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(HANSARD)

Thursday, June 11, 2015

The Honourable LEO HOUSAKOS
Speaker

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THE SENATE

Thursday, June 11, 2015

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

Prayers.

THE SENATE

TRIBUTES TO DEPARTING PAGES

The Hon. the Speaker: Honourable senators, I take this opportunity to salute two of our departing pages.

Karine Déquier is entering the final year of her Bachelor of Arts degree at the University of Ottawa, with a major in psychology and a minor in communications. Upon graduation, she hopes to continue her studies in communications and explore professional opportunities in the National Capital Region.

She is grateful to have had the opportunity to work as a Senate page and is looking forward to applying the skills and knowledge she has earned in her career.

Congratulations.

Hon. Senators: Hear, hear!

The Hon. the Speaker: We also have James Brown. Following the completion of his time at the Senate, James plans to move to Montreal, a city he loves and is excited to call home — and, indeed, the most beautiful city in the world. He will be taking a year's absence from school, returning to studies to complete a bachelor's degree in philosophy at McGill University.

James looks forward to accomplishing a life's worth of tasks in various fields and making his home province of Prince Edward Island proud.

Indeed, you have.

Hon. Senators: Hear, hear!

This is far from her first honour or award. Dr. Watt-Cloutier was a Nobel Peace Prize nominee in 2007 — that was the year that Al Gore won the prize; she was very close — a recipient of the United Nations Mahbub ul Haq Human Development Award and a recipient of 16 other honorary degrees. She is an Officer of the Order of Canada and was depicted on a Canadian stamp in 2012.

Born in Kuujuaq, Nunavut, in northern Quebec, Dr. Watt-Cloutier has been a life-long advocate in Canada and internationally for indigenous people, their culture and their environment. She was elected President of the Arctic Council in 1995, re-elected in 1998 and became chair in 2002. It was here she played a crucial role in establishing the Stockholm Convention of 2001, which banned the generation and use of organic pollutants that were contaminating the Arctic food web.

Dr. Watt-Cloutier has also made the ground-breaking connection between human rights and climate change. This connection has been key in furthering the protection of the Arctic environment and, with that, the culture of the people of Canada's North.

In her recently published memoir entitled *The Right to Be Cold*, she writes about her work as an activist for Inuit culture, indigenous rights and the protection of Arctic ecosystems.

In her address to the Dalhousie convocation, Dr. Watt-Cloutier spoke of her education having come full circle, beginning with her early childhood school years in Glace Bay, Nova Scotia, and culminating with this honorary degree in Halifax. Dr. Watt-Cloutier spoke passionately of the Arctic as her university, as our university, and she cautioned the graduates and their families in attendance that it's gradually disappearing as a result of our mishandling of the environment and inaction on climate change. She stressed that we need to be more vigilant in our stewardship of this Arctic university and to work to maintain its natural state, not only for the Inuit, but for all people for generations to come.

On behalf of the Senate of Canada, I extend our sincere congratulations to Dr. Watt-Cloutier and encourage her to continue her struggle for a healthy future for the Arctic.

SENATORS' STATEMENTS

SHEILA WATT-CLOUTIER, O.C.

Hon. Wilfred P. Moore: Honourable senators, I rise today to pay tribute to Dr. Sheila Watt-Cloutier, who on May 29, 2015, had conferred upon her an Honorary Doctorate of Law degree at the convocation ceremony of the Schulich School of Law at Dalhousie University in Halifax. She is the sister of our colleague Senator Charlie Watt, himself no slouch as an advocate for the Inuit people and their Arctic culture.

RIGHTS OF PERSONS WITH ALBINISM

Hon. A. Raynell Andreychuk: Honourable senators, albinism is a rare genetic disorder. It prevents the body from producing melanin, which is responsible for producing skin pigment and promoting proper development of the eyes.

About one in 20,000 people have some form of albinism in North America and Europe. However, the condition is much more prevalent in East Africa, affecting about one in 1,400 people.

A February 2015 report of the United Nations Human Rights Council notes:

... as of October 2014, over 340 attacks against persons with albinism, including 134 killings, have been recorded in 25 countries.

Discrimination and violence against persons with albinism is especially severe in East Africa. As the director of a documentary on the plight of persons with albinism in Tanzania explains:

In Swahili, persons with albinism are called “zeru-zeru,” or the “ghost people.” The locals believe that albinos have special powers and their body parts can be used to make magical potions and amulets.

Josephat Torner, a campaigner with the Tanzania Albino Society, says:

Many people think we are ghosts. To them I am not human, so how can I be alive? We are being hunted down like prey, our arms and legs are hacked off. We are living in constant fear, not knowing who is a friend and who is a foe. Anyone can betray you.

Parliamentarians have a critical role to play in ensuring that people with albinism are afforded their human rights. Parliamentarians can help educate and reach out to those whose cultural attitudes and practices are influenced by superstition.

Moreover, politicians themselves must not be perpetrators of crimes against people with albinism, particularly in the lead-up to elections. That is why the Canada-Africa Parliamentary Association has adopted a resolution urging parliamentarians to lead in upholding the rights of persons with albinism. We will continue to give this issue our highest priority.

In advance of the first-ever International Albinism Awareness Day this Saturday, June 13, 2015, I urge all senators to join colleagues from all parties in the Senate and the other place in standing up for the rights of people with albinism everywhere.

Hon. Jim Munson: Honourable senators, I share the sentiments of Senator Andreychuk and yesterday Senator Scott Tannas. It’s disturbing to read this, but it’s important.

Honourable senators, I was completely unaware of the horrors endured by African albinos until a pamphlet or small card was thrust in front of us on our Canada-Africa trip in Dar es Salaam, Tanzania. A middle-aged man with albinism urged us to read the information on the pamphlet, and he was looking over his shoulder as though he were being hunted. Senator Andreychuk was with me that day, and I know she, too, was affected by what we learned.

In Tanzania, followers of witchcraft believe they will attain wealth and happiness by drinking a potion with the blood or ground organs and limbs of albinos — that was hard to say. Witch doctors market this belief, promoting hatred against

albinos. Babies, children, women and men in Tanzania are seized and have their limbs cut off while they are still alive. Others are murdered. Neighbours betray neighbours; husbands betray wives; friends betray friends. The harvest of a single limb can bring in about \$2,000 U.S., with an entire body reportedly garnering as much as \$75,000.

• (1340)

Senator Andreychuk and I met Vicky Ntetema during our visit, as she mentioned. In 2007, as a freelance contributor to the BBC, she investigated and produced stories exposing the corruption and financial motivations of witch doctors and others in Tanzania, her home country. Her fine work resulted in threats against her life, forcing her to go into hiding. Since 2010, she has been executive director of media and international affairs for Under The Same Sun, an organization supporting people with albinism who are disadvantaged and marginalized.

The founder of Under The Same Sun is a Canadian, Peter Ash, who has albinism. Through his organization, he is carrying out an information program to undo unfair and false stereotypes about albinism.

The United Nations Human Rights Council has adopted a resolution naming June 13, 2015, the inaugural International Albinism Awareness Day.

We cannot possibly turn our backs on the crisis that is taking place in Tanzania. It is a human crisis, rendering borders and distances meaningless. It’s happening in other African countries.

Honourable senators, along with Senators Tannas and Andreychuk, I encourage you to find out more about albinism and the UN’s resolution. It is a good starting point for righting wrongs inflicted on a vulnerable population within East Africa.

NIGERIA

TERRORISM BY BOKO HARAM

Hon. Mobina S.B. Jaffer: Over a year ago, the world watched in horror as more than 200 Chibok girls were abducted by Boko Haram in Nigeria. Boko Haram is an extremist group that has been terrorizing the region since 2002. They are responsible for an attack on a UN building in Abuja and numerous kidnappings of young girls across the country.

Honourable senators, today I want to share the story of one of these Chibok girls with you. When Abigail John first tried to escape Boko Haram, she failed. The result was brutal, and she was held captive and beaten by them once again.

On her second attempt, this Chibok girl was more fortunate. The Nigerian military planned a raid on Boko Haram at one of their sites, the site that Abigail was at. Amidst the air raid, Abigail took a chance and fled for a second time. This time her escape worked. Today I am happy to share that Abigail John is undergoing treatment in Yola, Nigeria.

[Senator Andreychuk]

The story of Abigail leaves me with a heavy heart. I'm so happy that she can begin to reclaim her life, but I am devastated for the girls who have not managed to escape. Their fate is still unknown. I shudder to think what is happening to these girls.

Honourable senators, recently I attended a function at Carleton University to celebrate Nigeria's Democracy Day. There I met with the Nigerian ambassador, who informed me that newly elected President Buhari has promised to bring back the Chibok girls abducted by Boko Haram.

This is a long-awaited commitment by the Nigerian government, and I want to make sure they stay true to their word. Up to now, social media has used the campaign #BringBackOurGirls to call attention to the Chibok kidnappings. Today, I want to begin a new campaign called "President Buhari, bring our Chibok girls back."

It has been 423 days since the Chibok girls were taken. I will begin to count on my website to display how many days it will take President Buhari to deliver on his promise. So far, he has been the president for 13 days.

Honourable senators, I ask for your support of this initiative. These girls need to be brought home.

President Buhari, bring our Chibok girls back.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I draw your attention to the presence in the gallery of Her Excellency Petronila P. Garcia, Ambassador of the Republic of the Philippines. She is accompanied by the Deputy Chief of Mission, Uriel Norman Garibay; the Minister and Consul General, Eric Gerardo E. Tamayo; Minister and Consul, Porfirio M. Mayo Jr.; Mr. Oscar Farinas, Founder and Executive Director of the Philippine Heritage Band, and its current President, Caroline Bañez, as well as members of the Board of Directors; and Ben Ferrer, President of Silayan Community Centre, as well as Mario Alpuerto and Fe Paca-Taduran of the Philippine Canadian Charitable Foundation. They are the guests of the Honourable Senator Enverga.

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

Hon. Senators: Hear, hear!

PHILIPPINES

ONE HUNDRED AND SEVENTEENTH ANNIVERSARY OF INDEPENDENCE

Hon. Tobias C. Enverga, Jr.: Honourable senators, I rise today to bring to your attention that tomorrow, June 12, marks the first time that the Philippine flag was raised 117 years ago and the

country's independence was declared. This historic event was a beginning of the end of 333 years of Spanish rule. From coast to coast to coast, Filipino-Canadians will come together with family and friends to celebrate our proud island nation and all its diverse peoples.

It is an increasingly visible celebration as the Philippines became the largest source country for permanent residents last year. We welcomed more than 40,000 new permanent residents from the country in 2014, which is an increase of over 30 per cent from previous years. This is encouraging for many of us who have made Canada our new home.

What makes me, as a Canadian of Filipino heritage, most proud is how well my fellow *kababayans*, as we call each other, integrate so well into the various communities where we live. We contribute in public service, in charitable work and in our economic growth, and we do it as proud Canadians.

Honourable senators, I want to highlight one stellar example of the dedication and public service I speak of.

This year the Philippine Heritage Band, or PHB, an award-winning marching band based in Vaughan, Ontario, is celebrating its thirty-fifth year. As all marching bands do, they provide musical performances and they contribute to our multicultural reality. However, more importantly, some might claim the band is a vehicle for youth development and that it provides a forum where adults and youth can get together and learn from each other.

In addition to musical training, the PHB offers seminars and workshops in wide-ranging areas such as crime and drug abuse prevention, leadership skills and more general sports and spring camp programs. The PHB also has a scholarship program to support bright and promising youth.

Honourable senators, when I last saw the PHB perform in early May this year, they were playing His Excellency Benigno S. Aquino III, President of the Philippines, and the Right Honourable Stephen Harper, Prime Minister of Canada, onto the stage of Roy Thomson Hall in Toronto for the two leaders to confirm the strengthening of bilateral ties between Canada and the Republic of the Philippines.

I want to thank the PHB's founder, Oscar Farinas, for having the vision to create the band in 1980, and I want to thank Caroline Bañez, the current president, for keeping the PHB a strong and vibrant organization and for all the good work that is done by them in our community.

Honourable senators, I want to end in my native language, the fastest growing non-official language in Canada, Tagalog.

Maligayang araw ng kalayaan sa inyong lahat. Happy Philippine Independence Day to all of you. *Mabuhay* and thank you.

Hon. Senators: Hear, hear!

ROUTINE PROCEEDINGS

CANADA-AFRICA PARLIAMENTARY ASSOCIATION

RESOLUTION URGING PARLIAMENTARIANS TO LEAD IN UPHOLDING THE RIGHTS OF PERSONS WITH ALBINISM TABLED

Hon. A. Raynell Andreychuk: Honourable senators, pursuant to rule 14-1(3), I ask for leave to table a document: Resolution of the Canada-Africa Parliamentary Association Urging Parliamentarians to Lead in Upholding the Rights of Persons with Albinism.

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

Hon. Senators: Agreed.

• (1350)

DÉLINE FINAL SELF-GOVERNMENT AGREEMENT BILL

BILL TO AMEND—ELEVENTH REPORT OF ABORIGINAL PEOPLES COMMITTEE PRESENTED

Hon. Dennis Glen Patterson, Chair of the Standing Senate Committee on Aboriginal Peoples, presented the following report:

Thursday, June 11, 2015

The Standing Senate Committee on Aboriginal Peoples has the honour to present its

ELEVENTH REPORT

Your committee, to which was referred Bill C-63, An Act to give effect to the Déline Final Self-Government Agreement and to make consequential and related amendments to other Acts, has, in obedience to the order of reference of Wednesday, June 10, 2015, examined the said bill and now reports the same without amendment.

Respectfully submitted,

DENNIS GLEN PATTERSON
Chair

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

Hon. Scott Tannas: Honourable senators, with leave of the Senate and notwithstanding rule 5-5(b), I move that the bill be placed on the Orders of the Day for third reading later this day.

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

Hon. Senators: Agreed.

(On motion of Senator Tannas, bill placed on the Orders of the Day for third reading later this day.)

STUDY ON THE POTENTIAL FOR INCREASED CANADA-UNITED STATES-MEXICO TRADE AND INVESTMENT

TENTH REPORT OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE COMMITTEE TABLED

Hon. A. Raynell Andreychuk: Honourable senators, I have the honour to table, in both official languages, the tenth report of the Standing Senate Committee on Foreign Affairs and International Trade entitled: *North American Neighbours: Maximizing Opportunities and Strengthening Cooperation for a more Prosperous Future.*

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

CORRECTIONS AND CONDITIONAL RELEASE ACT

BILL TO AMEND—THIRTIETH REPORT OF LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE PRESENTED

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

Thursday, June 11, 2015

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

THIRTIETH REPORT

Your committee, to which was referred Bill C-12, An Act to amend the Corrections and Conditional Release Act, has, in obedience to the order of reference of Thursday, May 28, 2015, examined the said bill and now reports the same without amendment.

Respectfully submitted,

BOB RUNCIMAN
Chair

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

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

[Translation]

HUMAN RIGHTS

BUDGET AND AUTHORIZATION TO ENGAGE
SERVICES—STUDY ON INTERNATIONAL
MECHANISMS TOWARD IMPROVING COOPERATION
IN THE SETTLEMENT OF CROSS-BORDER
FAMILY DISPUTES—TWELFTH REPORT
OF COMMITTEE PRESENTED

Hon. Mobina S.B. Jaffer, Chair of the Standing Senate Committee on Human Rights, presented the following report:

Thursday, June 11, 2015

The Standing Senate Committee on Human Rights has the honour to present its

TWELFTH REPORT

Your committee, which was authorized by the Senate on Thursday, February 27, 2014, to examine and report on international mechanisms toward improving cooperation in the settlement of cross-border family disputes, including Canada's actions to encourage universal adherence to and compliance with the Hague Abductions Convention, and to strengthen cooperation with non-Hague State Parties with the purpose of upholding children's best interests, respectfully requests funds for the fiscal year ending March 31, 2016, and requests, for the purpose of such study, that it be empowered to engage the services of such counsel, technical, clerical and other personnel as may be necessary.

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

Respectfully submitted,

MOBINA S. B. JAFFER
Chair

(For text of budget, see today's Journals of the Senate, Appendix, p. 2001.)

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

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

[English]

ENDING THE CAPTIVITY OF WHALES AND DOLPHINS BILL

BILL TO AMEND—FIRST READING

Hon. Wilfred P. Moore introduced Bill S-230, An Act to amend the Criminal Code and other Acts (ending the captivity of whales and dolphins).

(Bill read first time.)

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

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

[Translation]

STRENGTHENING CANADIANS' SECURITY AND PROMOTING HUNTING AND RECREATIONAL SHOOTING BILL

BILL TO AMEND—FIRST READING

Hon. Céline Hervieux-Payette introduced Bill S-231, An Act to amend the Firearms Act, the Criminal Code and the Defence Production Act.

(Bill read first time.)

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

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

[English]

COMMONWEALTH PARLIAMENTARY ASSOCIATION

BILATERAL VISIT TO THE CARIBBEAN, APRIL 21-26, 2014—REPORT TABLED

Hon. David P. Smith: 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 Bilateral Visit to the Caribbean, held in St. George, Grenada, St. Vincent and the Grenadines and Road Town Tortola, British Virgin Islands, from April 21 to 26, 2014.

THE SENATE

NOTICE OF MOTION TO TAKE NOTE OF CANADA-AFRICA PARLIAMENTARY ASSOCIATION'S RESOLUTION CONCERNING THE RIGHTS OF PERSONS WITH ALBINISM

Hon. A. Raynell Andreychuk: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the Senate:

- (a) take note of the resolution adopted by the Canada-Africa Parliamentary Association on June 3, 2015, and tabled in the Senate on June 11, 2015, concerning the rights of persons with albinism, who are subject to widespread discrimination, and whose body parts have been used in witchcraft, exposing them to murder and mutilation; and

- (b) encourage all parliamentarians to
- (i) exercise their influence within their communities with a view to combatting prejudice and disinformation with respect to albinism and people with albinism,
 - (ii) educate their fellow citizens with respect to the multiple layers of human rights challenges — including social marginalization, medical and psychological problems, and confinement to poverty — affecting people with albinism, and
 - (iii) advocate tolerance and adherence to the rule of law to ensure the rights and safety of persons with albinism and exercise extra vigilance in the lead-up to elections.

• (1400)

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Yonah Martin (Deputy Leader of the Government): Honourable senators, pursuant to rule 4-13(3), I wish to inform the Senate that as we proceed with Government Business, the Senate will address the items in the following order: Bill C-26, followed by Bill C-63, followed by the Twenty-first Report of the Standing Senate Committee on National Finance, followed by Bill C-66, followed by the Twentieth Report of the Standing Senate Committee on National Finance, followed by Bill C-67, followed by all remaining items in the order that they appear on the Order Paper.

TOUGHER PENALTIES FOR CHILD PREDATORS BILL

BILL TO AMEND—THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Plett, seconded by the Honourable Senator Fortin-Duplessis, for the third reading of Bill C-26, An Act to amend the Criminal Code, the Canada Evidence Act and the Sex Offender Information Registration Act, to enact the High Risk Child Sex Offender Database Act and to make consequential amendments to other Acts.

Hon. Larry W. Campbell: Honourable senators, before I start today, I would like to advise that you that, yesterday, Senator Plett approached me, and I apologized to Senator Plett for my outburst during Bill C-2. There are 1,500 people who live

in Landmark, Manitoba. There is not a depression in the soil, and it is a proud community. I apologize for taking his remarks personally.

Hon. Senators: Hear, hear.

Senator Campbell: At the outset, nothing is more important than the protection of our children. Like everyone here, I would err on the side of that protection.

Senator Plett mentioned a person — I was going to say “gentleman,” but that’s not who he is — named Gordon Stuckless. Mr. Stuckless worked at Maple Leaf Gardens. He pled guilty to 103 sex-related charges involving 18 people over 20 years. He was sentenced to five years in prison, which, in my world, is not enough.

Having said that, the Crown can and does appeal sentences when they believe they are not in keeping with the proper judicial processes. I note that was not done, so perhaps some of our focus may want to be on that. But I can state to you categorically that there is a special place in Hell for people like Stuckless.

Nevertheless, there are not thousands of Gordon Stucklesses roaming around. I read both of Senator Plett’s statements, and I came to this realization — and it might just be me — that we refer to sex offenders as if they are a homogeneous group and are all the same. We know that is not true. While no sexual offence can be condoned, the severity ranges from your garden-variety Peeping Tom up to people like Gordon Stuckless. It’s simply beyond comprehension how we can throw everyone into the same category. Although I do know, as a police officer, that there is a direct correlation between that Peeping Tom and other offences within the sexual-offence realm.

I would like to deal with three issues: the increase in mandatory minimum sentences, the elimination of judicial discretion through mandating of sentences for a variety of crimes to be served consecutively, and the establishment of a publicly accessible database of offenders that would include detailed personal information.

I thank Michael Spratt, a criminal defence lawyer in Ottawa, who has spoken many times before committees regarding these issues.

With regard to minimum sentences, the evidence suggests that minimum sentences do not make communities safer, they do not deter the commission of offences, they impede rehabilitation and they are costly. All of these have to be taken into consideration, given prison populations, our ability to house them, and our ability to give proper treatment and care within those facilities vis-à-vis our economic situation.

Second, in regard to the limits on judicial discretion, there already exists a presumption that sentences for offences without a reasonably close nexus should be served consecutively. We find that in the judgment of Sopinka, J. in *R. v. McDonnell*, 1997, where he says:

... the decision to order concurrent or consecutive sentences should be treated with the same deference owed by appellate courts to sentencing judges concerning the

length of sentences ordered. The rationale for deference with respect to the length of sentence, clearly stated in both *Shropshire* and *M. (C.A.)*, applies equally to the decision to order concurrent or consecutive sentences.

There is little evidence that Canadian courts are imposing lenient sentences for sexual offences perpetrated on children. Sentences for those types of offences routinely exceed the minimum sentencing mandated by Bill C-26.

Last, the sex offender registries, Bill C-26 creates a registry that would require an offender to provide at minimum their name, birth date, gender, physical appearance, photograph and area they reside. I don't find that particularly onerous, but it has to be shown to protect communities. When I went back over the research, there are nine studies, all independent, starting from about 2002 up to about 2011. They say that they do not make communities safer. In fact, they put the sex offender in the position of being on the run all of the time, which then leads to them going off and committing more offences.

As I said before, sex offenders are not all the same. Pedophiles stand out due to their high recidivism rate. Senator Plett asked me a question, suggesting that the recidivism rate was 50 per cent, and I stated I didn't believe that. I still don't believe it, but I believe it is sufficiently high, whether it's 30, 40 or 25 per cent, that we should be concerned.

I also believe, as stated in a Harvard medical journal and stated by Senator Plett, that there is no cure for pedophilia. I accept that, and I have accepted it for a number of years. That being said, there are steps that can be taken to ensure compliance with the law and protect the public.

Prime Minister Harper said: "We do not understand why child predators do the heinous things they do and, in all frankness, we don't particularly care to." Stating that we don't care about why people commit unspeakable acts goes to the crux of this matter. We cannot keep locking up people for longer and longer periods of time without studying and understanding the reasons behind why they commit offences. Unless you want to lock up every pedophile for life or find an island someplace and put every pedophile on it, we have to make decisions on how we are going to treat them.

This bill does not do that. In fact, it will probably result in more harm against society.

For these reasons, I will not support this bill.

Hon. Donald Neil Plett: Would the senator accept a question?

Senator Campbell: Yes.

Senator Plett: I'm not sure how I will get a question in here, because it's more of a comment. Hopefully at the end there will be a question.

I do want to say, senator, that you came to me yesterday and apologized. You said you would do it here if I so requested, and, of course, I didn't; I said that was not necessary, but I certainly appreciate it. I simply want to say in turn that whatever I had said earlier to set this off, I ask for your forgiveness as well.

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

Hon. Senators: Question.

The Hon. the Speaker: It was moved by the Honourable Senator Plett, seconded by the Honourable Senator Fortin-Duplessis, that the bill be read the third time.

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

Some Hon. Senators: Agreed.

Some Hon. Senators: On division.

(Motion agreed to and bill read the third time and passed, on division.)

• (1410)

DÉLINE FINAL SELF-GOVERNMENT AGREEMENT BILL

BILL TO AMEND—THIRD READING

Hon. Scott Tannas moved third reading of Bill C-63, An Act to give effect to the Deline Final Self-Government Agreement and to make consequential and related amendments to other Acts.

He said: Honourable senators, today I have the pleasure of speaking to Bill C-63, the Deline Final Self-Government Agreement Act. I intend to be brief with my remarks today, but I do not mean for that to in any way take away from the significance of this legislation.

This is an important day for the Deline people and for all Canadians. To refresh your memories from my second reading speech yesterday, this bill proposes to endorse the historic agreement among the Deline First Nation, the Deline Land Corporation, the Government of the Northwest Territories and the Government of Canada.

Senators, the negotiation process for any First Nation to get a self-government agreement is long and arduous. The Deline people initiated the negotiations 19 years ago and we are just now ratifying the final agreement. That takes a lot of determination and patience on all sides of the negotiating table.

The Deline people pursued a self-government agreement because they wanted more control over their land and their lives. Not only will this agreement give them the control they are looking for, but it will also enable them to access the authorities and resources they need to participate equally in and contribute fully to our country's prosperity.

Ratifying Bill C-63 here in the Senate is the final step in a long process for the Deline people to become a self-governing First Nation. I would like to ask you all to join me in congratulating them on their efforts to make this long-awaited agreement a reality for their community.

Hon. Senators: Hear, hear!

Hon. Nick G. Sibbeston: Honourable senators, I am truly honoured today to stand up here and add to the comments of support for this bill. The Deline people have come from a great distance in the Northwest Territories, up in the Sahtu area, which is the Great Slave Lake area. The leadership and quite a number of elders have come here. I want to give recognition to the elders who have been the backbone and the spiritual and cultural inspiration to the people here. I mentioned them last night in committee, but I will ask them to stand.

[Senator Sibbeston spoke in North Slavey.]

Alfred Taniton and Leon Modeste, Charlie Neyelle, Andrew John Kenny and Dolphus Baton, Fred Kenny and Morris Neyelle have been involved in this process for a long time. Both Leon Modeste and Alfred Taniton were on the original community council that was made in 1959. They were continuously involved in the community up to just five years ago. They were on council for 50 years, supporting their community and looking to the day when this would happen.

Hon. Senators: Hear, hear!

Senator Sibbeston: Most of these people — especially Leon and Alfred — do a great deal by going into the communities and explaining agreements, issues involving government, and a good way to live. In this way the elders have a profound effect on the people who live in the community. If you were going to go to Deline, you would say it was one of the nicest communities you have ever been in. It's nice and orderly and people are friendly. I think it's because of their spiritual background and the spiritual basis of their lives, which make them uniquely what they are.

[Senator Sibbeston spoke in North Slavey.]

Your Honour, in gratitude to the Senate, they would like to perform a drum dance for all the senators here, once third reading is given. If it is possible, could we adjourn or go out of the room? They will be pleased to show you a drum dance in the way they do it in their community. It could be a motion to do so.

There is a motion, with the idea that you can see how they drum dance and how they have fun doing that. It's a spiritual exercise and it also has a fun part to it. They have brought their drums and are willing to do that for you. This was done a number of years ago when the Tlicho agreement came through the house. They don't want the Tlicho to outdo them. They want to be on par with the Tlicho.

The committee had a nice meeting last night and there was cooperation among all the senators who were there. The Deline leadership delegation was there, and the federal government,

[Senator Tannas]

Justice and the territorial government were also there to talk about this and convince us that it was a worthy and good agreement for the people.

One of the things that I raised last night was implementation. Many Native people in our country have land claim agreements. More recently, there have been self-government agreements. All of these agreements are done through a lot of hope and a lot of promise for the future. Over the years, for some reason the federal government occasionally interprets an agreement narrowly and misses the spirit of the agreement, so there have been problems.

I asked the federal government officials last night if there has been anything like a change in attitude or wording in the agreements so that these good people from Deline will not have difficulty in future years. The officials promised that this would not be the case. I asked who they should call a few years from now if there are problems and whether they would be around. Is their job finished now or will they be around in a few years to still account to the people? They said yes, indeed, they would be around. They take their jobs very seriously.

• (1420)

So there is hope, by the people, that this agreement will be honoured and will be followed through the way in which the people have expected. I think that is a good assurance for them. They felt good about the agreement in every way.

So I just am so happy to be here on this day that this Deline Agreement has come through and I am very proud as a Canadian to have this happen.

I'm very proud, too, Mr. Speaker, to be able to say some words of the Deline people that can be heard and echoed in this building — and this is Canada.

[The senator then spoke in North Slavey.]

Thank you very much.

Hon. Senators: Hear, hear!

Hon. Lillian Eva Dyck: Thank you, Mr. Speaker. I also rise to speak to Bill C-63. I am honoured to be here today to support the Deline people as we deal with the Deline Final Self-Government Agreement.

As my colleague, Senator Sibbeston, has said, we had a meeting of the Standing Senate Committee on Aboriginal Peoples last night. Our committee members have worked very hard as a team, regardless of political affiliation. We have worked very hard to accommodate the Deline because they are here this week and we wanted to speed the process up. So we dealt with this measure as expeditiously as possible so that they could participate in the final approval of their agreement. This is a historic occasion.

We did speed things up. We did sort of bend a few rules that we have in the Senate in order to accommodate this process this afternoon. Although it could be called an accelerated process, we

did our due diligence. I think a good part of that has to be attributed to Senator Sibbeston. Senator Sibbeston, who is from and lives in the Northwest Territories, speaks their language. Nothing is more important than to be able to communicate with people in their own language because when it is translated into English, we lose some of the deeper meaning. As we heard from Senator Sibbeston, the Deline people are deeply spiritual and much of the language is built upon those meanings that probably don't translate into English.

Senator Sibbeston, I know, has spent many years interacting with the Deline, so he is very familiar with what has been going on with them as they have been moving towards their self-government agreement. So though one could say we accelerated the process, I think as a committee, we had deep confidence because we knew that we had a man on the ground that speaks their language. So we have confidence that what we did last night was completely appropriate.

In addition to that, the other members of the committee asked very good questions and we had officials, as was said by Senator Sibbeston and Senator Tannas, from the Department of Aboriginal Affairs; the Northwest Territories; Chief Kenny from the Deline First Nation; Chief Negotiator, Danny Gaudet; we had their legal counsel, Mr. Crane; and Georgina Dolphus representing the Deline Land Corporation. Those were the people from the Deline group.

Interestingly, the Deline have had a land claim agreement since 1993. What I thought was the greatest thing about this self-government agreement is that they are creating a government that is much more seamless and integrated than we have in the rest of Canada. Essentially, they are combining a municipality, which involves public members, non-Deline people, Deline people, and the Northwest Territories. They're going to deliver services that don't have any regard to which group of people you belong to.

We all know, in this chamber, that Aboriginal people living in Canada often fall between the cracks whether we live on reserve or off reserve. We often do not know if the federal government will pay for health benefits or schooling. The Deline have broken beyond that and are creating a government where it doesn't matter. So I think they have a superior form of government.

When I asked the officials from the Aboriginal Affairs department about that, it kind of stunned them and it took them a moment to realize — well yes, this is an improvement over what the rest of Canada has for Aboriginal people. So the Deline have done an amazing amount of work. Of course, they are guided by their elders who are the wisdom keepers and who are also, as they told us last night, fulfilling a prophecy that their elders had seen.

I feel incredibly humbled to be part of this and I want to thank all committee members and the chair.

One of the questions that our chair asked last night was with regard to the time it took — 19 years to finalize, and it really isn't finalized — to come to this agreement. So he

asked why it has taken 19 years and the Chief Negotiator for the Deline, Mr. Gaudet responded — well, there are probably two reasons:

. . . I think there is fear. I don't know. I can't really speak for the government. I think there's a fear that Aboriginal groups negotiating self-government want to be sovereign and don't want to be part of the country. I can only speak about our case, but the reality is quite the opposite; we want to be part of this country and part of the Northwest Territories. We want to work with Canada. The first thing we have to get rid of is the fear.

That's the fear on the part of Aboriginal Affairs and the federal government. Mr Gaudet continues:

The second thing is that sometimes we look too hard for certainty. Everybody wants to know exactly what everything is going to look like, smell like and taste like before they can agree. Even in the Aboriginal case, we want everything, but it's unrealistic to think that way. It would be ideal if we were allowed to negotiate and then come back later and finish up, but use this to start going to start building capacity and governing ourselves and develop working relationships with the government. Show us it can be done and we will give you more responsibility later. I think that would really speed up many of those agreements and get them done because the reality of what we're doing is negotiating agreements that are going to have to change with time, and we should recognize that.

Those are very wise words and, in fact, it was pointed out that this is a living document. They will continue to negotiate with the federal government as they take on more and more areas of responsibility, such as in health. So it's a living document and it may well serve as the model for other Aboriginal groups in Canada as a way to proceed.

As I said before, the Deline are very strong in their culture. They have retained their language, their spirituality. We're honoured to have opened our session last night with prayers. I wish them the very best. I know that things will go very well with them.

It is great to have you here this afternoon. Thank you.

Hon. Senators: Hear, Hear!

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

Hon. Senators: Agreed. Hear, hear!

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

The Hon. the Speaker: Honourable senators, the Deline delegation would like to offer a prayer and perform a dance in the foyer in honour of the Senate and in support of senators. Of

course, we encourage all of the support that we can get, so I invite colleagues to step into the foyer and observe. Honourable senators are welcome to do so. If we can manage the quorum required so we can continue our business, it would be appreciated.

• (1430)

[*Translation*]

ECONOMIC ACTION PLAN 2015 BILL, NO. 1

TWENTY-SECOND REPORT OF NATIONAL FINANCE COMMITTEE ON SUBJECT MATTER TABLED

Leave having been given to revert to Routine Proceedings, Presenting or Tabling Reports from Committees:

Hon. Joseph A. Day: Honourable senators, I have the honour to table, in both official languages, the twenty-second report of the Standing Senate Committee on National Finance, which deals with the subject matter of Bill C-59, An Act to implement certain provisions of the budget tabled in Parliament on April 21, 2015 and other measures.

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

[*English*]

THE ESTIMATES, 2015-16

MAIN ESTIMATES—TWENTY-FIRST REPORT OF NATIONAL FINANCE COMMITTEE ADOPTED

The Senate proceeded to consideration of the twenty-first report (Second Interim) of the Standing Senate Committee on National Finance (Main Estimates 2015-2016), tabled in the Senate on tabled in the Senate on June 9, 2015.

Hon. Joseph A. Day moved the adoption of the report.

He said: Honourable senators, I'll just say a few words about the report, which forms the basis for Bill C-66 to be dealt with next. This twenty-first report of your committee is the second interim report on the Main Estimates for this year.

Honourable senators will recall that the first interim report was for supply in March so the government would have funds to operate from April 1, the new fiscal year, to the end of June. This report picks up the balance of the Main Estimates, which your Finance Committee was charged to look at, for the balance of the fiscal year.

In addition to funds through the Main Estimates, honourable senators will know that the government can receive funds through various statutes that have funding provisions within or through

supplementary estimates. Probably there won't be as many supplementary estimates this year because of the election. Later this afternoon, we'll deal with Supplementary Estimates (A).

We deal with these particular matters, honourable senators, by doing, in effect, a study of the estimates, which was a continuation of the study we had begun for the interim supply, looking at some of the continuing aspects of interest to honourable senators, in particular to the Finance Committee. We then prepare a report, which forms the basis for the bill that follows. Unlike other bills that have second reading and are referred to committee, with supply bills we do a pre-study so that honourable senators can be informed about the particulars in the bill that they'll vote on.

That is where we are in relation to this particular matter. I will briefly make reference to the bill, which is for \$62 billion. The report forms the basis for understanding where the \$62 billion will go. There aren't many points that need to be discussed, honourable senators, but I thought perhaps I could note that in the Main Estimates the House of Commons wants \$443 million for this year compared to the Senate request for this year of \$88 million. That puts it in perspective for you. Their request is approximately three times greater but their budget is significantly more than three times the budget of this chamber.

Because there has been so much attention on the Auditor General, I thought I'd let you know what the Auditor General requested in the estimates. He's looking for \$78 million, compared to the Senate's request for \$88 million. The increase is not as significant as we would have expected with last year's total being \$77 million. The Auditor General spent, by his own admission, \$23 million, or one third of his total budget, on the study of Senate expenses. I wonder what is not getting done that otherwise would have been done. Will we see the Auditor General coming to us to say, "Please give me more funds in one of the supplementary estimates"?

That, honourable senators, is our difficulty — having the Auditor General, who is an agent of Parliament, come to Parliament and ask for funds just after he has done a study of the Senate and reported it in a manner that was quite confrontational. In a typical presentation of an audit by the Auditor General, with a few leaks and much anticipation, "Next week, we'll have a lockout so that the media can come," making it much bigger than is necessary. Given some of the superlatives and adjectives used in describing this, the media are starting to look at the report and say that maybe some of the items don't seem that unreasonable, and it cost \$23 million to create. That debate is developing, honourable senators. There has always been a built-in tension between the other place and this chamber. We look at the budgets of each house and have discussions about the differences; and those differences create that tension.

Honourable senators, I want to tell you about two items that have bothered me over the last few days. One is a motion by the New Democratic Party in the other place to deny the budget of \$88 million for the entire year for all of the Senate. That motion was debated at length on Monday, and I watched the entire debate. Many things were said that will be hard to get over and difficult for us to ignore. The leader of that party was then interviewed on CBC on Tuesday; and it's there for everybody to see. He said that in all of his political lifetime, he has never seen anything useful done by the Senate or by any senators.

[The Hon. the Speaker]

• (1440)

Some Hon. Senators: Shame.

Senator Day: That's the same group of people who are asking to become the Government of Canada, who are asking to say that when they become the Government of Canada, they will do everything in their power to destroy this institution that has survived for 150 years.

Those two items, honourable senators, I used my time to talk about because I think they are so fundamental for us to understand what is happening in Parliament and how the work of the Auditor General is feeding into that.

Honourable senators, I ask you to be aware of what is developing and be aware also that the Senate Finance Committee continues to do good work for you.

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

Hon. Senators: Agreed.

(Motion agreed to and report adopted).

APPROPRIATION BILL NO. 2, 2015-16

SECOND READING

Hon. Hon. Larry W. Smith moved second reading of Bill C-66, An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2016.

He said: Honourable senators, the bill before you today, Appropriation Act No. 2, 2015-16, provides for the release of the remainder of supply for the 2015-16 Main Estimates that were tabled in the Senate on February 25, 2015.

Together, the budgetary and non-budgetary voted spending authorities in the 2015-16 Main Estimates total \$88.3 billion, of which \$25.8 billion was sought through Appropriation Act No. 1, 2015-16. The balance, as mentioned by our chair, Senator Day, of \$62.5 billion is being sought through Appropriation Act No. 2, 2015-16.

[*Translation*]

The government submits estimates to Parliament in support of its request for authority to spend public funds. The estimates include information on both budgetary and non-budgetary spending authorities.

Parliament subsequently considers appropriation bills to authorize the spending.

[*English*]

The 2015-16 Main Estimates include \$241.6 billion in budgetary expenditures that cover the cost of servicing the public debt; operating and capital expenditures; transfer payments to other levels of government, organizations or individuals; and payments to Crown corporations.

These Main Estimates support the government's request for Parliament's authority to spend \$88.2 billion under program authorities that require Parliament's annual approval of their spending limits. The remaining \$153.4 billion is for statutory items previously approved by Parliament, and the detailed forecasts are provided for information purposes only.

The 2015-16 Main Estimates also include non-budgetary items — \$70 million in voted authorities and \$930 million in statutory authorities. Non-budgetary expenditures, loans, investments and advances are outlays that represent changes in the composition of the financial assets of the Government of Canada.

Honourable senators, should you require any additional information, I'm sure that, between Senator Day and myself, we would be pleased to try to provide it.

Hon. Joseph A. Day: Thank you to the Honourable Senator Smith, deputy chair of the committee, for his comments with respect to Bill C-66. As indicated, you will be voting on a request for \$62 billion, and this will carry the government through to the end of March of next year, the 2016 fiscal year. The \$62 billion is as outlined in the schedule, honourable senators. I remind honourable senators that this is supply.

The Hon. the Speaker *pro tempore*: Senator Cools?

Hon. Anne C. Cools: I would love to ask him a question.

The Hon. the Speaker *pro tempore*: Senator Day, would you take a question?

Senator Day: Yes.

Senator Cools: Honourable senators, I wonder if Senator Day would have, off the top of his head — I know the appropriation act is replete with numerous sums — the appropriated sum to the Auditor General for the rest of this fiscal year?

Senator Day: By chance, I have the information on the Auditor General right here.

Senator Cools: That's good.

Senator Day: In case somebody might seek information on this. It's \$78 million for the balance of this fiscal year for the Auditor General.

Senator Cools: Honourable senators, that's the balance because, right now, we are on the rest of the mains. This is June. Okay.

Would you have any insight as to whether or not the minister who is responsible for the Auditor General's expenditures, being the Minister of Finance, actually ever agreed to or approved the Auditor General's audit of the Senate?

Senator Day: No, I'm sorry; I don't have that information. It's part of the difficulty that this audit by the Auditor General and the way it's been presented has created.

As Chair of Finance, I have received a letter from the Auditor General saying that he has done a report, not the one on the Senate but on other ongoing business. He said, "We have done a report, and we would like to come, at your convenience, to talk about our report." Typically, we would have done that in the past, but we're into such a different relationship now with the Auditor General that it makes it very difficult to follow through in the typical way that we have in the past.

It will take a little time for healing as a result of what's transpired and the way it's been rolled out.

Senator Cools: Honourable senators, I would like to put another issue for your thought and consideration.

As you know, the National Finance Committee, which, because of its study of the estimates, used to be called the estimates committee. This committee has, of course, a natural interest in the Auditor General and the proper role of the Auditor General in the national finance.

I would like to ask whether or not the National Finance Committee, of which you are the chair, would consider, in its future studies of the Main Estimates — as you know very well, the study the Main Estimates, has a pretty wide mandate. Perhaps you could, as your National Finance Committee has done before, take a good look at the role of the Auditor General. I think the circumstances, as they have unfolded, reveal very clearly that we should be taking a very serious look at the Auditor General Act to see if it is consistent with modernity.

Senator Day: Thank you, honourable senator. I am very familiar with your inquiries. I have been following your statements in relation to the historical perspective of the Auditor General. You know that it's part of the standing mandate of Finance to deal with the Auditor General.

As to the point that you make, we may be moved in that direction just by virtue of what's happening here. Because of the change in relationship that this audit has imposed upon us, we will have to determine if the traditional way of proceeding and the traditional relationship can continue. We will have to look into that.

Senator Cools: I think it's fair to say that this house will be well served by such a study on the Main Estimates in your National Finance Committee. I speak to you as a former deputy chair who paid a lot of attention to these questions.

Hon. Percy E. Downe: I would like to join this discussion briefly. I think it's clear that our concerns about the Auditor General are not directly about the report, in and of itself, but we saw firsthand the way the office works. We're wondering about proper expenditure of taxpayers' money, quite frankly, if the Auditor General spent \$23.5 million just in auditing this institution. We all saw the army of people coming into the office, the repetitive questions.

• (1450)

I, for one, have serious concerns. I moved a motion on the floor to audit the House of Commons because at the time I thought it would be the correct thing to do. Given the \$23.5 million, I intend

to withdraw that motion because the House of Commons would cost how much to audit, over \$100 million? I can't defend suggesting that or forcing that on the taxpayers of Canada.

I would like to follow up on what Senator Cools said. We've seen firsthand what I would argue is some of the dysfunctional nature, the waste of resources, time and money that we incurred over and above the results we saw. We all know it cost \$23.5 million and the Auditor General is alleging less than \$1 million in problematic expenditures, which may well be greatly reduced by Justice Ian Binnie and others over time. I am not saying that the exercise should not have been done. I support the auditor in what he has done; it's a roadmap and framework.

But when we go into some detail on the Auditor General — and I think we should because it's an important area of government — we shouldn't set it aside just because it's a higher body and therefore we can't look at it. All expenditures should be looked at, as the Auditor General looked at all expenditures of ours. What's good for the goose is good for the gander.

On May 25 of this year, CTV News reported that the Auditor General's office had two retirement festivals, as CTV called it, for an outgoing auditor, and they spent \$19,226. Over the lunch break, I looked at the Treasury Board guidelines, and as CTV also reported, that function, in my opinion, may have been opposed to Treasury Board policy.

I know, for example, that if we wanted to take former Clerk O'Brien out for a farewell luncheon, we would all have to pay for it. If any of your personal staff leaves, you can't take them out — I understand it was the Rideau Club — and bill taxpayers. We should be asking some of those questions.

I'm curious. If your committee gets into this, Senator Day, given that we are talking about repayment of funds, was that money actually repaid to taxpayers? If not, why not?

Maybe what I should do is simply write the Auditor General directly and ask him some of these questions if your committee doesn't have time to do so before we adjourn.

I also notice they went to some type of team-building exercise, again according to CTV, who claims they have documents proving what they're saying. I'm looking at the story here online. In the last four years, the Auditor General's office spent \$107,000 on annual update luncheons outside the workplace, again a lot of money. Is it allowed by the rules?

Colleagues have heard me often talk about the Canada Revenue Agency, which is another agency that doesn't get the oversight it requires, in my opinion. Having gone through the audit, I'm fearful that the Auditor General's office may have simply been overlooked. I know they often say their own books are looked at by foreign auditors. My reply would be that the next time the Senate expenses are looked at, maybe we should ask the senators of Australia to look at them rather than the Auditor General.

Setting that aside, I hope your committee considers some of these suggestions.

[Senator Day]

Senator Day: Thank you for your comments. I think they're very apropos. As a senator, I have been concerned with the news in relation to certain expenditures that were made public. I'm also concerned about how that kind of information becomes known to CTV.

I know that the Auditor General has indicated, first of all, that the costs were high for the Senate audit because his office had never done anything like this before, a comprehensive, forensic-type audit of 116 individuals plus the institution.

But when asked whether the Auditor General was interested in auditing the House of Commons, now that he's learned roughly what it's like, having experimented with the Senate and senators, he has indicated that he thinks it would be just too expensive to do. That's the Auditor General's term. So the activity of the House of Commons is beyond an audit because it would cost too much. I think a lot of disturbing comments are coming out of the activities that we're hearing about.

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

Some Hon. Senators: Agreed.

Some Hon. Senators: On division.

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

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

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

THE ESTIMATES, 2015-16

SUPPLEMENTARY ESTIMATES (A)—TWENTIETH REPORT OF NATIONAL FINANCE COMMITTEE ADOPTED

The Senate proceeded to consideration of the twentieth report of the Standing Senate Committee on National Finance (Supplementary Estimates (A) 2015-2016), tabled in the Senate on June 9, 2015.

Hon. Joseph A. Day moved the adoption of the report.

He said: Honourable senators, I wish to say a few words about the twentieth report of the Standing Senate Committee on National Finance. It relates to the Supplementary Estimates (A) bill that we'll be looking at next, which is Bill C-67.

This again forms the basis for your consideration of the supply bill that will be following it, and that's why it's important that this be before you, and that we who sit on the Standing Senate Committee on National Finance have an opportunity to look at the information before we're requested to vote on spending, in this instance, \$3.2 billion.

Supplementary Estimates (A) are based on the supplementary estimates that were circulated and made available to all honourable senators. We dealt with a number of different departments, honourable senators, in relation to the supplementary estimates. Seven federal departments and agencies came before us. I think the total number of different organizations seeking extra funds amounted to 43.

These supplementary estimates flow from departments that did not have an opportunity to get their requests in to Treasury Board in a manner to be in the Main Estimates. The Main Estimates are dealt with in March, but they're actually prepared starting before Christmas leading to the end of the fiscal year. Some departments don't have it all together by that time and have to wait until supplementary estimates come along. That's what Supplementary Estimates (A) is about.

They also reflect initiatives that were in the budget. Some of the statutory items in Bill C-59 will provide for statutory funding. Those that don't but do provide for activity will be reflected in Supplementary Estimates (A), (B) or (C). In fact, sometimes in a budget — not in the budget bill — we will see an initiative that doesn't get reflected in a supplementary estimate until two or three years down the line because the government isn't ready to move on that particular initiative.

The budget doesn't give any authority to spend anything. It's the budget implementation bill, which is Bill C-59, which will be coming to us shortly.

• (1500)

I filed a report on our pre-study on that a short while ago. That's available for you to review so that when the bill comes, you, like those of us on the Finance Committee, will be ready to deal with the requests in that bill. Then there are the supplementary estimates that we have before us.

Honourable senators, I could highlight some of the points for you, but I invite you to review the report.

Natural Resources talks about Atomic Energy of Canada Limited and its new mandate, which is important for us to understand. Marine Atlantic talks about its new ship it's hoping to purchase.

There is discussion of operating budget carry-forward. The carry-forwards and the allowance of departments to carry forward were initially created to avoid that rush to spend money at the very last minute. We've seen that in the past, and there are many stories told about that.

What is slowly happening now is that departments are using the authority from one Main Estimate and saying, "I didn't spend that money, so I can move a certain percentage of that forward in the next year without the necessity of parliamentary scrutiny."

That's what we have to keep our eye on, the parliamentary scrutiny of expenditures by departments. You see it significantly with the Department of National Defence, huge amounts of

money that don't get spent. Some of it lapses, but a small percentage just moves forward into the next year, and that we will have to keep an eye on.

Re-profiling, on the other hand, is money that didn't get spent, and the request comes back to Parliament to allow Parliament to reconsider this proposed expenditure of money that didn't happen the previous year.

That is one area we wanted to highlight for you. There is a good discussion of that in this particular matter, as well as the discussion on contaminated nuclear waste sites, in particular with respect to the Department of National Defence. They would be old radar sites and that kind of thing that DND has a responsibility for, and it's part of the horizontal item we have, which means, between many different departments, an obligation, a responsibility and a contingent liability to clean up that nuclear waste across Canada.

Honourable senators, those are my comments with respect to this particular report on Supplementary Estimates (A).

The Hon. the Speaker *pro tempore*: Honourable senators, is it your pleasure to adopt the report now?

(Motion agreed to and report adopted.)

[*Translation*]

APPROPRIATION BILL NO. 3, 2015-16

SECOND READING

Hon. Larry W. Smith moved second reading of Bill C-67, An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2016.

He said: Honourable senators, the bill before you today, Appropriation Act No. 3, 2015-16, provides for the release of supply for the 2015-16 Supplementary Estimates and seeks Parliament's approval to spend \$3.1 billion in voted expenditures. These expenditures were provided for within the planned spending set out by the Minister of Finance.

Supplementary Estimates (A) 2015-16 were tabled in the Senate on May 14, 2015, and referred to the Standing Senate Committee on National Finance. These are the first supplementary estimates for the fiscal year that ends on March 31, 2016.

[*English*]

Supplementary Estimates (A) 2015-16 reflect an increase of \$3.2 billion in budgetary spending, which consists of \$3.1 billion in voted appropriations and \$19.8 million in statutory spending. Statutory spending was previously authorized by Parliament and the detailed forecasts are provided for information purposes only.

[Senator Day]

To follow up on Senator Day's comments, \$3.1 billion in voted appropriations includes major budgetary items such as \$402.6 million to address the operating and capital requirements of the Windsor Detroit Bridge Authority; \$345.9 million to address operating and capital requirements for the Marine Atlantic; \$345.7 million for improvements to Parks Canada's Heritage Tourism, highway and waterway assets, Parks Canada; \$255.5 million for out-of-court settlements, Indian Affairs and Northern Development Canada; \$231.3 million of the Nuclear Legacy Liabilities Program, as previously mentioned; \$219.8 million for projects at the Canadian Armed Forces bases and other Defence properties; \$189.3 million for small-craft harbours, real property, small-craft procurement, vessel refits and life extensions, Fisheries and Oceans; \$164.9 million to support nuclear science and medical isotopes, Atomic Energy of Canada Limited; \$70.2 million for the repair and modernization of various federal assets across Canada, Public Works and Government Services Canada; \$58.3 million to upgrade several federally owned airports and to retrofit ecoTECHNOLOGY vehicles facility, Transport; \$58.1 million to reinforce the deck on the Estacade in Montreal and to construct a separate bike path on the structure of Jacques Cartier and Champlain Bridges; \$52.4 million to develop and deploy research and technology solutions that will help grow innovative businesses in Canada; and \$50 million to support the repair and construction of on-reserve schools, Indian Affairs and Northern Development.

Honourable senators, should you require additional information, we would be pleased to try to provide it to you. Thank you.

Hon. Joseph A. Day: Honourable senators, it's worth taking a look at one of those pro forma supply bills. They are quite interesting in their historical significance and their historical wording as well.

This is an act for granting Her Majesty certain sums of money. Her Majesty writes to Parliament saying, "Please grant this certain sum of money which we need." It's the executive and, in effect, determining what it needs and going to Parliament through Her Majesty to have Parliament approve this appropriation out of general revenue.

It's only six paragraphs long, and the only thing that changes in these particular bills is the amount, depending on whether it's main supply or one of the supplementary estimates.

Attached to it are the two annexes or schedules that come from the supplementary estimates in this instance. That annex is taken from there and put onto this bill.

I think that's another exciting thing about the Finance Committee, because we have a great opportunity to keep an overview of the machinery of government and all the different departments, and we can choose different departments in different years. We can look at the granting agencies one year and the economic development agencies and then all of the different government departments. That's what we do, and then we report back to you on those. Our report is a good record of what has transpired and is transpiring.

Honourable senators, this is Supplementary Estimates (A), \$3.2 billion.

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

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

Some Hon. Senators: Agreed.

Some Hon. Senators: On division.

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

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

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

• (1510)

[*Translation*]

NATIONAL SEAL PRODUCTS DAY BILL

THIRD READING

Hon. Céline Hervieux-Payette moved third reading of Bill S-224, An Act respecting National Seal Products Day, as amended.

She said: Honourable senators, it is with great pleasure that I once again draw your attention to a subject that has been of great concern to me for many years. First, I would like to recognize the pride, the value and especially the courage of our seal hunters.

I will certainly not object to the fact that the government removed three words from the bill. The important thing, the main reason for the bill, is to recognize that seal hunting is a noble activity. People hunt seals in Northern Canada, in Nunavut, in Newfoundland, in the Magdalen Islands in particular, and in several other areas of Quebec.

We need to pay tribute to these people who earn a living in a very difficult way using methods approved by scientists. They have been trained by experts, university professors, which makes it possible to challenge the bad press that seal hunters get from the American lobby that is vegetarian and against eating any form of meat.

It is easier to attack seal hunters than beef or pork producers, since the American lobby might not have the resources to do battle against those producers. It prefers to attack the most vulnerable, those who will be hurt the most, those who are even more in need of support from the federal government.

I am very pleased to encourage you to support the creation of National Seal Products Day on May 20, just after the hunting season ends, in order to celebrate another hunting season, encourage the development of new markets — which is what the government has promised, even though there is still work to be done — and defend against the persistent challenge to this worthwhile occupation.

I commend all seal hunters, and I encourage all honourable senators to vote in favour of Bill S-224. Thank you.

[*English*]

Hon. David M. Wells: Honourable colleagues, I am proud to rise today in support of Bill S-224 and the work that Senator Hervieux-Payette has done.

This bill sends an important message about Canada's commitment to supporting the traditions of our coastal and Aboriginal communities and highlights the importance of the seal hunt for their economic sustainability. I believe all members of this chamber will agree that it is a message that needs increasingly to be heard.

Overall, Canada's fish and seafood sector is a key economic driver for the Canadian economy. The industry punches above its weight as it generates \$7.4 billion annually. In fact, Canada is ranked as the world's seventh largest fish and seafood exporter. One of the reasons for our success is our stellar reputation. We are recognized as a safe and reliable supplier of high-quality seafood products. This economic activity is the lifeblood of many of our coastal communities. All told, the industry generates 80,000 jobs in more than 1,500 communities.

Our government has embarked on the most ambitious trade agenda in Canada's history, and because of these efforts, the Canadian fish and seafood industry will have even more opportunity get their world-class products on dinner plates around the world. The sector is a strong and growing part of our economy and our government remains committed to helping our fish and seafood producers succeed both at home and abroad.

However, while the general fish and seafood industry continues to grow, the seal products sector continues to face an unfair barrage of opposition from radical animal rights groups who want to shut down this important and legitimate economic activity. These groups unfortunately have no regard for the social, cultural and economic importance of the harvest for East Coast people or Aboriginals.

As we all know, in 2010 these efforts resulted in the European Union banning the import and sale of seal products. In principle, the European ban exempts Aboriginal-derived seal products. In practice, however, the ban affects all sealers, whether Aboriginal or non-Aboriginal commercial harvesters.

Our government consistently stands up for the rights of sealers. That's why we challenged the unfair European ban at the World Trade Organization. It is one thing to know your government is making your case in the corridors of power. It's quite another to know it is willing to stand behind you publicly, as the government did in voicing its support for sealers in the last Speech from the Throne, here in the Senate Chamber, and it will continue to do so through this amended bill we are discussing today.

The passage of this bill to celebrate the seal products industry sends a clear message of the importance that this harvest has to Canadians. This designated day would provide a clear

opportunity to rally industry and stakeholders to promote the social, cultural and environmental aspects of the seal harvest. These efforts will help us continue to set the record straight and highlight that the seal hunt is humane, well regulated and sustainable. The focus on a seal products day is especially beneficial for highlighting the fact that the seal harvest represents an important way to earn income in rural and coastal communities where other economic opportunities can be limited.

The harvest of seals has a strong tradition. Seal harvesting has deep roots in Inuit culture and continues to sustain communities both culturally and economically. Newfoundland and Labrador as well as Quebec communities have been hunting seals for hundreds of years. The harvest is an integral part of Canada's history, culture and is an important means of supporting families in the coastal communities of Canada.

One of the complaints of radical animal rights groups is a concern about the sustainability of the hunt. Honourable senators, the facts are that the size of the herd is estimated at over 7 million harp seals and about 400,000 to 500,000 each of hood and grey seals. The numbers are increasing at an alarming rate each year.

The government has to take this into consideration when formulating policies and making fisheries management decisions with respect to other seafood resources because many fish species are preyed upon by seals. These massive seal populations risk creating a real environmental imbalance in our fragile ocean ecosystem.

Honourable senators, the importance of this hunt, and a day to celebrate the products of this tradition, cannot be overstated. The importance of the industry to communities is significant. There are approximately 11,000 licensed sealers, and of their annual income, up to 55 per cent is derived from sealing. There are also workers employed in processing plants, product development, artisan practices and retail. However, the industry is being unfairly impacted by the campaigns of misinformation by radical animal rights groups.

• (1520)

Our government is taking action. Economic Action Plan 2015 has provided and will provide \$5.7 million over five years to help secure new market access for Canadian seal products. There is renewed interest in a food-based industry for meat, oil and by-products, as well as biomedical applications. There is considerable opportunity emerging in markets for seal products. Clearly, the seal harvest has both immense economic and cultural value. At the same time, the harvest's priority is always the balance of the environment and the importance of proper fisheries management.

The seal harvest, whether conducted by Inuit or those in other coastal communities, is perfectly sustainable. Indeed, the harp seal population has more than tripled since the 1970s.

As the bill notes, Canada's seal harvest is designed and managed to ensure conservation and sustainable use consistent with the objectives of the Convention on Biological Diversity and the principle of sustainable use endorsed by the International Union for Conservation of Nature.

[Senator Wells]

In closing, let me emphasize that Bill S-224 does not create a legal holiday or non-judicial day; however, the designation is much more than simple symbolism and would carry great significance. Designating May 20 as a day to highlight the importance of our sealing industry to Canada would allow our industry to add its voice to the conversation. It would become a powerful counterpoint to any anti-seal harvesting messages coming out of radical animal rights groups that are not interested in facts-based dialogue about sustainable use and conservation, but rather in furthering their own agenda of misinformation and fundraising.

Passage of this bill is a tangible way to defend the centuries-old tradition of Canada's Aboriginal people and coastal communities. By raising awareness of the cultural, economic and environmental importance of the seal harvest, we can help clear up misconceptions and misplaced concern. In doing so, we can help preserve this Canadian tradition and help it grow.

The Canadian sealing industry has long been a target of misinformation campaigns by vocal and well-funded activists. By supporting Bill S-224, this government is standing up for the seal harvest, our world-class seal products and the coastal communities that rely on this tradition.

I encourage all honourable senators to do the same.

Hon. Dennis Glen Patterson: Honourable senators, as senator for Nunavut — a region where Inuit, who live and hunt in one of the harshest climates in the world, have depended for millennia on seals for sustenance, clothing and their spiritual and cultural importance; I wish to speak briefly in order to fully associate myself with the remarks of my colleagues, Senators Hervieux-Payette and Wells.

I thank you for your support to recognize this important way of life for the residents of Nunavut. Thank you.

[Translation]

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

Hon. Senators: Question.

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

Hon. Senators: Agreed.

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

[English]

REFORM BILL, 2014

BILL TO AMEND—THIRD READING—
DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Tannas, seconded by the Honourable Senator Oh, for the third reading of Bill C-586, An Act to amend the Canada Elections Act and the Parliament of Canada Act (candidate and caucus reforms).

Hon. Joan Fraser (Deputy Leader of the Opposition): Colleagues, we all know, if only because of the emails we have been getting, that this bill, which was initiated by MP Michael Chong, has attracted a great deal of public attention and a very significant degree of public support. I think the support it has garnered is a clear indication of a growing public dissatisfaction with the increasingly dysfunctional way our Parliament works and has been working in recent years, not only under the present government, but increasingly over the years under successive governments.

In many ways, it is not an exaggeration to say that, as far as the functioning of Parliament is concerned, we are at a stage not visibly distinguishable from dictatorship, particularly in the other place: The whips are out for just about everything and every decision seems to be made by the central office of whatever party is concerned, whether it be the government party or the opposition parties. This is clearly not the way Parliament was designed to function, nor is it the way Parliament functions in other Westminster systems.

This bill was studied by the Rules Committee for only two sessions. I really would have wished for it to be more. Nonetheless, the witnesses we heard from were extremely interesting and knowledgeable. Some of them enunciated some of the problems now afflicting our parliamentary system.

Mr. Bob Rae, former NDP Premier of Ontario and former interim national Leader of the Liberal Party of Canada, said that the central issues are how we try to give to members of Parliament a greater degree of independence, a greater capacity to elect a committee chair, and a greater ability to establish some independence from the executive. He said that the problem is a sense among a great many members of Parliament that they feel less in command of their lives and in charge of the politics around them than they would like. He talked about the ways in which committees function in the House and the ways MPs do not have the degree of independence that they should have. He talked about problems determining what should be a matter of confidence and what should not be.

The former Speaker of the House of Commons, Peter Milliken, talked about the fact that the leader has, basically, total control over who the members of the caucus are — any caucus. He talked about what he sees as the serious problem of control over who asks questions in the House, what the questions are going to be and who even gets to speak on any given occasion.

The Honourable Stéphane Dion, former national Leader of the Liberal Party of Canada, had a long list of problems afflicting our system and I think most of us would agree with most of them. He talked about the need for tighter parliamentary control of public finances, increased powers and budgets for the Parliamentary Budget Officer, better respect for the right to access to information, stricter regulations on government advertising, regulations to restrict secret — in camera — parliamentary committee meetings, regulations to restrict omnibus bills and house prorogations, the need to increase powers and resources for Elections Canada, the need for stricter rules and more transfer and control of parliamentarians' expenditures — something we've been thinking a lot about — the need for a more independent and less partisan Senate, and the need to search for a voting system more appropriate for a Canadian democracy.

The striking thing is that almost none of these problems is addressed in this bill. True, control over membership of caucus is addressed in this bill — not in a way that I consider appropriate, but it is addressed. Witnesses also talked about the problems they see as inherent in a system where the party leader gets to endorse candidates for election. That is also addressed in this bill, but none of the other problems are addressed in this bill.

• (1530)

In a sense, it seems to me that the public and speakers to this bill, both in committee and in both chambers, have made an excellent diagnosis of the problem we're living with, but the supporters of this bill have fixed upon the wrong remedy. In fact, they have fixed upon a remedy that in my view would make things worse and not better.

To begin with, as I said at second reading, this bill creates in law a one-size-fits-all system for matters that we have historically believed were internal party matters and which historically and today different parties handle in different ways, not only membership in caucus, which I mentioned, but, in many ways far more crucially, the selection and deselection — a terrible word, but that's what people say — of party leaders.

This bill, as is well known, would give caucus members the right to initiate leadership review by caucus members in that 20 per cent could initiate that review; 50 per cent plus 1 of MPs only voting in that review would be enough to unseat the leader and oblige the party to call a leadership convention.

We are told that this is the true Westminster system that exists everywhere else. Actually, it is a throwback to the 19th century, when caucuses did pick the leader who was or aspired to become prime minister of the country. That's the way it was done in all Westminster systems back then. Actually, I don't think very many people want to go back there.

Mr. Milliken does. He thinks at the very least caucus should have a veto over who gets to be party leader. It was pretty clear to me, listening to him in committee, that he thinks it would be just great if leaders were chosen by caucus alone, as they are in, say, Australia.

Mr. Chong doesn't seem to want to go exactly back to the 19th century Westminster system. In fact, he actually said he thinks the "clubby" atmosphere of a 19th century Parliament is increasingly becoming archaic, but his solution to that is to write into law codified rules that are, I repeat, one-size-fits-all.

That is not where Canada has been going. Canada has not been moving backwards to the 19th century. Canada has, since the early years of the 20th century and now into the 21st century, been moving in exactly the opposite direction. We were leaders among Westminster-style parliaments in opening up and democratizing the process of choosing party leaders. I cannot believe that turning our backs on 100 years of history is an appropriate way to go. You don't have to take my word for it; lots of people agree with me.

I will just quote an interesting piece in *Inside Policy*, the magazine of the Macdonald-Laurier Institute, written by a gentleman known to many, Mr. Tom Flanagan, who said:

... one might ask, why must the leader be chosen by the party members? Why shouldn't the caucus elect the leader, as used to be done in the nineteenth century and is still done by some parties in Australia and New Zealand? The answer is that we have moved on from the "Golden Age of Parliament" to an era of mass democracy. Voters now expect to take part in choosing the country's chief executive officer.

He went on to say:

Empowering party members to choose the leader builds popular support, thus giving the leader not just legal but also political authority to lead the party and the elected caucus. This is critical to giving voters a meaningful choice between parties with different policies, programs, and personnel. Otherwise, elections would just mean choosing representatives with little idea of what comes next. Look at the factional, personalized politics of many city councils (not just Toronto) to get an idea of what democracy can be like without responsible political parties.

I think those are actually very wise words.

We heard in committee from a very impressive political scientist, Professor William Cross from Carleton University, who has published numerous books on this question of how you choose or deselect party leaders. He said that he has various concerns with this bill:

... particularly because it gives the authority by statute to the House of Commons caucus to remove the leader if the party should so desire. This is not consistent with Westminster tradition in which statutes are typically silent on this question, and the decision is made by the extra-parliamentary party.

That is, the party outside Parliament. He went on to say:

Nowhere else is there regulation that dictates the way in which, in the Westminster systems, candidates or leaders should be selected. It's left to the discretion of the extra-parliamentary parties.

I think it's also perhaps worth reading a slightly longer quotation from Professor Cross, if you will bear with me. He does have long experience in this field and no particular axe to grind on either side except based on his own expertise. He said:

I come to this work with what I think is a healthy skepticism of state regulation of our political parties and particularly of the internal decision-making processes of political parties. There are a number of reasons for this, and I'll quickly mention two.

One is this notion of one-size-fits-all, which would pretend that there is a single best approach that should be identified and then imposed on all of our parties. Of course,

our parties prioritize different democratic ethos; they reflect different democratic principles that they prioritize differently; and, of course, at varying times, they find themselves in very different political contexts. For instance, a party selecting a leader when it's in government — essentially selecting the new Prime Minister — is in a very different situation than a fourth- or fifth- place parliamentary party with a caucus of 12 selecting a leader. And it's not clear that one set of rules best reflects what might be done in these different cases.

A second concern is what I would refer to as the state capture thesis. As political parties become overly dependent upon the state for their financing and are heavily regulated by the state, at some point there is a tipping point. Research shows that at some point citizens become disengaged from parties that are overly regulated and that are too close to the state. This can lead to declining engagement in political parties and declining confidence in parties.

I think those are words of warning that we should take very seriously.

This bill is presented as a way to reform Parliament, to give power back to MPs, to generally make things better. Would it in fact have that result? I don't really think so, but, more importantly, nobody — or almost nobody — really seems to think so.

Listening to the witnesses was fascinating. Mr. Milliken said, basically, that we should pass this bill because it will then immediately be amended. They'll be so unhappy with it in the House of Commons that they'll amend it right away.

• (1540)

Mr. Rae said that it's worth passing because it begins to get the debate going. I've never thought that passing laws, if we believe they're bad laws, is a worthwhile way to get a debate going. You could argue that Mr. Chong has already done a wonderful job of getting the debate going and I doubt that he will stop, whether this bill passes or not.

I have said, and so have other people in this place — Senator Smith has made the point several times and it's a valid one — that in other Westminster systems, members in both houses are much freer than they are in this house to vote their conscience and to take a stand that is not identical to the stand taken by their party's leader. I gave this chamber some statistics a few months ago about the hundreds of amendments that the House of Lords passes to government bills in Westminster. Colleagues, the fascinating thing is that to achieve the kind of freedom to make those amendments, to achieve the kind of freedom to act in committee, all we need to do is do it. There is no law preventing us from doing it.

There is no law preventing an MP from voting according to his or her conscience. We have seen occasions in recent years in our parliaments where sometimes a significant number of MPs or of senators will gather together to vote what they believe to be the

right way, in opposition to their party leader, and they carry the day; they have an impact. It can be done. We just have to do it. No law can make us do it, but no law can prevent us from doing it.

Backbone is not a matter of statute. Backbone is a matter of individual choice.

To me, one of the most irritating elements of this discussion has been its treatment of the Senate. We're all familiar with the argument that this bill has nothing to do with the Senate; it only concerns the House of Commons, so we should just pass it.

Well, as we know, it does concern the Senate in that senators would now be forbidden to participate in some of the most important votes anybody can make: Who shall be the leader, or not, of your party, or indeed even of your caucus?

But we're told pass it anyway because the House of Commons passed it by 200 and something to 17. I don't consider that to be a completely persuasive argument.

The most interesting argument that I heard in committee came from Mr. Stéphane Dion, who believes profoundly that this is a terrible bill — a bad, bad bill — but we should pass it anyway because the House of Commons passed it. At least he made the argument in courteous tones.

Mr. Chong was asked the following question by Senator Jaffer:

Basically, you're asking us to rubber-stamp this bill; is that correct?

He said:

That is correct.

He went on to argue that we had no right to do anything but pass this bill.

Mr. Milliken, the gracious former Speaker of the House of Commons, said:

. . . I urge the Senate to hold its nose and adopt this bill.

I don't know about you, but I don't like being told to rubber-stamp things, hold my nose and pass them.

Having reference to bills that come to us from the House of Commons, with great support there and indeed in the public, I would ask senators to cast their minds back to 1997, when this chamber was asked to pass Bill C-220, sometimes known as the "Son of Sam" bill. This bill had enormous public support because it essentially said that a convicted criminal, murderer — Clifford Olson, let us say — should not be able to profit from writing about his or her crimes.

It's hard to think of a cause that would resonate more deeply with most people than saying that Clifford Olson should not be allowed to profit from his crimes. That bill passed the House of Commons unanimously. There was not a single dissenting vote. It

came here. It went to the Legal and Constitutional Affairs Committee, which studied it for a long time, very carefully. It reported back that the bill should not proceed further because it was contrary to the Charter of Rights and to many of Canada's international obligations. As formulated, it played hob with copyright law. It was pointed out that that bill would have prevented somebody like Nelson Mandela from writing his autobiography. It would not only have applied to Clifford Olson.

The committee believed that it was not salvageable. As the committee said:

. . . after careful scrutiny, we came to the conclusion that the means proposed to achieve this [desirable] end should not be endorsed.

The public was not best pleased by this decision of the Senate. But the Senate did what it believed was right, and I would suggest to you that the Senate was right.

Senator Mitchell: Hear, hear, as always.

Senator Fraser: It has happened I'm sure to all of us on occasion that the House of Commons has passed some extremely popular measure. Then MPs sidle up to us, maybe meet us on the bus or in the hall and say, "You know, we're counting on the Senate to kill the bill," or to fix the worst elements of the bill. If it hasn't happened to you yet, colleagues, it will; believe me it will.

Sir John A. Macdonald, in a very famous passage, said in 1865, and Senator Nolin quoted him here not that long ago::

There would be no use of an Upper House if it did not exercise when it thought proper the right of opposing or amending or postponing the legislation of the Lower House. It would be of no value whatever, were it the mere chamber for registering the decrees of the Lower House. It must be an independent House, having a free action of its own, for it is only valuable as being a regulating body, calmly considering the legislation initiated by the popular branch, and preventing any hasty or ill considered legislation which may come from that body, but it will never set itself in opposition against the deliberate and understood wishes of the people.

As I tried to say at the beginning of my remarks, colleagues, I believe that the deliberate and understood wishes of the people are for truly profound and genuine reform of the parliamentary system, not this one-size-fits-all state meddling that would be proposed by this bill. Nor do I believe that this bill is saved by the fact that individual caucuses could vote to accept or not accept its recommendations. They will find themselves faced with the same tsunami of public opinion that they face now. So they will vote to accept these rules, at least in the interim, until they get around to adopting better rules in their own parties, and lord knows how long that will take. So there we will be, with bad law in force.

I know that many senators believe that this month, of all months, is a hard time for the Senate to contemplate disagreement with a Commons' policy. But I suggest to you, colleagues, that that's what we're here for. That's why we have job security until age 75, so that we may do what we believe to be right.

I have every respect for those who support this bill and who believe it is right to pass it. For myself, I believe that the right thing to do is oppose it.

• (1550)

Hon. Donald Neil Plett: Honourable senators, I want to congratulate Senator Fraser on a very well-thought-out speech, one that I certainly support. I would like to take the adjournment until the next sitting of the Senate.

Hon. Anne C. Cools: Honourable senators, I wish to join this debate to put a few thoughts on the record. I have great respect for the sponsor of this bill, Member of Parliament for Wellington—Halton Hills, Mr. Michael Chong. I have watched and observed him for many years. He is a hard worker and he is a reader. I have great admiration for him.

I take an opposite view from Senator Fraser. I am of the opinion — and I can quote some authority — that the ministers in the House of Commons had a duty in respect of Mr. Chong's Bill C-586. If it was so well-carried by such an overwhelming majority in the House of Commons, I believe that the ministers had a duty to rethink their position and to lend the bill their support. I said this during our Rules Committee meeting when Mr. Chong appeared, and I would like to support that with some authority. The state of the law, the rule, is such that if the house persists in an opinion that is contrary to the ministers, the ministers have a duty to rethink their position.

I would like to place on the record a statement from Alpheus Todd, 1887 *Parliamentary Government in England*, Volume II. At page 500 he says:

Where the opinion of Parliament has been unequivocally expressed in favour of a particular Bill, regardless of objections thereto expressed by ministers, it has been the invariable practice for ministers either to relinquish their opposition, in deference to that opinion, and to lend their aid to carry the measure, with such amendments as might be necessary to conform it to their own ideas of public policy, or else to resign.

Honourable senators, the fact that a bill or a measure is adopted by the house despite the firm opposition of the ministry, if pushed, becomes a question of confidence in the ministry. The rule is that if the House of Commons persists in an opinion contrary to the ministry, the ministers should give way, and not only give way but also lend the assistance and research capacities of their department to Mr. Chong to perfect the bill.

I differ slightly from Senator Fraser on this. I admire Mr. Chong's persistence in the face of some pretty unfair opposition. Anybody who has worked in either house knows very well that in any confrontation with government, a private member is always at a disadvantage. To begin with, the ministers have 4,000 lawyers working for them over in the Department of Justice. I have known very well the experience of working for a year on an issue and the government then handed over my speech to three or four lawyers for two days and came back with an answer to shoot me down. We should admire Mr. Chong for his courage in the face of some resistance.

[Senator Fraser]

On the question of bad bills, I have another quotation to the same effect to record today. I see some pretty bad bills passed and adopted here every day. One that comes to mind, which I opposed in 1995, I believe, was Bill C-68, the then firearms bill. There was nothing that any senator here could do or say that was going to persuade the government of the day that perhaps they could be making a mistake. Well, it was Minister of Justice Mr. Rock's bill. Mr. Rock persisted and he got his bill to the Senate without amendments. We saw that bill adopted here, as bad as it was. I thought it was pretty bad. Therefore, we lost dozens of Liberal members every election for four years..

Honourable senators, I am not in favour of bad measures, but I am in favour of giving a person an honest chance to be heard, and to have a real debate and discussion on the substance and merits of the issue. From my point of view, Mr. Chong's concerns are valid. Prime ministers in our systems have become absolute beings. We are not sure anymore what is the nature of the constitutional creature that we now call a "prime minister."

We are all overlooking the fact that the British system has never had an absolute monarchy or absolute monarchs. Canadians are not used to this kind of absolutism. Quite frankly, it is to be condemned at every possible opportunity. This is the reason that I am prepared and have been prepared to give Mr. Chong a fair hearing and an opportunity to be heard.

Honourable senators, I do not know if it still goes on. I sat for 20 years in the Liberal caucus. It reached the stage where at every single caucus meeting there would appear from nowhere a list of private members' bills. We were told the government did not want certain bills and members were expected to vote down the private member's bill because the government told them to do so or wanted them to do so.

Honourable senators, I do not see life that way. I believe that at the end of the day we should look at every bill on the merits of what it does and on the merits of what it intends.

Former Speaker Peter Milliken gave his testimony before our Rules Committee. Essentially, he said yes, pass it with its imperfections. A bad bill is better than no bill. I remember time when we had that in this chamber. It was just after the GST debate and was on Bill C-43, the then abortion bill. There was a body of opinion that a bad law was better than no law at all. Unfortunately, the Senate defeated that bill. I am no longer sure that the right thing was done because it meant there was no statute whatsoever on the question of abortion.

Honourable senators, no one has brought up the fact that if measures pass the House of Commons that the government does not want, the government finds itself in a position where the question of their confidence can be tested but that did not happen here. If it wasn't a question in the House of Commons, it should not become a question here.

I would like to put on the record another statement by Mr. Todd from the same work. At page 492, he said:

The withdrawal of the confidence of the House of Commons from a ministry may be shown either (1) by a direct vote of want of confidence, or of censure for certain specified acts or

omissions; or (2) by the rejection of some legislative measure proposed by ministers, the acceptance of which by Parliament they have declared to be of vital importance; or, on the other hand —

— which is the case we are in —

— by the determination of Parliament to enact a particular law contrary to the advice and consent of the administration.

• (1600)

It's a bit more complicated than we think, but I remain committed to the opinion that, if this bill was so well supported in the House of Commons, the minister responsible for the subject matter had a duty to abandon some of his opposition and to work with the private member to perfect the imperfections in that bill. That is a standard principle, and I would like to have the opportunity to uphold it and to put it out on the record again.

For those of you who do not know, Alpheus Todd was an Englishman, but he grew up in Canada. He was a great librarian and a great master of the issues. Sir John A. Macdonald used to speak with him quite often. He predated Erskine May in writing on Parliament and its processes and procedures. I invite senators to contemplate his great words.

But the fact of the matter is that this bill did attract massive support in the House of Commons. I think we should give it a fair and just hearing here and a fair and just opportunity, and I think we should keep our minds open on the subject.

Senator Plett: In order to give the matter fair consideration, I would like to speak on it next week, and I will again ask that it be adjourned in my name.

(On motion of Senator Plett, debate adjourned.)

THE SENATE

MOTION TO GRANT ASYLUM TO MS. ASIA BIBI AND HER FAMILY—DEBATE CONTINUED

On the Order:

Resuming debate on the motion, as modified, of the Honourable Senator Hervieux-Payette, P.C., seconded by the Honourable Senator Joyal, P.C.:

That, the Senate of Canada calls on the Government of Pakistan to immediately release Ms. Asia Bibi, a Christian woman who is being arbitrarily detained due to her religious beliefs;

That, the Senate of Canada declare its intention to request that Canada grant her and her family asylum, if she so requests; and

That a message be sent to the House of Commons requesting that House to unite with the Senate for the above purpose.

Hon. Percy Mockler: I have not yet completed preparing my speaking notes on this motion, and, therefore, I would ask that the debate be adjourned for the balance of my time.

[*Translation*]

Hon. Céline Hervieux-Payette: Honourable senators, I have a question for the Honourable Senator Mockler.

Since we will not be sitting in July and August, can you tell us when you will speak so that we can vote on this motion? Since this is a motion, it does not require the support of the House of Commons.

In addition, since this matter is in the public arena, there have been recent changes in Ms. Bibi's health and several murders have been committed to save her life, I'd like to know when you will make your speech so that we can debate this motion and vote on it.

The Hon. the Speaker: Honourable senators, although the debate on this motion is adjourned, if there is agreement, we'll allow Senator Mockler to answer the question.

Senator Hervieux-Payette: I hope so.

Senator Mockler: Honourable senators, I can assure you that once my notes are complete I'll give my speech on this motion.

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

Hon. Senators: Agreed.

(On motion of Senator Mockler, debate adjourned.)

[*English*]

TRANSPORT AND COMMUNICATIONS

COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY OF THE CHALLENGES FACED BY THE CANADIAN BROADCASTING CORPORATION AND DEPOSIT REPORT WITH CLERK DURING ADJOURNMENT OF THE SENATE

Hon. Dennis Dawson, pursuant to notice of June 9, 2015, moved:

That, notwithstanding the order of the Senate adopted on Monday, December 9, 2013, the date for the final report of the Standing Senate Committee on Transport and Communications in relation to its study on the challenges faced by the Canadian Broadcasting Corporation in relation to the changing environment of broadcasting and communications be extended from June 30, 2015 to July 30, 2015; and

That the Standing Senate Committee on Transport and Communications be permitted, between June 22, 2015 and July 30, 2015 and notwithstanding usual practices, to deposit with the Clerk of the Senate a report, if the Senate is not then sitting, and that the report be deemed to have been tabled in the Chamber.

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

Hon. Senators: Agreed.

(Motion agreed to.)

[Translation]

OFFICIAL LANGUAGES

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Claudette Tardif, pursuant to notice of June 10, 2015, moved:

That the Standing Senate Committee on Official Languages have the power to sit at 5 p.m. on Monday, June 15, 2015, even though the Senate may then be sitting, and that rule 12-18(1) be suspended in relation thereto.

She said: Honourable senators, I move the motion standing in my name on the Notice Paper.

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

Hon. Senators: Agreed.

(Motion agreed to.)

[English]

HUMAN RIGHTS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Mobina S. B. Jaffer, pursuant to notice of June 10, 2015, moved:

That the Standing Senate Committee on Human Rights have the power to sit at 4 p.m. on Monday, June 15, 2015, even though the Senate may then be sitting, and that rule 12-18(1) be suspended in relation thereto.

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

Hon. Senators: Agreed.

(Motion agreed to.)

[Senator Dawson]

[Translation]

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

MOTION TO REMOVE CERTAIN MEMBERS OF COMMITTEES—DEBATE ADJOURNED

Hon. Céline Hervieux-Payette, pursuant to notice of June 10, 2015, moved:

That all Honourable senators whose names appear in the report of the Auditor General on expenditures of the Senate are forbidden to sit on the Standing Committee on Internal Economy, Budgets and Administration as well as the Standing Committee on Rules, Procedures and the Rights of Parliament until the arbitrator or any other legal proceeding has given them a final decision.

She said: Honourable senators, I would like to modify the motion that I gave notice of yesterday. The original motion states:

That all Honourable senators whose names appear in the report . . .

I didn't know that every senator's name appeared in the report. I therefore propose modifying the motion to read as follows:

That Honourable senators whose expenses have been questioned by the Auditor General in his report on Senate spending, are forbidden to sit on the Standing Committee on Internal Economy, Budgets and Administration as well as the Standing Committee on Rules, Procedures and the Rights of Parliament until the arbitrator or any other legal proceeding has given them a final decision.

I seek leave of my colleagues to amend the wording to ensure that we have a motion that makes sense.

• (1610)

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

Hon. Senators: Agreed.

MOTION IN MODIFICATION

Hon. Céline Hervieux-Payette: Honourable senators, in modification, I move:

That Honourable senators whose expenses have been questioned by the Auditor General in his report on Senate spending, are forbidden to sit on the Standing Committee on Internal Economy, Budgets and Administration as well as

the Standing Committee on Rules, Procedures and the Rights of Parliament until the arbitrator or any other legal proceeding has given them a final decision.

[English]

She said: Honourable senators, yesterday I gave notice of a motion stating that all senators whose expenses have been questioned by the Auditor General should be forbidden to sit on the Standing Committee on Internal Economy, Budgets and Administration as well as the Standing Committee on Rules, Procedures and the Rights of Parliament until the arbitrator or any other legal proceeding has given them a final decision.

We all voted in favour of the motion the day before yesterday about the need for an independent inquiry into the leaks of the Auditor General's report. We all agreed that those leaks caused considerable harm to our institution and to the senators named in the media, who had no opportunity to defend themselves until the report was tabled in this chamber.

Yes, our institution suffered because of those leaks, and all senators are collateral victims. Beyond that, we need some catharsis. We need to confront the upheaval caused by the Auditor General's report and emerge better, having ensured that the institution we represent will be stronger. To do that, we will have to demonstrate beyond a shadow of a doubt the integrity of the senators whose expenses are being questioned in the report. Canadians expect nothing less from us. I congratulate the Speaker and my colleagues for putting this procedure in place.

As I told you, we agreed that the fundamental right of these senators to the presumption of innocence and their right to due process were not respected because of the leaks in the media. That said, the report is public, their names are in the report, some of their expenses are being disputed and their reputation must be restored for their sake and that of the Senate because, like each and every one of us, they are responsible for the respectability of our democratic institution.

This motion is not an attack against the senators whose expenses have been questioned by the Auditor General. Far from it. However, as a lawyer, I cannot ignore the presumption of innocence. In keeping with the motion I moved the day before yesterday, which we all supported, it is necessary to restore the integrity of our institution in its management of public funds and ensure that the decisions made by the two committees mentioned will also be seen as being above reproach.

That is why I believe that the senators whose expenses have been questioned by the Auditor General could temporarily withdraw from these committees and await the arbitration decision before once again sitting on these committees. It is important to ensure that the public accepts this position, and I hope that you will support it. We must restore respect for the rules that we have adopted and those that we adopt after studying the Auditor General's report. We can put those new rules in place as quickly as possible. I believe you will all agree that our first obligation at this time is to adhere to the highest ethical standards. For that reason, honourable senators, I am asking you to support this motion.

(On motion of Senator Maltais, debate adjourned.)

STATUTORY POWERS OF AUDITOR GENERAL

INQUIRY—DEBATE ADJOURNED

Hon. Anne C. Cools rose pursuant to notice of June 3, 2015:

That she will call the attention of the Senate to:

- (a) the statutory officer the Auditor General of Canada, and to the *Auditor General Act*, in which parliament wilfully granted him no powers to subject or compel senators or members of parliament, to audit examination; and, to this Act's *Powers and Duties* sections 5-12, and section 5 that commands:

The Auditor General is the auditor of the accounts of Canada, . . .

and,

- (b) to the constitutional truth that the Senate is no part of the accounts of Canada, nor of the public administration, nor of the public service; and, to the constitutional fact that this parliament's upper house the Senate, like the Commons House, is not a department of government headed and directed by a government minister of the crown; and, to the *Auditor General Act's* section 7 that commands the Auditor General to report to the Commons House on his Public Accounts audits, but which Act has no section that authorizes this auditor to report to the Senate on anything, and most particularly not on an audit examination of senators, largely because this Act grants no power to report on that which it grants no power to do, and in fact forbids; and, to the critical fact that the *Auditor General Act* is subject to the abiding law of the constitution, known as the "sovereignty of parliament," which he is sworn to uphold; and,
- (c) to the constitutional fact that the auditor general's audit of the Senate and senators is no part of the data or information he requires "to the fulfillment of his or her responsibilities" as the auditor of the accounts of Canada, pursuant to the *Auditor General Act* section 13.(1), 14.(1) and 14.(2); and, to the fact that senators and the Senate are not subject to his Act's section 13.(4) which grants him powers as a commissioner under the *Inquiries Act*, Part I, because the Senate, is "no part of the accounts of Canada," nor of the public service, nor of the public administration; and,

(d) to the 1987 Federal Court of Appeal ruling, against the Auditor General in his quest for access to cabinet documents in the Petrofina case, wherein Justice Pratte, concurring with the lead Justice Heald, held that the Auditor General is the “auditor of the accounts of Canada” and, “whatever be his rights under ss. 13 and 14, he may only exercise them in fulfilling his responsibility as auditor of the accounts of Canada,” and, to the constitutional fact that audit of the senators is no part of the Auditor General’s rights, powers, nor “the fulfillment of his or her responsibilities” by the *Auditor General Act*.

She said: Honourable senators, I rise today to speak to my inquiry on the Auditor General.

Honourable colleagues, the Auditor General with his duty to report to the House of Commons was constituted by statute to assist that house’s pre-eminence in its unique role to hold government ministers responsible to the Commons for the national finance, the public revenue and expenditure, in taxing and spending. This Commons role is actuated by the power of its fatal confidence votes that compel government defeats, resignations, dissolutions, general elections and new governments. This mighty power to make and unmake governments swiftly and without bloodshed is at the heart of the British Westminster governance system. It is known as the Commons “power of the public purse.”

Honourable senators, the Auditor General’s audit examination of the Senate, the upper, the royal, and the federal house of Parliament, poses large constitutional questions. Is this Senate audit consistent with Canada’s Constitution? Is it consistent with our 1878 enacted statutory role of the independent Auditor General, constituted to do appropriation audits of the Public Accounts?

Created by this statute, this officer was to verify to the House of Commons by his audit examination that their appropriation purposes prevailed and that the government spent public monies as the Commons had voted in their appropriation and supply acts, some of which were adopted here earlier as is the practice in June. By the Constitution Act, 1867, sections 53 and 54, these appropriation and supply bills must begin in the House of Commons and may be moved only by a Crown minister, no backbenchers allowed.

Honourable senators, the 1878 statute was titled An Act to provide for the better Auditing of the Public Accounts. This statutory officer’s sole constitutional purpose was to audit examine the public accounts and to aid the House of Commons’ pre-eminence in the national finance and its power in the “control of the public purse.”

Honourable senators, in ministerial responsible government, this power is actuated as denials of supply, confidence votes and impeachments. This House of Commons power is also shown in the parliamentary fact that the lower house, the Commons, chooses Canada’s government and Prime Minister, who are then

appointed by the Governor General. The Prime Minister is that member who holds the confidence of the house, meaning the support of the majority.

This public purse pre-eminence is founded in history, and it is described in the concepts known as “taxation by representation,” “representation by population,” “no taxation without representation” and “the financial initiatives of the Crown,” meaning originating in the House of Commons.

Honourable senators, the Auditor General’s recent Senate audit is inconsistent with our Constitution and with his powers and duties pursuant to the Auditor General Act, sections 5 to 12, headed “Powers and Duties.” These sections express the total of his powers. Section 5 is the total of those powers he may, by law, audit examine. With the heading “Examination,” section 5 reads:

The Auditor General is the auditor of the accounts of Canada

I repeat, “The Auditor General is the auditor of the accounts of Canada.” These are accounts of the government departments headed by Crown ministers who are responsible to the Commons for their expenditures. The Senate is not a government department, nor is it headed by a minister responsible to the Commons, nor is it a government agency or a Crown corporation with a minister responsible for it.

Senators’ and Senate expenses are no part of the government’s accounts, the accounts of Canada. The former Leader of the Government in the Senate and the Auditor General, her invitee in audit, have ignored this. They do not admit that the Auditor General’s role, as the auditor of the Public Accounts, is to verify for the Commons that the public expenditures are as dictated by the Commons appropriation acts and their schedules. This verification is the Auditor General’s statutory duty to the Commons House pre-eminence in the national finance. As I said before, it is the “control of the public purse.” The proper expenditure of their appropriation is the Commons House’s absolute interest in the “accounts of Canada” and the audits thereof. Their absolute interest is the “control of the public purse.”

• (1620)

Honourable senators, the Senate accounts are no part of government departments’ “accounts of Canada.” *Black’s Law Dictionary, Revised Fourth Edition*, defines public accounts, at page 35, as:

The accounts kept by officers of the nation, state, or kingdom, of the receipt and expenditure of the revenues of the government.

Senators’ expenses are no part of the “accounts of Canada,” which, by the *Auditor General Act* are available to the Auditor General’s audit examination, as “the auditor of the accounts of Canada,” by the Powers And Duties section 5 of this Act.

Honourable senators, no Senate Government Leader's Government motion, moved and adopted here as government business in a government whipped vote, can change this Act to grant this auditor a power to compel senators to his audit examination. Such power is hostile to the auditor's legal duties to the House of Commons. For this reason, such a power was never considered nor granted to this Auditor General, because seasoned and experienced lawmakers knew and understood that such power would lead to epic constitutional catastrophes, as the one now before us in his report. The Government Leader's motion was couched in insipid words that belie its gravity. Moved June 5, 2013, it said, in Senate Debates, page 4133:

That the Senate invite the Auditor General of Canada to conduct a comprehensive audit of Senate expenses, including senators' expenses.

That day, Senator LeBreton, responding to my question whether her motion was a government motion, said in Senate Debates, page 4134:

I acted in my capacity as Leader of the Government in the Senate . . .

So it is unquestioned. It is a government motion, government business.

Honourable senators, motions and resolutions once adopted become orders of the houses. Those affected are liable to the houses' mighty curial and judicial powers, contempt and impeachment. By motion, the Senate Government Leader placed an officer with unique duties, to report to the Commons, squarely within the Senate's judicial and curial powers, and treated it like an invitation. The word "invite" is pleasant and cozy. But this government action, and his compliance, are a grave matter that have impaired and compromised this officer's independence. As I said, compromised this officer's independence.

This is bad parliamentary practice and bad politics. Constituted by statute, this officer was intended to be wholly independent of government control, to have a unique judge-like impartiality. This independence was needed to permit him, the auditor, to express his opinion on government spending, free from reprisals from government Crown ministers, no little fare.

Honourable senators, Senate and senators' expenses are not part of the government's public "accounts of Canada." Open to audit and ever audited, Senate expenses are not legally available to Auditor General examination and compulsion. In the 1987 *Petrofina* case, Federal Court of Appeal Justice Heald, in ruling, spoke to the limits of the Auditor General's powers. He ruled that the cabinet, the Privy Council, and parliament were not subject to this Auditor's compulsion. He noted that the Auditor General Act section 13(1) that says "the fulfilment of his or her responsibilities," means specifically those responsibilities as "the auditor of the public accounts" that is limited to government departments' public accounts. The Senate, the Commons, and the

Sovereign, are not subject to Auditor General audit compulsion. Mr. Justice Pratte concurred, and said, at paragraph 21, that the Auditor General:

. . . is the auditor of the accounts of Canada . . . whatever be his rights under ss. 13 and 14, he may only exercise them in fulfilling his responsibility as auditor of the accounts of Canada.

In the 1989 appeal in the same *Petrofina* case, the Supreme Court confirmed this responsibility, and ruled against this Auditor General's quest for a writ of mandamus against the cabinet. Chief Justice Dickson held that the Auditor's powers and duties are limited to those stated by Parliament in his statute, the Auditor General Act. His judgment, at page 103 said:

The *grundnorm* with which the courts must work . . . is that of the sovereignty of Parliament.

So the courts must work within it, and so must the Auditor General.

The *grundnorm* of constitutionalism, I repeat, is the sovereignty of parliament, not alterable by the Auditor General.

Senators' expenses are no part of the public administration and the public services' public accounts of Canada. The Auditor General is the auditor of the public accounts. By ministerial responsibility, Crown ministers, as the heads of all government departments, have the lead role in public spending and are constitutionally liable to the Commons for these monies. The government, the ministry, is liable to Commons', the pre-eminent power, the "control of the public purse." But the Senate has no liability to the Commons for its spending, which was the purpose for the creation of the Auditor General in the first place.

Honourable senators, senators' expenses, not government expenditures, cannot be subjected to Auditor General audit exam. By the British North America Act, 1867, constitutional relations between our two houses of parliament, the Senate and Commons, the two coordinate institutions, are known as constitutional comity. This Act received into Canada, the full powers of the ancient British parliament's *lex et consuetudo parlamenti*, the law of parliament. The *lex* prescribes that the two houses ought not inquire into each other's affairs, and forbids that the one judges the others. Each house is the master of its own proceedings. This 'comity' gives our constitution balance, equilibrium and equipoise.

Honourable senators, the proof that Senate expenses can be no part of the government's public accounts, is the fact that no parliamentary process exists to put senators expenditures before the House of Commons Public Accounts Committee, that drives their "control of the public purse," and their examination of the public accounts. This is proof positive. Senate expenses are no part of the "the accounts of Canada." Our two houses are self-managing. They are constituted directly by our British North America Act 1867, sections 17 and 18 which establish the two houses and the Queen, the three separate coordinate entities as the one Parliament of Canada. This was made clear in the uncertainty about to whom the Auditor General would report on the Senate audit, and in what form the report should take. All this absolutely

prove that this auditor was outside his lawful ken. *Webster's Encyclopedic Unabridged Dictionary*, 1989, defines "report," at page 1217:

. . . an account or statement describing in detail an event, situation, or the like, usually as the result of observation, inquiry, etc.: . . .

Honourable senators, "report", in the Auditor General Act means strictly his reports to the House of Commons on the "accounts of Canada." Reports follow his public accounts duties. He has no duty to report to the Senate, because he does not audit the Senate. In short, no duty to audit, no duty to report, and no one to report to.

Honourable senators, the Auditor General's want of jurisdiction to audit the Senate is confounded by the anomaly that this Senate audit was moved here by the Senate Government Leader as a government motion, for government business, with priority over Senate proceedings. Senate Rule 4-13 (1), says:

Except as otherwise provided, Government Business shall have priority over all other business before the Senate.

Colleagues, by performing his Senate audit as government business, this Auditor has wholly compromised, I believe irreparably, the independence of this office, in its public accounts role. Days ago, in his June 9 press conference, he said that the real cost of this Senate audit was \$23.5 million. To me, colleagues, this is a \$23.5 million lunacy. This lunacy is best expressed in his idea that an independent body of non-senators should have oversight of the Senate. His report's recommendation 52 states, at page 11:

The oversight of Senators' expenses should be performed by a body [the "oversight body"], the majority of whose membership, including its chair, is independent of the Senate. The members of this oversight body should be selected so that their collective skills, knowledge, and experience enable the oversight body to carry out its duties thoroughly and efficiently.

This recommendation is not even credible, not even debatable. It's not even vaguely credible. As a matter of fact, it is so infantile that one wonders how somebody could have actually put this forward as a serious proposition to be considered by us senators. This juvenile advice was costly. He has wilfully hurt many fine senators, sounding a lot like the Queen of Hearts, "Off with their heads!"

That is a group of senators that are now suffering under this "for RCMP investigation group," that this Auditor General created. But I say unto them, that they should take comfort in the Auditor General Act, sections 18.1 and 18.2, headed Immunities. This section shields him from the legal action of his audit subjects. This section has no application to senators and cannot shield him from them. This officer has no immunity from them in his illegal and illicit audit of senators, and his public scorn of the Senate and of senators. These damaged senators should know that they are free to take legal action as they see fit. These senators should know that. I wish to bring some comfort to them because I know that many of them are smarting in anxiety.

[Senator Cools]

• (1630)

Honourable senators, the Finance Minister, Joe Oliver, is the minister responsible for the Auditor General. Will he answer to the Commons for the cost of this lunatic Senate audit? Is he responsible to the Commons and their Public Accounts Committee for the cost of this Senate audit? Did he accept that then Government Leader Senator LeBreton's motion was government business? Did he agree that monies appropriated to the Auditor General for public accounts' audits should be applied to unexplained government business audit of senators?

Senator LeBreton has never told us what the nature of the government business was in her government motion for the Auditor General to audit the senators.

Why was the independent Auditor General asked to do government business? What is that government business? What section of the Auditor General Act permits him to do government business as an extra-legal audit? Is this government business audit of senators "value for money?" Who knows? Who will say?

These questions have never been answered; they haven't even been thought about.

Honourable senators, I have said that the Senate audit is a mortal compromise of the independence of the Auditor General of Canada. This is a serious matter. I flag Ian MacDonald's June 9 ipolitics.ca article on the Senate audit, titled "The AG and the Senate: \$23 million to catch \$1 million? Are we kidding?"

He wrote:

It isn't just senators' reputations that are on the line — it's Ferguson's as well. Leave aside for a moment the nine senators referred to the RCMP —

I cannot put these senators out of mind; I feel such pain for them.

I will repeat that —

The Hon. the Speaker: I we regret to inform you that the time has lapsed.

Senator Cools: Can I have five minutes? I am on the home stretch.

He wrote:

It isn't just senators' reputations that are on the line — it's Ferguson's as well. Leave aside for a moment the nine senators referred to the RCMP; should Binnie dismiss his conclusions about many or most of the Senate 21, Ferguson's reputation for competence — not to mention that of his consultants — would be in trouble. He'd need to consider his own future at that point, if only for the integrity and standing of the AG's office.

You used to use the word AG to mean Attorney General, but now they use the AG to mean Auditor General.

Honourable senators, I wish to put to you the very same point that I put to Senator Day earlier today. As you know, in 1988 the Senate's National Finance Committee did a profound study of the role of Auditor General. At that time, there were many senators who were still smarting from the combative Auditor General Macdonell, who won the then new 1977 Auditor General Act. We did an instructive study at the Committee of National Finance. Under the Main Estimates, we looked at the Auditor General, then Kenneth Dye. We heard from the Auditor General, but we also heard from a body of scholars, including Professor Sharon Sutherland, who had been studying the role of the Auditor General and has for years.

I would leave with senators the idea that I think the time has come for another serious Senate committee study of the role and the duties of the Auditor General of Canada.

(On motion of Senator Cools, for Senator McCoy, debate adjourned.)

ADJOURNMENT

MOTION ADOPTED

Leave having been given to revert to Government Business, Motions, Order No. 114:

Hon. Yonah Martin (Deputy Leader of the Government), pursuant to notice of June 10, 2015, moved:

That when the Senate next adjourns after the adoption of this motion, it do stand adjourned until Monday, June 15, 2015 at 6 p.m.; and

That rule 3-3(1) be suspended on that day.

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, June 15, 2015, at 6 p.m.)

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