013.

[*Translation*]

QUESTION PERIOD

PRIME MINISTER'S OFFICE

PAYMENT OF SENATOR MIKE DUFFY'S EXPENSES

Hon. Céline Hervieux-Payette: My question is for the Leader of the Government in the Senate. In what is being commonly referred to as the Wright-Duffy affair, the media and the Prime Minister have always mentioned a $90,000 cheque issued by the Prime Minister's former Chief of Staff, Nigel Wright, to Senator Mike Duffy. However, the RCMP affidavit, which I have here and which was made public, shows a photocopy of a bank draft, not a cheque.

A bank draft is not a cheque issued from a personal bank account. It is a negotiable instrument through which a drawer, the person who issues and signs the bank draft — in this case Mr. Wright — asks a bank, the institution holding the funds — in this case CIBC — to pay an amount of money by a certain date to a third party, referred to as the payee — in this case a lawyer's office. Actually, it is the bank that signs the draft, but in this case, we see that Mr. Wright's name and "Senate expenses" appear on it.

Thus, leader, there was no cheque but rather a bank draft. The bank draft, which is in the amount of $90,172.24 and dated March 25, 2013, is not written out to Mr. Duffy; it was issued to a lawyer's office, that of Nelligan, O'Brien & Payne, according to the document that was released.

Leader, can you explain why everyone has been talking about a cheque for the past few weeks when a bank draft is something completely different from a cheque and the bank draft in question was never issued to Mr. Duffy but to his lawyer's office?

Why has everyone been using the word "cheque", not "bank draft"?

Hon. Claude Carignan (Leader of the Government): Senator Hervieux-Payette, I am a little surprised by your question today.

As to the distinction between a bank draft and a cheque, it is clear that a payment order was issued by someone to someone else from a bank account. Since you are a very involved member of the Banking Committee, I imagine you are in a better position than I am to know the difference.

I am sure that the Banking Committee will make good use of your investigative talents.

Senator Hervieux-Payette: I do not think the Banking Committee will be looking at this issue because it does not really seem to interest all of the committee members. However, it is important that we find out where the funds for the bank draft came from because nowhere on the draft is the provenance of the funds indicated.

Secondly, the same document mentions a cheque from Mr. Duffy to the Receiver General of Canada. Two more documents are needed to understand the transaction in its entirety: the cheque from the lawyer's office to Mr. Duffy and the provenance of the funds for the bank draft. Those two documents are missing.

At this point, leader, since we want to know all the details of this matter, I think it is important that you find out where the funds for the bank draft came from and how the lawyer's office transferred the funds to Mr. Duffy because those two documents are not in the affidavit.

Senator Carignan: Senator Hervieux-Payette, you have the document from the ongoing RCMP investigation right there. I would imagine the RCMP is investigating those issues, so I will not comment.

Sometimes I watch question period in the other place, and I see that you are feeling inspired by it. I have a list of about 100 topics of national interest that the opposition could draw inspiration from to ask questions that would change or could help improve Canadians' quality of life more than the questions you are asking me on this matter. I could give you this list if you want, if you need some inspiration regarding the subject matter of your questions.

Senator Hervieux-Payette: Honourable senators, I am rarely lacking for questions when I address this chamber. I could talk about the problem of the Far North and the fact that the government has taken years to realize that it did not do its homework, and now the Prime Minister is suddenly waking up.

I could talk about the sale of Grosvenor House as part of the bid to sell off Crown assets in order to wipe out the deficit. They are practically selling off the government's furniture. There are so many more questions we could ask.

My question is this: where did the money come from? For your information, I spoke with my colleagues in the House of Commons, because we do discuss these questions. I am not sure where the question comes from, but as far as I am concerned, and since I sit on the Banking Committee, I know that a bank draft does not indicate the source of the funds.

Senator Carignan: Listen, I am wondering if I should raise a question of privilege, because there seems to have been some interference from the House of Commons here in the Senate.

[*English*]

Senator Cowan: We are on better terms with them than you guys are.

[*Translation*]

EMPLOYMENT AND SOCIAL DEVELOPMENT

TRAINING AND SKILLS DEVELOPMENT

Hon. Claudette Tardif: Leader, in the Speech from the Throne, the government identified a mismatch between unemployed workers and job vacancies as the main problem in terms of job creation.

• (1410)

I am not denying that this is a problem. However, recent OECD reports show that Canada is faced with more fundamental problems.

An extensive study published by the OECD in October, entitled, *Programme for the International Assessment of Adult Competencies*, reveals that young Canadians are well below average when it comes to literacy and mathematics, compared to 23 developed countries.

If we compare the results to the results of a similar assessment carried out in 2003, we can see that Canada is falling behind. Another OECD study published this week, entitled, *Programme for International Student Assessment*, which assesses the skills and knowledge of 15-year-olds, also shows that Canada has been falling behind for the past 10 years or so, especially in mathematics and sciences.

Leader, it is time to stop congratulating ourselves on the quality of our education systems and acknowledge that the results are getting worse instead of better. What is the government's strategy to halt this worrisome decline and ensure that Canada is preparing Canadians for success in the knowledge economy?

Hon. Claude Carignan (Leader of the Government): Honourable senators, as you know, no other government has done more for students than this one. Post-secondary enrolment in Canada is at an all-time high, with nearly two million students enrolled.

We have improved incentives to increase the number of apprenticeships and skilled trades certificates. We have also made more loans available than the previous Liberal government for college and university students, to help them finance their post-secondary studies.

We announced improvements to Canadian scholarship programs that benefitted 290,000 students. That is double the number that benefitted from the old Liberal program. The Repayment Assistance Plan helped 165,000 students.

I think, senator, that Canada is a leader in education and a source of inspiration for many other countries. We should be proud of that.

Senator Tardif: I have a supplementary question.

Last month, the president of the Canadian Council of Chief Executives, John Manley, said that Canada has taken a step backwards in terms of training and essential skills, and that that is the biggest threat to our economic success. He is calling on the government to adopt a national strategy in order to improve our results.

Mr. Manley said the following:

[*English*]

> This is on the scale of a national emergency.... We've got the natural resource sector to pay the rent, but that just keeps us in the house. We need skills, we need knowledge-workers to really improve our prosperity and build our society.... Having the skills becomes a very important element to attracting investment and creating jobs.

[*Translation*]

What is the government's strategy with regard to training and skills for our youth and workers?

Senator Carignan: I want to read from an article from *The Canadian Press*.

Obviously, Canada does quite well in this area, ranking among the best in the world. The OECD says Canada is one of the best places to live, but that is not something that would hold the media's attention for very long.

The Canadian Press wrote the following:

> When it comes to measuring the good life, Canada is among the world's top spots for individual well-being, according to report by the Organization for Economic Co-operation and Development.
>
> The others in the top category are Australia, Sweden, Switzerland, Denmark, the U.S. and Norway.
>
> The Paris-based organization does not issue a specific ranking, but OECD officials said the countries in the highest tier scored in the top 20 per cent in all 11 major categories assessed.
>
> The categories include income and wealth, employment, health status, housing, education expectancy and attainment, work-life balance and personal security.
>
> Canadians scored at or near the top in terms of having a low long-term unemployment rate, health status, housing, education and skills, social connections, personal security (low crime), and in life satisfaction.

Senator Tardif: There are significant gaps in Canada in terms of developing training and learning policies. There is also a lack of reliable data that would enable us to compare the strengths and weaknesses of different education and training systems in Canada.

This situation was exacerbated in 2010 when the government eliminated funding for the Canadian Council on Learning, which compiled important information on education in Canada and analyzed it according to OECD indicators.

I would like to quote Dr. Paul Cappon, the former President and CEO of the Canadian Council on Learning, who commented on the recent OECD reports as follows:

[*English*]

> "Not only is Canada mediocre at best; we now know that our future in learning — and therefore out prosperity — is more clouded than ever."
>
> Canadian educational systems... refuse to measure and report against each other inside Canada, allowing us to "ignore — or worse — pretend that we are world beaters."

We're always trying to beat everybody else. That's one I had not heard.

> "Why bother with the evidence? Complacency is sufficient unto itself."

That seems to be a key word for this government.

[*Translation*]

Given that Canada is losing ground in education, what will the government do and how can we make sure we get the reliable data we need to implement policies that will work for Canadians?

Senator Carignan: Senator Tardif, I disagree with your premise, but as I explained earlier, we will continue to work to improve incentives to increase internships, for example for those seeking apprenticeships and skilled trades certifications.

We will continue to work for post-secondary education and we will continue to improve and correct the legacy of the Liberals, who made cuts in the transfers to the provinces, particularly in transfers for post-secondary education. As a result, we had to increase the Canada Social Transfer by 44 per cent. We will continue to build a better future with young Canadians.

[*English*]

ENVIRONMENT

ECOENERGY RETROFIT—HOMES PROGRAM

Hon. Grant Mitchell: Honourable senators, the Liberal's ecoENERGY Retrofit - Homes Program was immensely successful. For every dollar that the government provided to homeowners for reducing the amount of energy that they used in their homes, the homeowner would lever that by 10 times. On average, a homeowner who utilized this program reduced the amount of greenhouse gas emissions from their home by about 4 tonnes. None of that is insignificant; all of it was a great achievement.

In fact, it was so successful, that a miracle actually happened: The Conservatives continued the program, right up until the end of 2011, when partway through a funding tranche of about $400 million, they suddenly cancelled it, with no explanation.

So it's great economics because of the 10-to-1 leverage. It creates small business jobs and local jobs. It's great environmental policy because it reduces greenhouse gas emissions, and — this surely would have caught the Conservatives' imagination — it's great politics. Would the Leader of the Government in the Senate give us some idea why it was that this government would have cancelled it without any explanation whatsoever?

• (1420)

[*Translation*]

Hon. Claude Carignan (Leader of the Government): Our government extended this program a number of times. The decision to stop taking applications was made after we reached our goal of helping 250,000 registered home owners in order to stay on budget.

I would like to remind you that you voted against this program and its renewal on a number of occasions. However, now you are asking us to extend it.

[*English*]

An Hon. Senator: Shame.

Senator Mitchell: It is so disingenuous when the government talks about omnibus bills. It's such a cheap, cheap, cheap political tactic. It is unbelievable. Really and truly, it is unbelievable that you stoop to that.

In any event, given that you finally had one successful program to reduce greenhouse gas emissions, surely someone would have calculated how much that would have contributed to the government's ability to attain its 2020 target of greenhouse gas emissions. Could the leader tell us whether they have thought of anything to replace that program and the contribution it was going to make to achieve the 2020 target? Probably not? Just say "probably not."

An Hon. Senator: Turkish delight.

[*Translation*]

Senator Carignan: Our government will continue to work to improve the economy and create jobs and will take the steps necessary to meet the environmental objectives we have set. You and I are certainly not going to be the first to know what environmental measures the government plans to implement next.

[*English*]

Senator Mitchell: The government touts this mythology of economic responsibility. I mean, after six consecutive record deficits, upwards of a 40 per cent increase in debt, it is almost breathtaking that the Conservatives would consider that they can run an economy.

Could the Leader of the Government in the Senate give us some indication? Would it not be much wiser to take the $548 million that this government has squandered on facile, stupid advertising of its Canada action plan and put into a program that actually created jobs, reduced carbon emissions, created leverage on behalf of Canadians who invested money in improving their homes, all around a great project, instead of throwing it away to build some kind of political base which, clearly, is eroding?

[*Translation*]

Senator Carignan: The funny thing is that the amount you mentioned is about the same amount that your party spent in the sponsorship scandal, and that has still not been recovered.

[*English*]

VETERANS AFFAIRS

HEALTH CARE SERVICES FOR VETERANS

Hon. Percy E. Downe: Honourable senators, in 2005, the Conservatives promised they would undertake a "complete review of veterans' health care services to ensure they meet the needs of our veterans." Could the Leader of the Government in the Senate tell us what happened to that review?

An Hon. Senator: Good question. No notes yet.

[*Translation*]

Hon. Claude Carignan (Leader of the Government): As you know, Canada invests more than most countries in health care, particularly in mental health care, for our veterans. We are going to continue to invest and to pay special attention to the well-being of our veterans.

[*English*]

Senator Downe: In 2006, after stating a promise in 2005 to complete a review of veterans' health care services to ensure they meet the needs of our veterans, the government boasted that the health review was "one of the most extensive health services reviews ever undertaken at Veterans Affairs." Could the Leader of the Government in the Senate update us on that health review?

Senator Fraser: 2006?

Senator Munson: A long time, seven years.

[*Translation*]

Senator Carignan: As I said, we have invested and will continue to invest considerable amounts in health care, particularly mental health care, for our veterans. We invest more than most in health care and have more health care professionals than most countries working in the areas of treatment, monitoring and prevention. We are going to continue to do the same.

[*English*]

Senator Downe: In 2007, officials from Veterans Affairs Canada appeared before the Senate Veterans Affairs Subcommittee and reported that the department was close to providing options to the government on the health review promised in 2005 and boasted about in 2006. Could the Leader of the Government in the Senate update us on that health review?

Senator Munson: Boy, that is a long time.

[*Translation*]

Senator Carignan: I will give you the same answer. We think it is important to keep investing in treatment and in the health of our veterans, especially their mental health. We will continue to be among the western nations that invest the most.

[*English*]

Senator Downe: In 2008, then Veterans Affairs Minister Greg Thompson, who, incidentally, I thought was a very good Minister of Veterans Affairs, appeared before the Veterans Affairs Subcommittee in the Senate and was asked about the health review because he did not make any mention of it in his presentation. He responded on March 5, 2008, as follows:

> The review is pretty well completed. It is going to provide us with a way forward in terms of how we provide services to our veterans. We would like to move to a needs-based system as opposed to an entitlements-based one....
>
> This is something we will continue to move forward on, but some of what we are doing today is a result of that work.

I then asked about the comment from the departmental officials, when they appeared before the committee in 2007, that they were close to presenting recommendations:

> Have those recommendations been received?
>
> Mr. Thompson: I am aware of most of them. It goes back to my previous answer in terms of knowing those recommendations and moving internally within the department to recognize some of them.

I wonder if the Leader of the Government in the Senate could give us an update on those recommendations.

[*Translation*]

Senator Carignan: Once again, as you know, we have multiplied our efforts to give veterans and their families the care and support they need. In the past eight budgets, our government has allocated nearly $5 billion to enhance benefits and services provided to veterans and their families. We also introduced the bill to improve the New Veterans Charter, which includes new payment options for disability awards, and enhances veterans' benefits. Thanks to these improvements, seriously injured and ill veterans get the financial help and support they need and truly deserve.

[*English*]

Senator Downe: If you look at the Veterans Affairs website now, you will find no reference at all to the review that was promised in 2005, that was boasted about in 2006, that recommendations were coming from the department to the government in 2007, and that the minister indicated he had in 2008. I asked a written question in the Senate about the status and was informed that it is now protected information. The government not only will not talk about it, they won't tell us why they have not done anything.

Senator Tardif: They are ashamed.

Senator Downe: Could the Leader of the Government in the Senate check into that and advise us?

[*Translation*]

Senator Carignan: I will not go over all of the services and the amounts invested in the health and treatment of our veterans again. We are talking about substantial amounts. We will continue to take care of our veterans as we should.

• (1430)

[*English*]

Hon. James S. Cowan (Leader of the Opposition): Just to follow up on the very pointed, very precise questions asked by my colleague Senator Downe — which you obviously don't have at your fingertips, and I think it's reasonable to understand why you don't have answers to those very specific questions — will you undertake to the house to take his questions as notice and provide, as quickly as possible, a response to each of the specific questions he has asked you?

[*Translation*]

Senator Carignan: Senator Cowan, I have a great deal of respect for you. Based on my understanding, there was one specific question. I believe I gave a specific answer. When I feel I do not have enough information to answer the question, I decide to take it under advisement and come back with an answer.

[*English*]

Senator Cowan: With respect, as well, my colleague asked you some very specific questions. He quoted you promises that were made by your government. He quoted you from testimony that was given by ministers before Senate committees, which indicated that certain specific reviews were being undertaken, that recommendations would be made. He asked you for updates on each of those reviews, and then he asked you, at the end, when the government apparently said that this was protected information, to find out why it was protected.

My question was similarly specific: You've given us indications of all the money the government has spent on these issues and how much it cares — as we all care — about the well-being of people who have served in our Armed Forces. He has asked you very specific questions, and my question to you is equally specific. Will you undertake to take his questions as notice and to provide specific answers to those very specific questions?

Not to give us another repetition of a concern that you have and we all share for the well-being of our veterans.

[*Translation*]

Senator Carignan: As I said, our government has made significant investments. Canada contributes more than most countries. Countless professionals are dedicated to the health of veterans, and we will continue in the same direction.

PUBLIC SAFETY

TRAFFICKING OF CHILDREN

Hon. Mobina S. B. Jaffer: My question is for the Leader of the Government in the Senate. Leader, what is this government doing to fight against the trafficking of children in Canada?

Hon. Claude Carignan (Leader of the Government): Thank you for your question, Senator Jaffer. I also thank you for sending it in advance, which allows me to give more specific answers.

Our government recognizes that human trafficking is a despicable crime. Our government has taken real action on this matter, such as helping implement mandatory minimum sentences for people convicted of trafficking of children, and supporting the RCMP in its "Blue Blindfold" campaign to raise public awareness.

However, much remains to be done. That is why we are committed to providing significant resources to fight against this terrible crime, including implementing a national action plan to combat human trafficking, supporting organizations that help victims and ensuring that young immigrant women in particular, who are alone when they arrive in Canada, are protected from illegal occupations.

[*English*]

ORDERS OF THE DAY

COASTAL FISHERIES PROTECTION ACT

BILL TO AMEND—THIRD READING—
DEBATE ADJOURNED

Hon. Fabian Manning moved third reading of Bill S-3, An Act to amend the Coastal Fisheries Protection Act.

He said: Honourable senators, I am pleased to voice my support again for Bill S-3, An Act to amend the Coastal Fisheries Protection Act.

The proposed legislative changes were first introduced as Bill S-13, but because the prorogation of Parliament resulted in the legislation's having to be reintroduced in the Senate, it has now been renamed as Bill S-3. Bill S-3 has the identical text as Bill S-13.

The Standing Senate Committee on Fisheries and Oceans studied Bill S-3 on December 3, 2013. During this study, the Senate committee heard testimony from officials from Fisheries and Oceans Canada.

In the previous session of Parliament, the Senate committee studied the proposed legislation between November 8, 2012, and March 5, 2013. During the study, the Senate committee heard testimony from officials from Fisheries and Oceans Canada, the Oceans and Environmental Law Division of the Department of Foreign Affairs, Trade and Development, the President of the Fisheries Council and others.

The proposed changes would strengthen legislation that is already robust and in so doing allow us to more effectively address the global scourge of illegal, unregulated and unreported fishing.

The practice of illegal, unregulated and unreported fishing is wreaking economic and environmental havoc for legitimate fish harvesters around the world.

Allow me to provide some context before addressing the thrust of the proposed amendments. Honourable senators, illegal fish operators work furtively to cut corners, ignore rules, flaunt regulations and break laws. In their unfettered pursuit of profit, they gain unfair economic advantage over legitimate fishers.

The UN Food and Agriculture Organization estimated that in the year 2000 illegal fishing represented 30 per cent of the global fish catch. A more recent study put the economic loss from illegal fishing at upwards of $23 billion every year.

Consider that nearly 85 per cent of fish caught in Canadian waters are exported. If those global markets are flooded with illegally harvested fish, the price of legitimate fish products sinks to the floor of the ocean. In some cases, Canadian fish harvesters actually lose money in the face of unfair competition.

There are also environmental consequences to illegal fishing. The international community has worked long and hard to protect marine ecosystems and fish stocks; but you can bet the last thing on the minds of illegal fishing vessels is the impact of their actions on our precious environment.

Honourable senators, the fight to conserve fish stocks has become strictly linked with the battle against illegal fishing. We are now on the verge of a breakthrough. Canada has an opportunity, and I dare say a responsibility, to be part of that. Please let me explain.

More than 30 years ago, the United Nations Convention on the Law of the Sea recognized that states have responsibility for conservation. This was all very well, but the convention had no detailed plan for how states should act.

In 1995, the UN Fish Stocks Agreement put some flesh on the bones of the convention. It stressed, for example, that states had a responsibility to conserve fish stocks; yet this did not go far enough either. It would take another 14 years before the Port State Measures Agreement spelled out the problem of illegal, unreported and unregulated fishing and pointed the way towards concrete and cost-effective solutions.

Port measures are rules that foreign vessels must follow to gain entry and use of ports within the state. These rules could include demanding documentation about the vessel's catch, import inspections and refusal of entry.

As a responsible member of the international community, Canada signed the Port State Measures Agreement in 2010. Before we can take the final step of ratification, however, we must fill some gaps in Canada's existing legislation.

That's what the amendments before us today are about. As I mentioned, proposals to amend the act were previously introduced as Bill S-13, but they died on the Order Paper with the prorogation of Parliament.

The rationale for these amendments, however, has clearly not gone away, and we now have the opportunity to finish what we started.

Honourable senators, the changes proposed to the Coastal Fisheries Protection Act would allow Canada to fulfill its international obligations. Among key amendments, this bill would end loopholes in illegal fishing, it would expand our powers for inspection and enforcement, and it would give us extra tools to gather and share intelligence about illegal fishing. I would now like to briefly highlight some of these provisions, starting with ending loopholes around fishing vessels.

• (1440)

Under current Canadian law, any foreign fishing vessel must apply for permission to enter a Canadian port at least one month before it arrives. Vessels involved with illegal fishing, however, have twisted the intent of this provision. These vessels don't

actually want to enter our ports, lest we discover their ill-gotten booty. Consequently, they would not want to apply for permission to enter.

Yes, the flag state, which is the nation legally responsible for the vessel, can order it to a Canadian port for enforcement, but there are no laws to allow this, which puts our enforcement officers at risk. On this issue, our legislation is not watertight and we need to patch up the holes.

Once fish enter the market, it's almost impossible to prove whether they have been illegally caught. This kind of evidence gathering needs to happen before illicit fish products enter the market. That's why, in keeping with requirements of the Port State Measures Agreement, this bill will bolster the power of inspectors.

Under existing Canadian regulations, protection officers can only inspect seaports and wharves. If illegal harvesters hide their catch anywhere else, there is nothing inspectors can do about it. Proposed amendments would enable protection officers to work with custom officials to inspect any place that appears suspicious or just plain "fishy," whether these are containers and warehouses or storage areas and vehicles in all ports of entry. If they do find illegal fish, our officers will be authorized to seize the catch, the fishing vessels, the vehicles or anything they believe has a connection to the illicit fish.

Honourable senators, as you might imagine, boarding a vessel in the dead of night on a hunch is not an efficient way to monitor illegal fishing. What we need is solid intelligence about potential illegal fishing and the ability to share knowledge more effectively, from the name of the foreign vessel refused entry to port, to results of any enforcement or inspection activity, to the outcome of a legal proceeding.

That's why this bill would strengthen the sharing of vital information between Fisheries and Oceans Canada and the Canada Border Services Agency. It would also enable Canada to liaise with other relevant stakeholders, such as regional and international agencies and foreign states. By collaborating in this way, we can keep better tabs on illegal fish harvesters and take the wind out of their sails.

Honourable senators, hundreds of years ago, when European vessels first threw hooks and lines into our waters, the concept of illegal, unregulated and unreported fishing would have been met with blank stares. Times have definitely changed. Today we recognize that our precious marine resources and ecosystems need careful stewardship, both for the sake of biodiversity and for the livelihoods that depend directly and indirectly on fish harvesting. That means we must act on human predators who undermine the rules that govern the environmental and economic integrity of our fish stocks.

The international community now has another powerful instrument to fight illegal fishing in the Port State Measures Agreement. We have signalled our intention to ratify, and the amendments before us will help us fulfil the necessary requirements. Canada has both a moral obligation and a legal commitment to act. Thus, it is my hope that all honourable senators will give speedy passage to Bill S-3 for the sake of the sustainability of the marine environment and for the economic integrity of a time-honoured industry.

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

THE SENATE

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

Hon. Yonah Martin (Deputy Leader of the Government), pursuant to notice of December 3, 2013, moved:

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

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

   -sections 44 and 45;

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

   -subsection 1(3) and sections 5, 9, 13 to 15, 18 to 23 and 26 to 28;

3. *An Act to amend the Canadian Forces Superannuation Act and to make consequential amendments to other Acts*, S.C. 2003, c. 26:

   -sections 4 and 5, subsection 13(3), section 21, subsections 26(1) to (3), sections 30, 32, 34, 36 with respect to section 81 of the Canadian Forces Superannuation Act, and sections 42 and 43;

4. *An Act to amend the Criminal Code (firearms) and the Firearms Act*, S.C. 2003, c. 8:

   -sections 23, 26 to 35 and 37;

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

   -sections 17 and 18;

6. *Canada Grain Act*, R.S., c. G-10:

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

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

-sections 140, 178 and 185;

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

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

-paragraph 8(1)(d), sections 9, 10, 12 to 16, subsections 17(1) to (3), sections 18, 19, subsection 21(1), sections 22, 23, 25, 26, 28 to 38, 40, 41, 44 to 47, 50 to 53, 56, 57, 60 to 62, 84 with respect to sections 1, 2.1, 2.2, 3, 4, 5, 7, 7.1, 9, 10, 11, 12, 14 and 16 of the schedule, and section 85;

10. *Firearms Act*, S.C. 1995, c. 39:

-sections 37 to 53;

11. *Marine Liability Act*, S.C. 2001, c. 6:

-section 45;

12. *Modernization of Benefits and Obligations Act*, S.C. 2000, c. 12:

-sections 89, 90, subsections 107(1) and (3) and section 109;

13. *Preclearance Act*, S.C. 1999, c. 20:

-section 37;

14. *Public Sector Pension Investment Board Act*, S.C. 1999, c. 34:

-sections 155, 157, 158 and subsections 161(1) and (4);

15. *Yukon Act*, S.C. 2002, c. 7:

-sections 70 to 75, 77, subsection 117(2), sections 167, 168, 210, 211, 221, 227, 233 and 283.

She said: Honourable senators, the Statutes Repeal Act was passed with unanimous support in both Houses of Parliament and received Royal Assent on June 18, 2008. It came into force two years later, on June 18, 2010.

Honourable senators, section 2 of the act requires that the Minister of Justice table an annual report before both Houses of Parliament on any of their first five sitting days in each calendar year. Each annual report must list the acts and provisions not yet in force that were assented to nine years or more before December 31 of the previous calendar year.

Honourable senators, this is the third year of implementation of this act. The third annual report was tabled on January 31, 2013, in the House of Commons, and in the Senate on February 7, 2013, and listed 16 pieces of legislation involving nine departments.

Section 3 of the Statutes Repeal Act provides that the act and provisions listed in the third annual report will be repealed on December 31, 2013, unless, before that date, they are brought into force or one of the Houses of Parliament adopts a resolution exempting them from repeal.

Honourable senators, I am speaking today in support of the motion that this chamber adopt a resolution, before December 31 of this year, exempting the one act and provisions in 14 other acts that are listed in this motion from being repealed on December 31, 2013.

The purpose of the Statutes Repeal Act is to encourage the government to actively consider the coming into force of acts and provisions that have not been brought into force within 10 years of being enacted.

In keeping with this purpose and the intention to ensure, as much as possible, that the will of Parliament is respected, deferrals are being requested only in the following circumstances: one, when there is an operational need; two, when there is a need to await the occurrence of some event that is out of the government's control; and, three, when there could be a federal-provincial implication or when there could be international implications.

Nine ministers have requested the deferral of the repeal of an act and provisions in 14 other acts that are identified in the third annual report. These nine are the Ministers of Aboriginal Affairs and Northern Development, Agriculture and Agri-Food, Finance, Foreign Affairs, Justice, National Defence, Public Safety and Transport, as well as the President of the Treasury Board. I will now set out the reasons for the requested deferrals by each of these ministers.

The Minister of Aboriginal Affairs and Northern Development is requesting a deferral for provisions in the Yukon Act, Statute of Canada 2002, Chapter 7. Sections 70 to 75 of the Yukon Act provide for the Yukon Government to appoint its own auditor general. The provisions were the subject of much discussion between Canada and Yukon. It is anticipated that these provisions may be brought into force in the foreseeable future.

The rest of the provisions of the Yukon Act are consequential amendments to other acts and are expected to be brought into force when the Yukon Legislature enacts legislation to replace the current federal Yukon Surface Rights Board Act. The amendments will be required when the Yukon Surface Rights Board Act is replaced.

• (1450)

The Minister of Agriculture and Agri-Food is requesting deferrals for provisions in three acts. The provisions in the following two acts should be considered together: An Act to amend the Canada Grain Act and the Agriculture and Agri-Food Administrative Monetary Penalties Act and to repeal the Grain Futures Act, S.C. 1998, c. 22; and the Canada Grain Act, R.S.C, 1985, c. G-10. The government plans to further modernize the Canada Grain Act. Deferral of the repeal of these provisions is being sought so that reforms to the acts can be made comprehensively through government bills.

The third act for which the Minister of Agriculture and Agri-Food is requesting a deferral for certain provisions is the Agricultural Marketing Programs Act, S.C. 1997, c. 20. The not-in-force provisions of that act will, when brought into force, repeal certain obsolete statutes that were replaced by that act. When all debts under these obsolete statutes have been paid off, it will be possible to bring those provisions into force.

The Minister of Finance is requesting a deferral for provisions in one act. The deferral concerns an Act to implement the Agreement on Internal Trade, S.C. 1996, c. 17. The amendments that are not yet in force provide for a regulation-making authority related to the Agreement on Internal Trade. Deferral of automatic repeal of these provisions is necessary as these and other provisions of the Agreement on Internal Trade will be revisited in the near future.

The Minister of Foreign Affairs is requesting deferrals for provisions in two acts. The first request concerns the Comprehensive Nuclear Test-Ban Treaty Implementation Act, S.C. 1998, c. 32. This act is the only entire act for which deferral is being sought. This act will be brought into force as soon as the Comprehensive Nuclear Test-Ban Treaty itself comes into force. However, there is no real expectation that the treaty will enter into force in the next few years. It is vital, though, that the act not be repealed so that the treaty can be implemented in Canada when it enters into force and, in the meantime, Canada will continue to demonstrate commitment to its implementation.

The second deferral concerns the Preclearance Act, S.C. 1999, c. 20. Section 37 of the Preclearance Act must be safe from the repeal. The act implements a bilateral treaty on air pre-clearance between Canada and the United States. Section 37 of the act would prevent the judicial review in Canada of pre-clearance officer decisions to refuse to pre-clear, admit persons or import goods into the United States. Negotiations to update the agreement are currently under way.

The Minister of Justice is requesting the deferral of two provisions in two acts. The first of these acts is the Contraventions Act, S.C. 1992, c. 47. It provides a procedure for prosecuting contraventions. The Minister of Justice has entered into agreements with several provinces to implement the federal contraventions regime. This will be done by incorporating the existing provincial schemes in conformity with the Contraventions Act and regulations.

The department is still in negotiations with three provinces that have not yet signed an agreement. Even though the Department of Justice remains committed to implementing the incorporation of provincial schemes regime throughout the country, it may need the listed provisions to implement a stand-alone federal ticketing scheme in those provinces in which it has not successfully signed an agreement.

The second act is the Modernization of Benefits and Obligations Act, S.C. 2000, c. 12, which is a comprehensive act amending some 68 federal statutes to ensure equal treatment of married and common-law relationships in federal law. Work is continuing to bring into force the remaining five provisions. These five provisions are needed to achieve consistency throughout federal legislation.

The Minister of National Defence is requesting a deferral for provisions in one act. The deferral concerns An Act to amend the Canadian Forces Superannuation Act and to make consequential amendments to other Acts, S.C. 2003, c. 26. The not-in-force provisions are amendments that fall into two general categories. The first category concerns amendments related to the supplementary death benefit. Deferral of these provisions is requested while developmental work proceeds in determining the short- and long-term financial and other issues that would arise after any change in the current benefits scheme.

The second category concerns amendments that would grant authority to make regulations on the rules governing elective service for the purpose of calculating pensions. These regulations would provide additional flexibility and responsiveness in the pension plan provisions. However, the adoption of new regulations at this stage would delay a government-wide transition to a single pension administration system because implementing the regulations would require the diversion of resources. Deferral of the provision in question is requested to avoid any extra cost and delays associated with the transition.

The Minister of Public Safety is requesting deferrals for provisions in two acts. The first act is the Firearms Act, S.C. 1995, c. 39, and the second act is An Act to amend the Criminal Code (firearms) and the Firearms Act, S.C. 2003, c. 8. The government is reviewing the current firearms legislative framework. The Minister of Public Safety has requested that the repeal of those provisions be deferred to allow the government sufficient time to examine the potential impacts of that repeal and to ensure that the legislative framework remains effective and contributes to public safety.

The Minister of Transport is requesting deferrals concerning provisions in two acts. The first act is the Marine Liability Act, S.C. 2001, c. 6. Section 45 will, if it comes into force, give effect to the Hamburg Rules, which is an international convention on the carriage of goods by sea adopted by the United Nations in 1978. The Marine Liability Act contains a provision to bring into force the Hamburg Rules when a sufficient number of Canada's trading partners have ratified them. Therefore, section 45 of the Marine Liability Act should not be repealed at this time.

Next is the Canada Marine Act, S.C. 1998, c. 10. There are three listed provisions of that act. First, section 140 of the Canada Marine Act would enable Canada to enter into agreements with any person to ensure the continuation of ferry services between North Sydney, Nova Scotia, and Port aux Basques, Newfoundland and Labrador. Maintaining ferry services between these regions is a constitutional obligation of Canada under section 32 of the Terms of Union of Newfoundland with Canada. Currently, the ferry services provided by Marine Atlantic Incorporated fulfill Canada's constitutional obligation towards Newfoundland and Labrador for ferry service. There has been no need for the government to implement this provision, but, if the provision were repealed, the Minister of Transport would have limited options for ensuring the continuation of the ferry services in the future should the need arise.

The second and third provisions relate to the creation of a new corporation. The minister would like to retain the existing legislative option provided by section 178 to create Jacques

Cartier and Champlain Bridges Incorporated, JCCBI, by an order of the Governor-in-Council. Section 185 would exempt the new corporation from the payment of real property taxes. Transport Canada is currently developing the required orders-in-council to bring sections 178 and 185 into force in the coming months.

Lastly, the President of the Treasury Board is requesting a deferral for provisions in one act, the Public Sector Pension Investment Board Act, S.C. 1999, c. 34. The provisions concern pension and related benefits for the Canadian Forces. They amend and repeal definitions and provisions of the Canadian Forces Superannuation Act. Regulations are required to set out the many substantive pension benefit provisions. Any pension amendments for the Canadian Forces must take into account the pension arrangements for the public service under the Public Service Superannuation Act. Extensive consultation between the Canadian Forces and Treasury Board is required. A deferral from automatic repeal will allow the department to complete the policy and financial work necessary, and to make arrangements to have the provisions come into force if that is the ultimate decision.

• (1500)

The Statutes Repeal Act provides that any deferrals would be temporary. Any act and provisions for which deferral of appeal is obtained this year will appear again in next year's annual report. They will be repealed on December 31, 2014, unless they are brought into force or are exempted again, by that date, for another year.

It is important that the resolution be adopted before December 31, 2013; otherwise, the act and provisions listed in the motion will be automatically repealed on December 31, 2013.

The repeal of the act and the provisions listed in the motion could lead to inconsistency in federal legislation. The repeal of certain provisions could even result in federal-provincial stresses or blemish Canada's international reputation.

If a resolution is not adopted by December 31, 2013, federal departments would need to address the resulting legislative gaps by introducing new bills. Those bills would have to proceed through the entire legislative process, from policy formulation to Royal Assent. This would be costly and, of course, time-consuming.

So, honourable senators, I ask you today to support the motion and vote in favour of a resolution that the act and provisions listed in the motion not be automatically repealed on December 31 of this year. Thank you.

[*Translation*]

Hon. Joan Fraser (Deputy Leader of the Opposition): Honourable senators, I have a question. Is Senator Martin asking for another five minutes?

[*English*]

Senator Martin: Yes, for five minutes, please.

[Senator Martin]

Senator Fraser: First, I congratulate you. That is a long and arduous task to go through what you have just done, and it is very useful for members of this chamber. I should say right away that I am going to ask for the adjournment of the debate — not to block but to give members time to consider what you have said, in case there are subjects that interest any of them in particular.

I remember last year listening to Senator Wallace explain last year's motion; and I will say again now, as I said then, that some of these things are obviously desirable, notably the one concerning the Comprehensive Nuclear-Test-Ban Treaty Implementation Act.

I would also congratulate you, and whoever briefed you, on slightly improved explanations in some cases, notably in the case of the ferry service between North Sydney and Port aux Basques. I understand better now than I did last year what this deferral is all about.

However, I must tell you, Senator Martin, that your briefers have provided you, in a number of cases, with identical language to the language we heard last year, promising imminent improvement or change. I'm going to give you some examples, and then maybe you can tell me if you have had a chance to figure out what's what.

An Act to amend the Canada Grain Act: We are told again that we are seeking deferral of repeal provisions so that reforms can be made comprehensively through government bills. I wonder when we might expect those reforms.

The Agreement on Internal Trade: Again this year we're told "these and other provisions of the Agreement on Internal Trade will be revisited in the near future." I wonder when "the near future" might be. I wonder if you could tell us that. It would be very helpful.

An Hon. Senator: Soon.

Senator Fraser: The Contraventions Act: The department is still, now, in negotiations with three provinces that have not yet signed an agreement. This was true a year ago; it seems still to be true. Is any progress being made there? Can we get any indication?

The Firearms Act: The government wanted sufficient time to examine the potential impacts of that repeal. It's had a year. When might we conclude that it has had sufficient time?

The Modernization of Benefits and Obligations Act: Work continues to bring into force the remaining five provisions, and it's been continuing for a year now. When might we expect that?

The Yukon Act: same thing. It is anticipated that the provisions to which you referred "may be brought into force in the foreseeable future." Could somebody produce a crystal ball and let us know when the future may be foreseen?

I appreciate that you almost certainly are not in a position to give detailed answers to all those questions right now. If you could find your way and a vehicle to provide answers to those

questions, it would be very helpful for the Senate to know how, what and why it is being asked to vote on. In the meantime, congratulations; it is not an easy task.

I move the adjournment of the debate, unless you can answer. Can you answer?

The Hon. the Speaker *pro tempore*: Maybe we would want to hear the answer first and then the adjournment. But I see also Senator Day rising.

Do you have a question, Senator Day?

Hon. Joseph A. Day: I have a comment, but I would like the matter to —

The Hon. the Speaker *pro tempore*: Let's hear the answer first.

Senator Martin: Thank you, senator. I did look over the debates from the previous year, and you are right that certain timelines are not specific. I can't give you finite dates or an indication of the completion dates. However, regarding the language that was used in my statement today, I understand that progress is being made, but these are very complex acts, and when you're looking at territorial or provincial jurisdictional matters and what exists there in their framework, and then trying to marry that and ensure that the federal provisions can work complementary to that, those are very, very big tasks. You are right. It is frustrating for me, as I was reviewing and preparing, because I was expecting such questions.

I can tell you some progress. In regard to the Contraventions Act, the three provinces, for instance, that are still in negotiations with the federal government — I have some notes here that I made sure to highlight. Obviously, the act is not yet operational in the three provinces named — Newfoundland and Labrador, Alberta and Saskatchewan. However — I was too optimistic. No; hold on. I knew there was something here. I remember reading this, because I wanted to know which three jurisdictions and what progress has been made.

It says:

> The Department is already in negotiations with Newfoundland and Labrador and anticipates being able to enter into an agreement with the province by the end of the fiscal year.

So there is a date for you to look towards.

> The delay in reaching agreement has been outside of the control of the Department.

They are also pursuing interests in Alberta and Saskatchewan to enter into such an agreement.

The Hon. the Speaker *pro tempore*: Senator Martin, if your answer is to be a little bit longer, I will ask you to ask for more time, because your time has expired. Do you need more time?

Senator Martin: I think I need more time in general. All I will say is I will take your questions under advisement and try and provide some further details.

The Hon. the Speaker *pro tempore*: So more time, five more minutes? Is that agreed, honourable senators?

Senator Martin: Yes, but I will need more than five minutes because there were other questions. So, if I may, I would like to take your questions under advisement and will respond in more detail.

The Hon. the Speaker *pro tempore*: Wait, please. We have Senator Day. I think it's a question, Senator Day, for Senator Martin.

So, Senator Martin, you need more time.

Senator Martin: Yes. I will simply add one more thing, because I think this is something concrete.

The Hon. the Speaker *pro tempore*: Let us do this in order. Senator Martin, do you need more time?

Senator Martin: Yes.

The Hon. the Speaker *pro tempore*: Five more minutes?

Senator Martin: Yes, five more minutes.

The Hon. the Speaker *pro tempore*: Please proceed.

Senator Martin: Thank you. The other delay that was in Newfoundland and Labrador was because of the staff turnover, so these are all delays that were beyond the control of the department. Thank you.

Senator Day: My question shouldn't take five minutes, but I'd like you to add to the list of undertakings and information that you will be gathering. Could you determine how many statutes have been cancelled as a result of this initiative?

• (1510)

You were asking for extensions on certain ones, but there must be a good number that the department determined they didn't need when they went through this exercise and they were just let go, which they automatically would. If you could do that, thank you. I see an indication. We will look forward to that information.

The point I wanted to make is an extension of the congratulations that Senator Fraser was making. When I finish she would like to take the adjournment of this item, and I am content with that. I just wanted to comment that I am hopeful that you will congratulate and thank all of the departments for the work they have done. In congratulating them we should all congratulate ourselves because this legislation was brought in by Senator Tommy Banks and supported by this chamber.

When he first arrived here, he was amazed at the number of bills that had been passed by this chamber and the House of Commons and were then ready to be brought into law but never were. He found the books full of "never brought into force" legislation.

This bill was intended to clean up that backlog of never-proclaimed legislation. It seems to be working very nicely. I think, for the record, senators can make a difference, and he certainly did make a difference with respect to this legislation.

(On motion of Senator Fraser, debate adjourned.)

CONFLICT OF INTEREST ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Joseph A. Day moved second reading of Bill S-207, An Act to amend the Conflict of Interest Act (gifts).

He said: Honourable senators, there is some degree of urgency on this matter now, but you will see that it has been around for some time. It's the third time that this bill has been before this chamber, but I understand that there is a committee in the other place looking into various issues in relation to the Conflict of Interest Act. Therefore, I was hopeful that we could take a look at this proposed amendment to the Conflict of Interest Act so it will come to the attention of the committee in the other place and perhaps be included as one of their recommendations.

Honourable senators may recall that this bill deals with public office-holders and reporting public office-holders under the Conflict of Interest Act. There's a gaping hole in the legislation that we have known about since Bill C-2, which was the Federal Accountability Act of 2006. That was the very first piece of legislation by the Harper government, Bill C-2. Bill C-1 was a pro forma piece of legislation about railways, as I recall.

Bill C-2 was the accountability act, and as a result of the work done in this chamber, 160 amendments were actually passed. Those amendments were then sent back to the House of Commons where the bill originated. A discussion went on between representatives of the two chambers, and ultimately 80 of those amendments proposed by this chamber were accepted.

Unfortunately, one of the amendments that had been passed here and had been sent back to the House of Commons was not accepted as part of the negotiation. So what I have been attempting to do is to pick up on some of those amendments that we had passed earlier, which were not accepted at that particular time.

The bill deals with amendments to sections 11, 23 and 25. Section 11 of the Conflict of Interest Act is pretty straightforward in saying that public office-holders or reporting public office-holders cannot accept gifts or other advantages, and then there are certain exceptions, one of which caused us concern. It said that it's okay for a public office-holder to accept gifts, even though those gifts might reasonably be seen to have been given to achieve a result and to influence a public office-holder, except — and then the exception comes along — if it was a gift from a relative. That is fine; we understand that. The second part was " a friend." That is the concern: "friend" is not defined. We don't know who is a friend, but we do know that a public office-holder — the cabinet ministers and people who work in cabinet ministers' offices — the way the act now appears, can accept gifts from friends, even though that gift might well appear to influence the public office-holder into creating an advantage for the person who gave the gift. That's the problem in a nutshell.

The other two sections, 23 and 25, honourable senators, have the same exception from the point of view of publishing. If the gift is over $200, you have to let the Ethics Officer know about it. If it's a reporting public office-holder, then it has to be publicly declared if they receive a gift if that gift could reasonably be taken to appear to be influencing the public office-holder. So it's a gift or an advantage, but the exception is none of the rules apply if it's a gift from a relative or a friend. In a nutshell, that is what this bill is about.

Each Prime Minster since at least Prime Minister Brian Mulroney has had a code of ethics. They weren't part of legislation but were generated and required by all of the Prime Minister's team. The original code of ethics had wording that was much stronger than the particular wording that appears here.

In 2006, when Mr. Harper came in, he decided to put what previously had been a code into a statute and created what is known as the conflict of interest statute. In that statute virtually all the wording of the previous Prime Minister was adopted, except this one little change. Before that, in 2005, the wording was "a close personal friend." That was the exception. If you received a gift from a close personal friend, then the rules of disclosure didn't apply.

• (1520)

When that was transcribed into this particular bill that we now have, it just said "from a friend." So, it's obviously intended to be something much broader than "close personal friend."

During the hearings on this matter in 2006, we asked the two previous ethics commissioners about this, and they both said that the wording "from a friend" was undefined, leaving it up to the minister to determine what a friend is, which was a matter of some concern to them. They had suggested to go back to "close personal friend." I didn't know what the definition of a "close personal friend" was, either, so I proposed leaving out the exception entirely and then just dealing with the members. If it's a gift from a relative, we understand that.

Honourable senators, with respect to the section that was there previously, I am quite open to discussion and amendment on this, to go back to "close personal friend," if you are more comfortable with that, but it seems to me that we should define this somehow or preferably leave it out, because there are other exceptions.

The other exceptions, of course, are that it is not the kind of gift that would likely reasonably be taken to influence the recipient of the gift. Or, if it's a type of gift that is normally or customarily

given — if we're on a trip to the Orient and the Japanese tend to like to give nice gifts and we give gifts back — there are exceptions for that kind of gift giving and receiving in the legislation as well.

Honourable senators, on the public disclosure aspects, I could go through the same arguments with respect to sections 23 and 26, but I think the point is made in relation to disclosures of $200 or more and in publishing those disclosures. The same exception applies there, as well. I submit to you an exception that shouldn't be there, that if it's a gift from a friend, then none of the fences that have been put up to protect the public and the public purse against activity that would not be acceptable are up if you just say, "Well, that's a gift from a friend. I stayed at Canada House with six of my friends. That was just a gift from a friend," and that's the end of it.

I submit, honourable senators, that this is an easy amendment that should have been made in 2006 and probably only didn't get made because there were others that loomed much larger that were made. If we could move this matter through, leave that exception out and get this over to the House of Commons, perhaps they could consider this along with the other changes that are being made.

I remind honourable senators that in Bill C-4, there are some other changes to the Conflict of Interest Act being introduced that we may have an opportunity to discuss in the next few days as we deal with Bill C-4.

(On motion of Senator Andreychuk, debate adjourned.)

DISABILITY TAX CREDIT PROMOTERS RESTRICTIONS BILL

SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Buth, seconded by the Honourable Senator Unger, for the second reading of Bill C-462, An Act restricting the fees charged by promoters of the disability tax credit and making consequential amendments to the Tax Court of Canada Act.

Hon. JoAnne L. Buth: Honourable senators, I would like to continue my comments on Bill C-462, An Act restricting the fees charged by promoters of the disability tax credit and making consequential amendments to the Tax Court of Canada Act.

Yesterday I explained the steps needed to apply for the disability tax credit covered in Part A of the form, which can be completed easily. I would like to continue with Part B of the form.

Medical practitioners should have no trouble completing Part B, as the CRA provides detailed instructions and definitions on its website, as well as phone numbers to call for further assistance.

Once Part B is completed and the form is submitted to the Canada Revenue Agency, their staff will review the information provided by the medical practitioner to determine whether or not the individual is eligible for the disability tax credit. Once CRA decides that they are eligible, people with a disability only need to include the disability amount on their income tax return. If their eligibility dates back prior to the current tax year, they can even ask the CRA to amend tax returns from previous years. If the claim is accepted, the credit will be reflected on the next tax return.

The Canada Revenue Agency receives about 200,000 new disability tax credit applications each year. About 9,000 of these applications are received from taxpayers who use the service of a disability tax promoter. In many cases, the fees charged by the promoter significantly reduce the amount of tax savings received by the person who needs the money most and for whom it was intended. In essence, the person who qualifies for the credit ends up sharing it was the disability tax promoter.

The Canada Revenue Agency has made the process for claiming the credit as easy as possible. All the forms and instructions are available online. There is usually no need to get outside help to fill out this paperwork.

Honourable senators, as I have already stated, over $20 million a year earmarked for people with disabilities under the tax credit instead goes to the private sector promoters who help them to prepare their claims. Successful claimants who requested a tax refund dating back 10 years may receive a cheque for as much as $10,000 to $15,000, but, after paying a promoter's 30- to 40-per-cent contingency fee, they may walk away with anywhere from $3,000 to $4,500 less than the amount to which they were entitled. This is a travesty and something we cannot allow to go on any longer.

The protection afforded by Bill C-462 would be comparable to that provided under the Tax Rebate Discounting Act, which safeguards the interests of all Canadians filing tax returns. The only difference is that Bill C-462 would apply specifically to people with disabilities. Public consultations would be conducted to determine an appropriate maximum fee that reflects the value of the services being provided. Once an appropriate fee was determined, the bill would prohibit charging more than the established amount.

Bill C-462 would also require promoters to notify the CRA if more than the maximum fee were charged. A minimum penalty of $1,000 would apply if the limit were to be exceeded. A promoter who did not report this information would be guilty of an offence and liable to a fine that could range from $1,000 to $25,000.

The Government of Canada firmly believes in a fair and functioning marketplace. We recognize that the vast majority of tax preparers are doing good work at a fair price. This legislation is not aimed at legitimate tax preparers. We simply want to ensure that companies completing applications for the disability tax credit charge rates that present the value of the service they provide.

Honourable senators, this legislation will make a difference in the lives of Canadians.

[*Translation*]

Let us work together and make the right decision. Let us pass this very important and necessary legislation.

(On motion of Senator Fraser, debate adjourned.)

[*English*]

• (1530)

CRIMINAL CODE
NATIONAL DEFENCE ACT

BILL TO AMEND—SECOND READING—
DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Plett, seconded by the Honourable Senator Marshall, for the second reading of Bill C-394, An Act to amend the Criminal Code and the National Defence Act (criminal organization recruitment).

Hon. Donald Neil Plett: Honourable senators, I'm happy to continue my remarks on Bill C-394. This, of course, was introduced prior to prorogation and was reintroduced, and I'm proud to be able to speak on this bill, An Act to amend the Criminal Code and National Defence Act (criminal organization recruitment.)

The focal point of Bill C-394 is to protect Canadians, especially our youth, by making the act of criminal organization recruitment, or in other words gang recruitment, an offence under Canadian law.

You may remember that when I spoke to this legislation in June, I drew your attention to the prevalence of recruitment of children into gangs in Canada. Coming from Winnipeg, I am all too familiar with this problem.

According to 2011 estimates by Criminal Intelligence Service Canada, 729 organized crime groups are active in Canada. This number tends to change from year to year. The reasons for this fluctuation include changes in intelligence collection practices, the relative fluidity of some of these organized crime units, and law enforcement policing practices that have disrupted the activities of these organizations. Many of these groups are street gangs who are active in the trafficking of illicit commodities and are also involved in street level prostitution, theft, robbery, fraud and weapons offences.

The wide range of organized crime activity undermines community safety and legitimate economic markets, and costs Canadians millions of dollars each year. Public safety is also at risk, since organized crime groups frequently resort to violence to achieve their criminal objectives.

The success and longevity of organized crime and its criminal objectives depend on its membership. When people are successfully recruited into a criminal organization, it enhances the threats posed by these groups to society at large. As membership increases, the criminal influence of those gangs or chapters of gangs increases as well.

The biggest problem we are facing, however, is the fact that these groups are increasingly targeting our most vulnerable population: our youth. Most of us are parents and/or grandparents. My granddaughter Emily, who was introduced earlier by the Speaker, is in the gallery right now. She rightfully expects that I, as her grandfather, will do everything in my power to take action to protect the safety of children. When crimes target our youth, I think we can all agree that our duty as parents, as grandparents and as legislators is to take action.

In a recent study by the RCMP, it was found that street gangs across Canada are becoming increasingly aggressive with recruitment tactics. They have seen trends of criminal organizations targeting youth under the age of 12 and as young as 8 years of age.

Frequently, gangs target children because they know children are more vulnerable and susceptible to believing that joining such groups will bring them money, respect, protection and companionship.

There are many factors drawing gangs to the recruitment of children. First and foremost, they know that children under 12 cannot be formally charged with a criminal offence. Second, they know they can take advantage of youth and can easily influence them to participate in criminal activities. Perhaps most concerning is the fact that they know they can advance the objectives of the gang through the control, fear and intimidation of the youth they recruit. Children in Canada who have been recruited into gangs are being forced to deal in drugs, commit robbery and theft, and engage in prostitution.

Bill C-394 proposes to create a new indictable offence that would prohibit anyone, for the purpose of enhancing the ability of a criminal organization to facilitate or commit an indictable offence, from recruiting, soliciting, encouraging or inviting a person to join a criminal organization. This new offence would be punishable by a maximum of five years imprisonment, and it also proposes a mandatory minimum penalty of six months imprisonment where the person recruited is under the age of 18.

Honourable senators, in short, this bill will do two things. First, it will protect our youth and our communities by criminalizing the act of gang recruitment. Second, the bill is designed to provide law enforcement officers with additional tools to address gang recruitment.

A study by Project Gang-Proof in Manitoba noted that gangs often lure children and youth into a gang by offering them free drugs. Once they are addicted, the gang will stop supplying the drugs for free. They are then forced to join the gang to obtain payment for more drugs. It becomes a vicious cycle.

My good friend, Member of Parliament for Brampton—Springdale Parm Gill, who first introduced this legislation in the other place, said:

> Gang members will use drug addiction to leverage further activity by those they are recruiting. Once they have a potential candidate hooked by these means, they utilize their age and vulnerability to advance the gang's power and position in the community. This means that children, young kids who should have been playing soccer on the school yard, are carrying weapons, drugs and money. This is because, in the eyes of the gang, they are dispensable, easily manipulated and if caught, would face few repercussions.

In 2006, CSIS estimated that the number of street gang members under the age of 30 was approximately 11,000. The report cautioned that this number would grow rapidly over the coming years.

In my discussions with MP Gill, he talked about the Peel Region and the growing rate of gangs. He stated that in 2003, there were 39 street gangs in his neighbourhood. Today, there are well over 110.

I discussed this bill with local stakeholders in Winnipeg to determine what kind of effect this legislation could have if it were implemented. Specifically, I spoke with members of the Winnipeg Police Association and the Chief Executive Officer of Winnipeg's Boys and Girls Club, Mr. Ron Brown, all of whom saw the necessity of this legislation.

Particularly interesting was my conversation with George VanMackelbergh, Vice-President of the Winnipeg Police Association. Mr. VanMackelbergh spent six and a half years heading Winnipeg's organized crime unit as an investigator at a multi-jurisdictional level. He said that Winnipeg is one of the most challenging jurisdictions in the country when it comes to gang activity. For approximately 30 years, Winnipeg has experienced multi-generational gang membership problems, and for three decades it has had what is considered the current model of street gangs.

Mr. VanMackelbergh told me that gangs are recruiting children younger and younger. He said that in Winnipeg, we have 10-year-old children being actively recruited into gangs, and we have 14- and 15-year-old children currently on charge for murder who were pushed into this by older gang members.

• (1540)

Honourable senators, as Mr. Gill mentioned, these are children who should be out playing soccer, baseball, and hanging out with friends. Instead, they are robbing. They are drug dealers, attacking rival gang members and engaging in prostitution.

Mr. Gill spoke with youth who have been involved in gangs who expressed that they are seeking to exit these gangs but are constantly looking over their shoulders fearing for their lives. They told him that no matter what you do, you are never really out of the gang.

Mike Sutherland, President of the Winnipeg Police Association, told me not to underestimate the level of sophistication of these gang members with regard to their knowledge of the law and legal loopholes. He said that a definitive tactic of the recruiters is to take full advantage of the Youth Criminal Justice Act by having children commit murders associated with gang retribution to ensure that the lightest possible sentence is received.

Colleagues, this means that gang members are using children as weapons. They are having children commit heinous offences like murder so that there are minimal consequences. This takes away any sense of justice for the victims and their families.

As I said before, if you, as an experienced gang member, are using a child as a weapon to commit a murder, it is your hand on the trigger. You are the perpetrator and you need to face the consequences. Justice needs to be served. This legislation will target the individual who is recruiting the child before the child is used as a weapon, before a life is taken and before the child's life is destroyed.

As Mr. VanMackelbergh told me, when a child as young as 12 or 13 gets involved with a gang, even at a minimal level, he has no idea what he has gotten himself into. He certainly does not realize that when the time comes to get out, it can be at dire costs. It can be a death sentence, and it has been a death sentence.

Mr. VanMackelbergh appeared as a witness at the Standing Committee on Justice and Human Rights while they studied this bill. He stated:

> ... tackling recruitment and making it illegal is very important, because often when these people are recruited at a young age, they don't understand the life they're getting into. They see it as having rock-star status in the media. Popular culture makes it look like it's something to do. It's not until they're in it and they've been in it for two, three, or four years at age 15 that they realize the road they're going down. There aren't riches, there isn't fame and fortune, and they cannot leave the gang.
>
> They suffer severe beatings at the hands of the older, more experienced gang members, who do this to maintain loyalty.

The Winnipeg Police Association reminded me of a tragic story that shook the city of Winnipeg about 10 years ago. A teenager by the name of T.J. Wiebe came from a suburban neighbourhood and became friends with some other kids who wanted to be gangsters. He started dabbling in the underground drug world but very quickly got in way over his head.

Mr. VanMackelbergh told me, "The more money you have, the more money you have to make. Like any business, you try to expand. In this world, when you try to expand, that's when it costs you your life."

After suspicion from other gang members that T.J. was using their product to set up his own business on the side, they decided to set him up and murder him, at only 20 years of age. T.J. was

stabbed in the throat, injected with a syringe, strangled and left to die in a remote snow-covered field. This was a kid who came from a loving and supportive family, had everything going for him, made a bad decision at a very young age and was unable to turn back.

However, not every child does come from a loving and supportive background. The Winnipeg police told me that there is a very common trend of generational recruitment. While most of us would find this unthinkable, the reality is that often it is fathers and uncles who are recruiting their own children, their own nieces and their own nephews into this lifestyle. I cannot think of anything more heinous than a parent recruiting their own children into a life of crime. This legislation tackles the problem at the recruitment stage, which will give law enforcement the opportunity to prevent children from entering into this dangerous lifestyle before it is too late.

The Winnipeg Police Association told me that gangs have become so prevalent in Manitoba that in certain neighbourhoods, including in Winnipeg, if you are not a member of a gang, it is understood that by just living in those neighbourhoods you will support the gang if they knock on your door.

When I spoke with Mr. Brown of the Boys and Girls Clubs of Winnipeg, he told me about a situation that has occurred, and continues to occur, that exemplifies the need for this legislation.

He said that in Winnipeg they run 11 after-school programs, including in some suburban areas. He mentioned one after-school program in an area with a lot of newcomer or immigrant families, a vulnerable population who are often targeted by recruiters. Gang members will linger around behind the building waiting for children to leave so that they can engage other children in hopes of recruiting them into their gang.

He said that this legislative tool is needed. He reiterated the concerns of the Winnipeg police in discussing the disturbing trend of gangs recruiting children younger and younger, from the age of 12 down to 11, and now he is seeing gang members as young as 10 years old. He said that the punishment options have been less than adequate.

While he commended the Winnipeg Police Service for their proactive approach in dealing with recruitment, he noted that they are limited in tackling the problem without this legislative tool.

Honourable senators, as you may know, the NDP and the Conservative Party unanimously supported this legislation in the other place. However, the Liberal Party was critical of the mandatory minimum sentence aspect.

As honourable senators know, mandatory minimum sentences have had a long-standing tradition in Canada. They have been used in cases where the crime is perceived as particularly heinous and offensive. The idea of recruiting our children into a life of crime that is nearly impossible to get out of should be regarded as heinous and our legislation should reflect that.

The claim that mandatory minimums are not a deterrent simply does not make sense. The use of children in gangs has shown precisely that gang members are considering and weighing out consequences. They are using children for the specific reason that there will be little to no consequences for criminal actions. Knowing that gang members consider lenient consequences as a way to take advantage of the law, it is unreasonable to think that enforcing stricter consequences will not have the opposite effect.

As Manitoba Justice Minister Andrew Swan stated in the House of Commons Justice Committee:

> ... gangs know the law. They know that if they get young people involved, if they have an 11-year-old running drugs for them, there won't be a consequence.

The last time I rose in this chamber on this issue, Senator Dallaire mistakenly suggested that this bill includes a mandatory six-month penalty for the recruiter who is under 18 as well. I would like to set the record straight that those under the age of 18 would in fact be dealt with under the Youth Criminal Justice Act and would therefore not be subjected to the mandatory minimum penalty associated with this bill.

The other issue raised is that this is only part of the equation, that there needs to be a greater focus on prevention and restorative justice. Prevention has been a priority of our government's crime agenda, especially when it comes to children. However, the complexity of organized crime makes it more difficult to tackle than most crime, which is why we have had the same gangs in existence for decades in Canada.

In committee, the Boys and Girls Clubs of Canada appeared and offered their support for this bill. They acknowledged that young offenders would be dealt with under the Youth Criminal Justice Act. They noted that a greater focus needs to be put on prevention and restorative justice, and would I agree. However, they firmly support this provision as a key component in protecting our youth.

• (1550)

Colleagues, this legislation will not and cannot address every socio-economic reason that may put youth at a higher risk of getting involved in criminal activity. This is only one piece of the puzzle — a very key and crucial piece of the puzzle — that law enforcement needs to protect our children and our communities.

When critics in the other place said this bill does nothing to focus on root causes, they need to keep in mind that what perpetuates the growth of gangs and gang activity is recruitment. The fact that this bill cannot prevent every child from entering into a life of crime does not take away from the validity and necessity of this legislation.

Honourable senators, the recruitment of youth into gangs is a serious problem in Canada. We must provide our law enforcement and justice officials the ability to respond through legal action. We need to empower our youth and teenagers to

report those trying to recruit them into gangs. We need to assure our community members that something is being done about gang recruiters in their neighbourhoods.

Colleagues, as I said, this is a key and important piece of the puzzle in addressing the issue of gangs in Canada.

The Hon. the Speaker *pro tempore***:** Excuse me, we still have a problem with the French translation, so we will have to stop the debate now and try to fix the problem once and for all.

Let's meditate.

Now we can hear you in French. Please proceed.

Senator Plett: Thank you. Where would you like me to start?

Again, colleagues, as I said, this is a very key and important piece of the puzzle in addressing the issue of gangs in Canada. Let us pass this legislation to give police the tools they need to protect our most vulnerable youth from heading down a road where turning back is next to impossible. We have the opportunity now to offer further protection to our youth and to our communities.

Honourable senators, I urge you all to support this bill, Bill C-394.

The Hon. the Speaker *pro tempore***:** Senator Plett, will you accept questions?

Senator Plett: Yes.

Hon. Don Meredith: Thank you, Senator Plett, for that wonderful speech. I'm sure you're quite aware that I've been working with youth in the GTA for the last 11 years, and this is near and dear to my heart. You talk about the Winnipeg police and their wanting this piece of legislation that will give them more tools.

Can you elaborate as to how you feel this piece of legislation will effectively address the issue of gang recruitment, given that we consistently see a surge in gang members in Surrey, B.C.; Alberta; Winnipeg; Toronto; North Preston, Nova Scotia — and this continues — Montreal — and even right here in Ottawa? Do you feel that this piece of legislation will definitely give the police the additional powers that they currently do not have?

I have a supplementary question, as well.

Senator Plett: Thank you, Senator Meredith. What this piece of legislation will do very clearly is one weapon away from the recruiter, because if I go and I recruit somebody under the age of 18, I am subjected to a minimum jail sentence. It could be a maximum of five years, but it will be at least a minimum of six months. That in itself will make me think twice before I go and ask some young child to get into a gang.

There are very few consequences to the young person, especially if they are under the age of 12; they cannot be formally charged. Now there are very few consequences either for me for recruiting him or for the young child.

With this bill there will at least be a minimum sentence. Most of the people who are doing the recruiting really don't have a huge desire to go to jail, especially in light of what we heard our good friend across the way say yesterday about the double-bunking and so on. They don't want to be there. So they may decide not to do the recruitment, as opposed to right now when there is no penalty for inviting a person to join a gang.

Senator Meredith: Thank you, Senator Plett. I believe in intervention and prevention.

Looking at the statistics of more young people being caught up in the criminal justice system, what is your opinion regarding looking at more diversion programs rather than at legislation? These young people who are at that tender age get into these institutions, and we saw a report that just came out that looks at the number of marginalized youth and visible minority youth who are caught up in the criminal justice system and spending time in our institutions.

What are your thoughts on more intervention and in fact prevention rather than the mandatory minimum that this legislation proposes?

Senator Plett: Again, as I said, I'm certainly in favour of preventative measures, and we need programs for young people. But this legislation isn't targeting young people. This legislation is targeting the adults, so that's what we're doing. We're not targeting young people with this legislation, Senator Meredith. If you are 18 years of age or younger, this legislation does not apply to you. It's the adults we want to target.

I don't think we need to set up programs for the adults. They should be trying to help us set up programs for the young people. I certainly support setting up preventative measures for youth, and that's what we should always strive to do.

[*Translation*]

Hon. Céline Hervieux-Payette: I would like my colleague to know that I find that surprising. I think that his decision to support this bill comes out of a desire to protect children and his love for them. To follow up on his speech, which I found...

[*English*]

Senator Plett: Excuse me. There is no English translation.

The Hon. the Speaker *pro tempore***:** Allow us to try to fix the ongoing problem we have with translation. Let us take the time we need. Is it okay now? We can resume.

[*Translation*]

Senator Hervieux-Payette: I wanted to say to my colleague that he must be making this decision out of his love for children. I would also like to say to our colleague, Senator Meredith, that prevention is certainly the most important aspect with regard to children.

In the spirit of prevention — and Senator Plett clearly knows that having a violence-free home is a preventive measure — I would ask the senator to think about supporting my bill to ban physical violence against children for child-rearing purposes.

According to studies and Statistics Canada, 25 per cent of children who are abused or hit at home will have issues with the law in the future. We could reduce that number by 25 per cent.

• (1600)

Would the senator like to start talking about this issue again so that we can better understand his bill and he can understand mine?

[*English*]

Senator Plett: I am looking forward with anticipation to again debating the bill that you are bringing forward.

I don't believe there are many children that have gone into a life of crime because they have been spanked at home; you know my feeling on that. Certainly we need to eradicate all types of violence, whether in the home or anywhere else, and I fully support that. I guess we have a difference of opinion as to where violence starts, and I don't think a slap on the bum is violent.

Nevertheless, what we need to do is work very clearly on helping children in the home and on the street. As I suggested to Senator Meredith, and as he has suggested, we need programs for these young people. We certainly need to take the weapons out of parents' hands, if they are using weapons on their children. If they are using sticks on their children, if there is violence, we need to come down just as hard on them.

I fully support you, senator, when you suggest that we need to try to prevent all forms of violence, and especially in the home.

[*Translation*]

Senator Hervieux-Payette: We will be debating my bill shortly, but in the meantime, I would like to ask the senator to provide conclusive evidence on this issue since most studies from around the world show the opposite.

Countries such as Brazil are about to pass a bill that condemns all forms of violence against children. In Quebec and across Canada, there are problems with bullying, and in too many instances, that violence occurs between children, at the neighbours' or right at home, because hitting was the only example they were ever given. The senator should consider the fact that there is no place for hitting.

We are talking about reducing all forms of crime and delinquency prevention by 25 per cent. Maybe we should sit down with Senator Meredith, who is an expert on the subject.

Currently, parents of children aged 2 to 12 can be exempt from the law, but that is exactly the age at which we must prevent violence against children so they do not become marginalized and end up in places you want to prevent them from ending up in.

I am simply asking you to keep thinking about it and give me some proof to support your stance on what you call spanking.

[*English*]

Senator Plett: I fully plan on getting my notes out again when you present your bill on spanking and citing all of the statistics that I had when we spoke about it last time. I have every confidence in the world that you will have all of your statistics.

We are not speaking about spanking at this point. This bill is about gang recruitment, not about spanking. I happen to have a difference of opinion with you on the spanking bill, but that, madam senator, is for another day.

This is about gang recruitment. The evidence is there. The Winnipeg Police Association, the Peel Regional Police, the Boys and Girls Clubs' CEO — they are all saying this is what is needed. If you want stats or information, I think there are professionals who are giving us that information.

(On motion of Senator Fraser, debate adjourned.)

INDIAN ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Thanh Hai Ngo moved second reading of Bill C-428, An Act to amend the Indian Act (publication of by-laws) and to provide for its replacement.

He said: Honourable senators, it is with pride and great pleasure that I open the debate on Bill C-428, An Act to amend the Indian Act and provide for its replacement. The problems created by this archaic piece of legislation are far-reaching, extending into every aspect of the lives of every First Nations individuals, including the Attawapiskat community.

Everyone would agree that the Indian Act must go. First Nations have been held back by this paternalistic and colonial act, and it is about time to repeal it.

Prime Minister Stephen Harper clearly stated during the Crown-First Nations meeting in January 2012 that significant changes must be made to the Indian Act by a step-by-step process. This private members bill starts that process in the hope of replacing the act with a respectful and modern law that will reflect the Crown, the provinces and First Nations in a positive light.

It is also my hope that one day the amendments suggested in this bill will lead us to build a modern and respectful relationship between our federal government and the First Nations. In this respect, the amendments to the Indian Act proposed in this private members bill can be an important stepping stone on the path to equity and prosperity for First Nations.

Thus changes must be made to the Indian Act in order to start a process of consultation; in order to start a constructive dialogue; in order to repeal the Indian Act; and in order to replace it with a modern set of laws that reflect today's values but also respects our past.

Bill C-428 would enable the First Nations band councils to publish their own bylaws, without having to seek permission of the Ministry of Aboriginal Affairs or the signature of the minister. Under this amendment, the government bodies of a council or of a band will be required to publish its bylaws through different forms of media, such as the band website, the First Nations *Gazette* or in local newspapers or newsletters that have general circulation in First Nations communities.

[*Translation*]

By demanding public disclosures of the created bylaws of each First Nation, we encourage greater transparency for its residents and equip those who seek to enforce the bylaws.

The governing bodies of First Nation bands would have to publish their own bylaws just like any other municipality or government entity, without seeking ministerial approval.

All bylaws would remain accessible for the duration of which the bylaw is enforced, allowing for greater transparency and accountability from elected officials. This would allow band chiefs and councils to be more accountable to their electorate and responsible for their actions.

Ultimately, this will put the responsibility for bylaws squarely where it belongs: in the band council and on band members. It will provide these First Nations with the same rights that rural and urban municipalities have today.

This bill will also remove impediments to trade, in the form of the repeal of section 92, which restricts some members of society from engaging in trade with First Nations members.

This bill with the support of the government would remove discriminatory economic barriers by providing First Nations people with access to the same domestic and external market opportunities that the rest of Canada has. This would allow local markets of reserves to integrate with the rest of Canada's produce markets.

• (1610)

[*English*]

Third, this bill would at last remove the archaic educational elements of the Indian Act that led to the establishment of residential schools by removing the term "residential school" from the act. This is an important step toward achieving reconciliation of what was once a shameful and hurtful part of the act. The removal of the reference to residential schools will make this government's intentions clear. After all, it was Prime Minister Stephen Harper who apologized for the travesty of the residential schools and for the pain and destruction brought to all First Nations and the shame that it brought to Canada.

The last and most important part of this bill is the mandate to annually report to the House of Commons on the progress toward rebuilding and replacing the Indian Act. This section of the private member's bill requires a collaborative consultation process between First Nations and the Minister of Aboriginal Affairs and Northern Development Canada. A report would have to be presented in the House of Commons Committee on Aboriginal Affairs within 10 sitting days of each calendar year. This yearly report would ensure that First Nations could hold the government accountable for moving toward a respectful and modern relationship that reflects today's value in the 21st century.

As you can see, Bill C-428 would ensure greater accountability and transparency within communities, promote economic growth and job creation, eliminate the section of the act referring to residential schools, and ensure a path toward creating an environment of trust and respect between First Nations and the rest of Canada. By amending and repealing unused and outdated sections of the Indian Act, we would promote greater autonomy and independence from the Department of Aboriginal Affairs and its minister.

The current bill has been through a set of changes since it was first tabled in the House of Commons in 2011. Since then, Bill C-428 has been through five drafts to arrive at its current version. Its fifth and final version before the Senate emerged from the House of Commons Standing Committee on Aboriginal Affairs and Northern Development in May 2012 and has received overwhelming support from both sides of the house.

The exhaustive content of this bill is a true reflection of the great work that has been invested by all its stakeholders, especially its member. Throughout the drafting and the legislative process of Bill C-428, Member of Parliament Rob Clarke, Desnethé—Missinippi—Churchill River, has accomplished impressive and comprehensive consultation work with other First Nations members within his constituency as well as around the country. He represents the second largest First Nations population in Canada and is himself from the Muskeg Lake Cree First Nation in northern Saskatchewan.

Mr. Clarke invested time and resources to accomplish tremendous fieldwork. He met over 633 First Nations communities across the country and listened to representatives from various Aboriginal bands and councils from British Columbia, Alberta, Saskatchewan, Manitoba and Quebec. Last year, he met with representatives from the Idle No More movement and with hundreds of grassroots individuals and groups from bands across Canada.

[*Translation*]

Honourable senators, I believe it is clear that there is no suggestion that the Indian Act be repealed in its entirety with nothing left in its stead. This bill seeks only to remove outdated

concepts and language from the existing Act. I hope that individuals will then reflect upon and review the Indian Act in the next stage and start a process to look at outdated language in this Act.

Just as the Member of Parliament hoped this bill would open discussion and meaningful dialogue and debate, I, too, hope that the passage of this bill will enable us to look forward to a better relationship and a true partnership between all Canadians.

I encourage all members of the Senate to support this bill modernizing the outdated, colonial and paternalistic legislation called the Indian Act.

[*English*]

The Hon. the Speaker *pro tempore*: Questions?

Hon. Don Meredith: Honourable senators, not to prolong the Thursday afternoon debate, but, out of interest, Senator Ngo, as a member of the Aboriginal Committee, you mentioned that this bill will further encourage economic development. Can you elaborate for us how you envision this taking place by amending the Indian Act in this regard?

Senator Ngo: Thank you for the question, Senator Meredith. First, the goal of the amendment to the Indian Act is to find a path to a more modern and respectful relationship between Canada and First Nations.

Second, it will ensure the removal of the minister from the equation and prevent having to receive the Minister's approval for by-law enactment.

Third, the bill treats First Nations communities like all other governments who draft and publish bylaws.

I think the system we have is a blemish on Canada and we need to have a fresh start.

Senator Meredith: Thank you, Senator Ngo. I wanted a more comprehensive answer on that with respect to the actual economic development.

The other aspect of my question is about the removal of the words "residential school" from the Indian Act. Tying into Senator Joyal's speech yesterday on Bill C-7 with respect to the renaming of the museum, and the fact that certain things in history are defying the First Nations people in this country, can you elaborate as to how removing this from the Indian Act will address the concerns of First Nations people?

Senator Ngo: As you know, residential schools for First Nations have been a shame for all of us. It happened a long time ago, and the Prime Minister apologized for the actions of our ancestors. Basically, by repealing the Indian Act, we will eliminate the words "residential school" from the act. They will be no more, so it will show no shame. It will show that we have moved on and that what is in the past is the past. Let bygones be bygones.

Hon. Sandra Lovelace Nicholas: Honourable senators, this bill is interesting and will require study. I would like to thank our critic on this bill, Senator Dyck, for allowing me to make this short speech. The 45 minutes reserved for the critic should be set aside for her.

However, I would like to bring your attention to a very important matter that First Nations women are facing. It was a year ago yesterday that I requested a national inquiry into missing and murdered Aboriginal women and girls. Many of my colleagues in this chamber also supported this inquiry.

• (1620)

Over the past year, many people and organizations have echoed this request, including National Chief Shawn Atleo of the Assembly of First Nations, the Native Women's Association, premiers, leaders of the opposition, even United Nations rapporteur James Anaya.

At a Council of the Federation meeting this past July, Canada's premiers added their voices to the many calling for this inquiry. Within 24 hours, the Harper government had yet again dismissed this idea. The premiers, six women among them, have done the right thing by calling for a national inquiry, but only the federal government has the power to make it happen.

The government has repeatedly said that an inquiry is too costly and pointed to the $25 million investment in tracking and reducing violence as proof that it has already taken the necessary action. However, this investment does not address the problem of violence against Aboriginal women. In fact, in 2010 the government withdrew funding from Sisters In Spirit, the only organization collecting data on crime against Native women, and put the money toward a missing person database with no specific Aboriginal mandate.

I understand that a public inquiry is costly, but there's no greater waste of money than action not guided by knowledge. Before the government can begin to correct this problem, it will need to understand the complex interaction of socio-economic factors and public and police biases that make Native women so vulnerable to violence. Only a national public inquiry would have the scope and resources to get to the bottom of this tragic issue and provide justice for the victims and healing for the families.

Honourable senators, only the government has the power to make it happen and so far Prime Minister Stephen Harper has refused to order a national inquiry. I urge the Conservative caucus on the House of Commons side and on the Senate side to support action on this matter and not only on administrative issues affecting Aboriginal people.

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

STUDY ON ECONOMIC AND POLITICAL DEVELOPMENTS IN THE REPUBLIC OF TURKEY

SECOND REPORT OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE COMMITTEE — DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Fortin-Duplessis, seconded by the Honourable Senator Unger, for the adoption of the second report of the Standing Senate Committee on Foreign Affairs and International Trade entitled: *Building Bridges: Canada-Turkey Relations and Beyond*, tabled in the Senate on November 28, 2013.

Hon. A. Raynell Andreychuk: Honourable senators, I rise to speak to the report of the Standing Senate Committee on Foreign Affairs and International Trade, entitled *Building Bridges: Canada-Turkey Relations and Beyond.*

This report was first tabled last June, but with Parliament preparing to adjourn for the summer, some senators did not get a chance to speak to the report. That is why the committee agreed to re-table it this session.

I thank Senator Fortin-Duplessis for her detailed speech on historical and present-day relations between Canada and Turkey, and the tremendous potential we now face to update and move those relations forward.

Although I spoke to the report in some detail in June, I would like to add a few words about some recent achievements that have been attributed to our report.

The leading recommendation in our report was that the Government of Canada maintain consistent, high-level political engagement with the Government of the Republic of Turkey. Our committee viewed such engagement as:

> ... critical to building the Canada-Turkey relationship, increasing Canada's visibility and helping Canadian businesses to position themselves for success in Turkey.

We placed this recommendation first in our report on the basis that political engagement would underpin the other initiatives that would foster a robust Canada-Turkey commercial relationship.

Many senators will be aware that the Minister of International Trade travelled to Turkey in August, followed by the Minister of Foreign Affairs in September. On his trip, Minister Baird met with the President of Turkey and Minister of Foreign Affairs. They discussed regional security issues and Canada's longstanding partnership with Turkey in NATO.

Minister Baird also announced that Canada would upgrade the status of its mission in Istanbul from a consulate to a consulate general.

Minister Fast, for his part, met with Turkey's Minister of Economy, government officials and business leaders. He announced a number of initiatives that respond directly to recommendations made in our committee's report. These include support for the conclusion of explanatory or exploratory talks toward a Canada-Turkey free trade agreement; the creation of a joint economic and trade committee; discussions on expanding air transport services; and a commitment to strengthen exchanges in education and technology.

Following the minister's trip, I was informed by his office that our committee's report was repeatedly highlighted by government officials and business leaders in Turkey as a viable blueprint for furthering Canada-Turkey relations.

A final recent development that I would like to bring to senators' attention addresses our committee's recommendation that the Government of Canada identify Turkey as a strategic commercial priority.

Many senators will be aware that the government released its new Global Markets Action Plan in November. The plan aims to focus the government's efforts on key foreign markets that hold the greatest potential for Canadian business. It identifies Turkey as a target emerging market with broad Canadian interests.

Of course, our committee cannot take credit for this inclusion, but I believe it is fair to say that our committee has helped generate a renewed emphasis on Turkey in Canada's commercial relations abroad.

An overarching message of our committee's report was that Canada is not too late to broaden its relations with Turkey, and that:

> ... Canada's strategic priorities and commercial strengths coincide with Turkey's foreign policy and trade objectives, as well as its commodity and import needs.

From what we have seen in the months since this report was first tabled, the message has been noted by the government and it is being acted on by the ministers whose continued attention is critical in helping the Canada-Turkey relationship to reach its full potential. I think I speak on behalf of all committee members when I say that I hope our report continues to provide guidance toward this end.

I believe and I have heard, and we have heard today, with some members of our committee dealing with a delegation from Turkey, that our report was very instrumental in forming their side of the debate and dialogue with Canada.

If anyone needs to know the breadth and depth of involvement and success of Senate committees, I believe that the Canada-Turkey report is one that should be used over and over again. It is

not one that received much publicity in the press, but that was not our aim. Our aim was to change foreign policy and I believe that we were very instrumental in it. This is the value of this institution and the value of our committees, and I hope that the press will note that as they work towards finding out more about the Senate.

I'm asking to amend the motion put forward very kindly by Senator Fortin-Duplessis. She moved the motion that this report be accepted, but I would like to amend it so we get a full response from the government. I trust that the amendment will be unanimously accepted by the Senate.

• (1630)

MOTION IN AMENDMENT

Hon. A. Raynell Andreychuk: Therefore, honourable senators, I move:

> That the motion to adopt the report be amended to read as follows:
>
> That the second report of the Standing Senate Committee on Foreign Affairs and International Trade entitled: *Building Bridges: Canada-Turkey Relations and Beyond*, tabled in the Senate on November 28, 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 Foreign Affairs being identified as minister responsible for responding to the report, in consultation with the Minister of International Trade.

The Hon. the Speaker: I think Senator Cools could ask a question.

Hon. Anne C. Cools: Honourable senators, as my colleague knows, I have a very real interest in the region. I observe that the motion refers to the adoption of the:

> ... second report of the Standing Senate Committee on Foreign Affairs and International Trade entitled: *Building Bridges: Canada-Turkey Relations and Beyond*, tabled in the Senate....

I think the motion meant to say "presented in the Senate." There is quite a difference between tabling and presenting.

Senator Andreychuk: I have no difficulty with its being changed to "presented," and I accept the comment.

The Hon. the Speaker: Honourable senators, is it agreed that it reads as "presented"?

Hon. Senators: Agreed.

The Hon. the Speaker: It was moved by the Honourable Senator Andreychuk, seconded by the Honourable Senator Plett that the motion be amended, as follows:

> That the second report of the Standing Senate Committee on Foreign Affairs and International Trade entitled: *Building Bridges: Canada-Turkey Relations and Beyond*, presented in the Senate on November 28, 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 Foreign Affairs being identified as minister responsible for responding to the report, in consultation with the Minister of International Trade.

Is there debate on this motion, as amended?

(On motion of Senator Cools, debate adjourned.)

QUESTION OF PRIVILEGE

SPEAKER'S RULING RESERVED

The Hon. the Speaker: On the question of privilege, the Honourable Leader of the Opposition, Senator Cowan.

Hon. James S. Cowan (Leader of the Opposition): Honourable senators, as has been stated many times, privilege is the sum of the rights enjoyed by this house and its members that are necessary for us to conduct our work. The fourth edition of *Parliamentary Procedure and Practice in the Dominion of Canada,* by Bourinot, 1916, on page 303, explains that:

> ... questions of privilege take a wide range....

And include:

> ... questions affecting the internal economy or proceedings of the house...

In April 2000, our Standing Committee on Privileges, Standing Rules and Orders, in its fifth report, stated:

> Any interference with a person who has given evidence before a Senate committee, or who is planning to, is an interference with the Senate itself, and cannot be tolerated.

The Standing Senate Committee on Internal Economy, Budgets and Administration had asked Deloitte to provide very specific evidence — an audit into Senator Duffy — and it, and we, had every right to believe that there would be no outside interference as Deloitte was preparing its audit, as it was preparing its evidence. Interfering with witnesses is one of the oldest breaches

of privileges. The twenty-third edition of Erskine May notes, on page 151:

> A resolution setting out that to tamper with a witness in regard to the evidence to be given before either House or any committee of either House or to endeavour, directly or indirectly, to deter or hinder any person from appearing or giving evidence is a contempt that has been agreed to by the Commons at the beginning of every session since 1700, and there have been in the past numerous instances of punishment for offences of this kind.
>
> Corruption or intimidation, though a usual, is not an essential ingredient in this offence. It is equally a contempt to attempt by persuasion or solicitations of any kind to induce a witness not to attend, or to withhold evidence or to give false evidence.

What evidence do we have that there has been interference with the work of our committee and with the testimony its witnesses were preparing to deliver?

Both Senator Furey and I set out in some detail on Tuesday the evidence of interference that is contained in the sworn affidavit of RCMP Corporal Greg Horton. I will not repeat all the details, but I will highlight some of the important facts that have led a great many Canadians to believe that there was interference.

First, the emails disclosed in Corporal Horton's affidavit show that senior officials in the office of the Prime Minister, including the Prime Minister's chief of staff, did not want the Deloitte auditors to come to a conclusion on the issue of Senator Duffy's residence.

On March 21, Patrick Rogers, an employee of the Prime Minister's office, wrote to Nigel Wright, the Prime Minister's Chief of Staff, saying:

> Any repayments will not change Deloitte's conclusions because they were asked to opine on residency. However, they can't reach a conclusion on residency because Duffy's lawyer has not provided them anything.
>
> ... I would propose that the Senator —

That is Senator Duffy —

> — continue not to engage with Deloitte.

That's on page 39 of the affidavit.

Senator Duffy continued to decline to participate in the audit, and there is, of course, the critical question of how Patrick Rogers knew what would be contained in the final audit report with respect to Senator Duffy's residency, given that the report was not finalized until more than a month later.

In an earlier email dated March 1, Nigel Wright spoke about working "through senior contacts at Deloitte," and he said, "... the outcome we are pushing for is for Deloitte to report publicly" in a certain way on residency.

How was that to be done? Why should the chief of staff to the Prime Minister be sending emails discussing the desired outcome of an independent audit ordered by the Senate? If that is not evidence of interference, I don't know what would be.

I would also like to remind colleagues of the testimony of Gary Timm of Deloitte. You will recall that he was one of the team of three auditors who were charged with this audit who appeared before our Internal Economy Committee last week. He described how he received a telephone call in the middle of his audit on Senator Duffy from a senior manager at the firm, his partner Michael Runia, who has close ties to the Conservative Party. Mr. Runia was making inquiries about the audit. That this call was inappropriate has been acknowledged by everyone, but what has not been answered by anyone is what led Mr. Runia to make this call in the first place.

• (1640)

Mr. Timm told our committee last week:

> ... I don't think we can comment on what Mr. Runia was thinking or doing.

That's what Mr. Timm said. But what was he doing? Why was he doing it? Who was he doing it for? We have no answers to those questions; and without answers, colleagues, Canadians have good grounds to believe that something untoward took place.

It has been argued by my friend opposite, Senator White, that since there's currently an ongoing RCMP investigation into the $90,000 gift from Nigel Wright to Senator Duffy, we should not delve further into the question of how the audit was conducted. He argued earlier in the week that to question potential witnesses identified by the RCMP, to use his words, "might be perceived as interference with the criminal investigation."

I have already noted that there is no police investigation into the conduct of the Deloitte audit, and that while a police investigation was and is under way into our three now suspended senators, this did not prevent members opposite from investigating and meting out punishment, all the while arguing that that did not constitute interference with a police investigation.

We are asked to accept that acting on matters that actually are under police investigation is not interference, but acting on matters that are not under police investigation is interference. This line of reasoning may have a place in George Orwell's world, but it should have no place here in the Senate.

Colleagues, if we are not to act on any matter that may one day come under police investigation, how can we fulfill our responsibilities to Canadians to investigate serious matters of concern?

The argument of not interfering with a police investigation is a softer version of the *sub judice* rule, which calls for restraint when a matter is before the courts. But currently there is nothing before

the courts. As the second edition of the *House of Commons Procedure and Practice* explains at page 628:

> ... the *sub judice* convention has never stood in the way of the House considering a *prima facie* matter of privilege vital to the public interest or to the effective operation of the House and its Members.

That is exactly what we are dealing with here now: a question of privilege into alleged interference by the office of Canada's Prime Minister into an independent audit commissioned by Canada's Senate that may have compromised the effective operation of this house and its members.

There can be no question that this matter has captured the public interest and has caused the public to question how our institution operates.

For instance, on *The Globe and Mail*'s public website, hundreds of Canadians have provided their views on what is now taking place in the Senate with these revelations about the Deloitte audit. As an example, Anthony S. wrote earlier this week: "I'm not sure how confident Canadians should be that the body which attempted to bury the Senate expense audit is now the same body that's investigating itself. We can only hope that the hearings, if the Conservative caucus approves them, will be broadcast so that Canadians can judge for themselves how serious the Senate is about rooting out the rot."

This is one of the more mild observations, as you'll see if you visit the website. Clearly, the allegations of interference by the Prime Minister's Office into our work have brought the Senate into serious disrepute in the eyes of a great many Canadians.

Colleagues, rule 13-3(1) lists the four criteria that must be met for my question of privilege to be accorded priority. The second and third criteria are that it must "be a matter that directly concerns the privileges of the Senate, any of its committees or any Senator" and that it "be raised to correct a grave and serious breach."

As I've explained, interference with the work of our committees is a breach of privilege, and interfering with committee witnesses is a contempt of Parliament.

The last criterion in rule 13-3(1) is that the question of privilege must "be raised to seek a genuine remedy that the Senate has the power to provide and for which no other parliamentary process is reasonably available."

The remedy I am seeking is to have our Rules Committee examine the matter in order to determine whether the serious allegations that have been made about external interference in our work are true; and if they are true, I would expect that the Rules Committee would then make recommendations to the Senate about next steps.

This last criterion also specifies that there be no other reasonably available process to deal with the matter.

As we all know, on November 28, our Internal Economy Committee rejected a process to deal with the matter, namely, a proposal to have Mr. Michael Runia of Deloitte appear before it to explain his telephone call to Mr. Timm and to seek information from him about who else dealt with him on the matter of the confidential Senator Duffy audit. Just yesterday, the full Senate rejected a similar proposal when it defeated my colleague Senator Fraser's motion to have Mr. Runia appear before the committee.

In view of these two events, I do not believe that there is now any other parliamentary process available to me to deal with this serious breach of privilege.

Finally, rule 13-3(1) also requires that my question of privilege be raised at the earliest opportunity. Colleagues, heeding the requirements of rule 13-3(1)(d), I had originally hoped that there was another parliamentary process that we could pursue to deal with these allegations, namely, the examination of Mr. Runia by our Internal Economy Committee. However, yesterday afternoon that possibility was foreclosed by the vote on Senator Fraser's motion. Consequently, this is now the earliest opportunity I have to raise a question of privilege, now that all other avenues of redress have been closed.

Frankly, it would make no sense if my determination to follow part (d) of the rule — namely, first seeking other means of redress — would now lead to an argument that I was not raising the matter at the first available opportunity.

In conclusion, I believe that serious and credible allegations have been made about interference by the Office of the Prime Minister into the work we entrusted, in good faith, to our Committee on Internal Economy, Budgets and Administration. If Your Honour finds that a prima facie case of privilege has been established, I am prepared to move the appropriate motion to have the matter referred to our Standing Committee on Rules, Procedures and the Rights of Parliament for examination and report.

[*Translation*]

Hon. Claude Carignan (Leader of the Government): Honourable senators, I listened carefully to the speech given by our colleague, Senator Cowan, defining what it means to intervene, to interfere. I would have liked him to listen to my argument, as well.

What kind of interference constitutes a breach of privilege? Specifically interfering with a witness to prevent him from speaking or encouraging him to perjure himself? Clearly, in the situation he is accusing us of, we are not in the kind of situation of interference he described as a question of privilege.

It is important to distinguish between interference that constitutes a breach of privilege and a coordination or exchange of information that is done in a partisan chamber, in a Parliament made up of political parties.

Before I talk about examples of exchanging information between political parties, I wish to revisit the Notice of Question of Privilege submitted by Senator Cowan and quote

from the second paragraph, in which he mentions interference, not because someone interfered with a witness, but he says in the second paragraph, and I quote:

> *These allegations of outside interference* are contained in the sworn Information to Obtain Production Orders of Corporal Greg Horton...

I am quoting the French version of the Notice of Question of Privilege, because it is easier for me.

• (1650)

Near the end it says:

> ...the wording [of the press release] could differentiate the Deloitte referral of Senator Duffy from that of Senators Brazeau and Harb.

It goes on to say:

> This was accommodated by adding an extra line about seeking legal advice about Senator Duffy's residency.

Mr. Speaker, there was allegedly an intervention to add a line in a press release about seeking legal advice. It does not say that there was interference to seek legal advice.

The question of privilege is about adding a line in a press release to announce that legal advice was sought. That is unbelievable. I am flabbergasted.

People claim that there was interference. The interference continued when Michael Runia, a managing partner with Deloitte, phoned auditor Gary Timm, allegedly from the same office and allegedly at the request of the Prime Minister's Office, seeking information about the audit of Senator Michael Duffy. What did Timm say when he testified before Internal Economy? He said, "He called me to find out how much was owed. I said that I could not answer, but that he could find the information since it was public."

How does a colleague allegedly calling Mr. Timm to find out how much Senator Duffy owed constitute interfering with testimony? How does it constitute persuading someone to commit perjury? How does it undermine the integrity of the report? How does that call into question or alter the decision-making process in this case? It absolutely does not.

The third point:

> That interference continued with the Prime Minister's Office learning on March 21, more than a month before the auditors presented their full report to the Senate, that no finding would be made in the audit on the question of Senator Duffy's residency.

A conclusion is drawn there because, in an email from March 21, the individual said that there would be no finding on the question of residency. How did he come to that conclusion? The people from Deloitte said that they did not know, but that they did not say anything to the individual.

Is it a factual conclusion, drawn from the fact that there legal advice was sought on the issue of residency? It makes sense that the accountant would not be the one to determine if there is an issue with residency. At first glance, this is simply a logical person coming to a reasonable conclusion.

There is not a hint of proof or any allegation that someone interfered in the decision-making process. Let us suppose that there was a leak. That is not interference in the decision-making process either. It is not an action that was taken in order to intervene in the decision-making process or block a witness.

I want to come back to the issue of partisanship because if I follow the definition in Senator Cowan's letter, which talks about interference in the decision-making process of a committee or the Senate. I will mention one: Justin Trudeau whipped the vote for the other side on the suspension motion. He whipped the vote, meaning that they were to vote against the suspensions. Is that not interference? That is interference in this chamber's decision-making process. Question of privilege? Question of privilege, there was interference.

That is interference. It is a political issue. This is a political chamber in a Parliament composed of political parties, and yes, there may be some occasional communication between the leader of the political party and members of the caucus. And yes, there are exchanges between the members of the caucus of political parties.

Our friends opposite went to their caucus meeting in Prince Edward Island in September. They were paid by the Senate, they were reimbursed, and all this is posted on their website — all amounts have been disclosed. So they went to their caucus meeting in Prince Edward Island at the Senate's expense — this was partisan. Is this interference? Did they talk about senate expense claims? What kind of discussions did they have on the subject? In other words, we have a political party that engaged in partisan spending and partisan activities, and had exchanges between members of the Senate and members of the other House.

Are we to allege that there is interference? No, because that is how things work in a political party and in a caucus in a House.

Therefore, Mr. Speaker, there is no hint or a smidgen of proof that there was interference here, and even if there had been some communication, the fact remains that members of political parties are entitled to communicate with one another. Mr. Speaker, I do not think there is any question of privilege.

Honourable senators, I have just been informed that the former president of South Africa, Nelson Mandela, has died. I would like us to spare a thought for him and his family, and to take a moment at our next meeting on Monday to pay tribute to one of my idols as a political leader.

[*English*]

Hon. Joan Fraser (Deputy Leader of the Opposition): Before I return to the question of privilege, three quick points, Your Honour.

First, sympathies from all colleagues for the family of former President Nelson Mandela, one of the greatest citizens of the world of our time. His loss is enormous for all of us.

Second, Senator Cowan has asked me to express his deep regret that he had to leave on parliamentary business. He had hoped that this debate would have occurred a little earlier in this day so that he could have heard your fascinating remarks, Senator Carignan.

Third, for the record, let it be stated that the leader of my party did not whip the vote on the suspension of senators. He did express his opinion, but in the same communication — which was leaked to the press so you can confirm this — he made a point of noting that senators are independent. And you saw by the way we voted that we were.

Senator Moore: Unlike your side.

Senator Fraser: Now on the matter of the question of privilege, Your Honour, a few points. First is to recall that one of the best-known elements of privilege is that it has to relate, of course, to our parliamentary work. Beauchesne's sixth edition, on page 25, citation 92 says:

> A valid claim of privilege in respect to interference with a Member must relate to the Member's parliamentary duties...

So the question then arises whether we are talking about parliamentary duties, because, after all, Deloitte auditors are not members of Parliament.

But, in this case, the work they were doing related directly; it was in fact an integral part of parliamentary work. They were contracted to provide work that was to be the foundation of findings by the Internal Economy Committee. They were hired by the Internal Economy Committee — more precisely the steering committee — to do that, in the full knowledge of us all that their report would be the foundation of conclusions to be reached by the Internal Economy Committee.

I draw to your attention a very interesting element in Australian law, Your Honour, which can be found quoted in O'Brien and Bosc on page 92.

• (1700)

It states that the Parliamentary Privileges Act, 1987 of the Parliament of Australia defines "proceedings in Parliament" as, among other things, "the presentation or submission of a document to a House or a committee" and "the preparation of a document for purposes of or incidental to the transacting of any such business." That is what Deloitte was doing for us and providing for us, and it was definitely a proceeding in Parliament.

Was there interference with a proceeding in Parliament? Was there interference or even attempted interference with a proceeding in Parliament? I have to answer that question with a resounding "yes," Your Honour. Senator Carignan cited a couple of examples that might in themselves not seem serious, except that they did form part of what we know of a broader pattern.

All we have to go on at this point is the sworn affidavit of a member of the RCMP, but that affidavit is based in significant part on real emails from real people, and the extracts in them are, to say the least, alarming. Senator Cowan referred to the statement in one of them that the PMO is pushing for a given outcome of the Deloitte audit.

I recall — although in my quick rifling through documents I couldn't find it, but I can get you the precise reference, Your Honour — another email where Mr. Nigel Wright was expressing his frustration that we — the PMO — were unable to get Deloitte to agree to a given course of action or outcome. These things point seriously to interference with an audit process that the Deloitte auditors themselves confirmed to the committee they understood had to be conducted in the strictest of confidentiality. They set up a quite elaborate system to guarantee that confidentiality and yet, somehow, we end up knowing — or the PMO ended up "knowing" — what that audit would say.

I think, Your Honour, that there is prima facie evidence here of interference or attempted interference. Prima facie does not mean that it is proved. We cannot know the whole of the circumstances. We don't know what happened in phone calls or private meetings, except to the extent that the material available to Corporal Horton of the RCMP enlightens us, but there is a great deal even he, as I take it from his affidavit, is quick to acknowledge he doesn't know.

Is the interference that occurred or that seems to have occurred actually a breach of privilege? I would argue yes. It goes far beyond the normal kind of partisan interchange to which Senator Carignan referred, although I would observe that even within that parliamentary and partisan exchange, it has been the tradition of this place that a committee's work was confidential until it was made public.

O'Brien and Bosc say, on page 108, that:

> If an Hon. Member is impeded or obstructed in the performance of his or her parliamentary duties through threats, intimidation, bribery attempts or other improper behaviour....

— interference being improper behaviour —

> ... such a case would fall within the limits of parliamentary privilege.

I'm sure Your Honour is familiar with the very interesting book by Derek Lee, *The Power of Parliamentary Houses to Send for Persons, Papers & Records*. I found a couple of very interesting citations there. On page 174, Mr. Lee quoted the U.K. select committee on witnesses in 1935. The concern about interference is not new, as Senator Cowan observed. The committee said:

> Whatever may be the character of a Committee, whatever may be the nature of the evidence to be tendered by a witness, any interference with a witness's freedom is a breach of the privileges of the House of Commons.

I would argue strongly that the interference with the auditors of Deloitte was at least attempted, which brings me to a citation in Mr. Lee's book on page 176, quoting a resolution in 1984 from the Senate of Australia, which stated:

> That the Senate [of Australia],
>
> (a) Reaffirms the long-established principle that it is a serious contempt for any person to attempt to deter or hinder any witness from giving evidence before the Senate or a Senate Committee, or to improperly influence a witness in respect of such evidence;

Of course, the report that the Deloitte auditors were to produce for us was precisely that, evidence. Indeed, not only did they submit their report, they appeared before the committee to explain it.

So, can this question of privilege be entertained? I would argue yes on that count, too.

Senator Cowan explained why this is, in fact, the earliest time when the question could have been brought before the house, given that we tried to exhaust all other parliamentary remedies. But Your Honour will recall the fourth report of the Standing Committee on Privileges, Standing Rules and Orders, as it then was called, of Thursday, April 13, 2000, which actually had to do with leaks of committee proceedings.

Now, I think it's pretty clear that there was a leak to the PMO of the draft report, but here we're talking more precisely about the auditors and interference with their work.

I think, however, that the observations in the report apply here as well. It says, in part, the first responsibility to examine a problem lies with the committee. But then it says:

> ... no action or inaction or decision taken by the committee in relation to the matter would be determinative in respect of the Speaker's responsibility under the Rules of the Senate to determine whether or not a prima facie [case] exists.

It goes on to say:

> In the event that a committee decided not to investigate a leak of one of its reports or documents, any senator could raise a question of privilege at the earliest opportunity after the determination by the committee not to proceed in the matter. Similarly, if a committee did not proceed in a timely way, any senator would be entitled to raise a question of privilege relating to the leak.

There you have it, colleagues. I argue that there was, at the very least, as far as we can determine on the evidence now available to us, a genuine case of interference, actual or at the very least attempted — I think probably both — that that interference did constitute a breach of the privileges of the whole Senate because the Senate has the right and the duty to ensure that all of its proceedings, including its committee proceedings, are untainted by interference; and that, therefore, this question of privilege should be accepted.

I urge Your Honour to find that there is a prima facie case of privilege that should be examined by the Rules Committee.

Hon. Anne C. Cools: Honourable senators, I have been listening with considerable care to the remarks of both Senator Cowan and Senator Fraser. I would like at the outset to begin by saying that when I received the notice earlier today of Senator Cowan's question of privilege, I read and reread the notice several times. Nowhere in the notice could I discern a hint of any privilege breached. I am prepared to keep my mind open on the subject, but, from the issues mentioned in the notice itself, I could find none.

• (1710)

Honourable senators, turning to Senator Cowan's statements to His Honour in respect of a finding of prima facie, I have a few remarks. I begin by saying that I disagree with Senator Cowan. This is no simple matter, and I urge His Honour to take it very seriously.

Senator Cowan has indicated *ab initio* that if a finding were made he would ask that the matter be referred to the Senate Rules Committee, our committee on rules, privileges and orders. I would submit to Your Honour for his most dutiful consideration that it is not parliamentary to submit the work of one Senate committee to the study and consideration of another Senate committee. So let us understand where I stand.

Much of this work on these audits has been done by the Senate Standing Committee on Internal Economy, Budgets and Administration. A resolution of this question of privilege today would land this matter in the hands of the Rules Committee. I shall read the two relevant rules for His Honour's consideration. Rule 13-3.(1)(d), which was cited by Senator Cowan, essentially states:

> **13-3**.(1) In order to be accorded priority, a question of privilege must:

And the rule continues:

> (d) be raised to seek a genuine remedy that the Senate has the power to provide and for which no other parliamentary process is reasonably available.

The other relevant rule is rule 13-7(1), in the event of a prima facie case, which states:

> When a prima facie question of privilege has been established, the Senator who raised the matter may immediately move a motion to seek a remedy or to refer the case of privilege to the Standing Committee on Rules, Procedures and the Rights of Parliament for investigation and report.

Honourable senators, I would submit that rule 13-7 is extremely narrow — and I have argued this point before on a related matter. It would be very inappropriate to refer matters concerning the Internal Economy Committee to the Rules Committee for study, especially in respect of a prima facie question. If this Senate has problems with how the Senate Internal Economy Committee conducted this matter, we should take issue with that committee, not ask another committee to look into it, under the rubric of a question of privilege.

Senator Segal: Hear, hear!

Senator Cools: So I would submit, colleagues, that this question of privilege is a no-go, *ab initio*.

An Hon. Senator: Good point.

Senator Cools: That is point number one.

Honourable senators, the second point that I would like to address is Senator Cowan's suggestion of being blocked by a majority vote on Senator Fraser's motion to hear Mr. Michael Runia. I wish to raise a concern about that.

I voted against that motion yesterday. I will say here today that I have serious problems and will always raise questions about political posturing on these very difficult questions. These issues have ruined enough reputations and destroyed enough lives as it is. We do not have to keep widening the circle because it sounds good or because it attracts media.

Senator Segal: Hear, hear!

Senator Cools: Honourable senators, I would like to make that point. That is why I voted against Senator Fraser's motion yesterday — not to block any genuine investigation but because I thought it was the wrong way to go.

I will tell you why I think it was the wrong way to go. We are talking about a matter that the Senate Internal Economy has been working on and preoccupied with for quite some time. Last week, the three Deloitte individuals appeared as witnesses before the Senate Internal Economy Committee. This committee is seized of this matter. It is up to that committee if it wishes to hear Mr. Runia as a witness. Members of that Internal Economy Committee should have stood in this place and moved a motion here if they wanted the Senate to agree with them, not the Deputy Leader of the Opposition.

That is not what happened. What happened is that Senator Joan Fraser, the Deputy Leader of the Opposition in this place, moved a motion to bring Mr. Michael Runia before the Senate Internal Economy Committee. Let us understand very clearly that her motion took the form of an instruction to the committee. That is an additional and different question.

The reason I voted against that motion — not to be confused with supporting the Conservatives on that, and please do not confuse the two — was that I do not think an instruction to the committee was the right or appropriate rubric or way to proceed in a parliamentary proceeding.

Honourable senators, to the ladies and gentlemen on the government side, I have disagreed enormously with you on these proceedings. We all know where I stood on the suspensions. I just wanted to make that point about the fate of the three afflicted senators.

It is clear that a member of that Internal Economy Committee, preferably the deputy chair of that committee, should have risen here if he wanted Senate support or Senate authority to call Mr. Michael Runia as a witness before that committee.

Honourable senators, Senator Cowan, the Leader of the Opposition, has said several times — and I have to raise that again — that all this interference has taken place. I will get to interference and intimidation shortly, and that all this has been taking place in respect of an order for an independent audit." An independent audit ordered by the Senate." I think I am quoting Senator Cowan accurately.

Honourable senators, I have turned 70 and maybe I'm getting a little old, but my recollection of the events is that this Senate never took a decision to bring in an independent auditor from the outside. My understanding is that those were committee decisions. I am not a member of the Internal Economy Committee, but my recollection is that some of those decisions were taken by the subcommittees. I have a problem with all of that. Senator Larry Smith, you are listening carefully. Were I a member of that committee, I would have made many and louder and larger inquiries about who the independent auditors are and what their credentials are and why. I am not a star-struck person. I do not believe that because you throw out a name, such as Ernst & Young, Arthur Andersen or Deloitte, somehow every doubt is solved. The matter has been very sensitive from the beginning, very difficult and very stubborn.

Honourable senators, I have said in my speeches, and I gave several during the debates on the suspensions, that the decisions to bring in the police, as the decisions to bring in outside independent auditors, should have come to this Senate for debate and decision.

• (1720)

As soon as we are dealing with this kind of isolation of individual senators and all that will flow from it, we invoke the privileges of the Senate and their privileges. To be quite frank, the three senators who were suspended are the ones whose privileges have been breached. I feel that very strongly.

Honourable senators, I want to be crystal clear that I will never condone wrongdoing. I am not easily convinced that people who have lived and served loyally and faithfully and have done very well in their fields, that because one thing goes wrong that wrong wipes out everything else good that they may ever have done.

An Hon. Senator: Hear, hear!

Senator Cools: I do not believe that. I thought that this Senate was cruel to those people. I will stand by my position. They never received due process. I shall not budge from that. This I will defend.

I am trying to be as clear and as helpful as I can be.

Honourable senators, let us be very clear that any requests for authority from this house in respect of hearing these issues should have emanated from the deputy chair or an important member of the Senate Internal Economy Committee. We understand that.

There is some degree of confusion as to what "interference" means. I have always understood that interference in these senses has to do with intimidation and attempting to prevent witnesses from testifying, and so on. I have not looked at this particular subject for a few years. But if there has been interference, that point has not been proven here today because the substance of this debate has been to impugn and judge the Senate Internal Economy Committee. I find that unsatisfactory and not a good way to proceed.

Colleagues, I shall close on my final point by quoting Mr. Blackstone, whom I have quoted quite a few times. We have been relying, and most of the speeches so far have been relying, on Corporal Horton's ITO. Let us be clear that no charges have been laid in this case. We should be diligent and careful in how we handle this material. The fact that these allegations are being repeated daily in the newspapers does not make them true. It does not make them true. It does not make them proven.

Honourable senators, I have my own private opinions, but that is neither here nor there. Proof is the element of due process and all these allegations are still to be proven and tested. Make no mistake, those ITOs that are flowing through the courts are just that — in court. These issues are before the courts. I think we should be sensitive and fair and diligent at all times, ever mindful of the enormity and the magnitude of what we are dealing with here in respect of people's lives and reputations.

I have felt pained over the last many months. I hope I don't have to plead for fairness many more times.

I wish to close by quoting Mr. Blackstone because I was quite distressed by yesterday's motion. I was then going to abstain. Then I figured no, I should vote against it. I shall quote Mr. Blackstone, one of the great minds on the common law and his famous *Commentaries on the Laws of England*. I am quoting from the edition, Blackstone in Book I, on the commentaries edited by George Sharswood, whom as we know was the Chief Justice of Pennsylvania. In the chapter on the rights of persons, Blackstone says the following at page 128:

> The right of personal security consists in a person's legal and uninterrupted enjoyment of his life, his limbs, his body, his health, and his reputation.

Having said that, Mr. Blackstone proceeds to treat each of those rights separately. When he came to the right of reputation at page 134, he said:

> The security of his reputation or good name from the arts of detraction and slander, are rights to which every man is entitled, by reason and natural justice; since without these it is impossible to have the perfect enjoyment of any other advantage or right.

Honourable senators, I would like to ask us to reflect on that. There is no prima facie evidence here today of a breach of privilege. If we have concerns about how the Senate Internal Economy Committee has handled the matter or if there is any dissatisfaction, then we should deal with that fact. There is no way that I could agree to submitting the Internal Economy Committee's work to the Rules Committee for its judgment. No Senate committee has any power to judge the work of another Senate committee. We can refer issues, but not the committee's work product.

I thank you, honourable senators, but this is something that has been going on and it will be going on for a long time. I just plead with some of you: Let us stay clear-minded on these issues.

Senator Fraser: Just a quick point of clarification if I may, Your Honour.

For the record, as Deputy Leader of the Opposition, I am, ex officio, a member of the Internal Economy Committee; and before I took on this responsibility I was, for several months, an actual member of the Internal Economy Committee. I participated in most of the work involved in this matter, not at the subcommittee level but at the committee level. Most of the votes in the committee — the great majority — were unanimous, including my own. The last thing I have in mind is examining the work of the Internal Economy Committee. It is what happened prior to that that has been of concern to me. I wanted to make that point.

The Hon. the Speaker: Honourable senators, I want to thank Senator Cowan for raising the question of privilege and I want to thank all honourable senators who spoke to the question. I found it to be very helpful to the chair. I will now take the matter under advisement.

ADJOURNMENT

MOTION ADOPTED

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

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

> That when the Senate adjourns today, it do stand adjourned until Monday, December 9, 2013, at 6 p.m. and that rule 3-3(1) be suspended in relation thereto.

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

Hon. Senators: Agreed.

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

Hon. Senators: Agreed.

(Motion agreed to.)

(The Senate adjourned until Monday, December 9, 2013, at 6 p.m.)

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