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(HANSARD)

**Thursday, December 13, 2007**



THE HONOURABLE NOËL A. KINSELLA  
SPEAKER

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## THE SENATE

Thursday, December 13, 2007

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

Prayers.

### SENATORS' STATEMENTS

#### NEW DEMOCRATIC PARTY OF CANADA

##### MISINFORMATION ABOUT SENATE ON WEBSITE

**Hon. Lillian Eva Dyck:** Honourable senators, two nights ago I viewed the information about the Senate on the New Democratic Party of Canada website and, frankly, I was appalled. The information there was misleading, inaccurate, opinionated, full of innuendo and lacking in substance. A significant example of the inaccurate and misleading information on their website is the assertion: "The senators' right to lobby for the companies they work for and the investments that they hold is enshrined in the rules of the Senate."

The NDP website neglects to state that the Conflict of Interest Code for Senators requires senators to declare any conflict of interest in matters for ourselves or family members before we can participate in a debate on the matter. The NDP website also neglects to mention that the code allows senators to abstain but not to vote on such matters. Had they included these and other sections of the code, it would be clear that their assertion is wrong.

The NDP website claims that the Senate is outdated, ineffective and elitist, but just because the NDP say it is so does not mean it is true. Where is the evidence that this is true? Where are the facts, studies, research or reports that support the NDP assertions? Perhaps there is some truth to their assertions, but how can one find out how much truth is in their claims when the NDP website does not post any references or links to scholarly documents supporting their opinion? Honourable senators, how can anyone believe them when the information on the Senate and individual senators is so obviously opinionated, poorly presented, unsubstantiated, disrespectful and, even worse, sometimes outright wrong.

I am embarrassed to think that Mr. Layton and members of the NDP would post such information — information that is wrong and lacking in intellectual breadth and depth. A student handing in this type of information as a term paper would receive a failing grade.

Honourable senators, in my opinion, the information about the Senate and individual senators posted on the NDP website should be relegated to the "Hall of Shame" because it is shameful to pretend their subjective opinions are the same as objective evaluations of a substantial body of facts.

To conclude, honourable senators, if I had a corporate sponsor, I would be glad to join the 11 senators depicted on the NDP

website. We could be the dirty dozen of the Senate who roll up our sleeves and get dirty doing our work. The NDP of Canada, however, through their website, has gotten dirty by slinging mud at fellow parliamentarians.

#### THE LATE NORVAL MORRISSEAU, C. M.

**Hon. Francis William Mahovlich:** Honourable senators, I rise today to pay tribute to a man sometimes referred to as "the Picasso of the North," Mr. Norval Morriseau. Mr. Morriseau, also known as "Copper Thunderbird," passed away after a lengthy battle with Parkinson's disease at the age of 75 on December 4, 2007.

He was a self-taught artist, who combined elements from his Ojibwa heritage as well as contemporary influences to create his own distinctive style now known as woodland Indian art.

• (1340)

Despite his great talents, Mr. Morriseau did not have an easy life, struggling with poverty and addiction for many years. He was, however, a survivor — some have called him indestructible — and overcame the obstacles that he faced in life.

During his career, he was a pioneer for Aboriginal artists. He was the first First Nations artist to succeed in the Canadian art scene and the first Aboriginal to have a solo exhibit at the National Art Gallery, which took place in Ottawa early last year. He was also the only Canadian artist to be shown in 1989 at Paris's Georges Pompidou Centre as part of the French celebration of the bicentennial of the French Revolution.

Norval Morriseau has been honoured numerous times for his achievements. He was made a member of the Order of Canada in 1978; awarded the Lifetime Achievement Award by the National Aboriginal Achievement Foundation; and received the Eagle Feather, which is the highest honour awarded by the Assembly of First Nations.

Mr. Morriseau will be fondly remembered by his large and extended family, as well as his many fans across the country.

#### GREY CUP AND VANIER CUP 2007

##### CONGRATULATIONS TO WINNIPEG BLUE BOMBERS AND UNIVERSITY OF MANITOBA BIONS

**Hon. Rod A. A. Zimmer:** Honourable senators, I rise today with mixed emotions. Most of you know that, although I sit as a senator for Manitoba, I was born, raised and educated for the first 25 years of my life in Saskatchewan. I then moved to Winnipeg, where I have lived and made my home ever since; and I have an equally deep love for both provinces and football teams, the Riders and the Bombers.

On behalf of Manitoba Senators Spivak, Johnson, Stratton, Carstairs and Chaput, I congratulate the Saskatchewan senators Tkachuk, Andreychuk, Gustafson, Merchant, Peterson and

Dyck on the Saskatchewan Roughriders' recent narrow and heart-stopping victory over my beloved Winnipeg Blue Bombers. Either way, I can claim victory.

When Senator Tkachuk mentioned in his speech last week the Roughriders' 18-year Grey Cup drought, he ain't seen nothing.

The Manitoba Bisons had experienced a 37-year Vanier Cup drought until this year's spectacular victory over the Saint Mary's Huskies. The word "drought" is a bit of an oxymoron with all the spring flooding every year in Manitoba.

On behalf of all senators, I congratulate the Bisons' players, coach Brian Dobie, management and staff and their loyal fans for their dedication and commitment to a very successful season as the Vanier Cup champions.

To quarterback John Makie, congratulations on being chosen the Offensive Most Valuable Player. To defensive back Mike Howard, who climbed an invisible ladder to intercept two passes, congratulations on being selected the Defensive Most Valuable Player; and to running back Matt Henry, who sustained a severe injury, heal well. Our thoughts and prayers are with you.

Honourable senators, the Grey Cup was a classic Prairie contest. The Roughriders brought their mascots, Gainer the Gopher and Sandy Monteith, also known as The Flame from Saskatoon, and a flood of their loyal green and white fans, who popped up like pesky gophers in an overgrown wheat field.

Therefore, honourable senators, I must swallow my loyalties, be gracious in defeat and honour the Roughrider players, coach Kent Austin, management and staff — and most of all, the loyal fans of Saskatchewan — in becoming the Grey Cup champions of 2007.

However, the Bombers are champions in our hearts, exceeding all expectations; and on behalf of all senators, I congratulate the players, General Manager Brendan Taman, President and CEO Lyle Bauer, Chairman Ken Hildahl, Coach Berry, the administration and staff and, most importantly, the loyal and dedicated blue and gold fans. Finally, to our quarterback Kevin Glenn, who had an outstanding season, we wish you a speedy recovery.

Honourable senators, if you will indulge me for a moment, I conclude with this:

The outlook wasn't brilliant for the Bomberville 12  
that day.

The score stood 23-19, with but one down to play.

And when the Bombers were incomplete on the first  
down

And on the second did the same.

A pall-like silence fell upon the patrons of the game.

Oh, somewhere in this favoured land the sun is shining  
bright;

The band is playing somewhere, and somewhere hearts  
are light,

And somewhere men are laughing, and little children  
shout:

But there is joy in Bomberville, the Bombers still have  
clout!

• (1345)

[Translation]

## OFFICIAL LANGUAGES

### STATISTICS CANADA REPORT ON 2006 CENSUS DATA

**Hon. Maria Chaput:** Honourable senators, last week Statistics Canada released the results of the 2006 census. This week, Statistics Canada released a more detailed report on the reality of official language minorities in Canada entitled *Minorities Speak Up: Results of the Survey on the Vitality of Official-Language Minorities*.

Honourable senators, I would like to share some of the findings of this report with you. This survey shows a very important correlation that makes perfect sense, in my opinion. The smaller the francophone minority community within a municipality, the more francophones will have to use their second official language regularly to participate fully in the development of their municipality in their daily activities, where English predominates. The more uncommon or difficult it is to live in French, the more the use of that language declines.

This gradual decrease in numbers in a minority francophone community can be attributed, first and foremost, to the many years during which these francophones did not receive support where they needed it the most. All those years of court challenges to win basic rights contributed to the decline in numbers. Rebuilding a language community after decades of oppression takes an ongoing commitment to support those communities that have a real desire and a determination to live in French.

The survey also says that although these francophones increasingly describe themselves as bilingual people, they nonetheless continue to demand services in French.

The report on vitality indices also indicates that the language of the school attended at the pre-kindergarten and kindergarten level is particularly important because it is often an indicator of the language in which elementary schooling will take place.

What can we do, honourable senators, when our children are looked after in so-called bilingual day care centres, reach French pre-kindergarten speaking English and then have to be taught French again? Private enterprise will not be able to provide French-language day care in areas where English is the dominant language. Do you see the setbacks, the slippage and the loss of numbers this can cause us?

Honourable senators, I hope that the government in power will draw inspiration from this document and find this information useful and that its government departments and agencies will consider developing policies and implementing programs to enhance the vitality of official language minorities in Canada.

[ Senator Zimmer ]

[English]

## AGRICULTURE AND AGRI-FOOD

### PROBLEMS FACING LIVESTOCK PRODUCERS

**Hon. Catherine S. Callbeck:** Honourable senators, there is a crisis occurring right now in the livestock industry in Canada. The current situation has been brought about by a number of factors. A combination of the high Canadian dollar, high feed prices and low livestock prices have turned into what is being called a "perfect storm." Livestock farmers are on the verge of economic collapse.

Mr. Stephen Moffett, Chair of the Canadian Pork Council Safety Net Committee, told the Standing Senate Committee on Agriculture and Forestry: "This is a dramatic situation in which many producers actually face financial ruin."

This crisis affects livestock producers across the country. As I said in this chamber last week, almost 30 per cent of Prince Edward Island hog producers have stopped production in recent weeks, including some major long-time Island producers. Beef producers are selling off their herds because their profits will not cover the costs required to continue. Family farms operated for generations are being lost. It has been said by those most familiar with the industry that the current situation is unprecedented.

The effects of these industry losses will be felt in our communities. The agriculture industry brings significant spinoffs to rural areas, and has a large impact on the entire economy. According to the Canadian Cattlemen's Association, the beef industry alone contributes \$26 billion a year to the overall economy. The Canadian Pork Council stated yesterday that the hog industry accounts for nearly \$8 billion in economic activity in both the supplier sector and wages paid to employees.

In my home province, agriculture is our primary industry. A recent editorial in *The Guardian* stated: "Agriculture has been the reliable staple, the sturdy constant of the economy and a defining characteristic of the unique culture that is Prince Edward Island."

Honourable senators, this is a question of supporting our Canadian agriculture industry and our capacity to feed ourselves as a country. I hope the federal minister understands the crisis facing the industry and that immediate and substantial assistance will come from this government. Canadian livestock producers cannot wait any longer.

• (1350)

## JUSTICE

### CRIMINAL CODE—CONFORMITY WITH UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD

**Hon. Lorna Milne:** Honourable senators, on November 15, the Regional Municipality of Peel, Ontario passed a resolution calling for the repeal of section 43 of the Criminal Code allowing corporal punishment of children. The region — my region — with a population of more than 1.1 million, consists of the three municipalities of Mississauga, Brampton and Caledon.

Honourable senators, section 43 of the Criminal Code which has been in force since 1892, reads as follows:

Every schoolteacher, parent or person standing in the place of a parent is justified in using force by way of correction toward a pupil or child, as the case may be, who is under his care, if the force does not exceed what is reasonable under the circumstances.

In 2004 the verdict of *Canadian Foundation for Children, Youth and the Law v. Canada*, a decision of the Supreme Court of Canada, limited the scope of using section 43 as a defence but did not end it. Limiting legal approval of hitting children by restricting hitting to certain ages, degrees of force and parts of the body is not a viable solution.

In the minds of many Canadians, legal approval for any hitting of children, the most vulnerable members of our society, is harmful and unjust.

As many honourable senators know, the repeal of section 43 of the Criminal Code is the subject of a Senate public bill sponsored by my colleague, Senator Hervieux-Payette. When speaking to Bill S-209 on November 14, Senator Hervieux-Payette urged honourable senators to support this bill after citing a host of experts and organizations who also support the repeal of section 43.

In addition, she noted that, while Canada ratified the United Nations Convention on the Rights of the Child in 1991, we are disrespecting the terms of this convention by maintaining section 43 of the Criminal Code.

Honourable senators, 19 other nations have produced concrete measures to comply with this United Nations convention while Canada has remained silent. I strongly believe, and so do the municipalities in my region of Peel, that it should not take a private member's bill for Canada to live up to its international obligations.

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

## THE SENATE

### CONDUCT IN COMMITTEE OF THE WHOLE

**Hon. James S. Cowan:** Honourable senators, I want to say how impressed I was with the way in which my colleagues on both sides of the house conducted themselves during yesterday's Committee of the Whole proceedings held with respect to Bill C-38, the isotopes bill. The probing yet courteous way with which questions were put to the three panels of witnesses was in stark contrast to the partisanship, posturing, finger-pointing and character assassination that marked the proceedings the night before in the other place.

Parliament was presented with what Senator Banks correctly described as a "Hobson's choice;" to balance the medical requirements of Canadians and others against the potential risk of unsafe operations of a nuclear reactor.

My assessment is that my colleagues identified the critical issues raised by this unfortunate situation in a way that brought credit to themselves and the Senate.

I believe even the severest critic of this institution would have been impressed. My congratulations extend to all my colleagues who participated in those proceedings yesterday.

• (1355)

## ROUTINE PROCEEDINGS

### DONKIN COAL BLOCK DEVELOPMENT OPPORTUNITY BILL

#### REPORT OF COMMITTEE—THIRD READING

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

Thursday, December 13, 2007

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

#### THIRD REPORT

Your committee, to which was referred Bill C-15, An Act respecting the exploitation of the Donkin coal block and employment in or in connection with the operation of a mine that is wholly or partly at the Donkin coal block, and to make a consequential amendment to the Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act, has, in obedience to the Order of Reference of Thursday, November 29, 2007, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

**TOMMY BANKS**  
*Chair*

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

**Senator Banks:** Honourable senators, with leave, I propose that the bill be read a third time now.

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

**Hon. Senators:** Agreed.

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

**Hon. Senators:** Agreed.

Motion agreed to and bill read third time and passed.

## HERITAGE LIGHTHOUSE PROTECTION BILL

### REPORT OF COMMITTEE

**Hon. Joseph A. Day**, Chair of the Standing Senate Committee on National Finance, presented the following report:

Thursday, December 13, 2007

The Standing Senate Committee on National Finance has the honour to present its

#### THIRD REPORT

Your committee, to which was referred Bill S-215, An Act to protect heritage lighthouses, has, in obedience to the order of reference of Thursday, December 6, 2007, examined the said Bill and now reports the same with the following amendments:

##### 1. *Preamble, page 1:*

Add after line 10 the following:

“AND WHEREAS communities in the areas in which lighthouses are situated have an important role in the conservation and protection of heritage lighthouses and in ensuring a public purpose for them;”.

##### 2. *Preamble, page 1:*

Replace, in the English version, line 13 with the following:

“taken to conserve and protect our heritage”.

##### 3. *Clause 2, page 2:*

Replace lines 3 and 4 with the following:

“this Act, and includes any related structure that is included in the designation.”.

##### 4. *Clause 2, page 2:*

Replace lines 13 to 17 with the following:

““related structure”, in relation to a lighthouse, means

(a) any building on the site on which the lighthouse is situated that contributes to the heritage character of the lighthouse; and

(b) any structure on the site on which the lighthouse is situated, the maintenance of which is necessary in order to provide access to the site.”.

5. *Clause 3, page 2:*

Replace, in the English version, line 18 with the following:

“3. The purpose of this Act is to conserve”.

6. *Clause 3, page 2:*

(a) Replace, in the English version, line 23 with the following:

“or disposition of heritage lighthouses;”

(b) Replace line 25 with the following:

“reasonably maintained; and

(d) facilitating sales or transfers of heritage lighthouses in order to ensure the lighthouses’ public purpose.”.

7. *Clause 6, page 2:*

(a) Replace lines 35 and 36 with the following:

“(2) The designation of a lighthouse may include any related structure that the”;

(b) Replace, in the French version, line 41 with the following:

“critères établis, devrait y être inclus.”.

8. *Clause 7, page 3:*

Replace line 20 with the following:

“whether any related structures”.

9. *New clause 7.1, page 3:*

Add after line 22 the following:

“7.1 (1) For two years beginning with the coming into force of this Act, every Minister of the Crown in right of Canada who has the administration of lighthouses must maintain and make available to the public a list of those lighthouses that he or she considers to be surplus to the operational requirements of the portion of the federal public administration for which he or she is responsible.

(2) A surplus lighthouse may only be designated as a heritage lighthouse if a person or body submits a written commitment to buy or otherwise acquire the lighthouse and to protect its heritage character in the event that it is designated as a heritage lighthouse.”.

10. *Clause 10, page 3:*

Replace line 44 with the following:

“lated structure should be included in the”.

11. *Clause 12, page 4:*

Replace line 19 with the following:

“nicipality or to a person or body that is acquiring the heritage lighthouse for a public purpose.”.

12. *Clause 12, page 4:*

Replace, in the English version, line 22 with the following:

“must provide for the protection of the heri-”.

13. *Clause 13, page 4:*

Replace line 32 with the following:

“(2) A heritage lighthouse, or any part of it, may only be demolished if a public meeting is held on the matter in the area in which the lighthouse is situated.

(3) Subsections (1) and (2) do not apply in re-”.

14. *Clause 13, page 4:*

Replace, in the English version, line 34 with the following:

“house in response to an emergency situ-”.

15. *Clause 14, page 4:*

Replace, in the English version, line 36 with the following:

“14. The owner of a heritage lighthouse must”.

16. Clause 15, page 4:

Replace lines 43 and 44 with the following:

“house and whether any related structure should be included in the designation;”.

17. Clause 15, page 5:

(a) Replace, in the English version, line 5 with the following:

“of heritage properties; and”

(b) Replace lines 9 to 17 with the following:

“the conservation of heritage properties.”.

18. New clauses 15.1 and 15.2, page 5:

Add after line 17 the following:

**“RELATED AMENDMENTS TO THE PARKS  
CANADA AGENCY ACT**

**15.1 Paragraph (a) of the definition “heritage protection programs” in subsection 2(1) of the *Parks Canada Agency Act* is replaced by the following:**

(a) heritage railway stations, heritage lighthouses and federal heritage buildings;

**15.2 Paragraph 4(1)(b) of the Act is replaced by the following:**

(b) heritage railway stations, heritage lighthouses, federal heritage buildings, historic places in Canada, federal archaeology and Canadian heritage rivers; and”.

Respectfully submitted,

JOSEPH A. DAY  
*Chair*

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

**Hon. Joseph A. Day:** Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(g), I move that the report be placed on the Orders of the Day for consideration later this day.

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

**Hon. Senators:** Agreed.

On motion of Senator Day, with leave of the Senate and notwithstanding rule 58(1)(g), report placed on the Orders of the Day for consideration later this day.

**BUDGET AND ECONOMIC STATEMENT  
IMPLEMENTATION BILL, 2007**

**REPORT OF COMMITTEE ON  
SUBJECT MATTER TABLED**

**Hon. Joseph A. Day:** Honourable senators, I have the honour to table the fourth report of the Standing Senate Committee on National Finance, which deals with the subject matter of Bill C-28, An Act to implement certain provisions of the budget tabled in Parliament on March 19, 2007 and to implement certain provisions of the economic statement tabled in Parliament on October 30, 2007.

With leave of the Senate and notwithstanding rule 58(1)(g), I move that the report be placed on the Orders of the Day for consideration later this day.

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

**Hon. Senators:** Agreed.

On motion of Senator Day, with leave of the Senate and notwithstanding rule 58(1)(g), report placed on the Orders of the Day for consideration later this day.

**BANKRUPTCY AND INSOLVENCY ACT  
COMPANIES' CREDITORS ARRANGEMENT ACT  
WAGE EARNER PROTECTION PROGRAM ACT**

**REPORT OF COMMITTEE**

**Hon. W. David Angus,** Chair of the Standing Senate Committee on Banking, Trade and Commerce, presented the following report:

Thursday December 13, 2007

The Standing Senate Committee on Banking, Trade and Commerce has the honour to present its

**FIFTH REPORT**

Your Committee, to which was referred Bill C-12, An Act to amend the Bankruptcy and Insolvency Act, the Companies' Creditors Arrangement Act, the Wage Earner Protection Program Act and Chapter 47 of the Statutes of Canada, 2005, has, in obedience to the Order of Reference of Thursday November 15, 2007, examined the said Bill and now reports the same without amendment. Your Committee appends to this report certain observations relating to the Bill.

Respectfully submitted,

W. DAVID ANGUS  
*Chair*



## OBSERVATIONS

**to the Fifth Report of the  
Standing Senate Committee on Banking,  
Trade and Commerce  
(Bill C-12)**

As was the case with Bill C-55, An Act to establish the Wage Earner Protection Program Act, to amend the Bankruptcy and Insolvency Act and the Companies' Creditors Arrangement Act and to make consequential amendments to other Acts, we are reporting Bill C-12 without having conducted our usual comprehensive study and review. We are doing so in support of stakeholders who have indicated that certain aspects of the bill should be implemented without delay in order to assist those workers who have unpaid wages or earned vacation pay.

As the Committee noted in our Seventeenth Report in the Thirty-eighth Parliament, we unanimously support and approve of wage earner protection for the workers of bankrupt employers. In our November 2005 report, we indicated that enhanced protection for these vulnerable creditors was long-overdue. More than two years later, we continue to believe that the need is urgent.

That having been said, we are mindful that some stakeholders have reservations about several provisions of Bill C-12 as well as about certain other aspects of Canada's bankruptcy and insolvency regime. In his appearance before the Committee on 29 November 2007, the Minister of Labour indicated the possibility that, perhaps as early as next year, further amendments to the regime could occur. Within this context, we intend to continue our work on this important framework legislation, and will be inviting submissions from stakeholders early in 2008. It is our hope that recommendations made as a consequence of this study will receive serious consideration by the government.

Finally, the Committee reiterates the point made in our observations on Bill C-55: the Bankruptcy and Insolvency Act and the Companies' Creditors Arrangement Act constitute framework legislation that affects the Canadian economy and all Canadians. We believe it essential that ongoing review occur in order to ensure that the legislation is appropriately amended from time to time and continues to meet its intended goals.

• (1400)

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

**Senator Angus:** I move that the report be placed on the Orders of the Day for consideration later this day.

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

**Hon. Senators:** Agreed.

On motion of Senator Angus, with leave of the Senate, bill placed on the Orders of the Day for third reading later this day.

**STUDY ON INCLUDING IN LEGISLATION  
NON-DEROGATION CLAUSES RELATING  
TO ABORIGINAL TREATY RIGHTS**

**FINAL REPORT OF LEGAL AND CONSTITUTIONAL  
AFFAIRS COMMITTEE TABLED**

**Hon. Joan Fraser:** Honourable senators, I have the honour to table, in both official languages, the final (fifth) report of the Standing Senate Committee on Legal and Constitutional Affairs entitled *Taking Section 35 Rights Seriously: Non-Derogation Clauses Relating to Aboriginal and Treaty Rights*.

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

**BUDGET AND ECONOMIC STATEMENT  
IMPLEMENTATION BILL, 2007**

FIRST READING

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons with Bill C-28, An Act to implement certain provisions of the budget tabled in Parliament on March 19, 2007 and to implement certain provisions of the economic statement tabled in Parliament on October 30, 2007.

Bill read first time.

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

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** I move that the report be placed on the Orders of the Day for consideration later this day.

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

**Hon. Senators:** Agreed.

On motion of Senator Comeau, with leave of the Senate, bill placed on the Orders of the Day for second reading later this day.

## PARLIAMENT OF CANADA ACT

### BILL TO AMEND—FIRST READING

**Hon. Wilfred P. Moore** presented Bill S-224, An Act to amend the Parliament of Canada Act (vacancies).

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]

## CANADA-CHINA LEGISLATIVE ASSOCIATION

VISIT OF CO-CHAIR, AUGUST 18, 2007—  
REPORT TABLED

**Hon. Joseph A. Day:** Honourable senators, pursuant to rule 23(6), I have the honour to table in the Senate, in both official languages, the report of the Canadian delegation of the Canada-China Legislative Association regarding the visit of the co-chair to Hong Kong, China, on August 18, 2007.

[English]

## CANADA-AFRICA PARLIAMENTARY ASSOCIATION

BILATERAL VISITS, SEPTEMBER 2-8, 2007—  
REPORT TABLED

**Hon. A. Raynell Andreychuk:** Honourable senators, pursuant to rule 23(6), I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation on the bilateral visits to Tanzania and Uganda held in Dar es Salaam/Arusha, Tanzania; Kampala/Gulu, Uganda, from September 2 to 8, 2007.

• (1405)

## CANADA-EUROPE PARLIAMENTARY ASSOCIATION

ANNUAL SESSION OF ORGANIZATION FOR SECURITY  
AND CO-OPERATION IN EUROPE PARLIAMENTARY  
ASSEMBLY, JULY 5-9, 2007—REPORT TABLED

**Hon. Consiglio Di Nino:** Honourable senators, pursuant to rule 23(6), I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation to the Sixteenth Annual Session of the Organization for Security and Co-operation in Europe (OSCE) Parliamentary Assembly held in Kyiv, Ukraine, from July 5 to 9, 2007.

## CANADIAN NATO PARLIAMENTARY ASSOCIATION

SPRING SESSION OF NORTH ATLANTIC ASSEMBLY,  
MAY 25-28, 2007—REPORT TABLED

**Hon. Jane Cordy:** Honourable senators, pursuant to rule 23(6), I have the honour to table, in both official languages, the report of the Canadian NATO Parliamentary Association. This is the

report of the official delegation that represented Canada at the spring session of the NATO Parliamentary Assembly held in Madeira, Portugal, from May 25 to 28, 2007.

## CANADA-EUROPE PARLIAMENTARY ASSOCIATION

ORGANIZATION FOR SECURITY AND CO-OPERATION  
IN EUROPE PARLIAMENTARY ASSEMBLY—  
ELECTION OBSERVATION MISSION IN SERBIA,  
JANUARY 21, 2007—REPORT TABLED

**Hon. Consiglio Di Nino:** Honourable senators, pursuant to rule 23(6), I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation to the Organization for Security and Co-operation in Europe (OSCE) Parliamentary Assembly's Election Observation Mission held in Serbia on January 21, 2007.

ORGANIZATION FOR SECURITY AND CO-OPERATION  
IN EUROPE PARLIAMENTARY ASSEMBLY—  
ELECTION OBSERVATION MISSION IN ARMENIA,  
MAY 12, 2007—REPORT TABLED

**Hon. Consiglio Di Nino:** Honourable senators, pursuant to rule 23(6), I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation to the Organization for Security and Co-operation in Europe (OSCE) Parliamentary Assembly's Election Observation Mission held in Armenia on May 12, 2007.

## CANADA-CHINA LEGISLATIVE ASSOCIATION CANADA-JAPAN INTERPARLIAMENTARY GROUP

TWENTY-EIGHTH GENERAL ASSEMBLY  
OF ASSOCIATION OF SOUTHEAST ASIAN NATIONS  
INTER-PARLIAMENTARY ASSEMBLY,  
AUGUST 18-24, 2007—REPORT TABLED

**Hon. Joseph A. Day:** Honourable senators, pursuant to rule 23(6), I have the honour to table, in both official languages, the report of the Canada-China Legislative Association regarding the Twenty-eighth General Assembly of the Association of Southeast Asian Nations (ASEAN) Inter-Parliamentary Assembly (AIPA) held in Kuala Lumpur, Malaysia, from August 18 to 24, 2007.

## THE SENATE

MEMBERSHIP OF STANDING SENATE COMMITTEE  
ON CONFLICT OF INTEREST FOR SENATORS

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, I move, seconded by the Honourable Senator Hervieux-Payette:

That pursuant to Rule 85(2.1) of the *Rules of the Senate* the membership of the Standing Senate Committee on Conflict of Interest for Senators is follows:

The Honourable Senators: Andreychuk, Angus, Carstairs, P.C., Joyal, P.C., and Robichaud, P.C.

Pursuant to rule 85(2.1) the motion was deemed adopted.

## POST-SECONDARY EDUCATION

### NOTICE OF INQUIRY

**Hon. Elizabeth Hubley:** Honourable senators, pursuant to rule 57(2) I give notice that, two days hence:

I shall call the attention of the Senate to questions concerning post-secondary education in Canada.

[Translation]

## QUESTION PERIOD

### PUBLIC WORKS AND GOVERNMENT SERVICES

#### REPORT ON REVIEW OF GOVERNMENT POLLING

**Hon. Céline Hervieux-Payette (Leader of the Opposition):** Honourable senators, my question is for the Minister of Public Works and Government Services. I cannot let him leave for the holidays before addressing some serious topics.

After reading a rumour in the papers that the minister would table his report today, I would like to know whether it is Mr. Paillé's full report.

**Hon. Michael Fortier (Minister of Public Works and Government Services):** Honourable senators, since Senator Lapointe does not like me to answer "soon", I will respond with "very, very soon".

**Senator Hervieux-Payette:** Did the minister receive a bill from Mr. Paillé? We were told there was a \$1 million budget, but if we add all the costs of polling in a year, the budget exceeds \$32.5 million. Did we save anything on the cost of Mr. Paillé's report? Do we know how much this report cost?

• (1410)

**Senator Fortier:** Honourable senators will be apprised of the costs when the report is released. I am interested in your comments. You may find that Mr. Paillé's bill will be lower than what the government budgeted for his work.

**Senator Hervieux-Payette:** My last question is whether the minister intends to have a second independent party — I would suggest Mr. Broadbent, perhaps — produce a report on the Conservative Party's polls over the past two years, much like Mr. Paillé's report.

**Senator Fortier:** I invite you to read the Paillé report. You may find therein some answers to the questions you have raised.

**Hon. Jean Lapointe:** Honourable senators, my question is for Minister Fortier, who, I should add, is also a senator. I put it that way because it does not seem that his Senate functions are his priority.

Before I go on, I want to say that early on in my working relationship with Senator Fortier, he was very polite to me. When he went out, I went out to shake his hand. I must say that times have changed.

I would like to preface my question. Sometimes the preface takes longer than the question itself.

Yesterday, when I asked the minister a question, he replied that he was pleased to see that I was interested in something other than culture. I consider that remark to be a personal insult.

In case you are unaware, I am the one responsible for cutting down the interminable tributes we were once subjected to at the beginning of every Senate meeting to 15 minutes. That, Mr. Minister, was the culture of wasted time.

I became very interested in the monumental work done by Senator Nolin on the decriminalization — if I stopped drinking, I would be able to speak faster — of marijuana use. Mr. Minister, that is the culture of pot. I am not finished.

I am interested in the culture of soil. I am very interested in this because when I was a little boy, only seven or eight years old, my father told me that the wealth of a nation lies in its soil and in agriculture.

I proposed an amendment to the Criminal Code in order to rid our society of video lottery terminals, which are ruining families and costing our society three to five times more in social costs than the revenue they bring in. Mr. Minister, that is a culture of addiction.

On several occasions, I have put on shows as a volunteer, on my own or with other senators, for various Senate social activities. Mr. Minister, that is a culture of recognition.

Here are my two questions. When will we have the opportunity to read the Paillé report, which you promise to release soon? Mr. Minister, that is a culture of delay.

In closing, I have a hypothetical question. I read in this morning's *Le Devoir* that the report would be tabled today. I congratulate you. How is it that you did not table it yesterday? We were ready to welcome you with open arms.

• (1415)

What is more, in his response to me, the minister repeated, as he did earlier, the word "soon, soon, soon". Does he have a stutter or is this just a fluke?

**Senator Fortier:** Honourable senators, Senator Lapointe is quite the wordsmith and he has a good command of the French language. Yesterday, he suggested that I am a fine skater, but I should have guessed by how he uses language that he is much more than a fine skater.

The senator's introduction was quite interesting. Yesterday the senator objected to the word "soon". In answer to his question, I would say the report will be tabled "very, very soon". The senator seems interested in the matter.

I would welcome his observations when we are back from the holidays. If he wants to send me his comments between now and our return, I will gladly accept them.

I am always happy to receive any input to a solution concerning the polls commissioned by the departments.

**Senator Lapointe:** Honourable senators, we are still left with “very, very soon”. That does not tell us whether we will have this report this afternoon, at the end of the day, this evening or on the weekend after we have left. I hope we will have left, because I think we could all use some time off.

That said, I would like to take this opportunity to wish honourable senators, the Leader of the Government, the Leader of the Opposition, and the entire team a very happy holiday season. I think for the most part there is far more good will here in the Senate than bad.

By the way, I know the minister is more interested in the “other place” than the “upper place” — pardon the pun. I admire his work, but only to a certain extent. There is no sense in denying how one feels. I always say what I think, even though sometimes I would be better off thinking about what I say — but that is another story. The fact remains that we should end our senatorial work today in harmony.

For the minister’s information, in case he did not know, the Senate does not even cost one per cent of the total budget. I understand that some people, including the Right Honourable Stephen Harper and someone from the NDP would like to abolish the Senate.

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

**The Hon. the Speaker:** Order.

**Senator Lapointe:** I apologize. I would simply like to thank you. I have nothing more to add.

[English]

**The Hon. the Speaker:** Honourable senators, I remind you that rule 24(4) states that a debate is out of order on an oral question, but brief explanatory remarks may be made by the senator. “Brief,” of course, is relative, but I think we have had an example that is probably close to the limit.

[Translation]

**Senator Fortier:** I would like to thank the honourable senator for his comments and good wishes.

## HUMAN RESOURCES AND SOCIAL DEVELOPMENT

### FUNDING FOR POST-SECONDARY EDUCATION

**Hon. Claudette Tardif (Deputy Leader of the Opposition):** Honourable senators, my question is for the Leader of the Government. Access to post-secondary education is a growing concern in Canada. With the slowdown in the manufacturing sector, Canada absolutely must focus on the knowledge economy. Student federations are demanding that funding be returned to 1995 levels. We are talking about more than \$4 billion.

[ Senator Fortier ]

Students from École Gisèle-Lalonde in Orleans are present in the gallery today. As they prepare to make their way to university does the government intend to honour its commitment to post-secondary funding, as set out in the document *Restoring Fiscal Balance*?

• (1420)

[English]

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** There is no doubt about the necessity in this country to encourage post-secondary education at all levels, including trade schools. I remind honourable senators that when the previous government cut the annual Canada Health and Social Transfers to the provinces by \$25 billion, the post-secondary education system took a terrible hit. The provinces were put in the position of trying to make up for this tremendous loss of revenue from the federal government.

Our government, less than two years in office, is extremely proud of its record on helping students succeed. In 2008-09, the Canada Social Transfer payments for post-secondary education will rise to \$3.2 billion — a 40-per-cent increase. We will invest another \$800 million per year in post-secondary education beginning in 2008-09. We are providing the most scholarship grants ever to our graduate students through the Canada Graduate Scholarships Program. We have implemented the new textbook tax credit, and we made scholarship and bursary income fully tax exempt. Budget 2006 had several initiatives for students studying as apprentices, such as a \$500 deduction for tools. We are making the Registered Education Savings Plan more attractive, including eliminating the \$4,000 limit.

[Translation]

**Senator Tardif:** The Association of Universities and Colleges of Canada recently submitted to the House Standing Committee on Finance a report indicating the need to increase the number of university students at the graduate and post graduate level. To remain competitive internationally, we need 500,000 new masters or doctoral students in the next decade. At the current rate of registration there will only be 350,000.

Does the government intend to invest the money AUCC considers necessary in order to reach 500,000 graduates in the next 10 years?

[English]

**Senator LeBreton:** The government’s position on post-secondary education is indicated by the commitments it has made, which I mentioned. In our knowledge-based economy and with the shifting demographic, serious attention must be directed toward encouraging students in post-secondary education institutions not only to enter these institutions but also to complete their school work. We hope that institutions encourage students entering post-secondary education to pursue areas where there are tremendous shortages. It is incumbent upon all people — in politics, at all levels of government, and in our learning institutions — to provide the proper guidance to students entering post-secondary education to ensure that they graduate in a field where they will have a great future and where there is a great need for their talents.

**PRIME MINISTER'S OFFICE****APPOINTMENT OF PUBLIC APPOINTMENTS  
COMMISSIONER**

**Hon. James S. Cowan:** Honourable senators, by way of preamble to my question to the Leader of the Government in the Senate, I will cite one of the few quotations put on the record from the Honourable John Baird that I agree with. He said:

Most Canadians recognize the incredible ability of people to get things done once they set their mind to accomplishing a task. Conversely, most Canadians also recognize the incredible ability to dither when they do not want to get something done.

Why, after more than one year since the bill on public accountability received Royal Assent, has the government failed to appoint a Public Appointments Commissioner?

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** Honourable senators, Senator Cowan probably knows that the groundwork is currently underway for that position.

• (1425)

**TREASURY BOARD****APPOINTMENT OF COMMISSIONER OF LOBBYING**

**Hon. James S. Cowan:** Honourable senators, why has the government failed to fully establish the office of the Commissioner of Lobbying?

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** Honourable senators, as we know, in the last session of Parliament, Bill C-2 was a long and complicated piece of legislation that required a great deal of regulation to be put in place and as the President of the Treasury Board has indicated he expects to be releasing all of the necessary information on this position soon, to quote my colleague Senator Fortier.

**PARLIAMENT****APPOINTMENT OF PARLIAMENTARY  
BUDGET OFFICER**

**Hon. James S. Cowan:** Honourable senators, why has the government failed to fill the position of the Parliamentary Budget Officer?

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** Honourable senators, the selection process for that position is underway as we speak.

[Translation]

**ANSWERS TO ORDER PAPER QUESTION TABLED****THE ENVIRONMENT—IMPACT OF CLIMATE CHANGE  
ON PRINCE EDWARD ISLAND**

**Hon. Gerald J. Comeau (Deputy Leader of the Government)** tabled the answer to Question No. 2 on the Order Paper—by Senator Downe.

**CANADA-UNITED STATES TAX CONVENTION ACT, 1984****BILL TO AMEND—MESSAGE FROM COMMONS**

**The Hon. the Speaker:** Honourable senators a message has been received from the House of Commons returning Bill S-2, An Act to amend the Canada-United States Tax Convention Act, 1984, and acquainting the Senate that they have passed this bill without amendment.

[English]

**PAGES EXCHANGE PROGRAM  
WITH HOUSE OF COMMONS**

**The Hon. the Speaker:** Honourable senators, before Orders of the Day I would like to introduce two pages who are with us from the House of Commons. Penelope Angelopoulos is majoring in international studies and modern languages at the Faculty of Social Sciences at the University of Ottawa. Penelope is from Victoria, British Columbia.

Jonathan Holmes, of Calgary, Alberta, is pursuing his studies at the University of Ottawa's faculty of Social Sciences. Jonathan is majoring in political science.

**QUESTION PERIOD****POINT OF ORDER**

**Hon. Claudette Tardif (Deputy Leader of the Opposition):** Honourable senators, I rise on a point of order.

Honourable senators, I believe that perhaps His Honour's watch is having difficulty at this time. I do not believe we had the required 30 minutes for Question Period.

**The Hon. the Speaker:** I thank the honourable senator for raising that. I will confer with the table officers. I was advised by the table that we had one minute, and we were just in the midst of Senator Cowan's third question. Did I misunderstand the information from the table? The table officers are nodding their heads and advising me that I misunderstood the signal. Twelve minutes is left. The chair apologizes for that.

To correct the matter, I would ask consent of the house to return to Question Period to continue the final 12 minutes.

## HUMAN RESOURCES AND SOCIAL DEVELOPMENT

### MILLENNIUM SCHOLARSHIP FOUNDATION— LOAN REPAYMENTS

**Hon. Yoine Goldstein:** Honourable senators, I heard the honourable Leader of the Government in the Senate tell us about all of the initiatives that this government is taking with respect to post-secondary education.

• (1430)

Is the Leader of the Government aware of the fact that the Canada Millennium Scholarship Foundation, which incidentally was established by the previous unnamed government, is running out of funds; and notwithstanding requests from a host of student bodies and universities, this government is doing absolutely nothing to replenish it?

Is the Leader of the Government in the Senate aware that the Department of Finance has ascribed \$5.6 million for legal fees for lawyers to hound student borrowers who cannot afford to repay their loans at the moment?

Is the honourable senator aware of the fact that the tax breaks of which she speaks with respect to students are irrelevant to students because they do not pay taxes?

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** I was asked a question about the Canada Millennium Scholarship Foundation several weeks ago and I took the question as notice. I have tabled a response as to the program's status.

**Senator Mitchell:** Oh, oh.

**Senator LeBreton:** The honourable senator will soon need to move into his other occupation of Christmas elf.

To return to the question of student loans, we are well aware of the great difficulties some students have in repaying them. The Minister of Human Resources and Social Development, the Honourable Monte Solberg, is seized of the issue of student loans. As a government, we have taken many measures in terms of assisting students, as I outlined in my answer to Senator Tardif—including the tax benefits. By the way, some students do pay taxes; if they earn an income, they pay taxes.

With regard to student loans, this problem varies from region to region; it is more severe in some parts of the country than in others. However, I will ask Minister Solberg to provide me with an update and I will forward it to the honourable senator, even if we are not sitting.

## PUBLIC SAFETY

### CORRECTIONAL SERVICES— STATE OF PRISONS—HARM REDUCTION MEASURES FOR PRISONERS

**Hon. Marilyn Trenholme Counsell:** My question is for the Leader of the Government in the Senate.

*Out of the Shadows at Last*, the report written and presented 18 months ago, revealed a great deal of the tragedy and the need for advancement in Canada in the way we treat mental illness. It

would seem that on October 19, perhaps the condition of women's prisons in Canada came out of the shadows at last.

Can the Leader of the Government tell me whether there is any urgency or immediacy in the way her government is dealing with this issue?

In the 1977 report, the Prison for Women at Kingston was described as "unfit for bears and much less for women." Then a report came in 1990, called *Creating Choices*.

It has been said recently that despite the millions spent to upgrade programs, Ms. Ashley Smith found herself in an environment not much different than the one at the Prison for Women, surrounded by concrete, bulletproof glass and bars.

We think of that young woman, sleeping on concrete and wrapped in a horse blanket. I believe it is a terrible stain on Canada.

Kim Pate, Executive Director of the Canadian Association of Elizabeth Fry Societies, said Ms. Smith's death was predictable and preventable. The periods she spent in segregation cells were far too long, and there have been many warnings from guards' unions, inmate advocates and a federal commission that keeping women in cells like this is a blueprint for disaster.

• (1435)

Minister Day told Parliament a few days ago that he had given instructions to the Correctional Service and his staff to "implement a number of initiatives to limit the chance that such a thing could happen again."

I want to go back to the mental health report, *Out of the Shadows At Last*. There were three lengthy recommendations regarding federal offenders and I do not want the honourable leader to say, "Yes, we have established the Mental Health Condition because this commission has nothing to do with the federal conditions."

Recommendation No. 73 is this: "That the Correctional Service of Canada immediately implement expanded harm reduction measures in all federal correctional institutions."

What assurances do we have that there is anything either from Minister Day or in response to the mental health report that something immediate and urgent is being done so that such a tragedy will never happen again?

**Hon. Marjory LeBreton (Leader of the Government and Secretary of State (Seniors)):** I thank the honourable senator for her question.

The honourable senator is quite right; this was a terrible tragedy. Recently, I heard Senator Bryden make reference to it in his speech.

As the honourable senator knows, Minister Day has addressed this issue. He also commissioned an independent panel review on the operations of all prisons within the Correctional Service of Canada. That report was tabled today; he received it today.

Neither I nor the government have had a chance to fully appreciate the Sampson Report. Minister Day expressed his regrets over this young woman's loss of life. It is a great tragedy. We recognize the number of people who are suffering from mental illness who do find themselves either homeless, on the streets or in our prisons. It is not something that the government takes lightly, I assure honourable senators.

**Senator Trenholme Counsell:** I did not hear an answer to the portion of my question regarding "immediacy" or "urgency."

The Government of Canada instituted the Mental Health Commission quickly. However, in this one recommendation "that the Correctional Service of Canada immediately implement expanded harm reduction measures in all federal correctional institutions," can the honourable leader tell me whether any response was taken to Recommendation No. 73 in the mental health report, *Out of the Shadows at Last*?

**Senator LeBreton:** Honourable senators, I specifically did not mention the report because in the honourable senator's question she warned me off mentioning it. Every other government in the developed world has established a mental health commission, and now the government I am proud to be part of has done so. Senator Kirby, as the chair, established a board of directors, provincial liaison people, stakeholders and experts in the field. He has been working closely with the Minister of Health but, because of the tragedy in his own family, was away from his duties for a short time.

With regard to the specific recommendation about mental health patients, I will be happy to determine from Senator Kirby, the Minister of Health or Minister Day how they have proceeded on this specific recommendation.

**Senator Trenholme Counsell:** I did not want the honourable senator to tell me that the government created the Mental Health Commission. I wanted her to respond to the need for urgency. Recommendation No. 73 is not the responsibility of the Mental Health Commission; it is the responsibility of the Correctional Service of Canada, although they could be advised by the commission. There is a clear difference there.

Was there any immediacy? Was anything done by the government to respond to Recommendation No. 73?

• (1440)

**Senator LeBreton:** In fairness, that is a huge, well-written report with a broad scope. To expect me to get up and zero in on one recommendation and demand that I provide you with an immediate answer to what action the government has taken on one recommendation is a little over the top.

In any event, I am not expecting Senator Kirby, as was rightly pointed out, to answer this question. However, I can assure the honourable senator that the Senate report was broadly circulated among members of the cabinet and government with regard to specific areas within their responsibilities. I am particularly interested in it because it is an initiative that concerns seniors.

With regard to what Minister Day is to do with that particular recommendation, I will take the question as notice.

## ORDERS OF THE DAY

### BUSINESS OF THE SENATE

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Pursuant to rule 27.1 I wish to advise the Senate that when government business is considered today it will do so in the following sequence: Starting with third reading of Bill C-35; followed by third reading of Bill C-12; followed by consideration of the fourth report of the Standing Senate Committee on National Finance that looked into the subject matter of Bill C-28; followed by second reading of Bill C-28; and followed by third reading of Bill C-13; then followed by all other items as they appear on the Order Paper.

### APPROPRIATION BILL NO. 3, 2007-08

#### THIRD READING

**Hon. Terry Stratton** moved third reading of Bill C-35, An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2008.

He said: Senator Day and I spoke yesterday. I do not see any need to repeat any statements I made then, and I urge support for this bill.

**Hon. Joseph A. Day:** Honourable senators, neither my deputy chair of the Standing Senate Committee on National Finance nor I intend to speak at length on this matter. However, since the government is asking for approval of Parliament for the expenditures for \$8.1 billion, it is important to make comments.

The comments made with respect to our report from your committee in relation to this supply bill were extensive and I commend the report to you. It outlines a number of initiatives that appear in the Supplementary Estimates (A). As I indicated to you previously, we have confirmed that the schedules attached to Bill C-35 are indeed the same schedules that we studied, in effect in a pre-study, of this particular bill.

Honourable senators will know that we handle supply bills in a manner somewhat different from the normal process in that we have the estimates before we receive the bill, in which event we are able to study the estimates on an ongoing and continuous basis — in fact even after the bill appears — until the end of the fiscal year.

In this particular bill, we have only the \$8.1 billion, for which approval is being sought, whereas in Supplementary Estimates (A) there are also statutory expenditures that were approved in other pieces of legislation. One of those other pieces of legislation is equalization, and in Supplementary Estimates (A) there is an indication that through Treasury Board the government sought an additional \$1.2 billion, based on the statutory approval to meet new rights under the equalization act. I will be speaking on that issue when we deal with Bill C-28, which is the budget implementation bill.

Honourable senators, because of the process that we follow, we have already dealt with the committee report and we have already dealt with second reading. I commend this supply bill to the attention of honourable senators.

• (1445)

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

**Hon. Senators:** Question!

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

Motion agreed to and bill read third time and passed.

## BUDGET AND ECONOMIC STATEMENT IMPLEMENTATION BILL, 2007

### REPORT OF COMMITTEE ON SUBJECT MATTER ADOPTED

The Senate proceeded to consideration of the fourth report of the Standing Senate Committee on National Finance (subject matter of Bill C-28, An Act to implement certain provisions of the budget tabled in Parliament on March 19, 2007 and to implement certain provisions of the economic statement tabled in Parliament on October 30, 2007) presented in the Senate earlier this day.

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

He said: I wish to thank honourable senators for referring this matter to the Standing Senate Committee on National Finance. This is the subject matter of Bill C-28, an act to implement certain provisions of the budget tabled in Parliament on March 19 and to implement certain provisions of the economic statement tabled in Parliament on October 30, 2007. Both of those matters are addressed in Bill C-28.

Honourable senators will recall that Bill C-28 is the second bill implementing matters under the budget for this particular fiscal year that was presented in March 2007.

The earlier bill was Bill C-52. In that bill, honourable senators, we dealt with equalization matters and the offshore accord. We dealt with the Canada Social Transfers and Canada Health Transfers and the contentious policy decision to move to a per capita transfer with respect to those Canada Social and Health Transfers as well as the changes to the equalization program at that time. They were all in Bill C-52. They are not in this particular bill.

Honourable senators will recall that there was a problem with respect to two provinces, Newfoundland and Labrador and Nova Scotia, with respect to equalization and the proposed new treatment of equalization payments and the offshore accord in Bill C-52 implementing the budget, whereby those two provinces were required to make a choice between the new formula, sometimes referred to as the O'Brien formula, and the earlier interim program, which was put in place for a period of time. There was a fixed annual increase in the global amount and the earlier formula that was in place prior to the 2005 fixed annual increase.

• (1450)

Since then there have been negotiations and changes, and honourable senators will find that a solution has been found in Bill C-28. I will talk more extensively about that. However, I can say that we have heard from witnesses on this matter, and

witnesses from Nova Scotia, not from the government, but from Acadia University in Nova Scotia, and a witness from Memorial University of Newfoundland. Both witnesses indicated to us that solutions have been found which, although they do not respect the principle of the offshore accords and how they are dealt with in the equalization program, they do present an attractive solution to each of those provinces because of their circumstances. Each province is wise to accept, on a fiscal and financial basis, the agreements reached on October 10 for Nova Scotia, and two days ago for Newfoundland and Labrador.

Therefore to implement the Nova Scotia arrangement of October 10, Bill C-28 is necessary. The provisions in this bill are necessary for Nova Scotia to implement and to receive the funds that they have negotiated with the federal government in relation to offshore and equalization. They need Bill C-28.

Newfoundland and Labrador, looking at its circumstances, does not need Bill C-28 to implement the arrangement that has been reached between Newfoundland and Labrador and the federal government, taking into consideration equalization and the offshore accord as it applied to Newfoundland. Bill C-28 is not necessary for Newfoundland and Labrador but it is necessary for Nova Scotia. Each of those provinces has now agreed to the proposed arrangement.

Honourable senators, that equalization aspect is important to understand. We studied the subject matter of Bill C-28, and honourable senators know we studied the subject matter, because the bill was held up in the other place. We had all our arrangements to proceed with hearings, and recognizing the time of year we requested and honourable senators agreed that we proceed in this manner.

The committee met extensively over the last two days. I thank all members of the committee for the hard work and sacrifices I know each one made to participate. We sat for over seven hours. We heard from 32 witnesses, including the Parliamentary Secretary to the Minister of Finance, Ted Menzies; we heard from the Department of Finance and the Department of Human Resources and Social Development, and many other government departments.

As I mentioned earlier, we also heard, from Wade Locke from Memorial University and Paul Hobson, from Acadia University, both PhDs and professors. We heard from representatives of the Canadian Federation of Agriculture and the National Anti-Poverty Organization on aspects of this bill.

The bill is extensive and eclectic in its presentation, and that is not uncommon for a budget implementation bill that deals with many different factors. There is no common theme. Aspects of the bill are from different initiatives in the budget pertaining to different departments, and relating to different pieces of legislation. No new pieces of legislation are created in this particular bill.

There are 14 different parts to the bill, and there are several changes to the Income Tax Act and the Excise Tax Act. When I have an opportunity to speak on Bill C-28, I will go into the changes in those statutes in more depth so honourable senators can understand what they are.



In conclusion, I can tell honourable senators that we have had a good overview of the bill and a good, open discussion on many of the aspects. We now have a better understanding of what appears in this particular budget implementation bill. When we go to the second reading of the bill, I anticipate that we will delve into more detail some of the aspects that we learned.

**Hon. Lowell Murray:** Honourable senators, I can make these remarks now or I can make them when Bill C-28 is formally before us for debate. I think I will make them now because I want to follow up on remarks that the chairman of the committee, Senator Day, made.

With regard to the Atlantic accords, first, the budget of March 19, 2007 did not respect the Atlantic accords. That does not change with this bill. As honourable senators know, there has been an agreement of October 10 affecting Nova Scotia between the Prime Minister of Canada, representing the federal government, and the premier of Nova Scotia.

The question is: What is happening in terms of the money? Is Nova Scotia's position improved over what it was on March 19? Is it improved over what it would have been, had the Atlantic accords been fully respected?

With regard to the latter question, the Government of Nova Scotia through its Department of Finance has put out tables purporting to project the returns to the Province of Nova Scotia from 2004-05 to 2019-2020. Those tables that the Nova Scotia Department of Finance have put out show that each year, Nova Scotia will be behind what they would have been if the Atlantic accords had been fully respected until the middle of the next decade, to around 2015-2016. At that point, according to Nova Scotia's figures, Nova Scotia catches up and at the end of the decade, in 2019-2020, Nova Scotia projects that they will be \$228.6 million ahead of where they would have been.

We have been briefed privately. There is nothing wrong with saying so. Honourable senators and members of the House of Commons were briefed privately a couple of weeks ago by officials from our own Department of Finance. The officials refuse to validate Nova Scotia's numbers and they refuse for good reasons. I understand, and I think we all understand, that many variables are involved in the application of any equalization formula. The statement of our officials is that beyond a year or two, the projections are "purely speculative."

That is where we stand, between the projections put out by the Province of Nova Scotia to 2019-2020, and the position of the federal Department of Finance with regard to projecting that far. It was therefore helpful to have Professor Wade Locke from Memorial University and Professor Paul Hobson from Acadia University. These two people are recognized experts. They have written a lot, and I want to record again our appreciation because they have been generous in sharing their material and time with our committee and others.

• (1500)

When we asked them what they say to these numbers that Nova Scotia has put out, the answer was that they were in the middle of creating some projections and, yes, Nova Scotia could do that well.

As a matter of fact, Nova Scotia could do even better, but we will not know until 2019-2020. There is where matters stand.

I was glad to hear that there is at least a possibility, perhaps a strong one, that Nova Scotia will be appreciably better off, certainly than it was on the night of March 19, 2007, and perhaps even better off than it would have been had the Atlantic accord been respected. However, if Nova Scotia is right and if our academic friends are right, then we will not know until 2019-20, and the net gain, which Nova Scotia says is in the order of \$228 million over the period to 2019-20, does not start to be realized until 2015-16.

That is where we are on the question of the Atlantic accord. If someone had brought in an amendment to restore the status quo ante, I would vote for it, as I voted for amendments last June when Bill C-52 was before us. Failing such an amendment, so far as the entire omnibus bill on the budget is concerned, because of the Atlantic accord, I would simply hold my nose and vote for the bill.

Please let me say a word about pre-study. What we have just heard are comments from the chairman of the committee about pre-study. Pre-study used to be a device resorted to much more frequently by the Senate. In my opinion, it can be a very constructive and useful device. Sometimes it was used, as we are using it now, because legislation was slow coming from the House of Commons and we were up against serious time pressures and deadlines. We were able to get ahead of the game by doing a pre-study of the legislation, reporting to the Senate, providing the Senate the material it needs for a proper debate, and then moving much more swiftly when the bill arrived formally before us from the House of Commons.

Our late colleague the Honourable Salter Hayden invented the technique when he was Chair of the Standing Senate Committee on Banking, Trade and Commerce. The committee used it to deal with very complex and highly technical tax legislation that was in the House of Commons. Senator Hayden and his committee engaged the services of highly reputable lawyers and accountants. Indeed, the membership of the committee had some considerable expertise on it. They would pre-study this complex legislation. They would identify flaws. They would negotiate amendments with the Minister of Finance before the bill ever left the House of Commons. A lot of time and energy was saved in Parliament by that technique.

It was also used by other committees for various reasons, but mostly to deal with complex legislation. It was felt that it was much better for the Senate to identify the flaws, to negotiate the amendments, and to have them made in the House of Commons, so that we did not go through the routine of having the legislation come here, amending it and sending it back to the House of Commons.

At some time during the 1980s, the then Liberal opposition, under the leadership of Senator MacEachen and Senator John Stewart, both of whom were well known as House of Commons men, objected to the technique of pre-study, and perhaps we were resorting to it too frequently, but they called a halt. There would be no more pre-study. We would process legislation in the traditional parliamentary way: three readings in the House of Commons, presentation in the Senate, three readings here, and no

pre-study. I think that was a loss, and we have shown today how useful in some circumstances the technique of pre-study can be. I hope we will consider reviving it from time to time in the Senate.

If my friends opposite are worried about what retired Senator MacEachen and retired Senator Stewart might say, they do not have to know. If you do not tell them, I will not spill the beans either.

Those are my comments, which will also go for comments on Bill C-28.

**Hon. Consiglio Di Nino:** Honourable senators, I have several quick comments. I first want to thank the chair of the committee, Senator Day. We had, as he said, a very fruitful and extensive analysis of this bill, even though we did it in record time. The cooperation by the chair and every member of the committee also bears mentioning.

Senator Day and Senator Murray put on the record pretty well what happened over there. I will just add that the examination was a thorough one of a very complex — and again quoting Senator Day — eclectic piece of legislation covering very many provisions, which will affect Canadians, in my opinion, positively, including farmers as well as the business community. Certainly, there was full participation by the committee members. The report given by Senator Day reflects that participation.

In closing, the passage of this bill will enable the government to implement these provisions. I urge my colleagues to join this side in voting in favour of it.

**Hon. James S. Cowan:** Honourable senators, I have a brief intervention. I heard the evidence that Senator Day and Senator Murray have described to the house and I think they fairly presented that information. I endorse the comments that Senator Murray made with respect to the apparent fiscal impact on the Province of Nova Scotia. It would appear, speculative as the numbers are, that over time, in all likelihood, Nova Scotia will receive more money than it would have under the Atlantic accord. However, that begs the question that was raised by the tabling of the budget, and that was that that budget, despite the protestations of the Prime Minister and the minister at the time, broke a signed agreement between the Government of Canada and the Provinces of Nova Scotia and Newfoundland and Labrador. That fact has become more and more clear.

A deal has been made which results in more money going to Nova Scotia, in all likelihood of the magnitude that Senator Murray has described to the Senate. The premier of Newfoundland and Labrador has signed on for a year, as a result of which that province will receive something in the order of \$66 million or \$67 million more than it would have under the previous arrangement.

However, the fact is that the government broke the agreement. For that reason, and despite the fact that the province which I am proud to represent may receive some more money than otherwise would have been the case, I intend to vote against this bill, because it represents a breach of a signed agreement between the Government of Canada and the government of a province in this country. As I said in my speech in the spring on the budget bill,

what happened to Nova Scotia and Newfoundland and Labrador in the spring can happen to other provinces if other signed agreements are broken in the cavalier manner in which this one was.

**Hon. Pierrette Ringuette:** Honourable senators, as a member of the committee I would like to add my comments.

Two important items also need to be raised that were brought forth at the committee.

• (1510)

The first point is the fact that the Parliamentary Secretary to the Minister of Finance indicated in his speech that the current policy and economic situation of the Government of Canada had created 40,000 new jobs. I then asked, “How many jobs did we lose in the forestry sector in the last 18 months?” He said, “I do not know.” I said, “Well, is it 40,000? Is it 50,000? Is it more than 40,000?” He said, “I suspect it is more.” The loss of very important jobs in the resource sector, in the forestry sector, in those small communities throughout the country is not registering at all. There are no funds in this bill at all to in any way help the forestry sector. That is a shame, because 18 months ago this government said they were resolving the forestry issue. They certainly did, and I say, “Shame!”

The second important issue that I would like to bring forward is that of child care. Honourable senators will recall a discussion in this room, questions and answers in this house, in regard to the cancellation of child care agreements with all the provinces that the prior government had signed and that this government reneged on, saying, and I can almost quote word for word, that they were not worth the paper they were written on.

Last year, in the budget for fiscal 2006-07, this government said that it was putting forward \$250 million as a child care creation program via the employer. Yesterday afternoon we heard that not one dollar of that program was used by employers, just as most of us in this chamber said would happen. That was not the right way to do it. It was not the way to achieve the objective. Therefore, when they got to the end of the fiscal year, they made another announcement of \$250 million that they would transfer to the provinces so that they could create child care spaces. Honourable senators, that was the same money that had not been used in the employer program. In Bill C-28, we again have an employer-based child care creation program, and from the highlights that we got yesterday, it will not work again.

This morning, at committee, we heard two very good witnesses, and we also had the two professors on the issue of the Atlantic accord. The witness who dealt with agriculture and farmers and the one who dealt with antipoverty both had excellent presentations, but the one who was more worrisome came from the antipoverty organization. It is clear that not only this government, but also the previous government have not dealt with the issue of child poverty, senior poverty and family poverty in this great nation of ours. I say shame on all of us! Shame on all of us for putting petty politics ahead of dealing with the real issues of this land. We need our children to have healthy meals, to have roofs and to have heating this winter. We need them to have that in order to be able to study, to have an education and to be productive citizens in our society. Bill C-28 does not achieve that. It actually exacerbates the problem.

As a senator from New Brunswick, I see what is happening in my province. The federal government is not delivering. Actually, it is cutting funds to social programs. It is cutting funds to post-secondary education. None of us, regardless of party, should accept that. At the same time, this government is negating taxes to be paid by employees of big-time Internet businesses. There were published reports last week in the *Ottawa Citizen* and in the *Gazette* that millions of dollars are given to people who, in my world of New Brunswick, would be considered to be rich. At the same time, I remind honourable senators that this government has caused millions of Canadian citizens to lose vital income by the decision of the government in regard to the income trust issue. Canadians had nothing to do with that decision, but they lost significant amount of money. That was a decision of the government. However, the tax credit that was given to all of these people was not a decision that the government made; it was an investment decision that they made, and that is absolutely unfair.

**Senator LeBreton:** Maybe you should give them that \$30,000 you got.

**Senator Ringuette:** The bottom line, honourable senators, is that I believe that we are on the wrong path. This government is leading Canadians, including future generations, down the wrong path, where the poor become poorer and the rich become richer. As a Liberal, as a New Brunswicker and as an Atlantic Canadian, I cannot accept that.

**Senator Di Nino:** Would the honourable senator accept a question?

**The Hon. the Speaker *pro tempore*:** Would you accept a question, Senator Ringuette?

**Senator Ringuette:** Absolutely.

**Senator Di Nino:** Honourable senators, as a preamble, I do not know what meeting Senator Ringuette attended. I was at the same one. I applaud her passion and respect her position, but, having said that, we had an extensive discussion on the poverty issue. The witness was very good. He agreed that the measures that are included in the subject matter we are studying all advance the cause. He said they were minor advances, small advances, but they were all advancing the cause of poverty. We talked about four or five specific issues. Does the honourable senator not agree that that is what the witness said? We can look at the blues to confirm.

**Senator Ringuette:** Honourable senators, I thank my honourable colleague for the question. I do remember the witness saying that these were purely baby steps that were being taken, and we were looking at the worker tax credit. I also remember the witness saying that, for instance, the 1 per cent GST cut that will come into effect on January 1 would accomplish greater consumer requirements and, in regard to fiscal responsibility, he said that the \$6 billion in question, and that is annually, should instead be invested in housing. Our poor need housing.

The witness also mentioned food banks. There are 674 food banks across the country. His comment, honourable senators, was basically that there is no real addressing of the poverty issue. I recognize that Senator Di Nino's heart and mind are in the right

place in regard to poverty issues, but he must recognize that when looking at fiscal policy, fiscal policy is also a tool that a government can use to help the most in need.

• (1520)

The witnesses we heard this morning, especially the anti-poverty group, indicated that the fiscal policies are not addressing these needs.

**Hon. Robert W. Peterson:** Honourable senators, Saskatchewan did not have a written agreement with the Government of Canada regarding equalization. However, we had a moral commitment in the form of a letter signed by the Prime Minister of Canada. Saskatchewan has 800 million reasons to oppose this bill.

**Hon. Jane Cordy:** Honourable senators, while I am not a member of the committee, I watched the proceedings this morning on my computer and did attend the meeting for a while yesterday afternoon. I thank the senators who participated in the discussion. I was taken with Senator Cowan from Nova Scotia and Senator Murray who, while he is an Ontario senator, has his heart and home now in Nova Scotia.

Like other members of the House of Commons and senators, I attended a briefing session a few weeks ago by the Department of Finance. At that briefing I asked if we could have projections so that we would understand how this agreement was reached between Nova Scotia and Ottawa. The officials from the department told us that they were not able to give us projections and that they did not distribute any projections from the federal level. I asked about the projections that Premier MacDonald is giving in Nova Scotia. Their answer was that long-term projections are unreliable.

Keeping that in mind, and keeping in mind that this bill undermines the principles of the Atlantic accord, a promise was made by Stephen Harper during the last election that he would not break this accord. The accord was created for the economic development of Nova Scotia and Newfoundland and Labrador and not as an equalization agreement. I will not be able to vote in favour of Bill C-28.

We will find out in 2019 whether or not Nova Scotia will receive more money. As I watched the proceedings this morning, I heard it said that Nova Scotia could receive more money, but it is a long time to wait and many things could happen in the next few years. In the meantime, Nova Scotia will be receiving less money than it would have received from the Atlantic accord.

**An Hon. Senator:** That is not the case.

**Senator Cordy:** As a senator from Nova Scotia and representing the people from Nova Scotia, I will be voting against this bill.

**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 report adopted, on division.

## SECOND READING

**Hon. Nancy Ruth** moved second reading.

She said: Honourable senators, as Senator Day said, Bill C-28 implements measures from Budget 2007 that were not included in last spring's budget.

Aside from the measures in Budget 2007, that were not included in last spring's budget, this bill also implements the tax reduction measures from the 2007 economic statement.

Bill C-28 is key to this government's long-term economic plan to build a strong economy.

Government plays an important role in creating the right conditions for Canadians — and Canadian business and organizations — to thrive. Advantage Canada will create new opportunities and choices for Canadians as will measures in Bill C-28.

Honourable senators remember the Advantage Canada plan. That plan focused on creating five Canadian advantages that would help us to improve both our quality of life and our capacity to succeed on the world stage. Those five advantages are: infrastructure, knowledge, entrepreneurial, fiscal and tax advantages.

First, Canada's infrastructure advantage will ensure the flow of people, goods and services across our roads and bridges, through our ports and gateways and via our public transit. We are making the largest single federal investment in public infrastructure in Canadian history. I am talking about \$33 billion over seven years for roads, bridges, water systems, international gateways and public transit.

Second, Canada's knowledge advantage will create the best educated, most skilled and most flexible workforce in the world.

The third advantage, an entrepreneurial advantage, will reduce regulation and red tape and lower taxes to unlock business investment, which, in turn, will encourage a more competitive business environment. This will also benefit Canadians. Consumers will get goods at lower prices.

Fourth, Canada's fiscal advantage will eliminate Canada's total government net debt in less than a generation, creating a strong foundation on which to build sustainable prosperity.

Fifth, a tax advantage will reduce taxes for Canadians and establish the lowest tax rate on new business investment in the G7.

The measures in Bill C-28 from Budget 2007, combined with those from the fall economic statement, will help us to establish a legacy of tax relief and create a tax advantage for Canada and Canada's economy and to ensure that fiscal fundamentals are solid.

Our fiscal position provides Canada with an opportunity that few other countries have: to deliver tax cuts that will strengthen our economy, stimulate investment and create more and better jobs.

Put simply, the Government is taking steps to build Canada. We are reducing taxes for Canadians and business taxation while reducing the federal debt.

This fall's economic statement provides a total of \$60 billion in tax relief over this and the next five fiscal years. These tax reduction measures are included in Bill C-28. I will outline those measures and illustrate how they will benefit Canadians.

I will start with the proposal to reduce the GST by 1 percentage point to 5 per cent. The combined 2 percentage point reduction represents some \$12 billion in annual savings for consumers; that is, \$6 billion per point per annum. We are also taking steps to further reduce personal income taxes.

On the personal income tax front, Bill C-28 proposes to increase the basic personal exemption amount to \$9,600 retroactive to January 1, 2007. Canadians will see that benefit when they fill in their income tax forms this year. This amount will be increased by \$500 to \$10,100 on January 1, 2009. This proposal will provide Canadians with an additional \$2.5 billion in tax relief in 2007 and 2008.

In addition, Bill C-28 offers more tax reduction by proposing to reduce the lowest personal income tax rate to 15 per cent from 15.5 per cent. This is retroactive to January 1, 2007. This proposal means \$8.4 billion in tax relief over this and the next five years.

• (1530)

Businesses will also benefit from the proposed tax reductions in Bill C-28. We are putting business taxes on a five-year track downward — a steady, predictable decline that businesses can count on and plan on.

Bill C-28 proposes to cut the corporate income tax rate. We will make an immediate 1-percentage-point reduction in 2008 in addition to those we have already made. There will be ongoing reductions that will bring the tax rate down to 15 per cent by 2012, from more than 22 per cent today.

With these reductions, Canada's general federal corporate income tax rate will fall by one third between 2007 and 2012, and Canada's corporate tax rate will become the lowest among the major industrialized economies in 2012 and the lowest overall tax rate on new business investment by 2011. In my opinion, that is pretty darn good.

The government has taken action to provide tax reductions that will provide total tax relief of almost \$190 billion. The measures from the Economic Statement and Budget 2007 contained in Bill C-28 offer benefits to families, individuals and businesses alike.

Here are some examples of that, honourable senators: The working income tax benefit. This initiative will make employment more rewarding for more than 1.2 million low-income Canadians. Perhaps the benefit could be bigger, but it is a start.

For example, now, a single parent who takes a job can lose almost 80 cents of each dollar earned to taxes and reduced income support, not accounting for additional work-related expenses nor the loss of in-kind benefits.

The Working Income Tax Benefit builds on lowering the so-called “welfare wall,” notably for families with children, mainly single mothers with children, through the federal-provincial-territorial national child care benefit supplement.

It is estimated that the Working Income Tax Benefit will encourage close to 60,000 people to enter the workforce. This is a first step and we will build upon it.

Families, in particular, benefit in a number of ways from Budget 2007 measures contained in this bill.

For example, Bill C-38 proposes a measure that builds on an initiative in Budget 2006, the fully exempted scholarship, fellowship and bursary income received by post-secondary students. Specifically, this bill proposes to extend this treatment to elementary and secondary school students effective this year.

Bill C-28 also responds to families who are caring for children with severe disabilities by proposing a registered disability savings plan. The proposed measure responds fully to the recommendations of the Expert Panel on Financial Security for Children with Severe Disabilities. The future income that a registered disability savings plan could provide will help to ensure greater financial security for such children and greater peace of mind for their parents.

Honourable senators will recall the Children’s Fitness Tax Credit also from Budget 2006. The proposed legislation we are debating today defines the activities that are eligible for the credit. A key part of the proposed regulations is that substantial additional support will be provided to children who are eligible for the disability tax credit. This recognition of the unique barriers these children face in becoming more active responds to the recommendations made by the Expert Panel for the Children’s Fitness Tax Credit.

For businesses, Budget 2007 also contained tax measures to help encourage businesses to grow. One way that Canada’s federal income tax system can support entrepreneurs is through the lifetime capital gains exemption.

For example, in recognition of the importance of small businesses, fishers and farmers to Canada’s economy, Budget 2007 proposes to increase the lifetime capital gains exemption to \$750,000, from \$500,000 for these entrepreneurs — the first time it has been increased since 1988.

Honourable senators, long-distance truckers move the bulk of Canada’s consumer products and foodstuffs to market, and they have issues around the cost of their meals while they are on the road. Bill C-28 proposes to increase, to 80 per cent from 50 per cent, the share of meal expenses that long-haul truck drivers can deduct for income tax purposes. This increase will be phased in over five years. In a parallel move, Bill C-28 also proposes to increase the percentage of available input tax credits for GST and HST paid on meal expenses of long-haul truck drivers.

Reducing taxes will encourage the growth of small businesses in Canada. The government wants to reduce the paperwork burden for small businesses. To that end, Bill C-28 proposes measures to

ease tax remittance and filing requirements for small businesses. Furthermore, this bill proposes to increase the thresholds for the GST/HST annual filing and annual remittance.

These proposals will reduce the filing and remitting requirements of more than 350,000 small businesses, on average, by about one third. For very small businesses, the reduction could be as much as 70 per cent.

In conclusion, then, as I have outlined today, Bill C-28 contains numerous measures that will help families, individuals and businesses — measures that take action based on the five advantages set out in Advantage Canada. The proposed initiatives in this bill respond to each of these advantages and, in doing so, will help make Canada a leader for today and for future generations. Once passed, the measures in Bill C-28 will help build a strong Canadian economy and make our quality of life second to none. Therefore, let us get on with it, honourable senators, and pass this bill and start to reap its benefits.

**Hon. Elaine McCoy:** Will the honourable senator entertain a question?

**Senator Nancy Ruth:** Yes.

**Senator McCoy:** I have a simple question. Has the honourable senator conducted a gender analysis of this bill?

**Senator Nancy Ruth:** How very kind of the honourable senator to ask that question.

Many of these deductions will impact women, especially poor women with some of these tax deductions. There are many women in small businesses, and really small businesses of one or two employees; they do not even have 10 or 20 employees. The 70 per cent reduction in paperwork will be a huge benefit to them.

To that extent, and so on throughout the bill, I would say yes, senator.

**Hon. Tommy Banks:** Will the honourable senator entertain another question?

The honourable senator mentioned a couple of times in her speech the necessity to build a stronger economy. I wish to point out that she does not have to, because she was handed a strong economy when she came to office. All she has to do is keep it, and we hope she will.

The honourable senator made a reference of which I am completely ignorant. I know that our national debt is in the order of \$400-odd billion, but she used the term “net debt,” with which I am unfamiliar. What is the net debt? Does that have anything to do with the long-term debt of \$400-odd dollars, as it exists?

**Senator Nancy Ruth:** I cannot answer the honourable senator’s question, but I think the answer is no. I am not sure, and I will get back to the honourable senator. It is not “the big debt.”

**Hon. Joseph A. Day:** Honourable senators, I could not let the opportunity go by, as the critic on this particular bill without saying a few words.

Honourable senators, with your permission, I will continue analyzing Bill C-28, further to my discussion during the report stage on this bill. I thank and congratulate the Honourable Senator Nancy Ruth for her presentation as the sponsor of this bill.

• (1540)

I indicated previously that Bill C-28 is a massive document that includes 14 parts. It covers everything from cuts to GST and corporate income taxes to amendments to various laws ranging from the Farm Income Protection Act and the Federal Provincial Fiscal Arrangement Act to the Canada Education Savings Act, et cetera. I do not intend to re-engage in the discussion with respect to equalization and the Atlantic offshore accord. Honourable senators will have heard from various senators on that point.

I remind honourable senators that Nova Scotia needs Bill C-28 to get the deal it made on October 10, 2007. Newfoundland and Labrador does not need Bill C-28 because it does not impact on the recent agreement reached between the Premier and the Prime Minister. In Nova Scotia, Premier MacDonald will have the best of both worlds with the formula-driven annual calculation and reap the return of revenue from the offshore funds. If the full amount does not equal or exceed the amount that Nova Scotia would have been entitled to under the previous accords, the cumulative difference will be transferred to Nova Scotia. Nova Scotia will always get the best from the various projects if Bill C-28 is passed.

Honourable senators, Senator Ringuette has spoken to the working income tax benefit, which is a new initiative. We heard from a most able spokesperson before the committee, Mr. Rob Rainer, Executive Director of the National Anti-Poverty Organization, who explained the impact of that initiative. One thing that I recall well from his discussion this morning, and that Senator Ringuette spoke to so passionately, is that the analysis prepared by the National Anti-Poverty Organization shows that a corporate executive makes more in 13 hours than an individual who could be classified as “working poor” makes in an entire year.

Honourable senators, we know that we have to do something to rectify this. Mr. Rainer said he went by a sign indicating, “helping the poor in Canada since 1906.” If such an organization has been working since 1906, then we still have the same level of poverty today as existed then. We have to redouble our efforts to work on this matter.

With respect to the government’s initiative in Bill C-28 in respect of working income tax benefits, Mr. Rainer pointed out that the initiative will provide a refundable tax credit equal to 20 per cent of every dollar earned in income in excess of \$3,000. That does not click in until \$3,000. When an individual on welfare finds work and gets off welfare, a gap occurs whereby he will lose all of the social benefits that the net provides. For the first \$3,000, he is on his own and after that the maximum credit is \$500 for an individual and \$1,000 for a family. That is far too small, so it should click in for the first dollar earned, as do programs in other countries in the world. Mr. Rainer said that it is not the solution and much more must be done, although it is better than nothing.

We asked for some indication of the cost, but it is difficult to estimate when there are so many variables to factor in, such as how many people will take up the program; who will move off social assistance into the working world; and who the working poor are who will take advantage of this. Mr. Rainer indicated that he felt there would be very little take-up on this particular matter.

I will provide an overview of some clauses in the bill. I will not get into a debate on any of the aspects because they have been explained well by honourable senators on both sides. I will speak about a few of the programs because as so often happens after a bill passes, someone will ask whether it passed and, if so, when it passed. We see far too many omnibus bills of various themes before the house. It is easy to miss a part or two because they are so big. They are all different classes of ideas and it is easy to miss one along the way, when there are so many initiatives in one bill.

Part No. 1 deals with the amendments in respect of the Goods and Services Tax, but not with the proposed reduction from 6 per cent to 5 per cent, which is in another part of the bill. That is an implementation of the economic statement in October-November. This particular initiative was designed to help small businesses, who traditionally make a quarterly payment. The amount of GST that a small business is obligated to collect and report on in the operation of the business has been changed. The numbers have been moved up such that taxable supplies have gone from \$500,000 to \$1.5 million and the quarterly remittance threshold has changed from \$1,500 to \$3,000. These are good initiatives to reduce the tax burden on small businesses.

Initiative No. 2 in part 2 concerns amendments relating to excise tax on renewable fuels. Initially, I wondered why we would take away the exemption on renewable fuels, such as ethanol and biodiesel. Government officials explained that the proposed legislation will require renewable fuels to be mixed with gasoline. Thus, it seemed inconsistent to have an inducement to use those renewable fuels by having an exemption. As a result, the government will collect a higher excise tax on renewable fuels and, because more of them will be used, create a major revenue source for the government.

Honourable senators, I have spoken to one of the many changes to the Income Tax Act — the working income tax benefit — and there are about 35 changes to the act in total. For example, an extension of one year to the mineral exploration tax credit, although the mining industry had hoped for longer, to include this fiscal year to the end of March 2008 only. We will no doubt revisit this issue.

• (1550)

Another change to the Income Tax Act is a phased retirement option for pension plans, which is good because it recognizes an aging work force and the many individuals who are still able to work. Anywhere the federal government has jurisdiction over the pension plan, the government authorizes people who draw from that pension plan to receive his or her pension while continuing to contribute to that plan. Under that initiative, the pension plan continues to grow and when the person retires, he or she will reap the benefits of an increased pension. That kind of phased retirement is a good initiative.

Honourable senators have heard about the lifetime capital gains exemption increase from \$500,000 to \$750,000. That increase is only for small businesses and farmers. It is a good but limited initiative from the point of view of those two groups because the value of their business is increasing.

There is a new program for disability. Honourable senators may think that Canadians with serious disabilities are not likely generating income to pay into the Registered Disability Savings Plan. This initiative provides that other people, such as family members can pay into it and create a plan much like an RRSP for the disabled person. This is a desirable type of initiative. We need to monitor how this initiative is working over time and fine tune it, but this is a step in the right direction.

There is an incentive for provinces to stop taxing capital. The federal government wants to be the only entity taxing capital, so it will provide an incentive in that regard to the provinces that are taxing capital. That is a business efficiency argument.

Concerning the Bank for International Settlements, the bill creates immunity from any prosecution or lawsuits from this particular bank. That is one of those items that sometimes sneak into a bill. This one bank operates internationally. It is not the World Bank, but like the World Bank, it is involved on an international basis. Various countries of the world put an amount into that bank, and it operates as a bank for other banks. Because of a more litigious society, in this legislation honourable senators will be giving that bank immunity from prosecution in the civil courts.

The advanced market commitment is another interesting matter that took several people from the government to explain. This project is a pilot initiative whereby six donor countries, including Canada, commit a significant amount of money — U.S. \$1.5 billion — for certain vaccines that might not be produced by pharmaceutical companies without a guaranteed market. Canada, along with five or six other countries, is entering into this program and is committing to buy the vaccines for use in developing and underdeveloped countries. This will be undoubtedly an incentive to pharmaceutical companies to go ahead with and develop the product when the money is guaranteed by developed nations.

There are changes to the Canada Oil and Gas Operations Act. The National Energy Board is being given more authority with respect to the product that is carried in various pipelines.

We heard extensively from a witness today with respect to farm income, and it disappointed me that there was no discussion with respect to woodlot owners. Very typically, in Eastern Canada and Quebec at least, farmers have a woodlot as part of his or her operation. The forest industry is in such dire straits that I would have hoped and expected some initiative with respect to the forestry sector as well.

The next particular amendment is farm income stabilization, which rewords an earlier program. There are two parts to the fund. When the farmer has a good year, he puts money into a non-taxable fund that he can draw out on bad years. The gain is not taxable while in the program. There was another percentage that the federal government put in to a second fund matching a percentage of what the farmer was contributing. This initiative takes that federal government portion and says they can be

managed by the farmer and be drawn out on an as-needed basis as opposed to the farmer drawing his portion and having to apply for his portion of the federal government money.

There are many different types of programs for farmers, and they keep changing names with every change of government, which makes them difficult to follow. I would encourage our Standing Senate Committee on Agriculture and Forestry to take a look at all of these programs. What kind of outreach is there to the smaller farmers to give access to and know about these programs?

The minor amendments to the Canada Education Savings Act allow a government department to collect social insurance numbers for the purposes of that particular program.

An area that does show some policy shift and movement is the significant amount being put into the three Ps, the public-private partnerships. This initiative will receive \$1.26 billion. In this particular bill, we are asked to approve \$5 million per year over a period of five years for the creation of an office. We asked where the office is to be, and no one knew yet. Five million will be used for the office to run this new concept of public-private partnerships and to try to lever money from the private sector with respect to federal government infrastructure.

In my view, that is a policy movement we will want to be cognizant of. It goes along with the recent statements and action of selling various federal government buildings. It is part of that policy initiative that is worth keeping an eye on.

Honourable senators, we have heard a great deal about the GST cut, and it appears in this bill. This is the second cut promised by Mr. Harper two years ago when he was running for office. By virtue of his position as leader of the party, having been chosen by the Conservatives to be that leader, he becomes Prime Minister with the plurality of members. I make that point because from time to time we hear that he was elected as Prime Minister. He was elected as a member of Parliament.

Honourable senators, compared to the income tax cuts, the cut in GST does little or nothing to improve the fairness in our tax system. It does nothing to advance Canada's competitiveness in the world economy or advance our productivity. That is the consensus among economists of every stripe and every political party representing organizations as varied as the Fraser Institute, the Canadian Auto Workers, the Canadian Manufacturers and Exporters and major Canadian banks.

• (1600)

If the government is looking for clear evidence of this, then I suggest the government review the *Report on Business* article that appeared in *The Globe and Mail* in October, which gave a good analysis of a GST cut versus corporate and individual tax cuts.

Moreover, the report published in October by the Organisation for Economic Co-operation and Development, OECD, indicates that the preferred approach with regard to tax relief should be to maintain the consumption tax and reduce personal and corporate taxes. Based on that study, any reduction in personal and corporate income taxes tends to stimulate economies and the investments necessary to increase our productivity, enhance competitiveness and improve living conditions.

Over the past two years, honourable senators, a great majority of experts have testified before parliamentary committees and they have argued that the need to increase productivity is the next major economic challenge that Canada faces. The economic solutions advocated by these experts include allowing manufacturers to write off assets on the basis of their useful lives, as opposed to an artificial period of time, and making research and development credits refundable.

Moreover, it seems everyone agrees that cutting corporate and personal income taxes is one of the preferred ways to help increase our productivity. However, none of these experts thinks that cutting the GST is a good idea. Besides, even a study prepared by the Department of Finance concluded that cutting the GST was the worst strategy for Canada to follow.

However, this obvious political myopia is not the only drawback to this bill. A good dose of smoke and mirrors is also part of the equation. Although the Finance Minister claimed that Canadians were overtaxed in his 2006 budget, he proceeded to increase from 15 to 15.5 per cent in the same budget, the lower tax rate.

Now, he has the temerity to call bringing it back to 15 per cent where it was when he first became Finance Minister, a tax cut. That which he took away with one hand he is now giving back, and he calls it a tax reduction.

[Translation]

As for the corporate tax cuts proposed in this bill, I will just say that they are pretty much identical to the ones put forward by the Liberals in 2005, and the ones that Liberal leader Stéphane Dion keeps pushing for.

[English]

Honourable senators, Bill C-28 is a considerably flawed measure whose shortcomings include the lack of any strategy to deal with looming labour shortages. It makes no provisions for investing in carbon capture and sequestration, or in technologies aimed at recycling water in areas like the oil sands.

It also legislates the betrayal of the law with respect to the Atlantic accord. As I pointed out earlier, the spirit and law of the Atlantic accord has not been met. The premiers want it because they have been offered more money, and they have, in effect, been bought out on this particular matter.

Honourable senators, the point, however, is that this bill is a collection of initiatives in an omnibus bill. It is not an economic statement of the government. We can talk about our differences with respect to economic positions and the overall economic statement and we may well go in different directions with respect to the overall initiatives that we would like to take, but many initiatives in this bill are favourable and worth consideration.

This bill, in effect, is a series of unrelated measures — some of which we can enthusiastically support and others less so. However, on balance, I suggest, honourable senators, that this bill is worthy of your support.

[ Senator Day ]

**Hon. Wilfred P. Moore:** Honourable senators, the Atlantic accord, as has been mentioned by Senator Cordy, is a regional economic development agreement. It has nothing to do with equalization. That was stated in the document.

It also says in the document that the agreement can not be changed without an agreement in writing by both parties. Since the amending agreement has never been signed, are we to assume that the accord remains in place as a legal document?

As was mentioned, Stephen Harper's campaign promise was to respect the accord. Now we see he is not a man of honour; he has broken his word. Nova Scotia premier Rodney MacDonald so testified in his appearance before the Standing Senate Committee on National Finance.

In spinning this new financial arrangement and the discard of the accord, Finance Minister Jim Flaherty and Defence Minister Peter MacKay, from Nova Scotia, said that Nova Scotia could make choices as to whether it wanted to opt for the accord or this new arrangement. The fact is, honourable senators, the choice, once made, is permanent. There is no opportunity for future reviewing of results and choices — yet another breach of faith.

In the briefing by Department of Finance officials, as has been mentioned so ably by Senator Murray, in that briefing they said that they do not create modeling of figures, which I found astounding. If they do not do such number crunching, on what do they base their discussions and negotiations? I think it bears repetition that the Department of Finance officials declined to associate themselves with the increased financial results projected by the Nova Scotia government. As has been mentioned, they termed those figures to be speculative, at best.

The future of my province is founded on speculation through the year 2019-20. In the meantime, my province will receive fewer funds that it would have received under the accord.

It was interesting that those same officials advised us that this financial arrangement could be broken by another administration or, indeed, by itself. This arrangement, like the accord, is not legally binding on the Harper government. Honourable senators, for those reasons, I shall not support this bill.

**Senator McCoy:** I, too, cannot find it in myself to support this bill for all the reasons that I said earlier this year in June. This bill is an implementation bill, so there is a matter of principle.

I recognize that I would support some provisions in this bill if they had not been bundled, and I have sympathy for our committee, which has done yeoman work in studying this bill.

However, one reason this honourable institution gets itself in so much trouble is because we are not given opportunities to speak out and to act effectively on principle. We are forever being led down this garden path that says we must not defeat this bill or we will have a constitutional crisis. Oh, we must not upset the fiscal arrangements for all those civil servants who are working so hard on behalf of Canadians. Oh, there are larger and bigger reasons for somehow sitting back and letting the principle be gobbled up in some form of amazing emergency.



• (1610)

We saw it again in the bill yesterday. It was about balancing the need for nuclear safety, notwithstanding that we are being led by this government into the Global Nuclear Energy Partnership. On the other hand, there are heart-breaking stories of cancer patients being denied the treatments their doctors would prefer because of the lack of isotopes.

Time and time again, we are brought to this kind of position. In this chamber, we cannot seem to say in an effective way what we should do as senators. As senators, we are obligated to provide sober second thought. We ought to be careful, stand back, look at the regional interests, look at the minority interests and look at the principles. As Canadians, as an elder council, that is what our job will be.

To that I object. However, I also object to the breach of agreement on a clearly regional issue that some senators are forced to swallow. I refer to the Atlantic Accord, not to mention the Newfoundland debacle and Saskatchewan's interests being gored in this particular bill.

The minorities' interests have not been particularly studied. I object to the fact that the two main issues of the day have not been addressed. One of them is climate change. It is time we developed fiscal measures, including carbon tax and carbon trading systems. That issue has not been addressed.

I could go on, but those questions are big enough for me to say, I cannot support this bill. I cannot support it on principle or in my view of my role as a senator of Canada.

**Senator Banks:** Honourable senators, I apologize for taking this time, but I am inspired by my Alberta colleague, with whom I agree.

I am speaking about this bill but not on the substance of it. When I came here, I had no concept of numbers with more than five zeros. I have learned under the tutelage of Senator Murray that there are numbers that have nine zeros after them. I began to have some concept of what that meant and what we were talking about spending.

I also gained an understanding from the honourable senator of what it is we are supposed to do here. We are supposed to be an institution that reviews legislation. That is what we are supposed to do. However, twice every year — every year coming up to Christmas and every year coming up to June, going back far into the past — we receive a huge bill. It is always a huge bill. There are imperatives in it about which there is no doubt.

I want to add my grateful thanks to Senator Nancy Ruth and Senator Day for undertaking to explain to us in the space of a couple of hours a bill that will spend billions of dollars. How many billions of dollars will it cost?

No one knows how many billions of dollars. It is set out in a bill that we received in this place at about 1:45 p.m. today, a bill for which pre-study was done over the last two days, in yeoman work by the Standing Senate Committee on National Finance. We cannot, in that circumstance, do our job with respect to spending money. The Senate is supposed to be a place that reviews bills. This is a bill, and we have long since been constrained in our task

by the short timeline between the time we receive those bills and the time that they "must" be passed.

My concern may be obviated by the device used in this case: the pre-study, something Senator Murray referred to earlier. I suppose we could look at a budget bill the minute it is introduced in the other place and have a lot of time to deal with it. That approach might, in some way, alleviate the short time we have to address the matters that are supposed to be before us, and to which we are supposed to pay attention.

In the past few years, we have caught things in some of those bills that turned out to be mistakes that we fixed later. However, the reason we did not catch them at first is exactly because of what happened yesterday, today and will happen tomorrow. We have been given a bill to spend untold billions of dollars and we have no time to look at it.

I do not know what the solution is. It may be as simple as the one Senator Murray proposed. It may be that we require, from the moment a bill is introduced, a pre-study of a bill that proposes to spend large sums of money such as this. We can do it and maybe we always ought to do that.

One way or another, senators, we cannot go on twice a year excusing ourselves or being expected to be excused from doing among the most important things we are here to do. Government consists of collecting money and deciding how to spend it. That is what government is. We pay virtually no attention to that part of what our government, your government and every government prior to us does in this place. We need to fix that issue somehow.

**Hon. Sharon Carstairs:** Honourable senators, I also intend to put a few remarks on the record. I was informed that the Minister of Finance was unwilling to appear before the committee on this legislation. My philosophy with respect to that, honourable senators, and I have been Government Leader in the Senate, is if a minister of the Crown wants a bill, he or she better be prepared to come before the Senate of Canada.

The other place sees the Minister of Finance on a regular basis. Members can examine and question. We do not have that opportunity and I think it is proper that we should. I think that, under extreme circumstances, it may be appropriate to have more than one minister of the Crown sitting in this place, but I do not recommend it on a regular basis. Therefore, our only opportunity to hear from ministers is when we deal with their pieces of legislation.

In the past, I have phoned ministers and said: "If you not wish to appear on this bill, you obviously do not want your bill." The minister would say, "Of course I want my bill." My response was always: "Then you better be prepared to attend at committee."

Honourable senators, I know the pressures on ministers. I know that they must scratch for time. However, they have a responsibility to this chamber and that is to have the courtesy to say to every one of us: "I want my bill and therefore I will give you the courtesy of my time."

**The Hon. the Speaker:** Further debate? Question?

**Some Hon. Senators:** Question!

**The Hon. the Speaker:** 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.

### THIRD READING

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

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Now.

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

**Hon. Senators:** Agreed.

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

**Some Hon. Senators:** Agreed.

**Some Hon. Senators:** On division.

**The Hon. the Speaker:** I will put the question more formally. Those in favour of the motion to adopt the bill at third reading will say “yea.”

**Some Hon. Senators:** Yea.

**The Hon. the Speaker:** Those opposed to the motion will say “nay.”

**Some Hon. Senators:** Nay.

**The Hon. the Speaker:** In my opinion, the “nays” have it.

*And two honourable senators having risen:*

**The Hon. the Speaker:** Is there advice from the whips?

**Senator Comeau:** Thirty minutes.

**The Hon. the Speaker:** Do I understand that the leadership on both sides agree to a 30-minute bell?

**Hon. Claudette Tardif (Deputy Leader of the Opposition):** Yes.

**The Hon. the Speaker:** The bills will ring and the vote will take place at ten minutes to five. Do I have permission to leave the chair? Thank you.

• (1650)

**The Hon. the Speaker:** Honourable senators, the question is as follows: It was moved by the Honourable Senator Comeau, seconded by the Honourable Senator Oliver, that Bill C-28 be read the third time.

All those in favour of the motion will please rise.

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

### YEAS

#### THE HONOURABLE SENATORS

Adams  
Andreychuk  
Angus  
Brown  
Campbell  
Cochrane  
Comeau  
Di Nino  
Eyton  
Gustafson  
Johnson

Keon  
Kinsella  
LeBreton  
Murray  
Nancy Ruth  
Nolin  
Oliver  
Spivak  
St. Germain  
Stratton  
Tkachuk—22

### NAYS

#### THE HONOURABLE SENATORS

Cook  
Cordy  
Cowan  
Dyck  
Furey  
McCoy

Merchant  
Moore  
Peterson  
Phalen  
Ringuette—11

### ABSTENTIONS

#### THE HONOURABLE SENATORS

Callbeck  
Carstairs  
Cools  
Corbin  
Dallaire  
Dawson  
Day  
De Bané  
Downe  
Eggleton  
Fairbairn  
Fraser  
Goldstein  
Joyal

Kenny  
Lapointe  
Lovelace Nicholas  
Milne  
Mitchell  
Munson  
Poy  
Sibbeston  
Smith  
Tardif  
Trenholme Counsell  
Watt  
Zimmer—27

### CANADA ELECTIONS ACT

#### BILL TO AMEND—FIRST READING

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons with Bill C-18, An Act to amend the Canada Elections Act (verification of residence).

Bill read first time.

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

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, with leave of the Senate, at the next sitting of the Senate.

**The Hon. the Speaker:** Is leave granted?

**Some Hon. Senators:** Agreed.

**Hon. Sharon Carstairs:** Honourable senators, this is a very rare occurrence to have a bill arrive this late in the session. Would it be possible for us to have a short explanation of what this bill is?

**Senator Comeau:** As far as I know, this is a bill to fix the residency requirements on rural voting so that rural voters will have their addresses on the electoral list.

My understanding is that the Chief Electoral Officer was very much involved in the drafting of the bill. This would fix a problem that has been pointed out by many Canadians across the country.

**Senator LeBreton:** Yes; including Senator Milne.

**Senator Comeau:** If the by-elections were to be called at the end of December — and, they could very well be called by then — if this bill were to receive Royal Assent, the by-elections would be held with this new listing.

I suggest today that honourable senators consider the leave that I am asking for so that honourable senators will be able to reflect overnight on whether or not we might want to look at this. If honourable senators do not wish to proceed with this bill, it will be fairly easy to move the adjournment.

However, this provides us with the opportunity to look at it tomorrow and, if we decide we want to proceed with it, at least by permitting leave that we deal with it tomorrow, it will give us that opportunity. By denying leave and requesting the two days' notice, obviously if we were not to come back next week, we would not deal with it.

• (1700)

This gives us, in effect, the opportunity to deal with it tomorrow, if we should so choose.

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

**Hon. Senators:** Agreed.

On motion of Senator Comeau, bill placed on the Orders of the Day for second reading at the next sitting of the Senate.

[Translation]

#### **BANKRUPTCY AND INSOLVENCY ACT COMPANIES' CREDITORS ARRANGEMENT ACT WAGE EARNER PROTECTION PROGRAM ACT**

##### **BILL TO AMEND—THIRD READING**

**Hon. Gerald J. Comeau (Deputy Leader of the Government)** moved third reading of Bill C-12, An Act to amend the Bankruptcy and Insolvency Act, the Companies' Creditors

Arrangement Act, the Wage Earner Protection Program Act and chapter 47 of the Statutes of Canada, 2005.

Motion agreed to and bill read third time and passed.

[English]

#### **CRIMINAL CODE**

##### **BILL TO AMEND—THIRD READING—DEBATE ADJOURNED**

**Hon. Donald H. Oliver** moved third reading of Bill C-13, An Act to amend the Criminal Code (criminal procedure, language of the accused, sentencing and other amendments), as amended.

He said: Honourable senators, I know that the hour is late, but I wish to make a few comments on Bill C-13.

It is important to fully understand the amendments made to the bill by the Standing Senate Committee on Legal and Constitutional Affairs. I will take this opportunity to explain in a few words why I have concerns and do not support two of these amendments.

As honourable senators know, Bill C-13 introduces amendments to update and modernize the Criminal Code by improving the efficiency of criminal procedures, strengthening sentencing measures and clarifying court-related language rights provisions.

Bill C-13, while primarily technical, is nonetheless important as it addresses procedural anomalies, clarifies the intent of certain provisions and corrects some shortcomings in the law.

This bill touches on three main areas of the Criminal Code: Namely, criminal procedure, language of trial, and sentencing.

The Standing Senate Committee on Legal and Constitutional Affairs proceeded to its clause-by-clause examination of Bill C-13 on December 6, 2007. Four amendments were made by the committee to the language of trial provisions, including the creation of two new provisions.

An additional amendment making changes to the coming-into-force provisions of Bill C-13 while a sixth amendment coordinates changes proposed in the same provisions in both Bill C-13 and Bill C-2, the tackling violent crime act which is now before the committee. All other clauses of Bill C-13 were carried.

I will now turn to each amendment.

First, an amendment was made to clause 18 on page 7 by replacing lines 3 and 4 with the following:

Shall advise the accused of his or her right to apply for an order under subsection.

The key word is "shall advise."

As honourable senators know, the current language of trial provisions in the Criminal Code grants all unrepresented accused people the right to be advised by the judge of their language rights. The present bill only dealt with people who were unrepresented.

Clause 18 in this bill proposed to extend this right to all accused people, but did not impose a specific duty on the judge to personally advise all accused individuals of their language rights.

Clause 18 provided, rather, that the judge “shall ensure that they are advised.” Not that he personally had to do it, but to ensure they are advised.

The amendment made to clause 18 by the committee would not only extend to all accused people the right to be advised of their language rights, but would also impose on the presiding judge the obligation to personally inform each and every accused appearing for the first time.

I cannot support this amendment. During the consultation leading to the tabling of this bill, the provinces and court administrators expressed their concern that this would create an unduly heavy burden on judges and the courts, as well as significantly slow down the court process and result in many more delays.

There are many ways of ensuring that accused persons are aware of their language rights, and some provinces have found very efficient ways of so doing. Bill C-13 was drafted with a view to respecting the different provincial practices that are now in effect.

The second amendment regarding language of trial was made to clause 19 on page 7, by replacing, in the English version, lines 31 and 32 with the following:

(a) cause the portions of an information or indictment against the accused that are in an

Clause 19 of the bill grants all accused the right to ask for a translation of the information or the indictment.

The committee felt that the wording of the English version was not as clear as the French one, as explained yesterday by Senator Fraser. This amendment was thus made to the English version to clarify that the entire charging document was to be translated.

Third, an amendment was made to create a new clause 21.1 on page 9 introducing a new section 532.1 in the Criminal Code that would read as follows:

532.1 The Minister of Justice shall prepare and cause to be laid before each House of Parliament an annual report for the previous year on the operation of the provisions of this part that includes

(a) the number of orders granted under section 530 directing that the accused be tried before a justice of the peace, provincial court judge, judge or judge and jury who speak both official languages of Canada;

(b) the number of trials held in French outside the provinces of Quebec and New Brunswick; and

(c) the number of trials held in English within the province of Quebec.

The amendments were brought forward to allow for the monitoring of the new provisions to verify whether there may be unintended consequences. I respectfully submit that clause 21.1 may prove very difficult to comply with. It fails to take into

account the fact that in some jurisdictions minority language trials will take place without any formal orders under section 530 having been issued. It would thus be very difficult to track these cases that were made without those orders.

In addition, provinces that would be mainly called upon to collect this information do not currently keep such statistics. These are arguments I raised during the committee hearings.

As well, if this type of reporting obligation should be created for the federal government it should rather fall upon the Attorney General of Canada, as is the case, for example, for the reporting obligations provided in section 83.31(1) of the Criminal Code.

In addition, if we are to track the number of trials held in French, it would seem to me that it would make sense to exclude those that take place in Quebec, but it is not clear to me why subsection (b) provides that we would not be tracking the number of French trials in the province of New Brunswick.

• (1710)

The fourth amendment, dealing with the language of trial provisions, proposes to add a new clause 21.2 on page 9, which would create a new section 533.1, in the Criminal Code, that would read as follows:

533.1 (1) Within three years after this section comes into force, a comprehensive review of provisions and operation of this Part shall be undertaken by any committee of the Senate, of the House of Commons or of both Houses of Parliament that may be designated or established by the Senate or the House of Commons, or by both Houses of Parliament, as the case may be, for that purpose.

(2) The committee referred to in subsection (1) shall, within a year after the review undertaken under that subsection or within any further time that may be authorized by the Senate, the House of Commons or both Houses of Parliament, as the case may be, submit a report on the review to Parliament, including a statement of any changes that the committee recommends.

The committee considered it necessary to create this new clause to monitor the implementation of the new provisions as well as part XVII of the Criminal Code as a whole.

As I explained during the committee's clause-by-clause consideration of Bill C-13, I do not believe that this new section is needed for Parliament to review the provisions and operations of the language of trial provisions of the Criminal Code.

Section 88 of the Official Languages Act specifically provides for the creation of a committee of the House, of the Senate or both, to review the administration of the act.

In other words, honourable senators, it is superfluous because we already have the Official Languages Act that already has the power to do the very thing that is suggested by this amendment. In my view, that makes the amendment superfluous.

The Criminal Code provisions we are dealing with here were first created by section 94 of the Official Languages Act. That is where the issue arose in the first place. Again, I say the amendment is superfluous.

The creation by the committee of two new clauses in Bill C-13 led to a fifth amendment, which made corresponding changes to the coming into force provision of clause 46 on page 20. This clause was amended to provide that clause 21.1 and clause 21.2 will come into force on a day or days fixed by the order of the Governor-in-Council.

Finally, honourable senators, a sixth amendment to the bill was made to create a new clause 45.2 on page 20, to coordinate changes proposed in the same Criminal Code provisions in Bill C-13, as well as in Bill C-2, which is now before the committee, called the Tackling Violent Crime Act. That section was explained clearly yesterday by Senator Fraser, and I will not bore everyone by explaining it again.

This concludes my comments, honourable senators. I know that Senator Joyal has comments, and I look forward to hearing from him.

**Hon. Joan Fraser:** I have a question for clarification because I know we all want to hear Senator Joyal.

Senator Oliver, I thought I heard you say that you opposed two of the amendments concerning official languages. Upon listening to you, I thought you said you opposed three of them.

**Senator Oliver:** It is two. One clarifies the language between French and English. We should agree to that amendment. That was a technical clerical error to make sure that the French and English versions are the same. I do not oppose that.

**Senator Fraser:** All the rest you do oppose? Thank you.

**Hon. Serge Joyal:** Honourable senators, I feel it is my duty today to draw your attention to the role that we play in this chamber, especially the senators from Quebec.

Honourable senators know that in Quebec, unique among all the provinces, we represent senatorial districts. We are appointed for a specific district. I represent, for instance, the Kennebec district, which is located in the heart of what we call the "région de l'érable," the maple area between Montreal and Quebec City.

This structure, honourable senators, is not a fantasy of the Constitution. It serves a specific principle. With all the debates that we hear about the renewal, reform and the abolition of this chamber, I remind honourable senators of one of the key reasons why this structure of Quebec regions was agreed to by the Fathers of Confederation. I want to quote from *Protecting Canadian Democracy*, a book that was published some years ago and that many honourable senators contributed to, Senator Murray being one of them.

The social and demographic reality of Quebec explains the existence of the province of Quebec as a political unit and indeed, was one of the essential reasons for establishing a federal structure for the Canadian union in 1867.

This element of the quotation is the most important one:

Nowhere was this more evident than in Quebec, where the Anglo-Protestant minority was guaranteed representation in the Parliament through the creation of carefully drawn minority-majority senatorial districts whose boundaries have remained unchanged since 1867.

Honourable senators, as Honourable Senator Oliver has mentioned, this bill could have some unintended consequences on the status of the so-called Anglo-Protestant minorities in Quebec.

Along with many other honourable senators, I thought this bill was drawn up with the good intention and consultation that took place. When I looked at the witnesses that appeared in the other chamber that testified on this bill, I noticed the —

[Translation]

— the Fédération des associations de juristes d'expression française, the Fédération des communautés francophones et acadienne du Canada, the Commissioner of Official Languages and, of course, the Department of Justice witnesses.

[English]

The Canadian Bar Association or the Barreau du Québec did not testify in the other chamber. They did not have the opportunity because the committee in the other place was constrained by time.

[Translation]

The Barreau du Québec, in particular, did not have a chance to sufficiently prepare or organize itself in time to testify, which meant that, when we began studying the bill, we had nonetheless the opportunity to hear the Barreau du Québec.

[English]

Honourable senators, if there is a role that this chamber must perform, it is the duty to hear, of course, representatives of professional organizations that can draw our attention to the status of minority language rights.

[Translation]

In its testimony on November 27, 2007, with respect to the bill's provisions concerning the use of English in criminal trials in Quebec, the Barreau du Québec concluded, and I quote page 3 of the brief submitted by the Barreau:

Unfortunately, the proposed changes to Part XVII could set language rights back for the Anglophone minority in Quebec.

[English]

Honourable senators will understand, that when the Barreau du Québec made a comment such as that about the bill, it is our duty as senators, especially senators from Quebec, to pay specific attention to the testimony of the representative from the Barreau du Québec for a specific reason.

As honourable senators know, there is a specific provision in the Constitution, the famous article 133. I see Honourable Senator Nolin. I quote what section 133 of the Constitution mentions in relation to the language in the criminal proceedings in Quebec:

Either the English or the French Language may be used by any Person. . . . or in any Pleading or Process in or issuing from any Court of Canada established under this Act, and in or from all or any of the Courts of Quebec.

This provision dates back to 1867. In fact, it dates back to 1774. When the Quebec Act was adopted by Westminster, it was to provide, for French-speaking Canadians of the day, the capacity to be tried in their mother tongue, namely French.

• (1720)

Through the years, the situation reversed with the change of demographics in Quebec. That section came to protect the anglophone minority in Quebec. Hence, when the Fathers of Confederation drafted the Constitution in 1867, section 133, was to protect the language of pleading. The language of pleading, honourable senators, if it had been given a strict definition, would have been restricted only to the language used by the attorney. We know it is pleading. However, through the years, the courts in Quebec and in Canada have interpreted the scope of section 133.

The scope of section 133, according to Canadian jurisprudence, as it was well stated in the brief of the Bar of Quebec, includes not only that the court will use the language chosen by the accused, but that the judge will understand that language and that the Crown attorney too will use that language. In other words, the trial will not be interpreted through the services of interpretation. The right of an accused to be tried in his or her language of choice is a substantive constitutional right.

That right was confirmed by a decision of the court in 1999, the famous *Beaulac* decision. I know that many senators, especially those who attend the sittings of the Standing Senate Committee on Official Languages know about that *Beaulac* decision. In other words, to be tried in the accused's own language is a constitutional right. It is not a procedural right, but a substantive constitutional right.

What has happened through those 230 years or so of the use of official languages in the Quebec court justice system — and I restrict my approach today only to the criminal one — is that the province of Quebec has developed an overall capacity to use one or the other language at each and every step of the procedure. That capacity exists, not only when the act of accusation is tabled but when all the other proceedings are engaged in the course of the trial, and even at the appeal level. When a trial is opened at the criminal level in Quebec, it is fully in English or fully in French.

What this bill introduces into the Criminal Code are provisions that are favourable for the improvement of the use of French in provinces other than Quebec. There is no doubt about that, honourable senators. We have heard the Commissioner of Official Languages. We have heard other witnesses who appeared before us and they confirmed that to us. This bill marks an improvement, and I believe the intention of the government was to improve the use of French in provinces other than Quebec.

Unfortunately, some of the provisions, if they were to be applied *sensu stricto* — as the Latin traditional expression states it — it would mean a setback for the use of the English language in Quebec. I will give an example which was well spelled out in the brief of the Quebec bar.

There were co-accused in a mega-trial involving the Hell's Angels that we saw in Quebec some years ago. Senators will remember when we amended. I see many senators who were members of the Justice Committee when we amended the Criminal Code to provide for mega-trials. Honourable senators will remember it was not that long ago.

In Quebec, when there is a mega-trial, if one accused is English speaking and the five others are French speaking, there are two separate trials. The trial is not bilingual. It is not a trial whereby language is interpreted for one accused and the other one speaks his or her mother tongue. It is two separate trials. In other words, there are two capacities, and I think the word "capacities" describes it well.

If this bill is passed as is, it would allow a judge to decide, and the text says, if the circumstances warrant. Therefore it is vague. A judge can decide to try two co-accused in one of the languages of the accused, at the expense of the language of the other accused.

In other words, this provision allows for bilingual trials when there are co-accused who speak different languages. If that were to be applied *sensu stricto* in Quebec, it would mean that from now on in Quebec, there could be some bilingual trials. Of course, we do not want that in Quebec and I am sure that the Quebec government does not want it. However, if a government wanted to make savings in the administration of justice, and with all the public discussion about administration of justice being too costly, a government in future could decide to review the decision to have separate trials in the case of a co-accused. Other provisions of this bill, if implemented as is, in Quebec, could represent a setback in the future. There are two other examples of the same nature in this bill.

Honourable senators, we did not invent that and I am sure the government did not want that consequence. Even the Commissioner of Official Languages did not see it when he testified in front of us on November 28. First, he did not have knowledge of the brief from the Quebec bar because it came late in the process of the study of the bill. Also, members of the committee wrestled with the idea that if we were to amend this bill to protect the situation, that is, a full-fledged protection of the two languages in Quebec, we could create undue consequences at this stage for the francophone minorities outside Quebec, and we did not want to do that.

On the other hand, we wanted to make sure that if, in future, the bill, as defined, would have those unintended consequences, we could be made aware of that and the federal government could take the initiative to protect the minority languages in Quebec insofar as criminal trials are concerned. Thus, we were confronted with this balancing. Adopting the bill as is could have the potential that in future a government might apply *stricto sensu* the

letter of the law, which would mark a setback for the anglophone minorities in Quebec, or we could try to devise a capacity to follow up and monitor the bill.

We chose to adopt the second option, to try to obtain as much information as possible down the road to monitor the situation, hence the idea of asking a committee of this chamber to monitor it. It could be the Official Languages Committee or the Legal and Constitutional Affairs Committee because this issue pertains directly to the Criminal Code and we have been sensitive to that in the past years. Hence, Senator Fraser introduced the proposal on behalf of the committee and, of course, it explains the comment made by our esteemed colleague, Senator Oliver.

On the other hand, however, another concern that we have with this bill came from the brief of the Official Languages Commissioner. The Official Languages Commissioner, in his closing remarks, drew our attention to the fact that in 1990, there was a study published by the Department of Justice called *Environmental Scan: Access to Justice in Both Official Languages*. In other words, in 1990 the Department of Justice went to great lengths to review the conditions in which the use of the two languages in criminal trials could be improved in Canada. Honourable senators, I notice in the recommendations, that 21 recommendations dealing with the federal government.

• (1730)

When we ask the Official Languages Commissioner what happened with all those recommendations, the Official Languages Commissioner deplored that, after 25 years of Charter rights, which we celebrated this year, there has not been sufficient progress.

In the other place in 2005, a committee of the House of Commons drew the attention of the government to the lack of judicial capacity — that is, at the level of judge and Crown attorney — to ensure that the right to have a trial in one's own official language is satisfied after so many years of discussion.

Hence, we conclude that we should monitor that in a very specific way. Honourable senators, being tried in one's language has enormous consequences for one's freedom. We are talking about criminal justice. Criminal justice ends up, if one is found guilty, with imprisonment, so it is a very strategic capacity. It is up to us as the Parliament and the federal government all together to ensure that we make progress, considering that this report dates from 1990. That is 17 years ago.

Honourable senators, when the Official Languages Commissioner came to testify, he did not have a copy of the report. When I went to the Internet to get a copy of it, I got a report two inches thick, if I can use imperial measurements. I was educated in imperial measurements, and I like that word anyway.

The report must be acted upon. There is no question about that. I know the government has good intentions; I do not doubt the good faith of the Department of Justice, but we know the weight of the system. If we do not push on the system, very few things happen. Something may happen when there is a crisis, but if we want systemic improvement, there must be capacity in the system

to follow up, which is why we put those two recommendations in the report, and that is why they are included in the Criminal Code.

Honourable senators, I do not want to play politics with this, but for a Canadian citizen who wants to contest those provisions on the basis that they feel that they have a grievance through not having been tried in the language of their choice, the Court Challenges Program was formerly available. It is no longer available, and I deplore that. Today is not the time to debate this, but this is a clear case where the Court Challenges Program was very useful.

I conclude with the last paragraph of observations that we added to our report, which deals with Aboriginal languages.

Honourable senators, the court in Canada has on many occasions recognized that interpretation creates a wall for people who do not speak one or the other official language. I want to quote a Justice whom some of you may know: Madam Justice Joncas in Quebec, stated clearly: "...the wall of interpretation however thin it may be. . ."

Put yourself in the situation of a person in a criminal trial who does not understand the language and must rely totally on interpretation.

Honourable senators, Aboriginal Canadians, especially those in the North, find themselves in that position more often than not. The committee expressed a concern that there be a capacity to train judges and legal personnel who could help and, especially because this bill refers in section 21 to Nunavut, that there be the capacity in the future for trials to be conducted in Inuktitut.

Honourable senators will understand that this bill started as a good bill. There is no question about that. There were other questions we dealt with in the report that the chair has tabled. There are elements in the comments made by Senator Oliver that are important and real. However, we are faced with the question of whether to just close our eyes and wait, or do something more to ensure that we progress on the road of equality of rights in terms of criminal justice in Canada. We opted for a solution that might not be the best solution in the world — I agree, Senator Oliver — but in the context of where we are now, for the rights of francophones outside Quebec and the English minority in Quebec, it is the best of both worlds.

**Senator Oliver:** Could I ask Senator Joyal a question?

**Senator Joyal:** Of course.

**Senator Oliver:** In his remarks, the honourable senator indicated that the Canadian Bar Association did not appear to give evidence and make a presentation. I agree with him that when the Canadian bar does analyze a bill, it is normally wise to look at their reports, as they often give issues very serious consideration.

Would Senator Joyal agree with me that on this occasion a representative from the bar did not appear as a witness but they did study the bill, prepare a report and table it, and their report said that the bill was fine and did not need the amendments that were proposed?

**Senator Joyal:** I thank the honourable senator for the question. I have a copy of the letter sent by the Canadian Bar Association. It is dated December 5, 2007, so it is very recent. The letter from the bar association is a page and a paragraph long. In all truth, I do not want to contradict the honourable senator — I hate to do that; it is not my way of doing things — but they do not address in their letter the specific provisions that deal with language. They deal with other aspects of the bill but not with the language provisions of this bill.

I have read the letter carefully. I have it with me. I can table it, but I do not think that is necessary; it is part of the proceedings of the committee. They do not address that specific issue; they deal with other aspects of the bill.

[Translation]

**Hon. Pierre Claude Nolin:** Would the honourable senator go so far as to say that, without his amendment, the bill before us would contravene section 133?

**Senator Joyal:** Honourable senators, as you know, Quebec courts have ruled on the scope of section 133 with respect to the right to use Quebec's second language — English, as it happens — in trials. Quebec courts have allowed a broad application of this right, even to appeal hearings, something the bill before us does not even mention. This means that in practice, we find ourselves in a somewhat contradictory situation.

Quebec's jurisprudence is broader than the scope of this bill. There has also been considerable jurisprudence concerning the provisions in section 16 of the Charter for 27 years now — it went into effect as soon as the new Constitution was signed — including *Beaulac*, which made a significant constitutional interpretation of the right to a trial in the official language of one's choice and confirmed, in a way, the interpretation the courts gave to section 133.

In other words, the letter and the spirit of section 133 as written offer a relatively narrow interpretation. Combining it with the interpretation of section 16 of the Charter broadens it considerably. That is what led to Quebec's decision to offer separate trials to co-accused who speak two different languages. It relates to Quebec's interpretation of its obligations under the Charter, not under section 133.

As you can see, this matter is perhaps not difficult, but complex. The overall goal is to ensure that minorities have access to an appeal process conducted entirely in the language of their choice.

• (1740)

This bill does not allow the accused to have a summary of the evidence in the language of his choice. Imagine you, an anglophone, were given a three-inch-thick ream of evidence in the other language. Would you have to have it translated at your own expense to understand it? There can be no equity in that kind of trial.

You will understand that, for certain provinces, providing service in the other language will entail significant additional expenses. However, the Supreme Court has determined that it is a constitutional right that basically cannot be measured in

budgetary terms. It is a substantive right provided by the Constitution and, therefore, we must be able to organize and adapt the system to provide the sought after legal equality which, in Quebec, is currently exemplary.

I am not criticizing the current situation in Quebec. I am simply stating that if a government wanted to apply the content of this bill literally, it would be a setback. And no one in this chamber wants to confirm that and that is the reason for the proposed amendments.

**Senator Nolin:** As a result of the *Forest* decision, we now know that Manitoba enjoys rights similar to those mentioned in section 133. The Supreme Court pointed that out and we are all familiar with the consequences of that decision. In the honourable senator's amendment, there are specific geographical references, namely Quebec and New Brunswick.

Why was Manitoba not included in the amendment? The same situation could arise in Manitoba and Manitobans will be able to invoke section 133 and claim that they too have rights. Court interpretations of section 133 for Quebec will apply to the similar article in the Manitoba Act.

**Senator Joyal:** Honourable Senator Nolin has stirred my memories of the *Forest* case. At the time, I was in the other place. Again, I am not saying it to rub salt in the wound.

[English]

At that time, Mr. Forest had no money to go to court, so he appealed to the Secretary of State, and I was Secretary of State at that time. To remind honourable senators of a historical anecdote, as Secretary of State, I had the discretionary capacity to offer financial support but, before doing that, I requested the opinion of the Department of Justice to be sure I was not wasting the taxpayers' money for no reason and with no legal basis. The legal opinion I received from Department of Justice, which is not sealed by the Privy Council, and that I received through the deputy minister of the Department of Justice at the time, was that in principle, Mr. Forest may be right, but in practical terms the consequences were so overwhelming, and all encompassing, that it was contradicted by reality. They said he might be right in principle, but in practical terms the consequences were "unbearable." They recommended that we not finance it. I made the decision to give the money; not my money but the Canadian taxpayers' money. As honourable senators know, Mr. Forest succeeded. The federal government then, and I was still Secretary of State, signed an agreement with Howard Pawley, premier of the province at that time, to assume part of the cost of translation.

To answer the honourable senator's question directly, Manitoba is not excluded. It is included. New Brunswick, and I see our honourable colleague in the chair, has a special mention because New Brunswick, under the Charter, is specifically covered at section 16(3) and section 16(4), and provided for the same kind of equality that the anglophone minorities in Quebec enjoy. In other words, even though there might be a reconciliation interpretation to be made between section 133 and the Charter, in the case of New Brunswick, it is specifically mentioned. Their data will be part of the statistics gathered by the Department of



Justice and made available to us. They will be part of the statistical data needed to monitor the progress that we want to see realized in short term with the objective of the equality.

[Translation]

**Senator Nolin:** I think we should agree on the fact that, while the risks raised by the Barreau du Québec are quite minor, they do exist and we cannot ignore them.

Could these risks arise in other provinces? I gave the example of Manitoba, but I could just as easily have used Alberta. Do the amendments set out special measures for Quebec's anglophone minority? Why not apply the amendments to other provinces with minorities?

I suspect that these amendments will cause compliance problems for the provinces responsible for administering justice. Even if the deputy minister found it to be out of proportion, a right is a right, and there can be no abdication because abdication has a price.

In terms of Quebec and New Brunswick specifically, are we not isolating two regions of Canada by not covering others that could experience similar difficulties?

[English]

**Senator Joyal:** As I understood the way the bill was drafted, it was after consultation. That information is in the minutes of the committee. There was ample consultation. As a matter of fact, a representative from the Fédération des associations de juristes d'expression française de common law testified that they were consulted and they were satisfied with the bill as drafted, as far as the francophone minority is concerned. We heard the Commissioner of Official Languages testify to the same effect. As I said, we were satisfied that the bill marks progress but, as I explained, in some instances, if someone wanted to review what is done in some provinces, they could use those sections. The level of development of the two languages in criminal justice is not the same in each province. There are what I call exemplary situations, and I can say humbly, honourable senators, that I think the province of Quebec is an exemplary situation in relation to criminal justice. We can discuss other areas, but in relation to criminal justice, for all the reasons I have given, for 230 years of history, the system serves the anglophone minorities well in Quebec. I have not heard recently, nor read about, any criticism.

In other regions or provinces such as New Brunswick, I remember very well Premier Hatfield originally supporting the constitutional resolution and asking for those specific paragraphs of section 16, paragraphs 2 and 3. It was with the political will that the situation in New Brunswick would have the constitutional parameters to establish that equality or the same measures of justice in terms of use of languages in the criminal justice system in New Brunswick. There is no doubt about that.

• (1750)

In other provinces the capacity developed in a progressive way. Ontario has made improvements. In some provinces — I do not want to name them — it is much more difficult. The court challenges program was used to implement section 23 in many

provinces. The point is that there is a variation of languages available. However, if you only implement what is the minimum, for some provinces, it could open the door to a set back. No one wants that and I am sure no province wants that.

When called to legislate on a bill relating to criminal justice and representatives of the bar associations point to specific sections of the bill, we have to ensure that we manage the system in a way that we will be watchful. Another province, as you stated, may observe the letter of this bill and say we have no more progress to make; we will implement this and be finished. That is not the spirit of equality toward which the Charter aims.

Remember, the charity has two purposes; it has a remedial purpose and a purposive purpose. If you say this is the minimum and we will not do more, you do not serve the spirit of the Charter.

We are supposed to celebrate the twenty-fifth anniversary of the Charter. That is a priority to me, personally, in relation to criminal justice because of the consequences when you do not have access to a full trial in your own language.

That is why we will have to monitor the situation. We could monitor it at the Standing Senate Committee on Legal and Constitutional Affairs, but I think language communities could also do it. We need a firm will in this bill to do the monitoring.

We all know there are competing objectives and it is the objective of the day that receives the closest and most careful attention. Such objectives are rooted in the existence of our country and we must ensure we make progress on that. Honourable senators, we recognize the recommendations made are not perfect, but at least we will have a procedure to monitor it and to ensure there is no reversal of fortune, as the well-known movie of the same title mentions. We do not want a reversal of fortune; we want good fortune in the future.

**Hon. A. Raynell Andreychuk:** The letter from the Quebec Bar Association came rather late and then they testified. They were asked at some point whether there was a risk. As lawyers, they will look at all options and say, "Yes, there could be this risk," which the honourable senator has pointed out. They did not say it was an imminent risk; they did not believe it would happen; there was no evidence to say that there would be any diminution of rights within Quebec. All of the testimony indicated that the department had worked very closely with the francophone community, the provinces, the bar and the judges association.

In other words, all those who were involved in the justice system have been working, albeit slowly. We are not there yet, and no one said this bill was the answer to ensure equal opportunities across Canada. However, these were practical, efficient and appropriate steps to take while we continue to work on it.

We must give our colleagues at the Official Languages Commission due credit that they continue to monitor and track the situation and sometimes encourage or tell us we are not doing enough.

Why would we put in place a process that seems to say we distrust all of that goodwill that has been mounting over the years through case law, et cetera? Why is there a necessity for this amendment that says let us get more information when we have

information services working out there that have brought us to this point? As Senator Oliver said, there are things that we are asking that may be impractical and it may signal unintended consequences that would not otherwise be there.

While one may try to ensure no unintended consequence, my fear is that there will be unintended consequences with this amendment that could be more of a setback from our current position. I believe there is no substantiation of the fear; where does the fear originate?

**Senator Joyal:** As I said many times, honourable senators, there is no present situation in Quebec — I will talk only about my home province — that would lead us to conclude the present government would want to curtail any rights. On the other hand, there are always discussions in relation to languages in the province. As honourable senators know, there is a commission currently touring the province wherein presentations were made that are totally contrary to what I call the Canadian spirit.

There are always people who fear a cultural threat — that anglophones are treated better in the province and, therefore, that must be contained and not expanded. We all know what “contained” means.

If we approve a bill like this one dealing with languages, it should be because we want to ensure what already exists is maintained and improved and where there is progress to be made, that we monitor the progress. We do not want to tell the provinces what to do. Parliament is responsible for the implementation of the principles of the Charter in relation to a bill. We want to be sure that we not only keep an eye on what we have, but also on how to develop the capacity to improve the system.

As the testimony of the Official Languages Commissioner shows, after the 1990 study, the 21 recommendations have not received the proper consideration that they should have received in the context of access to criminal justice on an equal footing. We all recognize that. In order to move on as parliamentarians, we have a responsibility to not endanger what we have already. It is there and we want to maintain and develop that. On the other hand, we want to continue to make progress.

I have no fear, honourable senators, regarding the situation prevailing today that has been developed in the provinces.

[Translation]

**The Hon. the Speaker *pro tempore*:** Honourable senators, Senator Joyal’s time is up.

[English]

Are you asking for more time to finish?

[Translation]

**Senator Fraser:** If Senator Joyal obtains leave to keep answering questions, I have one.

[English]

**Senator Joyal:** Honourable senators, I am convinced that we have a responsibility to discharge in this Parliament of Canada in

relation to linguistic rights for the very reasons I have provided. They are our substantive rights, protected by the Constitution, at the foundation of our country. When we come to the conclusion that we have to monitor the situation as parliamentarians, not as administrators, over a period of three years, it will provide the opportunity to those responsible to take decisions and to satisfy themselves that they have discharged their responsibility; and we, as parliamentarians, will have assumed our own responsibility in relation to minority rights.

• (1800)

**Senator Fraser:** Honourable senators, as an English Quebecer, let me begin by saying that the treatment of my community in the courts of Quebec is, as it has historically been, one of the glories of this country.

**The Hon. the Speaker *pro tempore*:** Honourable senators, it being six o’clock, do you agree that we do not see the o’clock?

**Senator Stratton:** We will not see the o’clock.

**Senator Tardif:** Agreed.

**Senator Fraser:** It has always given me great pride to be able to say elsewhere in Canada, and elsewhere in the world, how wonderfully the justice system in Quebec handles the needs of the English-language minority in that province. I continue to feel that pride and I have no reason to believe that will change.

However, the brief from the Barreau du Québec raised a serious question about unintended consequences of the laws that we pass and about the natural tendency in bureaucracies to take decisions that seem rational and that seem to respond to various imperatives, yet may end up damaging minority rights.

These are not always hypothetical dangers. In my province, in the past 30 or 40 years, in other fields, other than the justice system, there have been administrative decisions taken that have, in fact, had a damaging effect on various services provided to the English-language community. I am thinking particularly of health and social services.

Many times, most times, maybe all the times, these decisions were not taken out of malevolent intention toward anglophones. They were taken by bureaucrats in the provincial capital who looked at tidy maps and said: We can save some money and it will all be so much more efficient if we do it this way. They were blind to consequences for minorities. If it can happen in Quebec, it can happen elsewhere, absolutely, and I am sure it does happen that francophones, in provinces where they are minorities, must, on a daily basis, be aware of all the many decisions that are taken by their provincial government’s apparatus that may have unintended damaging consequences to them.

It is in no way an attack or an assumption of malevolent intention to be aware that these things do happen, nor is it irresponsible, in my view, of the Senate of Canada to try to say that we should therefore keep our eyes open.

It has been suggested that the gathering of statistics about trials held in minority languages, and about orders given for such trials, would be a great administrative burden. I do not believe this to be

[ Senator Andreychuk ]

the case. As members of the Standing Senate Committee on Legal and Constitutional Affairs know, the Centre for Justice Statistics already gathers data on matters far more complex than that, such as recidivism. I cannot begin to enumerate the incredibly detailed, complex series of data that that centre provides for people who require the information.

What I think is particularly important in the amendment that the committee adopted is not just the gathering of data but that that data must be brought to Parliament every year and not languish in a bureaucratic file someplace. Parliamentarians must have it shoved, if I may be so crass, under our noses. That is very useful, because, as you know, we are all extremely busy and sometimes we need to have something really shoved under our noses before we realize that it is time to pay attention again. I do believe that this amendment is important.

Similarly, the Official Languages Committee of the Senate and the corresponding committee of the other place have an enormous responsibility to cover a vast array of topics. I do not know whether, in three years' time, it would be that committee or the Legal Affairs Committee or the Social Affairs Committee; it could be any one of a number of committees of this place that might be asked to re-examine this matter. However, it is appropriate to require that a committee of this place be tasked with examining the implications of what we are doing in this bill.

I agree that this is a good bill. It represents clear and wholly desirable progress for francophones in provinces other than my own. I would never wish to stand in the way of its implementation, but I do not think there is anything wrong with asking that information be made available and examined when the time comes.

[Translation]

I would like to say how moved I was by the reaction of my francophone colleagues from Quebec and the other provinces as soon as we indicated there might be a problem for us. Their reaction was sincere, immediate, very sensitive to the highly complex realities of this vast country, and imbued with the desire to do what is best for all Canadians, especially Canadians from minority language groups. I thank them for that.

On motion of Senator Comeau, debate adjourned.

[English]

## HERITAGE LIGHTHOUSE PROTECTION BILL

### REPORT OF COMMITTEE ADOPTED

Leave having been given to revert to Reports of Committees:

**Hon. Joseph A. Day** moved the adoption of the third report of the Standing Senate Committee on National Finance on Bill S-215, An Act to protect heritage lighthouses, presented in the Senate earlier this day.

He said: Honourable senators, I will provide some background to this third report. It is a report on the study of Bill S-215, an act to protect heritage lighthouses. The committee studied the bill as mandated by the Senate and reports several amendments. I believe that under the rules of the Senate it is incumbent upon me, as Chair of the Committee, to explain the amendments.

• (1810)

Senator Carney is the sponsor of Bill S-215 and, as honourable senators know, she will be leaving the Senate soon. Tributes were paid to Senator Carney in the chamber yesterday. It is usual for honourable senators to show some sensitivity to departing senators who have a private member's bill before the house and the committee did that during its consideration of the bill, just as the Senate did by referring the bill to the Finance Committee.

Honourable senators, this is the third time that the Heritage Lighthouse Protection Bill has been through Senate and it was in the House of Commons when prorogation occurred. Each time it was re-introduced by Senator Carney with the changes and suggested amendments accepted by Senator Carney. This latest version presented in this new session contains all of those amendments.

At committee, there were further discussions with government officials and Senator Carney. The majority of the amendments that appear in the report were worked out between Senator Carney and government officials. One amendment was to change the wording from "preserve" to "conserve" with respect to the protection of heritage lighthouses.

In several places in the bill, the wording at second reading was "related built structure," in reference to the lighthouse and the related structures. The government had asked that it be changed to "related building" and the committee determined that it should be "related structure." That change appears in several places.

The committee added a new paragraph and I am advised by legal counsel that it would be appropriate for the committee to suggest a renumbering before sending it to the House.

### MOTION IN AMENDMENT

**Hon. Joseph A. Day:** Therefore, honourable senators, I move:

That the Third Report of the Standing Senate Committee on National Finance be not now adopted but that it be amended:

(a) at amendment no. 18, in the French version, by replacing the heading « **MODIFICATIONS CORRÉLATIVES À LA LOI SUR L'AGENCE DES PARCS CANADA** » with the heading « **MODIFICATIONS CORRÉLATIVES À LA LOI SUR L'AGENCE PARCS CANADA** »; and

(b) by adding amendment no. 19 as follows:

"19. *Renumbering:* Renumber clause 7.1, the clauses that follow and cross-references thereto, consequential upon these amendments."

**Hon. Lowell Murray:** Honourable senators, I will not abuse the courtesy and patience of the house. Those additional amendments are entirely at the recommendation of the committee's legal counsel. Senator Day has stated the position correctly. This bill has come back from committee amended. On behalf of Senator Carney, I want to say that all of these amendments were the

subject of consultations with her and me and officials of Parks Canada and ministerial staff from the offices of the Ministers of Environment, Fisheries and Oceans, and the Leader of the Government in the Senate. I thank all of those people for their forbearance.

All but one of the substantive amendments have been agreed to by both sides. I simply want to draw the attention of honourable senators, as Senator Day did, to the one exception in the original bill as drafted by Senator Carney:

The minister would have the authority to designate not just a lighthouse but any related built structure.

That phrase, “any related built structure” was too broad for government officials and they suggested “any related building.” The term “any related building” was too narrow for Senator Carney. It was her view on the basis of evidence at committee in a previous session that a phrase as narrow as “any related building” would effectively disenfranchise or disqualify 51 of the 52 lighthouses in the province of British Columbia. This is not, of course, an outcome that any of us would wish to happen.

We searched for a compromise between her original draft and the government’s suggestion, and we came up with “any related structure.” I must say the government could not accept this because the officials said that they could not go beyond the mandate given by cabinet. However, they had no opportunity to go back to consult with the relevant ministers, so I drafted an amendment that passed the committee, on division.

Senator Carney and I, as well as those who supported us, knew that “any related structure” is not too broad and we narrowed it by adding specificity in a definition as to what “related structure” will mean. It will mean:

(a) any building on the site on which the lighthouse is situated that contributes to the heritage character of the lighthouse; and

(b) any structure on the site on which the lighthouse is situated, the maintenance of which is necessary in order to provide access to the site.

There you have it, honourable senators. I hope that when this bill goes to the House of Commons and when this particular amendment reaches the ears of ministers, they will be receptive, as they should be, to the compromise that we put forward together with the definition that we have built into the bill. This is acceptable to Senator Carney, as the author of the bill, and should solve any concerns that ministers or the government might have about the scope of that definition. I thank honourable senators for their courtesy.

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

**Some Hon. Senators:** Agreed.

**Some Hon. Senators:** On division.

Motion in amendment agreed to, on division.

[ Senator Murray ]

• (1820)

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

**Some Hon. Senators:** Agreed.

**Some Hon. Senators:** On division

Report as amended adopted, on division.

### THIRD READING

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

**Hon. Joseph A. Day:** Honourable senators, I move that the bill be read the third time now.

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

**Hon. Senators:** Agreed.

**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 third time and passed, on division.

[Translation]

### BILL TO PROVIDE JOB PROTECTION FOR MEMBERS OF THE RESERVE FORCE

#### SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Segal, seconded by the Honourable Senator Champagne, P.C., for the second reading of Bill S-202, An Act to amend certain Acts to provide job protection for members of the reserve force.—(*Honourable Senator Goldstein*)

**Hon. Roméo Antonius Dallaire:** Honourable senators, I realize it is late, but I think this bill requires urgent attention. I will respond to Senator Segal in order to help move this bill forward, because, essentially, reservists are currently deployed and their jobs are now at risk. If I may, I will be as brief as possible.

[English]

Honourable senators, I rise today to lend my support to Bill S-202, an Act to amend certain Acts to provide job protection for members of the reserve force while operationally deployed and so employed in the federal government.

Since the second reading speech by the sponsor of the bill, our colleague, the Honourable Senator Segal, I took the liberty to solicit opinions on job legislation from retired and active members of the Canadian Forces regular and reserve components. Although the sampling in terms of numbers was relatively small, I ask that honourable senators understand that there was an extensive and quick response from those solicited. That response alone demonstrates that this issue continues to be a topic of high interest within the reserve community and the Canadian Forces as a whole.

I also point out that those who responded have a variety of backgrounds in terms of their military service and civilian occupations: reservists at some point in their life, senior public servants, private business owners, private business employees, senior regular force officers and so on.

In other words, an extensive variety of backgrounds added credibility to the observations that were made.

As a result, I received a broad range of thoughts on the issue, in fact, much more than I alone could have provided.

[Translation]

I do not think I am wrong when I say that there was virtual unanimity on the need to protect the jobs of reservists who volunteer for active duty.

One of the respondents — someone who had a lengthy career in the reserves had commanded a reserve unit and a district of the reserve, and has been an eminent Canadian outside his service in the reserve — said that they had been recommending this measure in the 1970s and that the job protection in Bill S-202 should have been provided a long time ago. He added that there should also be a similar provision for students in educational institutions such as universities, colleges and public or private technical schools. After their service, students should have the same right to return in their institution of learning without penalty.

[English]

Job protection legislation was supported by individuals I consulted. However, a number of concerns remained regarding how it would be implemented, the bottom line being, once a law comes into force how will the supporting policy and procedures be developed to implement it across the country with fairness and consistency?

I understand that this bill will amend the Canada Labour Code, the Public Service Labour Relations Act, and the Department of Public Works and Government Services Act. As such, it will affect only employees that fall under these federal jurisdictions.

These employees represent 10 per cent of all Canadian workers. The other 90 per cent fall under the jurisdiction of provincial labour codes or standards.

It is worth noting that Saskatchewan, Manitoba, Nova Scotia, and Prince Edward Island have already enacted legislation with the aim of job protection for their reservists. New Brunswick and Ontario are currently debating legislation to this effect.

Enacting such legislation at the federal level would show some leadership nationally, and it can be reasonably hoped that this legislation will prompt the remaining provinces and territories to do the same with their employees.

[Translation]

The discussion of this bill has provoked other comments from reservists. First, just through being a reservist and the experience they acquire during their leave for basic or special training, or during a deployment in Canada or abroad, the reservists are gaining considerable life experience and improving their overall leadership skills. These are valuable assets that will be of benefit in their civilian jobs and will increase their professionalism and long-term potential.

Unfortunately, there is reason to believe that bosses and supervisors do not always appreciate the value of these new assets and new abilities that reservists bring to an organization.

A provision in the Government of Canada's administrative legislation authorizes federal public servants to request special military leave, but far too many managers are opposed to it. There is not much support for this provision from managers in the public service. That attitude needs to change.

Members of the reserve and regular forces serve their country within the framework of unlimited liability, which is the foundation of the social contract between the soldier and the state, the nation. This must be understood and respected by all ministers and parliamentarians.

As parliamentarians, we must strongly encourage senior officials in all departments and Crown corporations to support the bill and, once it comes into effect, to ensure strict compliance with and conscientious enforcement of the bill. The public service must lead the way if we want the provinces and the private sector to comply with the legislation.

A full commitment from both the public and private sectors will be crucial in order to make this legislation a reality and for it to be universally enforced throughout the country. Its success depends on that commitment.

[English]

A second observation raised concern about how the legislation would be applied to the various types of employees within the federal public sector. It is perfectly applicable to the indeterminate or permanent staff employees. However, it may create difficulty for term and casual employees as they are hired for short-term work needs, such as spikes in workload, maternity leave replacements, fixed-term projects and so on. I believe we should ask whether the federal government, as an employer, should be stuck with guaranteeing future employment for work that simply may not exist.

Therefore, I think in this case the casual employees, namely, those who have 90 days in any one calendar year, term employment and military leave should not have the effect of lengthening the employment contract. Alternatively, the federal government should be required to guarantee employment only if the casual or term contract were to run for some period beyond the military leave process.

In conclusion, I thank the retired and serving reservists and regular member of the Canadian Armed Forces that have provided the insight I shared with honourable senators today. I hope their comments will be helpful in considering this bill.

• (1830)

To reiterate my original position, I fully support Bill S-202, as initiated by the Honourable Senator Segal. This bill should not languish in debate; however, debate is always essential.

The reason I support this bill is that we have had a number of reservists who have worked for the federal public service that have lost their jobs because they have been committed to missions overseas. Those missions require that 20 per cent to 30 per cent of the forces deployed be reservists. Therefore, there is a sense of urgency.

In order to move this bill from this place to the other, I would like to initiate the possibility — without having discussed it with the Leader of the Government — of perhaps moving the bill to second reading and committee today.

**Hon. Colin Kenny:** Will the honourable senator accept a question?

**Senator Dallaire:** Yes.

**Senator Kenny:** As I understand this act, it applies only to federal public servants. Does the honourable senator see it leading to a bill that would affect private employers?

**Senator Dallaire:** In curtailing my presentation, I reduced three pages in which I touched on that point. From my previous experience, I have always supported such an act. However, I think that a move to the private sector would create two elements that might produce difficulties. First, big business can absorb that capability, but small businesses that do not have much flexibility and might find it difficult to promise that capability.

However, if we moved down that road, there are possibilities for alleviating that pressure by giving incentives such as tax breaks that would permit these companies to be able to perhaps financially absorb that delta and possibly even hire people in their place without it being a cost to them.

Yes, I would like to see it move one day to the private sector. However, the reason I am supporting this bill is that the federal public service, in my experience in the military, has been the worst employer in supporting reservists who want to go on training to augment their capabilities and even now, as we see, being deployed in operational theatres.

Honourable senators, why not take the lead and move with some of the provinces and hopefully, all reservists working in the public sector would be protected. Then we could possibly move to the private area.

**Senator Kenny:** Honourable senators, there is no question that the federal government has been the worst historically in allowing leave for reservists. Having said that, the council has been doing a very effective job in persuading employers to cooperate and provide leave. There is a serious risk that people would not be able to find employment in the first place with such a law in place.

The question would be, are you a reservist? Yes, I am. Well, I cannot afford to take you on because you may be deployed somewhere.

I believe that question requires more study before we rush into it. I have no difficulty with the concept of the federal government doing it, but I would not like to see it necessarily as a precursor to the private sector.

**Senator Dallaire:** Of course, the bill does not broach that subject. However, if the federal government does not provide suitable compensation in whatever form, I think that your argument is absolutely right. Holding the status of reservist could be a detriment to employment in the private sector. There has to be a significant trade-off by the federal government — the department or whatever — to these smaller employers in order to give that warm fuzzy feeling that they are not going to be at a loss.

On motion of Senator Tkachuk, debate adjourned.

## DRINKING WATER SOURCES BILL

### SECOND READING—ORDER STANDS

On the Order:

Resuming debate on the motion of the Honourable Senator Grafstein, seconded by the Honourable Senator Corbin, for the second reading of Bill S-208, An Act to require the Minister of the Environment to establish, in co-operation with the provinces, an agency with the power to identify and protect Canada's watersheds that will constitute sources of drinking water in the future.—(*Subject-matter referred to the Standing Senate Committee on Energy, the Environment, and Natural Resources on November 13, 2007*)

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, given that the subject matter is at committee right now and that we are at day 13, I was wondering if I could seek leave that the 15-day rule not apply for the duration of the committee's study.

If that is not possible, obviously we can make a few comments and we start all over again. However, I ask that the 15-day rule be waived, with permission.

**Hon. Senators:** Agreed.

Order stands.

## STUDY ON PRESENT STATE AND FUTURE OF AGRICULTURE AND FORESTRY

### REPORT OF AGRICULTURE AND FORESTRY COMMITTEE—ADOPTED

On the Order:

Resuming debate on the consideration of the fourth report (interim) of the Standing Senate Committee on Agriculture and Forestry, entitled: *Livestock Industry*, tabled in the Senate on December 11, 2007.—(*Honourable Senator Gustafson*)

**Hon. Leonard J. Gustafson:** Honourable senators, I am not going to keep you long but I want to make a couple comments, especially on the hog and cattle situation and the problems that the farmers have been having.

Apparently, they are saying it is a “perfect storm.” Why? First, because feed prices have doubled. I will give you an example. Barley, which is to the staple of hogs and cattle, has gone from \$3 a bushel to nearly \$6 a bushel. This puts their operation in a situation where they simply cannot operate. The other thing that has happened is fuel prices have doubled.

On feed prices, the biofuels have taken, and are taking, a lot of grain out of the system. Grain is going into producing energy and this, of course, creates a supply shortage. In addition, the Canadian dollar has been a real factor. As the dollar goes up, the farmer loses income. This has become very serious, to the point where the cattlemen are telling us they are losing about \$250 a head. If you have hundreds of cattle on a feedlot and you are losing \$250 a head, it is serious business.

I think the committee has done an excellent job in looking at the problems, hearing witnesses from many quarters. We heard from the Canadian Cattlemen’s Association, the Canadian Pork Council, the sugar beet people and other producers.

I would be remiss if I did not say that the strong point in agriculture is the grain industry. The prices have gone up, but input costs are phenomenal. Fertilizer, for instance, has gone from \$300 a tonne to \$600 a tonne. When you add these input costs into the mix, the industry is losing money.

• (1840)

We have discussed a made-in-Canada agricultural program. The Americans are redoing theirs right now. It will give them a five-year projection and American farmers will know exactly what will happen within the next five years so they have something to fall back on. In Canada, we just keep subsidizing here and there; we write a new program today and another tomorrow. Frankly, it is not working very well.

We have to deal with these issues. I will not belabour this any further. I want to make quote from by Sir Leonard Tilley said that if you destroy the farmer and grass will grow in the streets of every nation. We are told that we now have the shortest supply of food and grain that we have ever had. I want to leave those thoughts with you. They are not too encouraging, but that is the way it is.

I move the adoption of the report.

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

Motion agreed to and report adopted.

## AGING

### BUDGET AND AUTHORIZATION TO ENGAGE SERVICES—REPORT OF SPECIAL COMMITTEE ADOPTED

The Senate proceeded to consideration of the second report of the Special Senate Committee on Aging (budget—study on the implications of an aging society in Canada—power to hire staff),

presented in the Senate on December 11, 2007.—(*Honourable Senator Carstairs, P.C.*)

**Hon. Sharon Carstairs:** I move the adoption of the report standing in my name.

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

Motion agreed to and report adopted.

## THE SENATE

### MOTION URGING GOVERNOR GENERAL TO FILL VACANCIES—MOTION IN AMENDMENT AND SUBAMENDMENT—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Moore, seconded by the Honourable Senator Cowan:

That the following humble Address be presented to Her Excellency, The Right Honourable Michaëlle Jean, Governor General of Canada:

MAY IT PLEASE YOUR EXCELLENCY:

WHEREAS full representation in the Senate of Canada is a constitutional guarantee to every province as part of the compromise that made Confederation possible;

AND WHEREAS the stated position of the Prime Minister that he “does not intend to appoint senators, unless necessary” represents a unilateral denial of the rights of the provinces;

AND WHEREAS the Prime Minister’s disregard of the Constitution of Canada places the Governor General in the intolerable situation of not being able to carry out her sworn duties under section s. 32 of the *Constitution Act, 1867*, which states, “When a Vacancy happens in the Senate by Resignation, Death, or otherwise, the Governor General shall by Summons to a fit and qualified Person fill the Vacancy.”;

AND WHEREAS upon the failure of the Prime Minister to tender advice it is the duty of the Governor General to uphold the Constitution of Canada and its laws and not be constrained by the willful omission of the Prime Minister;

Therefore, we humbly pray that Your Excellency will exercise Her lawful and constitutional duties and will summon qualified persons to the Senate of Canada, thereby assuring that the people and regions of our country have their full representation in a properly functioning Parliament, as that is their undeniable right guaranteed in the Constitution of Canada;

And on the motion in amendment of the Honourable Senator Tkachuk, seconded by the Honourable Senator Comeau, that the motion be amended by deleting all words after "MAY IT PLEASE YOUR EXCELENCY:" and replacing them by the following:

We humbly pray that Your Excellency will continue to exercise Her lawful and constitutional duties and summon qualified persons to the Senate of Canada, upon the advice of the Prime Minister which has been the practice since Confederation;

And on the sub-amendment of the Honourable Senator Banks, seconded by the Honourable Senator Day, that the motion in amendment be amended by deleting all words after "Canada," and replacing them with the following:

thereby assuring that the people and regions of our country have their full representation in a properly functioning Parliament, as that is their undeniable right guaranteed in the Constitution of Canada.  
—(Honourable Senator Stratton)

**Hon. Wilfred P. Moore:** I would like to join the debate on the subamendment. I move the adjournment in my name.

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

On motion of Senator Moore, debate adjourned.

## CANADIAN INTERNATIONAL DEVELOPMENT AGENCY

### NEED FOR REFORM—INQUIRY— DEBATE ADJOURNED

**Hon. Peter A. Stollery** rose pursuant to notice of December 11, 2007:

That he will call the attention of the Senate to the need for reforms to the Canadian International Development Agency.

He said: Honourable senators, I would like to speak about a book recently reviewed in the London Review of Books. It is a book about the politics of AIDS in South Africa. The distinguished British novelist, Hilary Mantel, who lived for some time in Botswana, noted how difficult it is even to study AIDS in a large, sub-Saharan African context. She writes:

None of these countries can act a case study. Each has a different experience of colonialism, a different narrative of independence, a different self image . . .

As Madam Mantel so elegantly says, there is no one-size-fits-all solution to the African tragedy. To walk along the crowded street once known as Delamere Avenue in central Nairobi and chat with people on street corners or observe them gathered in groups, gossiping like people in any city, it is easy to forget the two million people in Kenya who eat only once a day. People are as shocked as Canadians at the mayhem and murder in Rwanda and the

Eastern Congo, yet those countries and that mayhem takes place on the borders of East Africa, a region of which Kenya is the most important country.

We have all heard of the million or more mostly Tutsi murdered 15 years ago in Rwanda. At the recent annual meeting the World Bank in Washington, an official and I discussed the Congo massacres. I suggested the numbers might be even higher than in Rwanda and the murders continue. The official strongly agreed and used the figure 2.3 million people so far, two days by road from that crowded Nairobi street.

These days, with international air service, a trip to sub-Saharan Africa usually involves relatively few cities in that vast place. The Sahara is bigger than Australia and the temperature can hit close to 60 degrees. I know the Sahara and spent part of three summers there.

Nairobi, Dakar, Johannesburg and Cape Town, possibly Abidjan, the Ivory Coast and Abuja, the relatively new capital of Nigeria: Each of these airports is the jumping-off point to a hinterland. Hilary Mantel probably used Johannesburg to get to Botswana.

The Standing Senate Committee on Foreign Affairs and International Trade tried to be unorthodox, particularly on our first field trip to Africa when we started with Northern Ethiopia, not far from the edge of the great desert.

Examining CIDA assistance to irrigation in an area in which agriculture will always be cyclical and always has been because of the vagaries of rain, caused some of us to question things. In an area subject to droughts since time immemorial, it would seem more profitable to transport food from areas of the country that produce surpluses, which in this case is Ethiopia.

There is a road. They said the road had places that were impassable. I asked where because I know that road. I had taken it in early 1960 with an Italian lorry driver on his way to Asmara in Eritrea. Why not repair the road? No one could tell me because they all flew from Addis to Mekele. Could it have something to do with the fact that we were in the province of Tigre and the government support is based there?

You might say, "Oh well, but our people know about such things." That is not what it says in the famous Blair commission report. On page 162 of that report, the authors discuss Rwanda and write:

In pre-genocide Rwanda, development assistance reinforced ethnic tensions. Individual projects and programmes have also caused trouble by reinforcing or exacerbating existing inequalities at the local level.

In our report, we observe that 81 per cent of CIDA staff work in Ottawa and only 19 per cent are in the field. It seems to me some of the criticism of the role of aid agencies, not just CIDA, would be answered, at least from the Canadian perspective, if more of our own people actually worked in the area for which they are responsible and developed a good understanding of local conditions. That would be consistent with the Blair report.



The likely reason CIDA took the path of direct budget support is linked to that criticism in the Blair commission report. As we said on page 104 of our report: "It is as if CIDA does not know what else to do, so they give the recipient government the money, hoping they will fix the problems." The staff can more easily stay in Ottawa.

• (1850)

Before I leave the subject of Ethiopia, I will mention to honourable senators that our embassy, helpful when we arrived, recommended that we not visit because of possible riots. How could we be serious about Africa if we did not visit the headquarters of African Union, which is in Addis Ababa? How could we be serious if we did not go out into the countryside, hundreds of kilometres north of the capital, to see things for ourselves? Incidentally — because it is relevant to the general African tragedy — when François Michaud, our committee clerk, caught up with me to inform me of our embassy to Ethiopia's advice, I was sitting in the office of one of Morocco's senior trade officials in Casablanca on my way to Addis Ababa. When I asked him what percentage of Moroccans worked in agriculture and if they had problems selling produce in Europe, he exploded with irritation and said that "Fifty-five per cent of our people work in agriculture as against 2 to 3 per cent in France. The French take our doctors and nurses, but they do not take our tomatoes."

Committee members left Ethiopia on October 12, 2005. Demonstrations against the government broke out on November 1. Honourable senators, 193 protesters were shot dead by the police and there were 60,000 arrests. That year Canada, through CIDA, contributed \$70 million in aid to the country. Under the concept of direct budget support, we gave \$30 million to the government that had just shot 193 protesters.

At this point, I should like to say that I believe that CIDA requires a statute with defined goals that can be monitored by parliamentarians. I remind honourable senators that the agency budget for last year was more than \$3 billion. CIDA is an important element, possibly the most important of how Canada is seen in much of the world, but it is not right to say that we should spend even more money on what has been a form of charity — often not even a well-thought-through charity — which has had no appreciable effect on the standard of living in the countries of Africa that we are talking about. I believe that development should mean economic development to build an economy.

The truth is that most of the members of our committee — myself included — did not know that CIDA was only a paragraph of the Foreign Affairs Act. Of course, we were not studying CIDA. We were looking at Africa, and CIDA is certainly not the cause of the African tragedy. For example, it was General Ibrahim Babangida of Nigeria who was accused by the World Bank of looting \$12.2 billion of that nation's oil earnings, not CIDA. I strongly agree with the 1994 recommendation of the Special Joint Committee of the Senate and the House of Commons reviewing Canadian Foreign Policy, jointly chaired by Jean-Robert Gauthier, then still an MP; and my good friend Allan MacEachen, representing the Senate; which stated:

The committee recommends that Parliament adopt legislation that spells out the basic principles to guide Canadian official development assistance.

I believe that it is more urgent now to follow that recommendation than it was in 1994. With Afghanistan added to the mix, the situation is immeasurably more muddled now than it was in 1994.

Let me continue with Africa, the world's poorest continent. How does one develop policy for such a vast area with so many peoples, each with, as Hilary Mantel describes, "... a different narrative of independence, a different self-image."

We did not visit the two main Portuguese-speaking countries of Mozambique and Angola. Mozambique, colonized by the Portuguese in 1505, is the current favourite of the development people. The committee did meet with Dr. Venancio Massingue, the Minister for Science and Technology, in Ottawa. To save money, the committee took advantage of useful people who visited Ottawa and other businesses.

Mozambique has a population of about 21 million people, and the minister told us of his ambitious plans to wire the country for Internet. Unfortunately, there is no real economy, or at least only minimal economy, and there is no tax base. The annual budget of the department of the well-meaning Minister for Science and Technology, including his salary, is \$1.3 million. Put that beside the \$12.2 billion stolen by General Babangida of Nigeria.

Let us travel now to Nigeria with the committee. In the tropics, the determinants of climate are altitude and rainfall. It is nearly 10,000 kilometres by road from Maputo, the capital of Mozambique; to Abuja, the capital Nigeria. Many years ago, over the period of most of a year, I made the most of that journey by road and truck. As there is no winter and because of the determinants of climate, altitude and rainfall, agriculture production is pretty similar. Call it another 3,000 kilometres across West Africa to the Atlantic coast. Agriculture is still pretty similar.

When development experts say — and they do — that trade barriers among African countries are a major impediment to development, they are playing with the truth. African leaders are not stupid. The economic community of the West African states has existed since 1975 to promote economic integration. It has not been an economic success largely because all the countries' economies are based on agriculture and they all grow the same things.

What about Nigerian oil, you might ask. That is a factor, but the population of Nigeria, the people in Africa's most populous country, also work in agriculture. I remind honourable senators that up to 85 per cent of Africans work in agriculture. Of course, there are important exportable crops. Portuguese traders from Angola used to buy palm fruit oil in the Congo rain forest, particularly in Equator Province. Nigeria had large plantations of oil, palm and rubber. The chocolate in your chocolate bar probably comes from coastal West Africa. The markets for tropical agriculture are not found in other tropical countries, they exist in temperate countries. In most temperate countries, only 2 to 3 per cent of the population works in agriculture.

Honourable senators will remember Joseph Heller's famous American novel *Catch-22*. Allow me to read an excerpt:

Major Major's father was a sober God-fearing man whose idea of a good joke was to lie about his age. He was a long-limbed farmer, a God-fearing, freedom-loving, law-

abiding, rugged individualist who held that federal aid to anyone but farmers was creeping socialism. He advocated thrift and hard work and disapproved of loose women who turned him down. His specialty was alfalfa, and he made a good thing out of not growing any.

The government paid him well for every bushel of alfalfa he did not grow. The more alfalfa he did not grow, the more money the government gave him, and he spent every penny he didn't earn on new land to increase the amount of alfalfa he did not produce. Major Major's father worked without rest at not growing alfalfa. On long winter evenings, he remained indoors and did not mend harness and he sprang out of bed at the crack of noon every day just to make certain that the chores would not be done. He invested in land wisely and soon was not growing more alfalfa than any other man in the county. Neighbours sought him out for advice on all subjects, for he had made much money and he was therefore wise. "As ye sow, so shall you reap," he counselled one and all, and everyone said "Amen."

As far as I know, alfalfa is not of interest in West Africa, cotton is. Between 11 million and 15 million people depend on growing cotton. The leading grower is Burkina Faso, the French-speaking country at the headwaters of the Volta River, directly north of the Ivory Coast and Ghana, with a population of about 13 million people. They produce about 6 per cent of the cotton grown mostly in Texas in the United States, with whom they compete. Millions of people depend on their crop for a very basic living. In the United States, there are about 7,500 highly mechanized cotton farms. The 7,500 producers, in 2004 — the latest figures that I could find — received a producer subsidy of \$3.2 billion. If one adds the \$1.6 billion in export credits declared to be illegal by the WTO, the total cotton subsidy to the 7,500 producers is approximately equal to the GDP of Burkina Faso. As an interesting comparison, the entire U.S. aid to all 540 million inhabitants of sub-Saharan Africa in 2004 was \$3.3 billion.

Another interesting comparison is the \$2.9 billion credit line extended by China to Angola, along with another \$7 billion in oil-backed loans. Angola, the second largest African oil producer after Nigeria, had oil revenues last year of \$10.6 billion.

Our committee visited a cotton farm 120 kilometres east of the Bamako, in Mali, on the main road Bobo in Burkina Faso. We went by bus. The people at the farm knew all about these outrageous American subsidies and why they had to compete with U.S. farmers who could sell at less than the cost of production because of government subsidy. One would think that the Americans, who have become conscious of their low standing in the world, would worry about how angry they have made these people. However, it is not only the Americans; the European community has been just as bad. The natural market for agricultural product from tropical Africa is Europe.

Traditional product from the French territories went to France. That would be mostly from West Africa and moving through the ports of Dakar or Abidjan. Ethiopia exported to Italy; Kenyan butter and meat had a market in the U.K.; large plantations along the Juba River provided Italy with bananas. Not only did that end after independence but, under the common agricultural policy, huge agricultural surpluses were exported to the former African colonies at far less than the cost of production and local

production became impossible. Our committee heard testimony that tropical Africa went from being an exporter of food to an importer of food to such an extent that the region paid as much for food imports as it received in so-called development aid. In fact, the more you look at it, the more aid starts to look like conscience money. As development, it has totally failed and, as the committee so graphically pointed out, after the expenditure by western donors of nearly \$600 billion, the people are worse off than they were before.

• (1900)

Two years ago Senator Di Nino — who was of immeasurable assistance on our Africa project — and I attended the Doha Development Round trade meeting in Hong Kong. The goal of many of the 10,000 delegates was to ensure that no progress took place.

What seemed to be our main Canadian obstruction revolved around what are known as geographical indications, GIs. The Europeans insist we cannot call something Camembert or Parmesan cheese if it does not come from France or Italy. They demand GIs for many products where it is questionable. We say none. We do not seem to have the wit to accept there are legitimate geographical indications, and perhaps we might negotiate them in return for support for our Canadian marketing boards.

**The Hon. the Speaker *pro tempore*:** I am sorry to interrupt, but I must advise that the honourable senator's time has expired.

Is the honourable senator asking for more time? Is permission granted?

**Hon. Senators:** Agreed.

**Senator Stollery:** The great contribution of the European Union was a series of conditional proposals that would not take place until 2013. Of course, agriculture is complicated. I know that. Of course, making the agricultural rules fair is not the only answer to Africa's economic woes. There needs to be private investment. Africa has twice as much public capital as private capital. There needs to be good governance. Civil wars must be resolved.

As Professor Paul Collier of Oxford University, authority on African development, tremendous witness before our committee and author of the recent book *The Bottom Billion* writes:

It is stupid to provide aid money to promote development and then adopt trade policies that impede that objective. The least defensible part of rich country trade policy is the protection of agriculture.

Honourable senators, I have no more time. I think that is a pity because this subject means life and death for a billion people.

I will leave you with this thought: There must be a stand-alone CIDA statute, and it must include instruction for the CIDA minister to involve himself or herself in the trade negotiations so vital to the minister's constituency. The minister should be at the table when trade is discussed. Also, there must be instruction to promote private investment.

Professor Collier says:

The primary obstacle to reforming aid is public opinion. The constituency for aid is suspicious of economic growth and the constituency for growth is suspicious of aid.

The job of reconciling these two suspicions must be included in this CIDA act.

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

**Hon. Consiglio Di Nino:** As tempted as I am to ask a question, I would like to adjourn the debate.

On motion of Senator Di Nino, debate adjourned.

#### NATIONAL SECURITY AND DEFENCE

##### COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

**Hon. Colin Kenny,** pursuant to notice of December 11, 2007, moved:

That, notwithstanding rule 95(4), the Standing Senate Committee on National Security and Defence be authorized to sit on Monday, December 17, 2007, from 4 p.m. to 8 p.m., even though the Senate might be sitting at that time.

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

**Hon. Senators:** Agreed.

Motion agreed to.

##### COMMITTEE AUTHORIZED TO MEET DURING ADJOURNMENT OF THE SENATE

**Hon. Colin Kenny,** pursuant to notice of December 11, 2007, moved:

That, pursuant to rule 95(3)(a), the Standing Senate Committee on National Security and Defence be authorized to sit on Monday, December 17, 2007, and on another day to be determined in January 2008, even though the Senate may then be adjourned for a period exceeding one week.

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

**Hon. David Tkachuk:** I move an amendment to that motion: "Provided that a member of the government and a member of the opposition are in attendance."

**Senator Kenny:** I support the amendment.

**The Hon. the Speaker *pro tempore*:** It is moved by the Honourable Senator Tkachuk, seconded by the Honourable Senator Stratton, that this motion be amended to include: "Provided that a member of the government and a member of the opposition are in attendance."

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

**Hon. Senators:** Agreed.

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

Motion agreed to, as amended.

The Senate adjourned until tomorrow at 9 a.m.

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