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(HANSARD)

Thursday, April 23, 2009

THE HONOURABLE NOËL A. KINSELLA
SPEAKER

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

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THE SENATE

Thursday, April 23, 2009

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

Prayers.

[*Translation*]

VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, I would like to draw your attention to the presence in the gallery of Her Excellency, Ms. Nouzha Chekrouni, the newly appointed ambassador of the Kingdom of Morocco to Canada. She is the first woman to be appointed to this position.

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

• (1335)

[*English*]

SENATORS' STATEMENTS

NATIONAL ORGAN AND TISSUE DONOR AWARENESS WEEK

Hon. Catherine S. Callbeck: Honourable senators, the need for tissue and organs is greater than ever. As I speak now during National Organ and Tissue Donor Awareness Week, approximately 4,300 Canadians are waiting for an organ donation. However, need is far greater than supply. More than 200 people died last year while waiting for a transplant that never came.

Anyone can be an organ and tissue donor. A single donor can help up to 80 people with his or her heart, lungs, kidneys, liver, skin, bone, tendons, eyes and more. Sadly, not enough Canadians are signing up for this life-saving option.

With great advances in medical technology, organ and tissue transplants work better than ever. For example, the three-year survival rate for lung transplant recipients has increased from 60 per cent in 1997 to 80 per cent in 2003. With surgical innovation and improvement in drugs, numbers like those are getting better all the time. However, if there are no organs available, that success rate is obviously zero.

It is easy to become a potential organ donor. Depending on the rules of the province, you can simply sign an organ donor card or have your desire to donate indicated on your health card or driver's licence, but you must discuss your wishes with your family. In most parts of the country, doctors will not proceed with organ donation without the family's consent or if the family has not been informed of your decision.

The death of a family member is a sad event, but something good can come of this loss. A heart keeps a person alive. A kidney can free someone from painful dialysis. Corneas restore sight. Bone can stop the need for amputation. Skin donation can protect burn victims from infection. Organ and tissue donations save lives, restore health and give hope to individuals who are suffering.

Honourable senators, I encourage everyone to take the necessary steps to be an organ and tissue donor. Speak frankly with your families about that decision.

I would also like to thank all those Canadians who have already made such arrangements. Their compassion, goodwill and remarkable generosity will offer hope to the thousands of fellow Canadians who are awaiting a transplant.

[*Translation*]

CANJET FLIGHT 918 HOSTAGE TAKING

Hon. Percy Mockler: Honourable senators, I am sure that the passengers aboard a CanJet Boeing 737 in Jamaica on Monday will never forget their stop at the Montego Bay airport. The incident had an impact on the Jamaican people as well as on the Canadians who were directly affected by the inexplicable actions of one person, actions that once again revealed the vulnerability of our infrastructure.

Honourable senators, I am proud of the bravery of the pilot and crew, as they kept their cool so that all the passengers — yes, all of them — could get off the plane safely. Honourable senators, I want to thank the crew on behalf of the 182 passengers whom they protected and who got to safety. They are true Canadian professionals who showed exceptional leadership and unprecedented bravery.

Honourable senators, I would be remiss if I failed to mention the personal involvement of Bruce Golding, Prime Minister of Jamaica, who mobilized a well-trained team to rescue all the passengers.

I am also pleased to highlight Prime Minister Stephen Harper's humanity, kindness, compassion, understanding and sensitivity. In the wee hours of Monday morning, he was informed of this sad situation that endangered the lives of many Canadians. Immediately, Prime Minister Stephen Harper made the Government of Canada's airplane available to CanJet to bring the Boeing 737 passengers back to Canada.

Honourable senators, I was worried when I found out yesterday that my niece, Krista Toner, and her friend, Manon Tremblay, of Grand Falls, New Brunswick, were among the hostages. This is what my niece told me yesterday on the phone:

> Manon and I, along with the other passengers, were very relieved and reassured when the Prime Minister of Canada came to meet with us, talk to us, make us feel safe, listen to us, and make sure that we were all okay.

• (1340)

Honourable senators, as a senator from New Brunswick, I want to take this opportunity, on behalf of the Toner and Tremblay families from the Grand Falls area, to thank the CanJet team, the Jamaican Prime Minister, our Prime Minister and everyone who helped these Canadians to get back home safe and sound.

CANADA-FRANCE RELATIONS

Hon. Claudette Tardif (Deputy Leader of the Opposition): Honourable senators, two weeks ago, I had the privilege to travel to Paris for an event sponsored by the Canada-France Interparliamentary Association. Our colleague, Senator Serge Joyal, was honoured by the French Senate on April 7, 2009 at the French launch of the book entitled *France-Canada-Québec: 400 ans de relations d'exception*.

This book was published in connection with the symposium entitled "The Legacy of France in Canada over 400 Years," which brought together the Canada-France Interparliamentary Association and the Groupe interparlementaire d'amitié France-Canada. This symposium, which took place in two parts, first in Paris in March 2008 and then in Ottawa in November 2008, went beyond the 400th anniversary of the founding of Quebec City and looked at relations between Canada and France since the exploration and colonization of North America. The meetings with our French counterparts helped strengthen the good relations we have with France, our sister nation.

The work done by my many colleagues who attended these events helped showcase Canada's Senate, and I want to thank all of them for their commitment to La Francophonie.

The success of this symposium, which was conceived by Senator Joyal, undoubtedly strengthened the ties that exist between our two countries by virtue of the French language, culture, history and friendship. I should point out that an event of this scope could not have taken place without his vision, his initiative and his outstanding commitment.

His tireless efforts to forge stronger links between the countries of La Francophonie led to the publication of this book, which is not only academically excellent but visually stunning.

Some of the credit for the success of the symposium must go to Senator Bacon, Chair of the Canada-France Interparliamentary Association, who has diplomatically and diligently managed the association's projects.

A number of distinguished guests celebrated the launch of this book, including His Excellency Ambassador Marc Lortie; the chairs of the France-Canada associations, French Senator Marcel-Pierre Cléach and French parliamentarian and deputy speaker of the National Assembly Marc Laffineur; Anne Bernard, representing Quebec's delegate general in France; the contributors to the book; historians; professors and, of course, Senator Joyal and his co-author, Paul-André Linteau.

I am certain that this book will give all of us a better understanding and appreciation of the many reasons why France and Canada have such a lasting, sincere and rewarding friendship.

[*English*]

NOVA SCOTIA ECONOMIC STIMULUS PLAN

Hon. Donald H. Oliver: Honourable senators, I rise today to call your attention to the proactive steps that have been taken by the Government of Nova Scotia to stimulate our economy in these times of financial turbulence.

Premier Rodney MacDonald and Education Minister Judy Streatch announced a $307 million school construction and renovation program. Some of the funding for this important investment will come from the province's Building for Growth economic stimulus plan, one of the largest infrastructure programs in Nova Scotia's history.

According to Minister Streatch, last week's announcement brings the province's total investment in education over the past six years to nearly $750 million. That investment includes $145.3 million on eight new leading-edge schools throughout the province in four different school boards. Four new schools will be built in the Halifax Regional School Board, the largest school board in Atlantic Canada, with more than 7,000 teaching and support staff personnel serving more than 53,000 students. The construction of these eight new schools is expected to be completed by 2015.

• (1345)

Premier MacDonald said:

> We want our young people to go to schools that can prepare them to be the leaders of tomorrow. The eight new schools under this program will be world-class facilities that give students an edge in getting jobs and competing in the global marketplace.

The provincial government will also invest more than $160 million toward renovating an additional 41 schools. This multi-year, multi-million dollar investment will benefit all eight provincial school boards. Included in the list of projects are renovations to seven of nineteen schools from the Conseil scolaire acadien provincial — the francophone board that serves over 4,200 French-speaking Nova Scotians. Not only is this great news for students, parents and teachers alike, but also for the Nova Scotia economy.

The provincial unemployment rate rose to 8.9 per cent in March because of the current recession. Nova Scotians have been having a difficult time finding jobs. This investment will create thousands of jobs in each and every part of Nova Scotia,

according to Premier MacDonald. It will provide much needed short-term work for both men and women in the province in a wide range of different fields. In the end, Premier MacDonald's announcement will produce both immediate and enduring benefits for the entire province.

These investments are expected to be introduced in the government's provincial budget, scheduled to be tabled in the upcoming weeks.

Honourable senators, the Conservative Government of Nova Scotia is clearly dedicated to the well-being of Nova Scotian students, teachers and school support staff. With this investment, it confirms its commitment to the entire province by creating thousands of well-needed jobs.

Senator Comeau: I will vote for them.

Some Hon. Senators: Hear, hear!

THE LATE MAURICE DRUON

Hon. Jerahmiel S. Grafstein: Honourable senators, I rise to mourn the death of France's greatest intellectual and cultural icon, Maurice Druon.

As France's pre-eminent literary figure, Maurice was a lover of all things French and a vitriolic protector of the French language. He railed against colloquialisms and, more recently, against political correctness.

He loved English. He taught in Canada briefly and relished Canada. I was proud to call him a good friend.

He had a mythical career, first as a cadet in the French cavalry school when the Germans invaded France in 1940. Ignoring the orders of Pétain, the Vichy leader, to lay down their arms, he and his school staved off two German divisions for two days in the Loire.

Receiving honours for their heroism, he and his cadets were allowed safe passage to the unoccupied zone of France, the Côte d'Azur. There he met his equally brilliant uncle, the author and musician Joseph Kessel, where they wrote and produced a play.

He became a leader of the French Resistance. In 1942, he escaped to Spain and finally landed in London, where he joined De Gaulle and the Free French.

Asked by the Resistance to write an inspirational song, he and his uncle wrote *Le chant des partisans — The song of the partisans* — that became the rallying cry of the Resistance.

He wrote the French lyrics, which translated say:

> Friend, do you hear the black flight of the crows on our plains?
>
> Friend, do you hear the death cries of a country in chains?

This song was broadcast twice daily over BBC and rivalled *La Marseillaise*, the French anthem, in popularity.

After the war, he became a prolific writer, creating historical works and novels in quality and quantity not seen since the days of Alexandre Dumas.

In 1966, at the youthful age of 48, he was elected to the Académie française. In 1973, he followed the footsteps of André Malraux and became the Minister of Culture of France, and then a deputy, representing an area in the heart of Paris.

As a staunch protector of the French language, he became secretary perpetual of the Académie française, the pantheon of the French elite in the arts, science and literature.

Once, he called me to convince me to join his efforts to raise funds to fix a leaky roof over Napoleon's tomb at Les Invalides, which I did. I was rewarded with a sparkling dinner at the Académie française, where he hosted me.

One Senate story: I had a disagreement with the former Speaker of the Senate, Maurice Riel, who was also a respected French linguist and expert, and a great lover of French literature. In a speech in the Senate, I quoted Albert Camus. Maurice immediately criticized me for mispronouncing Camus' name because I had not pronounced the final "s." Maurice insisted that I should have pronounced Camus with a spoken "s." We agreed to have the issue arbitrated by Maurice Druon in Paris and so we wrote him a letter. I was pleased that Druon supported my pronunciation.

Maurice Druon loved the English language, praising the speeches of Winston Churchill. He started a controversy when he said some years ago:

> French no longer respect the language because they no longer love themselves and no longer loving themselves, they no longer loved what was the instrument of their glory — their language.

So said Maurice Druon.

Maurice Druon was proud of the bilingual nature of Canada and proud that French Canadians had joined in his effort and the effort of his compatriots in the survival of his greatest glory — the French language.

Honourable senators, we will miss him, his wit, his profound knowledge and his pen. While Maurice has passed away, his bright memory, his novels, his words and his friendship will live on to the end of time. Au revoir, cher ami.

• (1350)

FUNDY NATIONAL PARK

Hon. John D. Wallace: Honourable senators, the coastline linking Saint John with Moncton offers some of the most breathtaking scenery in all of Canada. I do hope that Canadians from all walks of life come to New Brunswick to enjoy the natural beauty of our southern coast.

As a Conservative, I am proud that my government is making it easier for Canadians to do just that. Three years ago, the Government of Canada contributed $5.5 million to complete phase two of the beautiful Fundy Trail Parkway. Earlier this month, Prime Minister Harper announced that we will build on that investment with an additional investment involving construction of a connector road between Route 111 and Route 114, with total estimated costs of $10 million.

Honourable senators, this project will create immediate construction jobs. The finished project will connect Saint John, Sussex and Moncton, making it easier for local businesses to get their goods to market. This project will also make it easier for tourists from every corner of the globe to access Fundy National Park and its many natural and man-made treasures, ranging from more than 100 kilometres of hiking and cycling trails, a heated saltwater swimming pool, the red-painted covered bridge at Point Wolfe, low-tide sandy beaches along the Bay of Fundy, and more than 20 spectacular waterfalls.

Honourable senators, by investing in the Fundy Trail Parkway, our government is creating jobs, tackling the global recession and improving access to a unique and truly wonderful part of our country.

AFGHANISTAN

Hon. Nancy Ruth: Honourable senators, I rise today to talk about Afghanistan and Canada's leadership on United Nations Security Council Resolution 1325.

The government announced in June 2008 that Canada has two objectives in Afghanistan at the national level: building Afghan institutions, including key democratic processes such as elections, court systems, et cetera; and contributing to Afghan-led reconciliation efforts aimed at fostering a sustainable peace.

The denial of human rights is at the heart of Afghanistan's wars. The rooting of human rights and the rule of law on Afghan soil are at the heart of growing peace and security there. Women in Afghanistan are at the forefront of advocating for reform in their own country. Women leaders are being executed because they threaten those who hold power — those who would lose power through reforms in government, law and the judiciary.

We see this drama happening in public spaces. It is not enough to watch it and mourn. We must draw the lesson of their lives. There have been many public tables where Afghanistan has been under deliberation: the Bonn Agreement of 2001, the Afghan Compact of 2006, and the Paris Declaration of 2008; and there will be more of these as we move toward 2011 and beyond.

Afghan women leaders have been largely absent from these public decision-making places. Many of the countries at these tables — Canada and others — are also signatories to the United Nations Security Council Resolution 1325 on Women, Peace and Security, which was passed on October 31, 2000. A few countries have implementation plans for Resolution 1325. Canada does not have such plans, but we ought to. The Manley commission chose not to address' Resolution 1325 in Afghanistan, although witnesses before it most certainly did address it. Neither of these gaps is a barrier to taking leadership in Afghanistan now.

Resolution 1325 is founded on the view that durable peace and reconciliation requires the equal participation and full involvement of women in decision-making on conflict resolution and peace-building.

• (1355)

Women and children account for the vast majority of those adversely affected by armed conflict. Women will make a difference to the maintenance of peace and security. It will improve all of our chances for success.

I call on Canada and all other countries to implement UN Security Council Resolution 1325 on an urgent and go-forward basis.

[*Translation*]

ROYAL ASSENT

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

RIDEAU HALL

April 22, 2009

Mr. Speaker,

I have the honour to inform you that the Honourable Thomas Cromwell, Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy of the Governor General, signified royal assent by written declaration to the bill listed in the schedule to this letter on the 22nd day of April, 2009, at 4:55 p.m.

Yours sincerely,

Dorothy Grandmaître
For the *Secretary to the Governor General*

The Honourable
The Speaker of the Senate
Ottawa

Bill assented to Wednesday, April 22, 2009:

An Act to recognize Beechwood Cemetery as the national cemetery of Canada (*Bill C-17, Chapter 5, 2009*).

[*English*]

ROUTINE PROCEEDINGS

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

FOURTH REPORT OF COMMITTEE PRESENTED

Hon. George J. Furey, Chair of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Thursday, April 23, 2009

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

FOURTH REPORT

Your Committee recommends that the following funds be released for fiscal year 2009-2010.

Legal and Constitutional Affairs (Legislation)

Professional and Other Services	$ 18,250
Transportation and Communications	100
All Other Expenditures	4,000
Total	**$ 22,350**

Library of Parliament (Joint Committee)

Professional and Other Services	$ 1,350
Transportation and Communications	6,900
All Other Expenditures	600
Total	**$ 8,850**

Transport and Communications (Legislation)

Professional and Other Services	$ 8,000
Transportation and Communications	0
All Other Expenditures	2,000
Total	**$ 10,000**

(includes funds for participation at conferences)

Respectfully submitted,

GEORGE J. FUREY
Chair

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

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

[*Translation*]

TRANSPORT AND COMMUNICATIONS

BUDGET AND AUTHORIZATION TO ENGAGE SERVICES AND TRAVEL—STUDY ON EMERGING ISSUES RELATED TO COMMUNICATIONS MANDATE—SECOND REPORT OF COMMITTEE PRESENTED

Hon. Lise Bacon, Chair of the Standing Senate Committee on Transport and Communications, presented the following report:

Thursday, April 23, 2009

The Standing Senate Committee on Transport and Communications has the honour to present its

SECOND REPORT

Your committee, which was authorized by the Senate on Tuesday, March 24, 2009, to examine emerging issues related to its communications mandate and to report on the wireless sector, including issues such as access to high-speed Internet, the supply of bandwidth, the nation-building role of wireless, the pace of the adoption of innovations, the financial aspects associated with possible changes to the sector, and Canada's development of the sector in comparison to the performance in other countries, respectfully requests funds for the fiscal year ending March 31, 2010, and requests, for the purpose of such study, that it be empowered:

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

(*b*) to travel inside Canada; and

(*c*) to travel outside Canada.

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

Respectfully submitted,

LISE BACON
Chair

(*For text of budget see today's* Journals of the Senate, *Appendix A, p. 475*.)

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

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

[*English*]

CANADA-EFTA FREE TRADE AGREEMENT IMPLEMENTATION BILL

FIFTH REPORT OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE COMMITTEE PRESENTED

Hon. Consiglio Di Nino, Chair of the Standing Senate Committee on Foreign Affairs and International Trade, presented the following report:

Thursday, April 23, 2009

The Standing Senate Committee on Foreign Affairs and International Trade has the honour to present its

FIFTH REPORT

Your committee, to which was referred Bill C-2, An Act to implement the Free Trade Agreement between Canada and the States of the European Free Trade Association (Iceland, Liechtenstein, Norway, Switzerland), the Agreement on Agriculture between Canada and the

Republic of Iceland, the Agreement on Agriculture between Canada and the Kingdom of Norway and the Agreement on Agriculture between Canada and the Swiss Confederation, has, in obedience to the order of reference of Wednesday, April 22, 2009 examined the said Bill and now reports the same without amendment.

Respectfully submitted,

CONSIGLIO DI NINO
Chair

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

• (1400)

Some Hon. Senators: Now.

The Hon. the Speaker: Is leave granted to give third reading now?

Some Hon. Senators: No.

The Hon. the Speaker: Can we have a motion?

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

[*Translation*]

SCRUTINY OF REGULATIONS

SECOND REPORT OF JOINT COMMITTEE TABLED

Hon. Céline Hervieux-Payette: Honourable senators, I have the honour to table, in both official languages, the second report of the Standing Joint Committee for the Scrutiny of Regulations, which deals with the Indian Act.

[*English*]

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

BUDGET AND AUTHORIZATION TO ENGAGE SERVICES AND TRAVEL—STUDY ON CURRENT SOCIAL ISSUES OF LARGE CITIES—THIRD REPORT OF COMMITTEE PRESENTED

Hon. Art Eggleton, Chair of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Thursday, April 23, 2009

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

THIRD REPORT

Your committee, which was authorized by the Senate on February 24, 2009, to examine and report on current social issues pertaining to Canada's largest cities, respectfully requests funds for the fiscal year ending March 31, 2010, and requests, for the purpose of such study, that it be empowered:

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

(*b*) to travel inside Canada.

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

Respectfully submitted,

ART EGGLETON
Chair

(*For text of budget, see today's* Journals of the Senate, *Appendix B, p. 488*.)

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

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

BUDGET AND AUTHORIZATION TO ENGAGE SERVICES—STUDY ON IMPACT AND EFFECTS OF DETERMINANTS OF HEALTH—FOURTH REPORT OF COMMITTEE PRESENTED

Hon. Wilbert J. Keon, Deputy Chair of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Thursday, April 23, 2009

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

FOURTH REPORT

Your committee, which was authorized by the Senate on February 24, 2009 to examine and report on population health, respectfully requests funds for the fiscal year ending March 31, 2010, and requests, for the purpose of such study, that it be empowered to engage the services of such counsel, technical, clerical and other personnel as may be necessary.

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

Respectfully submitted,

WILBERT JOSEPH KEON
Deputy Chair

(*For text of budget, see today's* Journals of the Senate, *Appendix C, p. 506*.)

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

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

[*Translation*]

LEGAL AND CONSTITUTIONAL AFFAIRS

BUDGET—STUDY ON PROVISIONS AND OPERATION OF DNA IDENTIFICATION ACT—FOURTH REPORT OF COMMITTEE PRESENTED

Hon. Pierre Claude Nolin, Deputy Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, April 23, 2009

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

FOURTH REPORT

Your committee, which was authorized by the Senate on Thursday, February 26, 2009, to examine and report on the provisions and operation of DNA Identification Act, respectfully requests funds for the fiscal year ending March 31, 2010.

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

Respectfully submitted,

PIERRE CLAUDE NOLIN
Deputy Chair

(*For text of budget, see today's* Journals of the Senate, *Appendix D, p. 512.*)

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

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

• (1405)

THE SENATE

NOTICE OF MOTION TO EXTEND WEDNESDAY SITTING AND AUTHORIZE COMMITTEES TO MEET DURING THE SITTING OF THE SENATE

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That, notwithstanding the order adopted by the Senate on February 10, 2009, when the Senate sits on Wednesday, April 29, 2009, it continue its proceedings beyond 4 p.m. and follow the normal adjournment procedure according to rule 6(1); and

That committees of the Senate scheduled to meet on Wednesday, April 29, 2009 be authorized to sit even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

CANADIAN NATO PARLIAMENTARY ASSOCIATION

2008 ANNUAL SESSION OF NATO PARLIAMENTARY ASSEMBLY—NOVEMBER 14-18, 2008—REPORT TABLED

Hon. Pierre Claude Nolin: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canadian NATO Parliamentary Association to the 2008 Annual Session of the NATO Parliamentary Assembly, held in Valencia, Spain, from November 14 to 18, 2008.

[*English*]

PARLIAMENTARY TRANSATLANTIC FORUM—DECEMBER 15-16, 2008—REPORT TABLED

Hon. Jane Cordy: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canadian NATO Parliamentary Association to the Parliamentary Transatlantic Forum, held in Washington, D.C., United States, from December 15 to 16, 2008.

INTER-PARLIAMENTARY UNION

ANNUAL PARLIAMENTARY HEARING AT UNITED NATIONS—NOVEMBER 20-21, 2007—REPORT TABLED

Hon. Donald H. Oliver: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Inter-Parliamentary Union to the Annual Parliamentary Hearing at the United Nations, held in New York (United Nations Headquarters), United States of America, from November 20 to 21, 2007.

WOMEN AND WORK SEMINAR—DECEMBER 6-8, 2007—REPORT TABLED

Hon. Donald H. Oliver: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Inter-Parliamentary Union to the Women and Work Seminar for Chairpersons and Members of

Parliamentary Bodies Dealing with Gender Equality and other Committees Addressing Labour Issues, held in Geneva, Switzerland, from December 6 to 8, 2007.

FISHERIES ACT

CESSATION OF COMMERCIAL SEAL HUNT—
PRESENTATION OF PETITIONS

Hon. Mac Harb: Honourable senators, I have the honour to present petitions signed by residents of the provinces of Quebec and Ontario, requesting that the Government of Canada amend the Fisheries Act to end Canada's commercial seal hunt.

QUESTION PERIOD

OLIPHANT COMMISSION

POTENTIAL TESTIMONY

Hon. Terry M. Mercer: Honourable senators, on Tuesday a document was tabled at the Oliphant Commission that described Mr. Mulroney's final days as Prime Minister. Paul Smith saved a copy of Mr. Mulroney's agenda. He informed the commission that it was indeed Mr. Schreiber who visited Mr. Mulroney for a private meeting on June 23, 1993. Interestingly enough, the document also shows that almost immediately after that meeting, Mr. Mulroney met with Senator LeBreton at the same retreat in the woods.

• (1410)

If we examine Mr. Schreiber's testimony, and if deals were made with Mr. Mulroney while he was Prime Minister, the question arises whether Mr. Mulroney discussed these dealings with Senator LeBreton at their meeting. Has Senator LeBreton been called before the Oliphant Commission to discuss what happened during that meeting?

Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)): Honourable senators, I saw the email that was sent around to everyone with the blog by Elizabeth Thompson, the reporter formerly of *The Gazette* and now of *The Sun*. When I saw it, my response was that this is truly sick.

Senator Mercer: That may be Senator LeBreton's opinion. She may want to distance herself from Mr. Mulroney, and some of us can understand that. However, this new revelation is very much in the public's interest. What she knew about her former boss's dealings with Mr. Schreiber —

The Hon. the Speaker: Order. Pursuant to the *Rules of the Senate* with respect to Question Period, whilst there is a great deal of elasticity, the chair of a committee who is asked a question must also be asked a question that relates to that committee.

Equally, questions asked of the Leader of the Government in the Senate or other minister in the Senate, if it is another minister, must relate to the responsibilities of that second minister. The questions asked of the Leader of the Government in the Senate must relate to questions that the Leader of the Government, as leader of government, is able to respond to.

TREASURY BOARD SECRETARIAT

EXPENDITURES OF PRIME MINISTER'S OFFICE

Hon. Lorna Milne: Honourable senators, in February, the Standing Senate Committee on National Finance reported that conventional practice over the years was to list and clearly identify the expenditures of the Prime Minister's Office as part of the expenditures of the Privy Council Office in the estimates documents. The committee learned, however, there would be nothing under the heading of PMO in the supplementary estimates 2008-09, Supplementary Estimates (B), or in the most recent Main Estimates document.

Can the Leader of the Government in the Senate undertake to provide honourable senators with the total amount estimated to be spent by the Prime Minister's Office for 2009-10? How much dough is at the PMO?

Senator Comeau: Get a new assistant!

Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)): Honourable senators, Senator Milne fancies herself a poet now; it is a massive failure.

First, the honourable senator started her question about something occurring in the National Finance Committee. Honourable senators, I know that all ministers in the government post their expenses in accordance with the new provisions brought in. I have no idea what the honourable senator is talking about, so I will take the question as notice.

Senator Milne: I thank the leader for taking the question as notice. However, with my nasty and suspicious mind, when figures are kept out of the estimates and out of the Main Estimates, I immediately become suspicious. These costs have always been made public before. What has happened to accountability now that Mr. Harper is in the PMO?

Senator LeBreton: Honourable senators, when Senator Milne talks about her nasty and suspicious mind, I am glad she pointed it out.

I still have no idea what she is talking about. With respect to my personal expenses as Minister of State for Seniors and as Leader of the Government in the Senate, I know people look at them and do not believe them because, unlike my predecessors, I do not spend a lot of taxpayers' money.

Senator Milne: Honourable senators, I did not ask what Senator LeBreton was spending; I asked what the Prime Minister is spending in his office.

Senator LeBreton: Honourable senators, I said to Senator Milne that I will take her question as notice.

• (1415)

[*Translation*]

CANADIAN HERITAGE AND OFFICIAL LANGUAGES

CANADIAN TOURISM COMMISSION WEBSITE

Hon. Claudette Tardif (Deputy Leader of the Opposition): Honourable senators, my question is for the Leader of the Government in the Senate. The French language is absent not only from a British Columbia tourism website, but also from the official website, destination2010.ca, created by the Canadian Tourism Commission, which is involved in tourism promotion for the Vancouver Olympic Games.

The Canadian Tourism Commission is a federal institution subject to the Official Languages Act. This is not merely symbolic, but rather an essential part of our Canadian values, one that federal institutions must respect. Accordingly, the funds distributed by the Commission must promote and respect the act.

What does the Conservative government intend to do to correct this situation?

[*English*]

Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)): Honourable senators, it is nice to be asked a question that is responsible and reasonable.

I am surprised by Senator Tardif's revelation, and I am disturbed by it. I will take the honourable senator's question as notice and join her in asking for an explanation of this situation.

Senator Tardif: Canadian Heritage has the responsibility to ensure that official languages are both promoted and respected in this country. When questions were addressed in connection to this subject to Canadian Heritage, they referred the question to the Minister of Finance, who then referred the question to the Minister of Industry, who then referred the question to the Canadian Tourism Commission.

Who is taking responsibility to ensure that official languages are respected? It looks like no one is taking responsibility. Can the leader check into that matter as well and ensure that responsibilities are taken by the ministers in question?

Senator LeBreton: I will, honourable senators. Official languages are the responsibility of the Minister of Canadian Heritage. In Senator Tardif's first question, she asked about the Olympics. I am well aware of the testimony of the Commissioner of Official Languages before the house committee this week regarding the Olympics, and I know that Minister Moore is working hard with everyone involved with the Olympics to ensure that Canada's Official Languages Act is respected in every way, shape and form with regard to communicating and presenting the Olympics in Canada.

I will ask for a more definitive answer to Senator Tardif's question, because I do not think it is proper for a serious question like that to be bounced from one department to another. I will ensure that Senator Tardif receives a proper response.

NATIONAL DEFENCE

INTERNATIONAL OBLIGATIONS FOR MILITARY PERSONNEL

Hon. Hugh Segal: Honourable senators, my question is directed to the Leader of the Government in the Senate, and it relates to the activities of HMCS *Winnipeg*, which intervened some days ago to prevent an act of piracy upon a Norwegian freighter. Upon so doing, and successfully protecting that freighter, the men and women of HMCS *Winnipeg* then gave chase to the pirates and, after seven hours of pursuit, apprehended and disarmed them.

Senior officers of the Canadian Navy then indicated that they lacked the authority under international law to repatriate those pirates for judicial processing in Canada or elsewhere. I note that the Americans were able to repatriate pirates involved in an attack upon a U.S. vessel to the United States for due process.

Will the minister undertake to apprise this chamber of the legal and international law constraints that prevent our navy from following through beyond disarming? Will she also apprise this chamber whether there might be initiatives Canada can take to achieve changes in that international regime so that when our navy succeeds as remarkably as they have, they can follow through and these people can be brought to justice, as is the tradition in this country?

• (1420)

Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)): I thank the honourable senator for the question. As Senator Segal said, it was the source of some considerable frustration for our armed services personnel aboard the HMCS *Winnipeg*. Even Secretary of State, Hillary Clinton, referred to the fact that Canada had apprehended the pirates, but under international law, they did not have the capacity to retain these pirates.

As Senator Segal is aware, this is a source of some concern. The Minister of National Defence is presently seized with the situation so that in future, when we have such highly successful encounters on the high seas, our Armed Forces are able to follow through and ensure that these pirates are brought to shore to be prosecuted.

STATUS OF WOMEN

INTERNATIONAL OLYMPIC COMMITTEE POSITION ON PARTICIPATION OF WOMEN

Hon. Jim Munson: Honourable senators, my question is to the Leader of the Government in the Senate. Next year, all eyes will be on Canada and beautiful British Columbia when the Olympic flame burns bright in Vancouver. However, we are now seeing who is being burned by the International Olympic Committee.

Women ski jumpers have had to resort to the courts for the right to compete in the 2010 Games. Ski jumping is the only sport not open to both genders in the Winter Olympic Games. What is this government doing to show its commitment to women's equality? What is the government doing to ensure that these women athletes have the chance to soar?

Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)): I thank the honourable senator for his question. My colleagues in government share in the frustration that Senator Munson has just expressed.

The Minister of State for the Status of Women, the Honourable Helena Guergis, has spoken out about this matter frequently. As we know, the IOC has determined that they wish to proceed in this way. The committee's decision does not sit well with many Canadians, most particularly Canadian women. A group of former and current ski jumpers has brought the matter to the courts. Beyond that, there is not much I can say. We await the decision of the courts.

As honourable senators know, especially Senator Munson with his involvement in Olympic movements, the IOC is a world body unto itself, and no government has direct control over the actions of the committee.

In any event, I share the honourable senator's concern and reassure him that the Minister of State for the Status of Women has raised this matter on many occasions.

Senator Munson: I thank the leader for her answer. For the record, in the 1980s women were excluded from long-distance running at the Olympics. I know some of the people in the IOC. At the London Olympic Games in 2012, women boxers will be excluded as well, unless some country stands up to the IOC.

I feel that Canada owes it to our female athletes to take action. I wonder what the Famous Five outside these walls would have thought if we allow this injustice to endure.

Senator LeBreton: I agree, honourable senators. If one looks at past Olympics, even some sports were deemed not to be sports. Ski jumping is a sport, and I think that it should not be reserved for one gender over the other.

AGRICULTURE AND AGRI-FOOD

ATLANTIC BEEF PRODUCTS INC. AGREEMENT

Hon. Catherine S. Callbeck: Honourable senators, my question is to the Leader of the Government in the Senate. In December 2007, the federal government signed an agreement to make a contribution of $6 million to the Atlantic Beef Products Inc. plant in my province. The three Maritime provinces were to match that with $2 million each.

• (1425)

When this agreement was signed, the three Maritime provinces understood that the $6-million contribution was a grant. The federal government now indicates the contribution is a loan.

Will the Leader of the Government in the Senate indicate whether this funding is a loan or a grant?

Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)): As honourable senators will understand, I am not aware of the terms and conditions of this particular agreement; therefore, I will take the question as notice.

Senator Callbeck: I hope the Leader of the Government in the Senate will find out the answer as quickly as possible. This matter is urgent for the beef plant, for the producers, for the workers in the plant, and for the economy. The difference between a loan and a grant of $6 million can have a tremendous effect on the bottom line of that plant and can seriously hinder the viability of the beef plant.

Will the minister urge her cabinet colleagues to follow the original intent of the signed agreement as it was understood by the three Maritime provinces?

Senator LeBreton: Senator Callbeck asked me to urge colleagues to follow the original intent of the signed agreement but then asked whether the funding was a grant or a loan. I cannot urge my colleagues to honour the original intent until I know what the original intent was. I will seek out the terms of the agreement and respond to the honourable senator.

PUBLIC SAFETY

RCMP TASER POLICY

Hon. Elizabeth Hubley: Honourable senators, between 2000 and 2007, nine people died in Canada after being tasered by the RCMP. At least seven of the nine who died received multiple discharges. In 2008, the RCMP fired five discharges on more than 16 people. Throughout this use of tasers, the government has not imposed standards on the use of this deadly weapon.

When will the government do something to stop multiple discharges of this weapon by the RCMP, when everyone knows that one discharge is sufficient to stop even the strongest of suspects?

Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)): Honourable senators, all of us are troubled by the terrible incident at the Vancouver airport that is on the news and before the courts in British Columbia. I understand the Commissioner of the RCMP appeared before the committee in the other place on the subject of tasers. Since the matter is under review and discussion, I am not in a position to stand here and provide government policy on an issue that is still being debated before the courts and in police circles.

Senator Hubley: Can the Leader of the Government in the Senate inform us as to the scientific, medical and practical information the RCMP uses and incorporates into their training program to ensure that officers are properly educated on the use and potential dangers of this lethal weapon?

Senator LeBreton: As I said in my earlier answer, this matter is before public inquiry as we speak. The RCMP has certain obligations, and the organization deals with the Minister of Public Safety. As I said in my earlier answer, as the matter is before the courts and has not been completed, I am not in a position to provide detailed information that is not even available yet, including the medical implications. I will take Senator Hubley's question as notice.

[*Translation*]

DELAYED ANSWER TO ORAL QUESTION

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, I have the honour to table a delayed response to an oral question raised by Senator Carstairs on March 24, 2009, concerning foreign affairs, Universal Periodic Review (UPR).

FOREIGN AFFAIRS

UNITED NATIONS HUMAN RIGHTS COUNCIL— PERIODIC REVIEW

(Response to question raised by Hon. Sharon Carstairs on March 24, 2009)

The active engagement of civil society in Universal Periodic Review (UPR) is an important aspect of this new UN mechanism, and one which Canada has encouraged and supported at the international level. Here in Canada, the Government of Canada provides Canadians with information on international human rights in general and on Universal Periodic Review in particular through the posting of information on government web-sites, notably those of the Department of Foreign Affairs and International Trade and Canadian Heritage.

The Government has undertaken a review of the 68 recommendations received as a result of Canada's first examination under the UPR mechanism, with a view to preparing Canada's initial response for the June session of the UN Human Rights Council. All Canadians, through a web-based platform, will have the opportunity to review and comment on the recommendations contained in the report of the UPR Working Group. In addition to the web-based platform for consultations, national face-to-face meetings will be held in Ottawa in April. These face-to-face meetings will be by invitation; one day each will be devoted to civil society and Aboriginal organizations. It is hoped that these meetings will permit organizations representing various human rights interests in Canada to more fully interact with government officials. The web-based as well as the face-to-face consultations will be used to help inform Canada's official response to the Human Rights Council. In addition, the Government of Canada is discussing the recommendations with provincial and territorial governments through the Continuing Committee of Officials on Human Rights, a standing F/P/T forum.

It is hoped that the views expressed by Canadians through the web and in the April meetings will also help to inform a possible longer-term strategy for more effective engagement with civil society. We look forward to hearing the views of Canadians, including civil society organizations, on how processes might evolve to address any gaps that might exist in current government engagement. The challenge will be to determine what is practicable, what will be effective and how to avoid duplication of existing processes that are working well.

The Government's consultations to solicit the input of Canadians regarding the UPR recommendations are being led by the Department of Heritage and supported by an inter-departmental working group of officials involving all federal departments whose work touches upon the human rights issues which inform the 68 recommendations.

• (1430)

[*English*]

PAGES EXCHANGE PROGRAM WITH THE HOUSE OF COMMONS

The Hon. the Speaker: Honourable senators, before proceeding to Orders of the Day, I am pleased to introduce two House of Commons Pages who are participating in the Page Exchange this week.

Espoir Manirambona of Ottawa, Ontario is pursuing his studies at the Faculty of Public Affairs at Carleton University and is majoring in global politics.

Gabrielle Grant of St. Catharines, Ontario is pursuing her studies at the University of Ottawa's Faculty of Arts. Gabrielle is majoring in music.

POINT OF ORDER

SPEAKER'S RULING RESERVED

Hon. Terry M. Mercer: Your Honour, I wish to rise on a point of order to question your ruling on my question at the opening of Question Period today.

Your Honour seems to be selective in the reading of section 24(1) of the *Rules of the Senate*. You correctly said that the chair of a committee can answer questions, et cetera and that a question can be asked of a senator who is a minister of the Crown if it is a question relating to his ministerial responsibility. However, Your Honour conveniently skipped subsection (a). I will read the full section for everyone's benefit:

> 24. (1) When the Speaker calls the Question Period, a Senator may, without notice, address an oral question to:
>
> (a) the Leader of the Government in the Senate, if it is a question relating to public affairs.

I am sorry, Your Honour, but regarding public affairs, there is an ongoing inquiry on this issue happening right now. Nothing could be more in the public interest than knowing what the Leader of the Government in the Senate knew at that time, if she knew anything.

We, as senators, should know if the most senior senator other than Your Honour in this chamber will be called before a public inquiry into this matter.

It was a simple question. The leader just needed to answer that question and we need to know the answer.

I think this is not the first time that Your Honour has selectively read the rules. It is your role to apply the rules.

Some Hon. Senators: Shame.

Senator Mercer: I would encourage you to do so, Your Honour. However, if you are to impose the rules, I suggest you read section 24(1)(a) as well as 24(1)(b) and 24(1)(c) of the *Rules of the Senate*.

The Hon. the Speaker: Are there any other comments on the point of order raised?

Senator Comeau: Not a chance. We are not touching that.

The Hon. the Speaker: Honourable senators, I thank the Honourable Senator Mercer for raising the matter. I will undertake to review Hansard and come back with a ruling on the point of order that the Honourable Senator Mercer has raised.

ORDERS OF THE DAY

CUSTOMS ACT

BILL TO AMEND—THIRD READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Tkachuk, seconded by the Honourable Senator Martin, for the third reading of Bill S-2, An Act to amend the Customs Act, as amended.

Hon. David Tkachuk: Honourable senators, with permission, I understand that Senator Day holds the adjournment of this bill. I would like to address the issue that he so kindly reminded me of yesterday, which was raised by Senator Segal. It had to do with reference on this bill and whether the law officers of the Crown have reviewed the contents and determined that the contents of this bill, inadvertently or otherwise, violate the Canadian Charter of Rights and Freedoms. He also asked if there are any papers that might be shared with this chamber or the appropriate committee when the time comes for members of the committee to be reassured on that front.

I had said at the time of the debate that I would ask the matter of the minister's office. I always thought that the Charter-proofing was done before the bill was introduced, but not when it originates in the Senate. I learned something new.

I will go through this to explain it to honourable senators. Section 3 of the Canadian Charter of Rights and Freedoms Examination Regulations require that the Attorney General certify that a bill is Charter compliant once it has been received by the House of Commons. However, because this is a government bill that was introduced in the Senate, it will not be dealt with until it arrives in the House of Commons. The process to which honourable senators referred need not be completed with respect to Bill S-2 until the bill is sent to the House of Commons. Therefore, first, it has not been attested to and, second, there are no papers.

I will review the regulations so there is no misunderstanding in what I was advised of by the minister's office. These regulations state that:

> 3. In the case of every bill introduced in or presented to the House of Commons by a Minister of the Crown, the Minister shall, forthwith on receipt of two copies of the Bill from the Clerk of the House of Commons,
>
> (*a*) examine the Bill in order to determine whether any of the provisions thereof are inconsistent with the purposes and provisions of the *Canadian Charter of Rights and Freedoms*, and
>
> (*b*) cause to be affixed to each of the copies thereof so received from the Clerk of the House of Commons a certificate, in a form approved by the Minister and signed by the Deputy Minister of Justice, stating that the bill has been examined as required by section 4.1 of the *Department of Justice Act*,
>
> and one each of the copies thereof so certified shall thereupon be transmitted to the Clerk of the House of Commons and the Clerk of the Privy Council.

These regulations stem from the Department of Justice Act, which also explicitly states that this is a process and matter for the house only.

Further to having said all that, the Attorney General is the legal adviser of the Government of Canada. As such, any information leading to a decision that he may take even in the house is privileged and is not released by the government.

Senator Corbin: That is nonsense.

Hon. Jerahmiel S. Grafstein: Would the honourable senator allow a question?

Senator Tkachuk: I have answered the question.

The Hon. the Speaker: Are we still on Senator Tkachuk's time?

Senator Grafstein: Yes. The honourable senator has raised an important question as it applies to the procedure, rights and privileges in this place. I have no quarrel with this position as stated that the question of a bill introduced in the other place has to be Charter-proofed by the Attorney General.

It is also our well-established practice that no bill would be introduced without the law officers of the Crown advising the proponent of the bill, particularly if it is a government measure. If it is a private measure, the senator must satisfy himself or herself with external advice or otherwise that the bill is Charter-proof. That is clearly our practice.

What is clearly our practice as well is if the measure is introduced in this place first, as opposed to the other place, the government must satisfy itself as a precondition to introducing the bill that the bill is Charter-proof.

I think there is a question that should be clarified. I agree with the honourable senator that when the government advises either a senator or a senator receives advice privately that his private members bill is Charter-proof. If the government receives its advice from the law officers of the Crown that the bill is Charter-proof, all we must do is receive that advice either in committee or in this place. We cannot look behind that statement. We cannot request the solicitor and client opinion. We can, however, challenge that statement by offering other advice, which we have from time to time, that the bill is not Charter-proof. That is a matter for debate and discussion here.

The practice, honourable senators, is well established. No bill in either place should be dealt with here without a statement that the bill is Charter-proof. I will not get into the question of Senator Nolin's position about where and when. However, clearly, as a precondition for final conclusion on any bill, it must be Charter-proofed by the law officers of the Crown if it is a government bill. Certainly, any private member who introduces a bill should satisfy himself in a manner that he can defend that the bill is Charter-proof as well.

Senator Tkachuk: I agree with the honourable senator and I am satisfied that it is Charter- proof. I should note that a bill identical to that currently before us as Bill S-2, except for the one amendment made, which I do not believe takes away from this bill whatsoever, was introduced in the House of Commons as Bill C-43 during the last session of Parliament. The minister at that time did attest that the bill was compliant with the Charter of Rights and Freedoms.

• (1440)

The signatories to the bill — and the Deputy Minister of Justice — also performed a test when the bill was introduced in the House of Commons. I am fully satisfied that the bill is compliant with the Charter of Rights and Freedoms.

Senator Grafstein: I want to clarify this issue, particularly for new senators, because, obviously, they will be confronted with it when they deal with the matters either in committee or otherwise.

Honourable senators, I recall two specific instances where the law officers of the Crown or the minister presenting the bill advised us in committee — I think it was before the Standing Senate Committee on Legal and Constitutional Affairs — that the bill was Charter-proof. Subsequently, we discovered that the bill was not because it went to appeal to the Supreme Court of Canada and we received a Supreme Court of Canada decision that differed from the law officers of the Crown.

In the first instance, I think it is clear that, on the prima facie basis, the Senate or the government proponent must be satisfied that the bill is Charter-proof and state, as Senator Tkachuk has, that, to the best of their knowledge and belief, it is. However, the door is still open for any senator to challenge that conclusion.

Hon. Joseph A. Day: Honourable senators, I think we have learned something from this interesting exchange. I sincerely thank Senator Tkachuk, as sponsor of the bill, for looking into this issue. I also commend Senator Grafstein's intervention because such information helps us. We will all be conscious of this important issue in the future when government bills are introduced into the Senate.

Honourable senators, I also thank the sponsor of the bill for his brief summary yesterday because I will not have to go into that information in any detail. I am not at ease when we are asked merely to vote quickly on something without the majority of us understanding what that legislation is, particularly legislation like this bill that can have serious impact on the citizens of Canada. For that reason, I spoke to the sponsor and said that I hoped that he would speak, and that I would like to speak briefly on this bill at third reading.

The sponsor of the bill pointed out to us yesterday that this bill relates to two basic fundamental aspects: first, the expansion of activity within a customs controlled area such that officers can search, seize and stop people within a customs controlled area; and, second, the advance passenger information and the obvious privacy issues that might be involved and the expansion of that information to all forms of transporting of goods into Canada, whether it be by ship and the ports — so the port becomes a customs controlled area — airports, or land crossings.

Honourable senators will recall that another issue was raised at second reading by Senator Stollery. That issue was the definition of "customs controlled area." How do citizens know when they are in a customs controlled area and can be stopped without notice or without suspicion by a customs officer? How does one know if there are reasonable grounds to be searched and whether there can be seizure?

Senator Stollery pointed out the problems he had at the Peace Bridge at Fort Erie. He was stopped and told that he was in a customs controlled area. He was on his motorcycle at that time and was surprised to learn that.

Most issues that arise during second reading are dealt with during the referral to committee. The first issue that we dealt with here — the Charter-proofing and Charter of Rights and Freedoms — might have been dealt with by a direct question to the minister, and then an undertaking of the minister if he did not have the answer. However, the issue was not. Honourable senators heard how we have dealt with that at third reading. Again, I thank Senator Tkachuk for looking into that issue.

With respect to the issue of defining a "customs controlled area," and having in mind the importance of that definition for the citizens of Canada, an officer of the Canada Border Services Agency said in a meeting of the Defence Committee:

> We are looking now at how we will mark those areas, what areas we would consider customs controlled areas, and how we would advise the public that they are customs controlled areas and what that would mean. We do have research underway; we have people looking at that to ensure that people understand what being in custom-controlled area would mean to them.

That answer is the one we received. We would like to have developed that information further down the line, but this bill will not come into force until the executive is ready to bring it into force. For that reason, we can assume further work will be done on this definition. I point out to honourable senators that

"customs controlled areas" was in the previous legislation of a few years ago. All this work expands the activity within the customs controlled area. One would think that, if research is being done, that research should be well along in relation to defining what these areas are.

Honourable senators, I intended to make these comments yesterday and I will make them briefly today. The first comment concerns open-mindedness. I want to compliment Minister Van Loan with respect to his understanding of our concerns regarding a point raised by Senator Banks, in relation to clause 17 of the bill, where it is stated: "Material that is incorporated by reference in a regulation is not a statutory instrument for the purposes of the Statutory Instruments Act."

That provision puts it outside the scrutiny of the Standing Joint Committee for the Scrutiny of Regulations. We were concerned about that provision because citizens would not know what regulations applied to them. Senator Banks ably argued that issue at second reading and in committee. To the compliment of the minister, the minister agreed and said: Let us remove that; I recognize the problem and we will remove it.

When we brought the amendment forward, Senator Comeau acknowledged that the government agreed that it should be removed. That cooperation shows the effectiveness of the work that we do here and that senators, in reading the bills, find clauses that raise concerns.

We can work together to make bills better and we have in this particular instance.

I thank Senator Tkachuk for responding to, I believe, a legitimate concern with respect to the Charter of Rights and Freedoms. We now have a better understanding in relation to that issue.

Finally, honourable senators, I commend the government for bringing forward a bill that is merely seven pages long and deals with one subject. It is a pleasure to pick up the document and go through 17 different clauses and be able to understand what they are trying to achieve.

Some Hon. Senators: Hear, hear.

Some Hon. Senators: Question.

The Hon. the Speaker: The question has been called.

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

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

• (1450)

INDIAN OIL AND GAS ACT

BILL TO AMEND—SECOND READING

Hon. Hector Daniel Lang moved second reading of Bill C-5, An Act to amend the Indian Oil and Gas Act.

He said: Honourable senators, it is a pleasure to stand and speak to Bill C-5. As you know, I was just appointed in December and I am quite excited about the principle of the bill I am presenting to the house. I believe it goes a long way to meeting everyone's objective in helping to empower First Nations to play a greater role in governance, as well as in their own economic future.

My understanding is that the bill was introduced to the house last June and, because of the election, it did not proceed. It is well overdue and I think it is a bill all senators in this house should support in view of the fact that nearly 10 years of consultation has taken place to get it to this stage in the Senate.

Honourable senators, I would like to address a couple of areas. First is the relationship to other pieces of legislation. It is a fast learning curve for me, just having been appointed to the Senate, to learn of other accompanying legislation that would apply to First Nations and also help their economic development and independence.

For example, the First Nations Commercial and Industrial Development Act presently in place provides the regulatory regime for commercial and industrial projects on reserves. There is another piece of legislation, called the First Nations Oil and Gas and Moneys Management Act, which enables First Nations to assume control over management of their oil and gas resources and revenues.

It is important, honourable senators, when we look at this piece of legislation, to understand not all First Nations with natural resources — or, in this case, petroleum reserves — either choose or are able to take advantage of the present legislation. For some, it is because of the volume of production or economies of scale. Others simply do not have the capacity to manage these resources.

The First Nations that find themselves in this situation are approximately 200 bands across the country. Therefore, their only option is to rely on the Indian Oil and Gas Act, which is administered by Indian Oil and Gas Canada.

The question that comes to mind is: Why is Bill C-5 necessary? The answer is primarily because Indian Oil and Gas Canada, which is a special operating agency within Indian and Northern Affairs Canada, has the responsibility to manage the oil and gas resources on behalf of First Nations. The present act under which it operates dates back to the 1970s and has had only one amendment since 1995.

There have never been any substantive oil and gas operational improvements to the act. If you compare it to the Province of Alberta and the changes to their oil and gas regimes over the past 30 years, there have been more than 15 major changes in their legislation, which have enabled that province to adapt to more complex business practices and meet the technological changes in the industry. This, obviously, has created an atmosphere of certainty in the Province of Alberta, which has made it the leading oil and gas province in Canada.

Meanwhile, with the present regime that is in place with the Indian Oil and Gas agency, we are relying on an overlap mix of federal and provincial laws to regulate the oil and gas companies

on First Nation reserve lands. Therefore, what you see, honourable senators, is a situation where there is a great deal of uncertainty.

I also wish to point out that one aspect of the bill will provide that certainty. Up until now, it is safe to say that First Nations and businesses have seen reserve lands as an uncertain area in which to invest. Despite that, it is interesting to note that over the past 10 years over $270 million in oil and gas revenues have been collected by the Government of Canada under the present regime and approximately 150 new wells have been drilled on reserves across Canada. With certainty, the hope is that there will be significant investments across the country where there is oil and gas potential.

The other point I would like to make, honourable senators, is that it is very important for this bill to create a climate where First Nations themselves will make more investments and play a bigger part in the development of their own oil and gas areas. The First Nation-owned oil and gas companies in the present regime represent about 27 per cent of the companies entering into mineral agreements under the current act. We can see that major steps have been taken within First Nations communities. Give it some time and hopefully we will see even more direct investment by First Nations themselves.

Honourable senators, the next question that comes to mind is what changes will Bill C-5 bring? The legislation before us today will address the regulatory gap that presently exists, which I referred to earlier. I wish to highlight some of the key features of the legislation that will ensure that Canada has a modern regulatory regime for the oil and gas activities on First Nation lands.

The bill before us will amend the Indian Oil and Gas Act to ensure that Indian Oil and Gas Canada has the modern regulatory tools it needs to effectively and efficiently manage the oil and gas activities on First Nation lands. The bill brought forward by our government will bring changes that can be broadly grouped into three categories.

First, Bill C-5 will increase clarity. Ministerial and judicial review powers will be clarified to ensure that when the minister takes action, it will be under a clear and transparent statutory authority. Judicial decisions will be required in high-risk areas, such as the levying of significant penalties, searches and seizures.

Regulation-making authorities will be clarified to allow the federal government, in some areas, to adapt to changes or new practices in provincial regimes and industry.

Finally, there are new enforcement measures that will be consistent with provincial penalties.

In short, Bill C-5 brings clarity by addressing shortcomings in the current act and by creating familiar conditions for industry considering investment on reserve lands. This will level the playing field for First Nations.

The second category of changes that Bill C-5 will bring are those that increase Canada's regulatory abilities, namely, the updating of the Indian Oil and Gas Act, which will have stronger enforcement provisions to give the regulator a larger spectrum of tools to respond to breaches of the legislation and regulations.

It will also encourage industry compliance by putting real teeth into fines and penalties when the rules are broken. For example, maximum fines will be increased from the current $5,000 to $100,000 per day or per incident.

Further, accountability to First Nations will be strengthened by providing for auditing of the records and operations of any company operating on First Nation lands to ensure that the industry is accurately reporting and paying royalties owed to the First Nations on whose lands they are operating.

Bill C-5 provides the necessary flexibility for continuous improvements to the federal regime to keep pace with developments in this fast-changing industry.

The third category of changes that Bill C-5 will bring about are those which enhance protection of the environment, as well as sites of cultural, historical and spiritual significance. New powers will enhance the environmental protection by expanding enforcement options to include suspending operations and ordering remedial action. In addition, should oil and gas activities threaten sites of cultural or spiritual significance, new powers are provided to suspend operations. Bill C-5 will put in place a regime which will ensure companies are operating in an environmentally and culturally respectful manner on First Nations lands.

• (1500)

Honourable senators, as a result of Bill C-5, Indian Oil and Gas Canada will be better equipped to regulate the activities of companies as they explore for, drill and produce these resources through leasing activity; to ensure equitable production and proper collection of royalties for First Nations; and to secure compliance with a modern new legislative and regulatory framework in a fair and equitable manner.

Equally important, the amendments will provide the necessary authority to harmonize federal and provincial legislation and regulatory regimes for oil and gas projects on reserve lands. This will help to address regulatory gaps, creating clarity, consistency and certainty for industry and First Nations alike.

Honourable senators, the intention behind Bill C-5 is to update and strengthen the Crown's regulatory powers to make them more consistent with current standards and practices. A further advantage to these amendments is that they will enable the government to facilitate continuous improvements to the federal regime, while providing for meaningful First Nation input to ensure that future changes also reflect their needs and aspirations. It is crucial to respond to industry, technological advances and ongoing changes to the regulations of our provincial counterparts.

Honourable senators, the main objective of Bill C-5 is to put into place a clear and consistent legislative and regulatory regime to strengthen accountability to First Nations and to enhance the protection of First Nations' environmental, cultural, and oil and

gas resources. This will help to improve the investment climate and create economic development opportunities for First Nations. Modernizing our regulatory regime is at the heart of process.

Bill C-5 reaffirms Parliament's commitment to work in partnership with First Nations to ensure an efficient and effective oil and gas regulatory regime. It is an important part of our comprehensive plan that includes providing First Nations with the tools they need to create jobs, to enhance living standards for their members, and to assume greater control over the management of their natural resources.

Honourable senators, I recommend this bill for your consideration and fast passage.

Hon. Robert W. Peterson: Honourable senators, I am pleased to rise in support of Bill C-5, An Act to amend the Indian Oil and Gas Act. The Indian Oil and Gas Act is a legislative tool for the federal government to manage oil and gas activities for some 200 First Nations with current, or the potential for, oil and gas production. This act has remained virtually unchanged since 1974. As a result, it lacks the regulatory tools to effectively manage First Nation oil and gas resources; it has not kept pace with industry or technological changes; and it is not completely in sync with provincial oil and gas regulatory regimes.

These amendments represent 10 years of exhaustive consultation by the federal government working closely with stakeholders, provinces and advocates. First Nations see the amendments as a welcome first step in a process of continuous improvement of the management of their oil and gas resources. The oil and gas industry recognizes a need for a more modern and effective framework that provides greater legal certainty. Affected provinces have not raised any major concerns.

The key players involved in the negotiations of these amendments included, first, Indian Oil and Gas Canada, which is a special operating agency of the Government of Canada; second, the Indian Resource Council, which is a First Nation organization that advocates on behalf of approximately 130 oil and gas producing or potentially producing First Nations; and, third, the oil and gas industry, some 200 companies of which are contract holders for oil and gas activities on reserves, including 20 oil and gas companies owned by First Nations.

Bill C-5 is an important step leading to both economic development and employment opportunities for oil and gas-producing First Nations. It will allow First Nations with oil-producing lands to become players rather than just spectators.

Honourable senators, I urge your support for this bill.

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

Hon. Senators: Question!

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

(Motion agreed to and bill read second time.)

REFERRED TO COMMITTEE

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

(On motion of Senator Lang, bill referred to the Standing Senate Committee on Aboriginal Peoples).

FEDERAL SUSTAINABLE DEVELOPMENT ACT AND THE AUDITOR GENERAL ACT

BILL TO AMEND—THIRD READING

Hon. Tommy Banks moved third reading of Bill S-216, An Act to amend the Federal Sustainable Development Act and the Auditor General Act (Involvement of Parliament).

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

PATENT ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Yoine Goldstein moved second reading of Bill S-232, An Act to amend the Patent Act (drugs for international humanitarian purposes) and to make a consequential amendment to another Act.

He said: Honourable senators, in 2003 member countries of the World Trade Organization agreed on what they said would be a quick solution to the problems faced by developing countries in obtaining access to lower-cost, generic versions of medicines desperately needed by their people to overcome devastating epidemics.

Canada was among the first countries in the world to amend its patent laws based on that agreement, entitled *Decision on Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health*, creating what is now known as Canada's Access to Medicines Regime.

The bill was adopted by Parliament with the support of every single member in the other place and every single senator. It was one way in which Canada pledged to help developing countries disproportionally burdened by the terrible toll of AIDS, tuberculosis, malaria and other public health problems. It was a commendable initiative.

Years have passed and it is clear that neither Canada's law, nor the similar laws passed by a few other countries, offer the sustainable solution that was promised. Theoretically, Canada's Access to Medicines Regime allows the exclusivity of Canadian drug patents to be overridden for the limited purpose of allowing an equivalent generic version of that drug to be exported to those developing countries listed in the statute. However, in practice, the current system simply does not work for the listed developing countries, for the beneficiaries who need to purchase these more affordable medicines, or for the Canadian generic manufacturers

who are the potential suppliers of these medicines. As many critics have underlined, CAMR in its present form is fraught with unnecessary administrative hurdles and cannot meaningfully achieve its humanitarian objectives.

• (1510)

CAMR has not only failed to provide the generic pharmaceutical market and interested countries with sufficient incentives to warrant using the system; it is inaccurately assumed that developing country governments have the knowledge and resources to take advantage of our compulsory licensing policy. For instance, in a country like Tanzania, there is only one person in the entire country working on international intellectual property. This makes the use of the compulsory licensing procedures to supply medications to those who most need them an actual impossibility.

It is not surprising that in the five years since Parliament made this pledge and unanimously passed this law, a rare occurrence indeed, CAMR has been used only once to supply a single AIDS drug to a single country, Rwanda. This came about only after years of work by NGOs and by one generic manufacturer, Apotex; yet, the government still maintains that it is premature to amend CAMR.

Clearly, CAMR is not the simple, rapid mechanism for responding to the health problems of developing countries that is needed and that was promised. Countries in crisis situations will not opt to deal with cumbersome procedural requirements. That is why there is little reason to expect that CAMR will be used again, as most of the key stakeholders have gone publicly on record to shun this legislation. Indeed, even our Standing Senate Committee on Foreign Affairs and International Trade, in its February 2007 report entitled *Overcoming 40 Years of Failure: A New Road for Sub-Saharan Africa* has acknowledged the regime's failure.

Honourable senators, what can we do to fix CAMR if we accept the principle, as our predecessors did and as, surely, we do?

Bill S-232 greatly simplifies the compulsory licensing authorization process by exploiting numerous flexibilities available under the WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights, familiarly known as TRIPS. It brings forward concrete solutions to many shortcomings identified by a wide range of experts in the field while still taking into account the legitimate interests of Canada's pharmaceutical industry.

As a result, Bill S-232 eliminates most counterproductive restrictions going above and beyond what is required by the WTO paragraph 6 decision, and which are currently hindering the efficacy of the regime.

With Bill S-232, generic manufacturers would be able to obtain a single, open-ended compulsory licence that authorizes the export of any pharmaceutical product patented in Canada to any eligible country specified in the legislation, without prior negotiations with patent holders and without the restriction of determining the quantity of the drug that will be needed in a given time period.

Currently under CAMR, developing countries and generic manufacturers must undertake a cumbersome application process consisting of a country-by-country, order-by-order mechanism that relies on pre-determined, fixed quantities of medication with a finite contractual time limit of two years, subject to a single additional two-year renewal period after which all contracts must be renegotiated.

People who are afflicted with AIDS need help for more than two years; they need help for the rest of their lives.

Also, the applicant is obliged to certify that, at least 30 days before applying for a compulsory licence, he sought a voluntary licence from one or many patent holders on "reasonable terms and conditions" and to prove that these efforts were "unsuccessful," which is a highly expensive, potentially protracted and rarely successful venture for generic drug manufacturers.

Given the heavy front-end investment demanded from generic companies, these limits introduce costly uncertainty into the application process and do not provide any prospect for a large or long-term market, giving these companies little incentive to engage in this approval-seeking mechanism. In fact, if at any point the importing country or generic manufacturer wishes to alter the agreement, increase the quantity of the medication, or extend the contract, they must start the application procedure all over again, including an attempt to negotiate a voluntary licence with the patent holder.

This is unacceptable and obviously a major drawback for firms that need to undertake the considerable scientific, legal and political steps necessary to acquire the capacities and rights to produce and export drugs and fiercely compete at the same time against Brazilian or Indian generic manufacturers.

For diseases like AIDS, which require long-term treatment and a continuous supply of medication far beyond a two- or four-year term, we can see how terribly out of sync CAMR is with the health and economic priorities of developing nations.

Honourable senators, Bill S-232 proposes to eliminate the limited list of products that can be made in generic form for export through compulsory licensing. The current list of products set out in Schedule 1 in Canada's Patent Act represents a step back from the international consensus achieved with the WTO decision that does not limit which drugs qualify for a compulsory licence. No other country that has amended its patent laws to implement the WTO's directives has included a limiting provision like Schedule 1.

The new definitions of "pharmaceutical product" and "patented product" are worded as clearly and inclusively as possible so as to avoid any misinterpretation or any potential litigation by a patentee seeking to block use of the regime to produce a pharmaceutical product for export under compulsory licence.

Developing country representatives are interested in affordable second- and third-line antiretroviral therapies, many of which do not even appear on CAMR's limited list of available drugs. Accordingly, Schedule 1 would be abolished since it hinders Canada from being able to respond quickly to the needs of developing countries.

Additionally, Bill S-232 makes it easier for NGOs to purchase Canadian-made generics by eliminating the requirement that they obtain the permission of the importing country government. Requiring an extra permission for reputable NGOs, such as Médecins sans Frontières and others, to do their work is not required by any WTO rule and creates an additional, unnecessary barrier to patients getting the medicines they need. As long as the medicine satisfies the conditions established by the drug regulatory authority in the importing country, there is no reason a non-governmental purchaser of Canadian-made generics importing those products into an eligible country should require the permission of the importing country's government before purchasing supplies.

Another feature of Bill S-232 is that it accepts alternatives to Health Canada approval of a generic product, such as pre-qualification by the World Health Organization, as a precondition to exporting the product. Since many developing countries will require pre-qualification by the World Health Organization of the generic product in question before purchasing it, requiring Health Canada approval of the generic manufacturer's product as an absolute precondition before the manufacturer can get a licence to manufacture for export can lead to duplication of efforts and add unnecessary delays.

As opposed to the current regime, Bill S-232 would also treat non-WTO developing countries fairly by eliminating the additional requirements for becoming eligible to import Canadian-made generics, such as declaring a national emergency or pledging that CAMR will not be used for commercial purposes, restrictions that do not apply to developing countries that belong to the WTO. Patients' access to more affordable medicines should not depend on whether their country belongs to the WTO.

Finally, under the Patent Act as it currently stands, the Commissioner of Patents may not issue a compulsory licence unless the applicant has provided to the patentee, for a period of at least 30 days, not only the name and quantity of the pharmaceutical product to be exported but also the name of the country or WTO member to which the pharmaceutical product is to be exported.

As a result, for at least a month, before there is even any assurance for the would-be purchasing country that a Canadian generic supplier is able to legally supply the product for which a tentative agreement has been reached, the importing country is exposed to almost certain pressures from various actors — which I leave to your imagination — to refrain from proceeding with the use of compulsory licensing to secure needed medicines. Recent history in these matters provides numerous examples of this kind of pressure, extending from threats of serious trade sanctions to commercial retaliation.

• (1520)

That is one factor which has certainly contributed to the fact that only Rwanda has notified the WTO of its intention to import generics from jurisdictions that have implemented compulsory licensing regimes. With Bill S-232, there would be no need to reveal the name of a would-be developing country purchaser.

Regarding this point of identity, Canada's pharmaceutical industry often cites the risk of diversion of generic medication as an utmost concern when discussing compulsory licensing for humanitarian purposes. These are legitimate fears that must be addressed even if there is, in fact, no evidence of diversion ever occurring, or little evidence, in any event. Therefore, under this procedure, on top of paying the applicable royalty rate pursuant to the existing regime formula, generic manufacturers would still be required, following receipt of the licence, to establish a website disclosing the name of the product, the name of the country to which it is to be exported and providing the distinguishing features of the product, its label, its packaging, all to preclude its re-exportation.

It is important to emphasize that integrating international public health objectives into national patent regimes is entirely legal under the TRIPS agreement; in fact, it is required by the Doha declaration on public health.

Honourable senators, by streamlining CAMR, Bill S-232 does not imply an outright rejection of medical patents, nor does it contend that all essential medicines should be free from patent protection. Bill S-232 simply strives to reconcile the different needs of the rich and the poor for a balanced and a fair intellectual property regime, promoting equitable access in times of crisis. Consequently, when patent medicines are not affordable, governments such as ours must step in to correct the private market and protect a fundamental human right — the right to health.

The price of drugs is not the only relevant issue, as many developed nations and transnational pharmaceutical firms have argued. Other necessary foundations for sustainable access and treatment must also be present for developing countries to produce, one day, their own medicines and not rely on external supply. However, if drugs are not available, treatment and local industry growth are impossible. For developing countries operating with scarce resources, the high price of drugs can serve as a disincentive to invest in the development of the health care infrastructure that is essential for development and self-reliance. When drugs are affordable, by contrast, improving health care infrastructure may appear as a more worthwhile task, especially when developing nations spend as much as 70 per cent of their health care budgets on medication, while developed nations spend less than 15 per cent of theirs on medication.

Men, women and children — especially, and unfortunately, children — continue to die needlessly without access to medicines that can be provided for as little as a few cents per tablet with absolutely no impact on drug innovation, research or job creation in Canada. Pharmaceutical companies based in the OECD recover the bulk of their research and development expenditures in the more affluent OECD markets, which account for 80 or 90 per cent of global sales of patented medications. Hence, the use of compulsory licences by developing countries is unlikely to have a material effect on the corporate balance sheet or on the level of research currently undertaken in the OECD, as long as inexpensive, generic drugs are not redirected into wealthier markets.

The challenges of facilitating effective and sustainable AIDS treatment in the developing world are daunting, but they are not out of our reach. Generic manufacturer Apotex has committed to produce a version of a key AIDS medication that is suitable for

children which could be exported to multiple developing countries if the licensing process of CAMR is streamlined and simplified.

In sub-Saharan Africa, a region accounting for two thirds of all people living with AIDS, half of all children born with HIV die before reaching their second birthday. Where medicines are available for these children, the death toll is dramatically reduced.

Honourable senators, Canada has a golden opportunity to deliver life-saving drugs to those in need, first and foremost by giving life to Bill S-232 so that CAMR can finally live up to its expectations by becoming a sustainable tool of sickness prevention and treatment when it is most needed. Children in sub-Saharan Africa deserve nothing less. Surely, we have an obligation to do no less.

Honourable senators, Canadian pharmaceutical manufacturers will not be any worse off. They will collect reasonable royalties to cover the costs of research and development in which they have invested. No Canadian will be deprived of the pharmaceutical products that he or she needs. No Canadian interest will be adversely affected in any way. If we horde these drugs only for ourselves, then what and who are we? If we do not do something now, then when?

(On motion of Senator Comeau, debate adjourned.)

NATIONAL PHILANTHROPY DAY BILL

SECOND READING—ORDER STANDS

On the Order:

> Resuming debate on the motion of the Honourable Senator Grafstein, seconded by the Honourable Senator Hubley, for the second reading of Bill S-217, An Act respecting a National Philanthropy Day.

Hon. Terry M. Mercer: Honourable senators, I wonder whether the Deputy Leader of the Government in the Senate can give us an indication as to when we will have a speech from that side on this order. A number of us on this side are anxious to move this bill along. It is the third or fourth time this bill has been before the chamber, and many charities and not-for-profit organizations across country are anxious to get this in place. The date proposed in the bill is November; we hope to pass it by the end of the spring period. Is there an indication when Senator Champagne or someone else from the government side will be speaking to Bill S-217?

Hon. Gerald J. Comeau (Deputy Leader of the Government): My understanding is that the minister did want to speak with Senator Grafstein about this bill. I will check to see what the results of the discussions were, which might have an impact on how fast bill the can be dealt with. I will also speak to Senator Champagne because she will be dealing with it, and I will advise this house.

(Order stands.)

CANADA ELECTIONS ACT

BILL TO AMEND—SECOND READING—
DEBATE CONTINUED

On the Order:

> Resuming debate on the motion by the Honourable Senator Murray, P.C., seconded by the Honourable Senator Atkins, for the second reading of Bill S-202, An Act to amend the Canada Elections Act (repeal of fixed election dates).

Hon. Consiglio Di Nino: Honourable senators, I am pleased to participate in this debate on Bill S-202, which would repeal the provisions in the Canada Elections Act providing for fixed dates for federal elections.

As senators know, fixed date elections were established when Parliament passed Bill C-16 with all-party support on May 3, 2007. I have closely reviewed the remarks made by the honourable sponsor of this bill in opening second reading debate, and I agree with him on two points. First, it was true there were "good debates indeed," on Bill C-16 and, certainly, in this chamber. Second, it is also true that Bill C-16 was subject to "thorough study" in committee. Beyond that, however, I part ways with the honourable senator and cannot support Bill S-202.

In the course of these good debates and thorough studies on Bill C-16, it was made clear that fixed-date elections were a positive measure for our democratic system. In particular, it was demonstrated that Bill C-16 adopted an approach that was also respectful of our parliamentary system.

• (1530)

Today, I will focus on three major points: first, the approach adopted in Bill C-16; second, the rationale for the approach; and third, why we should maintain this approach and reject Bill S-202.

[*Translation*]

Bill C-16 provided for a general election on the third Monday of October, every four years. However, the approach was made more flexible in order to take into account the constitutional realities and the parliamentary traditions of our British system of governance.

The bill specifically states that nothing "affects the powers of the Governor General, including the power to dissolve Parliament at the Governor General's discretion." Bill C-16 thus preserved the constitutional authority of the Prime Minister to recommend dissolution and that of the Governor General to grant it.

Contrary to the allegations of some, Bill C-16 has not led to an Americanization of our parliamentary system and has not transformed Canada into a republic. In fact, Bill C-16 established a Canadian approach to fixed election dates by respecting the democratic advantages of established electoral cycles and the democratic tenets of our parliamentary traditions. In other words, the approach adopted by Bill C-16 reconciles the many advantages of fixed election dates and the fundamental framework of our parliamentary system. It is interesting that the same approach has been adopted by the majority of Canadian provinces and territories.

We are evidently not alone in affirming that a fixed-date system can work within the Canadian system and that there is good reason for choosing a flexible approach.

[*English*]

Allow me to review some of those reasons. In my view, there are three important reasons for making fixed dates subject to the Governor General's power to dissolve Parliament at any time.

First, there are constitutional reasons. As constitutional experts before our committee and in the other place testified, limiting the power of the Governor General to dissolve Parliament would affect one of the most important prerogatives of her office. As we all know, such a change requires a constitutional amendment passed with the unanimous consent of Parliament and the Legislative Assemblies of all 10 provinces.

Apart from the difficulties in obtaining support for such an amendment, doing so would significantly change our constitutional structure. The Governor General's power to dissolve Parliament is vital to the fundamental principle of responsible government. It is absolutely necessary that the Governor General can dissolve Parliament, should the government lose the confidence of the House of Commons.

The approach in Bill C-16 ensures that this dissolution can occur and preserves the mechanism that safeguards the ultimate accountability of the government to the elected house and to the people.

This brings me to the second important reason for the approach maintained in Bill C-16: preserving parliamentary traditions and practices underlying the confidence convention and responsible government. It would be difficult to limit the situations in which early dissolution was sought or granted to cases of loss of confidence. This may raise constitutional risks as it would limit the powers of the Office of the Governor General. In addition, legislating in this area would abdicate to the courts the interpretation of one of the most fundamental conventions of our parliamentary system: the confidence convention. In the words of Professor Andrew Heard, who spoke to the committee of the other place on Bill C-16:

> . . . a confidence vote is a supremely political act that should not be subject to either judicial interpretation or enforcement.

I suspect, honourable senators, most, if not all, of us would agree with that statement.

The third important reason for the flexible approach of Bill C-16 is perhaps the most important principle in our system: democracy.

During debates on Bill C-16, senators themselves were the ones to underscore most strongly the democratic imperative for allowing the elections at other times than the fixed date or in the narrow case of loss of confidence. Senators provided various examples of when a dissolution and general election might be needed to act as a safety valve for ensuring our parliamentary system can continue to function effectively.

Some examples include: a question of national importance on which a mandate from the people would be required; a deadlock between the two houses that can be resolved only by an election if Parliament were to continue to work for the benefit of Canadians; or Parliament is at a halt and incapable of conducting its business or passing the legislative program of the government.

The approach in Bill C-16 ensures that the fundamental democratic recourse to the Canadian people is preserved. All of the reasons I have reviewed demonstrate that the made-in-Canada approach in Bill C-16 is a sound one that respects our parliamentary system.

Honourable senators, fixed-date elections improve our system and should be maintained. According to the honourable sponsor of this bill, maintaining the Governor General's power to dissolve Parliament at any time makes the law a "nullity." I cannot agree with this statement. All that has been proven is the flexibility of this legislation to accommodate our existing parliamentary system, namely, the need for maintaining confidence and implementing much-needed reforms that, under a majority government, will work as intended.

We have already seen this situation in British Columbia, which will have its second fixed-date election this spring. There is little doubt fixed dates will operate as well in the other seven Canadian jurisdictions with fixed date elections. I am confident that it will work just as regularly in majority governments at the federal level.

The Hon. the Speaker *pro tempore*: Honourable senators, there is a lot of talking. The sponsor of the bill is trying to understand what Senator Di Nino is saying. Honourable senators, will you please be quiet. Order, please.

Senator Di Nino: Thank you, Your Honour.

I am confident it will work just as regularly for majority governments at the federal level.

The practical benefits that come with fixed date elections are extensive. These benefits were presented thoroughly during consideration of Bill C-16, but allow me to review some of them today.

[*Translation*]

First, fixed election dates bolster the impartiality of the electoral process by establishing a level playing field for political parties and candidates. The party in power will no longer be the only one to have prior knowledge of the election date and all parties will be able to prepare their election campaigns. Of course, with a minority government, all parties must be at the ready and none chooses the election date.

The concept of a fixed election date stems from the abuse of power by majority governments, the Liberal governments in 1997 and 2000, for example. Prime Minister Chrétien called an early election after being in office for just three years and three months, and three years and five months, respectively, when his government had a majority. Canadians spoke out loud and clear about this type of abuse.

• (1540)

According to an Ipsos Reid survey conducted in June 2006, 78 per cent were in favour of fixed election dates.

Even the Liberal Premier of Ontario, Dalton McGuinty, had this to say about an electoral system without fixed election dates:

> It allows the government to call an election when it feels it can win. It serves no one but the governing party. It's a perk of being in power. And it ignores the most important members of any democracy — its citizens.

Or, as the Liberal Premier of British Columbia, Gordon Campbell, said when he announced that he was honouring his campaign promise about fixed election dates:

> The timing of elections should not be manipulated for political or partisan purposes. Under this legislation, all British Columbians will know how long the government has to meet its commitments, and when they will be able to hold us to account.

[*English*]

A second benefit of regular election cycles will be in relation to the administration of elections. It will allow for far more efficient use of resources by Elections Canada. For instance, the hiring of personnel, the preparing of office space and training can be scheduled in advance, saving costs and reducing administrative difficulties.

Third, honourable senators, fixed dates can heighten voter turnout by establishing a date in the calendar year that is convenient for students and travellers and during periods with more predictable weather patterns.

Indeed, the advantages of better weather and daylight during the campaign were among the many reasons the Northwest Territories Legislative Assembly's Standing Committee on Rules and Procedures, which was chaired by a Liberal, recommended in its 2005 report that the province adopt fixed-date elections.

Canadians will be able to plan for voting by special ballot in advance if they will be away from their electoral district. They can also ensure their identification is updated in time for the election if they plan to move during that time.

Last, fixed election dates provide a good opportunity for enhancing civic education for the public at large and for the next generation. Teachers can plan curriculum in schools to coincide with an election and get out the vote campaigns, which we all do, and other public education efforts can be coordinated to achieve maximum impact. Because we have recently been in a time of successive minority government, we have yet to have the opportunity to see the benefits played out.

As constitutional scholar, Professor Peter Hogg, noted before our committee, Bill C-16 ". . . will have virtually no operation during periods of minority government because they do not last for as long as four years in any event."

He also stated:

> In the situation of a minority government, I do not believe anyone will even look at this bill because there is no way that politicians will keep Parliament flowing in the House of Commons in a minority situation for four years.

That is Professor Hogg's opinion. It is not mine; I want to make sure that is understood.

Of course, we know that people did look at this bill when Parliament was dissolved on September 7, 2008, for the October 2008 general election. Critics claim that the spirit of the law was broken and that there should not have been an election until October 2009.

Honourable senators, I submit that if anything, the dissolution of Parliament last September proved that our fixed-date elections law did its job, even in a minority context. By being flexible enough, it was still possible to have an election outside of the four-year cycle in a situation where a minority Parliament was becoming increasingly dysfunctional.

The Thirty-ninth Parliament endured for 937 days. It was the second longest in history and the longest government which remained in a minority throughout. Clearly, Prime Minister Harper attempted to engage the opposition to make Parliament work.

Senator Cools: Oh, boy. I missed it. Tell us again! Prove it!

Senator Di Nino: I would be glad to repeat it, if the honourable senator wishes. This is only for Senator Cools: Clearly, Prime Minister Harper attempted to engage the opposition to make Parliament work.

Some Hon. Senators: Hear, hear!

Senator Di Nino: He is doing a good job.

Honourable senators, voting is not the only way to lose the confidence of Parliament. The actions of the leaders of the various opposition parties clearly demonstrated this.

Some Hon. Senators: Shame.

Senator Di Nino: When the loss of confidence in the government suited them in late November, a mere public letter claiming that confidence was lost seemed acceptable to them.

Parliament was clearly dysfunctional before Prime Minister Harper called the last election.

Senator Tardif: Where was the vote?

Senator Di Nino: The emergence of the coalition did not arise overnight in a country lacking a strong history of coalitions.

Prime Minister Harper acted appropriately. He had lost the confidence of Parliament and requested an election as a result. This in no way breaks the spirit of the law; indeed, the Prime Minister's actions upheld the spirit of the law.

Our political and parliamentary system is a delicate arrangement of checks and balances that protects the democratic principles of the country. The fixed-date election law reinforces this arrangement by shifting what was once in the realm of complete prime ministerial discretion to an expectation that election calls would be justified and justifiable to the people of Canada.

In effect, the law created a rebuttable presumption that elections should generally be held every four years. When that schedule is disrupted, it will be in the hands of the electorate to judge whether the reasons are justified.

Senator Day: As it always is.

Senator Di Nino: They spoke very clearly the last time, honourable senators.

Senator Day: Yes, with a majority.

Senator Di Nino: In closing, I would like to acknowledge the eloquence of my honourable friend Senator Murray's presentation although, as I have already stated, I do not agree with many of his conclusions. It seems to me that my honourable friend was engaging in a common practice, and one which we often witness in this chamber, and one that I would refer to as a little mischief-making.

Critics of Bill C-16 and the September 2008 election call appear to want it both ways: to have a fixed election date that is written in stone, and to maintain our system of parliamentary government and Westminster traditions. However, we cannot have both. This was clearly recognized throughout the debates on Bill C-16, and Parliament made a choice.

Parliament endorsed Bill C-16 because it struck a delicate balance that, in the end, weighs in favour of the Canadian voter by continuing our tradition of responsible government; by creating a political expectation of a fixed-date election cycle; and by ensuring that, ultimately, the voter is the one who can hold prime ministers to account for their election call decisions.

Turning to the bill before us today, it is clear that a vote on Bill S-202 comes down to the following question. Which is better: maintaining our made-in-Canada approach to fixed-date elections, which has already demonstrated its capacity to work provincially in a majority context, or returning to a system where the election date is a matter of complete and unrestrained prime ministerial discretion?

Honourable senators, a vote for Bill S-202 is a vote for the latter, and I would urge all of you to join me in opposing it.

Some Hon. Senators: Hear, hear!

Hon. Lowell Murray: I am perfectly prepared to speak briefly and close the debate on this.

Hon. Jane Cordy: Honourable senators, might I ask a question? Will the honourable senator accept a question?

Senator Di Nino: Yes.

Senator Cordy: Last fall, I wondered why we even bothered to have fixed election dates. Certainly, the Prime Minister broke the spirit of the law. There was no loss of confidence. In fact, when there was a vote of confidence coming up in November, after Parliament only sat for three weeks, Parliament was prorogued. However, that was not my question.

Senator Cools: He headed for cover!

Senator Cordy: My question relates to an article that I read just today. I did not know Senator Di Nino would be speaking on this bill today, so it is a bit of a coincidence.

• (1550)

The article is written by Adam Dodek, who is a professor at the University of Ottawa, in the Faculty of Law. He asks the question whether, notwithstanding the October 2008 election, there is still an election in the fall of 2009. The reason for the question is because of the way Bill S-202 reads:

> Subject to subsection (1), each general election must be held on the third Monday of October in the fourth calendar year following polling day for the last general election, with the first general election after this section comes into force being held on Monday, October 19, 2009.

An Hon. Senator: There would be either way.

Senator Cordy: There is no transition clause. The honourable senator referred to Premier McGuinty and the bill in the province of Ontario. The Ontario legislation states:

> A general election shall be held on Thursday, October 4, 2007 . . .

Here is the transition clause. It further states:

> . . . unless a general election has been held . . .

We have no such transition clause in the current legislation. We will either have to abolish the entire bill before us, which is the suggestion of our colleague, or we will have to amend the current bill so that we take it off the books that there will not be an election in October of this year.

An Hon. Senator: The Liberals will bring it down anyway.

Senator Cordy: The reality is that there could be an election before October 19 of this year.

Senator Di Nino: I am not sure whether that was a statement or a question. I will take the opportunity to confirm that we could very well have an election before October 2009, but that depends on the opposition. They will have to be responsible to the electorate, to the citizens of this country, as Prime Minister Harper was when he took the action that he did. Canadians spoke clearly and eloquently in support of Prime Minister Harper.

Senator Cools: No, they did not.

Senator Di Nino: With regard to the article, I have not seen it, so I do not know. I will take a look at it.

Senator Mitchell: Has the honourable senator seen the bill?

Senator Di Nino: If the honourable senator wants to talk, I will sit down. I am respectful. It is entirely up to him.

Senator Cools: More, more!

Senator Mitchell: I just asked a question: Has the honourable senator seen the bill?

Senator Di Nino: I think it must be the fact that the honourable senator was a Liberal in Alberta; he felt awfully lonely and must have had the desire to make himself heard from time to time. Having said that, I have respect for all honourable senators, and I will continue to.

Senator Mercer: Stand up and defend yourself, Senator Mitchell. I am here to help!

Senator Di Nino: Keep it up. My time will be up soon.

Senator Cordy: I have some questions.

Senator Di Nino: I am trying to answer the honourable senator's question, but her colleagues want to engage in other debate that may not necessarily be related to the subject.

Senator Prud'homme: It must be Thursday.

Senator Di Nino: I have not seen the article, but I will certainly look at it and give the honourable senator an answer. The article reflects one man's opinion. We addressed this issue during our study of Bill C-16, and I remember talking about that. I think we have different opinions than that of Professor Dodek, who wrote the article to which the honourable senator referred.

Hon. Marcel Prud'homme: May I ask a quick question?

Senator Di Nino: Yes.

Senator Prud'homme: Could the honourable senator tell me his personal definition of "opposition"? What is the role of the opposition, either here or in the House of Commons?

Senator Cools: A profound question.

Senator Di Nino: Having been in opposition for a long time, more time than in government —

Senator Mercer: I just ordered the signs. The signs are being ordered now as we speak.

Senator Stratton: Louder, Terry.

Senator Di Nino: My honourable friend, Mr. Foghorn, whom I dearly love, is a gentleman that I respect.

Senator Stratton: You can really tell it is Thursday afternoon.

Senator Di Nino: I think the honourable senator is trying to trick me into a question. The opposition is to oppose. They should oppose. I am saying that is their job, and I respect that.

Our position is very clear: fixed-date elections. There was a thorough discussion and analysis both in the House of Commons and in the Senate. We concluded, with all-party support and large majorities, that it was the right thing to do, and that is what we are doing.

Senator Murray: May I ask a question?

Senator Di Nino: Yes.

Senator Murray: If the present law remains on the books, what will be the date of the next election?

Some Hon. Senators: Oh!

Senator Stratton: It is up to the opposition.

Senator Campbell: Last time it was not.

Senator Di Nino: I do not think it is a trick question. It is four years, the third Thursday, I believe, of October —

Senator Cordy: Monday.

Senator Di Nino: Monday, four years from the last election.

Senator Prud'homme: I will be gone.

Senator Di Nino: Consideration is given to exceptions for unusual circumstances like holidays or holy days for certain religious practices.

Hon. Gerald J. Comeau (Deputy Leader of the Government): Senator Brown has indicated that he wished to join the debate on this subject, so I would like to adjourn the debate in his name.

(On motion of Senator Comeau, for Senator Brown, debate adjourned.)

VICTIMS OF HUMAN TRAFFICKING PROTECTION ACT

BILL TO AMEND—SECOND READING—
DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Phalen, seconded by the Honourable Senator Banks, for the second reading of Bill S-223, An Act to amend the Immigration and Refugee Protection Act and to enact certain other measures in order to provide assistance and protection to victims of human trafficking.

Hon. Fred J. Dickson: Honourable senators, it is my intention to speak to Bill S-223. However, regrettably, I have not completed my notes. I would request the permission of all honourable senators to adjourn the debate and preserve my time to speak at a future time.

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

(On motion of Senator Dickson, debate adjourned.)

AGING

THIRD REPORT OF SPECIAL COMMITTEE AND REQUEST FOR GOVERNMENT RESPONSE— DEBATE ADJOURNED

The Senate proceeded to consideration of the third report of the Special Senate Committee on Aging, entitled: *Canada's Aging Population: Seizing the Opportunity*, tabled in the Senate on April 21, 2009.

Hon. Sharon Carstairs: Honourable senators, I move:

> That the report be adopted and that, pursuant to rule 131(2), the Senate request a complete and detailed response from the government, with the Minister of State (Seniors), Minister of Veterans Affairs, Minister of Indian Affairs and Northern Development and Federal Interlocutor for Metis and Non-Status Indians, Minister of Human Resources and Skills Development, Minister of Citizenship, Immigration and Multiculturalism, Minister of Health, Minister of State (Status of Women), and the Minister of Canadian Heritage and Official Languages being identified as ministers responsible for responding to the report.

The Hon. the Speaker *pro tempore*: It is moved by the Honourable Senator Carstairs, seconded by the Honourable Senator Tardif, that the report be adopted and that — shall I dispense?

Hon. Senators: Dispense.

The Hon. the Speaker *pro tempore*: Do you wish to speak, Senator Carstairs?

Senator Carstairs: Honourable senators, it is indeed my pleasure to begin consideration of the final report of the Special Committee on Aging, entitled *Canada's Aging Population: Seizing the Opportunity*.

• (1600)

I want to begin by thanking the members of the committee: the deputy chair, Senator Keon, and Senator Chaput, Senator Cools, Senator Cordy, Senator Mercer, Senator Stratton and Senator Murray, who participated in the first part of this study. Each and every one of them worked extremely hard on this committee, despite the fact that we had a federal election and two prorogations, which frequently put us behind the eight ball once again.

Above all, I want to acknowledge the dedication and passion of Canadians who participated in the work of this committee, through our public hearings, expert panels, survey and correspondence. Thank you for sharing your knowledge and expertise with the committee as we challenge ourselves to embrace new ways of thinking and seize the opportunities for building a better, more inclusive Canada for the future.

Canadians are, on average, living longer. The proportion of persons aged 65 or over in Canada was 8 per cent in 1971. It is 13 per cent today, and it is projected that by the year 2031, 25 per cent of Canadians — one in four — will be over the age of 65. The proportion of our oldest seniors — those 80 years of age or over — is also projected to increase sharply. By 2056, an estimated one out of ten Canadians will be 80 years of age or over, compared with about one in thirty today.

Population aging is a success story, but the committee has identified gaps in services and programs that are not meeting the needs of our aging population and must be addressed.

In November 2006, the Senate authorized this special study on the aging of the population with a mandate to review the programs and services we provide to seniors, the gaps that exist in meeting the needs of seniors, and the implications for future service delivery as the population ages. In considering the appropriate role of the federal government in helping Canadians age well, the committee was given a mandate to examine the issue of aging in relation to, but not limited to, promoting active aging and living well; housing and transportation needs; financial security and retirement; abuse and neglect; health promotion and prevention; and health care needs, including chronic diseases, medication use, mental health, of course palliative care, home care and caregiving.

To fulfill its mandate, your committee has undertaken a three-phase study. This final report is the culmination of the work of the committee and builds upon its two interim reports from March 2007 and March 2008.

This final report builds upon what we learned concerning the gaps that exist in meeting the needs of our aging population, and creates a framework for seizing the opportunities that exist to build multi-jurisdictional responses aimed at creating a better, more inclusive approach to aging well in Canada.

This report recognizes that the challenge of an aging population goes far beyond the responsibilities of the federal level of government as defined in the Constitution. The needs of our aging population must be a concern for every Canadian, for every province, territory and municipality, for every business large and small, and for every volunteer organization and non-governmental organization.

The federal government, however, has a strong role to play in meeting the challenges of an aging population. In the committee's view, the federal government has three main roles: to provide leadership and coordination for multi-jurisdictional approaches; to provide support for research, education and the dissemination of knowledge and best practices; and to provide direct services to certain population groups for which it has a direct responsibility.

Although the recommendations in the final report are addressed largely to the federal government, the committee recognizes and emphasizes the need for a multi-jurisdictional approach.

The committee has identified five overarching recommendations, which are essential underpinnings of our plan to seize the opportunity of an aging population. These recommendations provide a framework for the committee's vision.

We recommend that the federal government: promote active and healthy aging and to combat ageism; provide leadership and coordination through initiatives such as a national integrated care initiative, a national caregiver strategy, a national pharmacare program, and a federal transfer to address the needs of provinces with the highest proportion of aging population; ensure the financial security of Canadians by addressing the needs of older workers, pension reform and income security reform; facilitate the desire of Canadians to age in their place of choice, with adequate housing, transportation, and integrated health and social care services; and act immediately to implement changes for those population groups for which it has specific direct responsibilities — veterans and Aboriginal people — and in relation to Canada's official language communities.

The report makes an additional 32 recommendations, which all fall under one of these five broad framework recommendations. Permit me to address each of these areas in turn.

The committee has heard compelling evidence that remaining physically and mentally active are instrumental to the well-being of senior Canadians. The health of seniors is intricately linked to experiences throughout their lives. One of the keys to maintaining health and quality of life is to sustain the ability of seniors to participate in meaningful activities and social networks. Opportunities for lifelong learning and volunteering can play an important role in helping seniors remain active.

Ageist attitudes, however, contribute to systemic barriers and stereotypes. The committee recommends an immediate public relations campaign aimed at all Canadians to portray healthy aging and encourage active aging through volunteer work, continuous learning and physical activity.

The committee also heard how seniors are often unjustly stripped of their rights — their right to control their personal finances, the right to choose where they will live, the right to continue driving or the right to continue working. Currently, declaring someone incompetent is too often an all-or-nothing proposition, which does not reflect the intricacies of mental capacity and mental competency.

The committee recommends that the Canadian Institutes of Health Research fund research on mental capacity, mental competency and mental capability to provide evidence-based research upon which to create public policy in these areas.

Closely related to the issue of competency is the issue of abuse and neglect of seniors. The committee recommends increased support for research into abuse and neglect, as well as the need to work closely with community organizations on this issue and to educate staff on how to spot abuse and neglect in their dealings with seniors.

The committee heard repeatedly that health is fundamental to quality of life for Canadian seniors. We heard that Canadians are not only living longer but many of them are also living longer in good health. Yet, seniors remain significant users of the health care system. This use includes primary care, such as hospitals and clinics, as well as prescriptions, mental health services, chronic disease management, caregiving, home care, long-term care and palliative care. However, we learned that illogical care decisions are made because frequently we do not provide the right service at the right time.

The committee recommends that the federal government develop a national integrated care initiative that would support the provinces' move towards an integrated model of care.

An integrated care initiative would include the integration of a broad domain of services including, but not limited to, health care, case management, home and community services, and residential care services; improved access to comprehensive care; increased emphasis on health promotion, disease prevention and chronic disease management; expanded multi-disciplinary teams so the most appropriate care is provided by the most appropriate provider; increased emphasis on one-stop shopping for seniors and their families; and improved portability of services between provinces, including reciprocal agreements to eliminate waiting periods for services.

As part of a national integrated care initiative, the committee was also convinced of the need for a national pharmacare program to make sure Canadians have equal access to the pharmaceuticals they need.

• (1610)

Over different stages of life, seniors can be both caregivers as well as recipients of care. As informal caregivers, they can help care for friends and family, including aging parents, an ailing spouse or grandchildren. As recipients of care, they can require both informal support and formal services such as community support services, home care, continuing care, long-term care and palliative care. The committee learned that current supports for caregivers are insufficient, and often Canadians are forced to choose between keeping their jobs and caring for their loved ones. The committee recommends that a national caregiving strategy form part of a national integrated care strategy.

The committee also learned that the unequal rate of aging of the population across the country creates challenges for provinces to provide a comparable range of services. Labour force mobility has exacerbated the aging of the population in some jurisdictions, particularly Atlantic Canada. The committee recommends that the federal government create a supplementary transfer program to assist provinces and territories that have an older population meet the increased health care needs of their seniors.

One of the most significant areas of federal government intervention related to seniors is income support, through programs such as Old Age Security pensions, the Guaranteed Income Supplement, and the Canada Pension Plan. These programs have helped reduce the rate of poverty among seniors

over the past 30 years. Many Canadians also have income from private pensions and savings. However, despite this, some groups of seniors are more likely to experience poverty, such as unattached seniors, older women and immigrant seniors. The committee has learned that current income security measures for our poorest seniors are not meeting their basic needs.

The committee recommends that the federal government increase the Guaranteed Income Supplement to ensure that economic households are not below the low income cut-off lines.

The committee also recommends that in its next triennial review of the CPP the federal government examine measures aimed at increasing the financial security of senior Canadians.

Most seniors express a strong preference for staying in their homes as they age. Sometimes supports are required to allow seniors to age in the place of their choice. Currently, the labour force is structured in such a way that family members and friends often have great difficulty balancing work and care for the frail elderly. Formal supports can supplement the support of family members, yet there are significant differences across the country in the formal supports to seniors.

Housing and transportation are two fundamental needs of all Canadians. For seniors in particular, the combination of flexible housing designs, home and community support services, assisted living and transportation options can help seniors maximize their independence and quality of life as they age. Inadequate housing is especially serious among Inuit seniors, seniors with disabilities, recent senior immigrants, and the broader Aboriginal senior population.

The committee learned that some seniors live in isolation or in inappropriate homes because of inadequate housing and transportation. Housing, transportation and social services are primarily areas of provincial jurisdiction. Witnesses before the committee have emphasized the need for greater integration between the health and social support systems in provinces and territories. Witnesses have expressed this integration as necessary both to combat climbing health care costs and to fulfill the desire of seniors to age in the place of their choice.

The committee recommends that the federal government work in partnership with provinces to increase the stock of affordable housing, including supportive housing, and that this housing be barrier free. The committee also recommends that a seniors' independence program, modeled on the excellent Veterans Independence Program administered by Veterans Affairs Canada, form part of a national integrated care initiative.

Similarly, as palliative care is an essential component of the continuum of care, the committee makes several recommendations about improving palliative and end-of-life care, including the need for additional research, for the application of the gold standards of care and for a national-provincial partnership to promote integrated quality end-of-life care.

One of the roles of the federal government is to provide direct services to certain population groups for which it has a direct responsibility, including veterans, First Nations and Inuit, and federal offenders. The committee learned that the federal government is both a leader and a laggard in providing care to seniors under their jurisdictional responsibility. Especially in regards to First Nations and Inuit, the federal government has a fiduciary responsibility. Federal resources for First Nation and Inuit communities must, at a minimum, provide a level of care comparable to other communities.

The committee recommends that the federal government address the need of First Nations and Inuit seniors and their communities, including the need for more and improved housing; increased attention to safe drinking water, diet, foot care, and other diabetic needs; measures to ensure wage parity among providers; increased home care and hospice palliative care services; more support for informal caregivers; the removal of the funding cap for the Non-Insured Health Benefits Program; and measures to fully integrate the range of programs currently available to seniors on First Nations reserves and in Inuit communities —

The Hon. the Speaker *pro tempore*: Is the Honourable Senator Carstairs requesting more time?

Senator Carstairs: Five minutes, please, honourable senators.

Hon. Senators: Agreed.

Senator Carstairs: — into a seamless system comparable to that employed by Veterans Affairs Canada.

Population aging is a success story, and seniors are a rich and vibrant part of our country. At the same time, it is necessary to provide the services and supports that will allow citizens to live with dignity and in good health.

The impending reality of population aging presents a wide variety of complex challenges, ranging from financial security and retirement, to housing and transportation issues, to chronic diseases and health care needs. These challenges are multi-jurisdictional in nature and will require efforts from all quarters to address them.

However, aging is not a disease. It is a natural life-long process and requires policy options that recognize this fact.

Seizing the opportunity of an aging population requires the federal government to promote active aging and healthy aging and to combat ageism; to provide leadership and coordination through initiatives such as a national integrated care initiative; to ensure the financial security of senior Canadians; to facilitate the desire of Canadians to age in their place of choice with adequate housing, transportation, and integrated health and social services; and to act immediately to implement changes for those population groups for which the federal government has specific, direct service responsibility.

The aging population will change the way we do things. We can allow this change to happen to us, or we can anticipate it and meet the challenge by design. This is the committee's vision for meeting the challenges of an aging population.

(On motion of Senator Keon, debate adjourned.)

• (1620)

COMMERCIAL SEAL HUNTERS

INQUIRY—DEBATE CONCLUDED

Hon. Mac Harb rose pursuant to notice of April 2, 2009:

> That he will call the attention of the Senate to the need for the Government of Canada to use its resources to transition those Canadians currently involved in the commercial seal hunt into new and viable industries for the benefit of these individuals, their communities and all Canadians.

He said: The commercial seal hunt in Canada is a dying industry. Like the commercial whale industry before it, the commercial seal hunt has lost its markets, it has lost public support, and it can no longer provide supplemental income to the commercial fishers who have been involved in the hunt for seals in the past. Perhaps one of the biggest tragedies — and given the nature of this business is really saying something — that has come out of the Canadian commercial seal hunt is the lack of action taken by the government to transition these workers into alternative industries, industries that could take advantage of their expertise, the specific assets of their location, and the downtime before the main fishery begins. Instead, this government continues to prop up an industry that pits these hard-working individuals against the majority of Canadians and against citizens from around the world in a battle which, for all intents and purposes, has already been lost.

As you know, the overwhelming opposition to Canada's commercial seal hunt has led many countries around the world to end their trade in seal products. We are awaiting the European Union vote on a European-wide ban in the next few weeks. Pelt prices in Canada have plummeted this year to $15 because of the lack of demand — a decline of 86 per cent since 2006. Despite substantial government subsidies, sealing contributes less than one-half of 1 per cent of the gross domestic product of Newfoundland and Labrador. In 2008, the $6.5 million seal catch accounted for only 1.2 per cent of the total landed values for Newfoundland's $1 billion fishery.

The commercial seal hunt is an intense, dangerous, derby-style hunt that takes place over a few short days every year. Sealers are commercial fishers who earn, on average, less than 5 per cent of their annual incomes from the seal hunt. In fact, in 2006, when pelts were at an artificially inflated high price, the majority — about 75 per cent — of sealing communities in Newfoundland reported that less than 5 per cent of their income was derived from sealing, while over one half of sealing communities received less than 2 per cent of their employment income from sealing. It is an off-season activity which adds very little to a fisher's annual income. Given the unpredictable and dangerous ice conditions, these fishers risk their boats, their equipment, and sadly, even their lives, so that they can add a few hundred dollars to their annual income.

Let us face it. Fishers do not make a living from the commercial seal hunt. In fact, for many of the 6,000 or so sealers who were active in 2008, the hunt is not economically viable anymore even as supplementary income. Given the plummeting price and the lack of demand for this fur, sealers are keeping their boats at home this year.

One long-time sealer, a man by the name of Jack Troake, who has been participating in the seal hunt since 1951, told *The Telegram* that: "You must have a market for a number of animals — any less than 1,000 would not be worth going for. . . ." There is no market, so for the first time in more than 50 years, this gentleman is not bothering to head out.

Where is the government in all this? Are they taking the steps necessary to find an alternative industry to supplement this lost income? Are they meeting with representatives from the fishing communities so that the transition out of the dangerous and dying commercial seal hunt is as smooth as possible?

Senator Mercer: Into all the great jobs awaiting them in Atlantic Canada!

Senator Harb: Honourable senators, it is more than perplexing, it is in fact shocking that the province and this government would continue to encourage and promote such a dangerous, unprofitable and poorly paying industry as the only employment alternative available for those living in remote, rural communities. They are selling, in my view, these Canadians short and failing to live up to their own mandate to, among other things, build a stronger and more competitive Canada, and to improve Canadians' quality of life.

Allow me to quote from a portion of the mandate of Human Resources and Skills Development Canada:

> The government has a responsibility to support Canadians and to create programs and to support initiatives that help them move through transitions, from one job to another.

Canadians expect this government to live up to this responsibility. A recent poll conducted by Environics Research revealed that 72 per cent of Canadians would like to see the Canadian government end the commercial seal hunt and, instead, invest in alternative employment opportunities for those individual affected.

Senator Mercer: Maybe they could build automobiles.

Senator Harb: Canadians are saying what we all must hear and act upon. The time has come for investment in viable, full-time employment opportunities more appropriate for the 21st century. Those workers still involved in the dying commercial seal hunt need and deserve nothing less.

What are the long-term solutions that this government should be considering at this time? The International Fund for Animal Welfare, which has studied the commercial seal hunt in Canada for over 40 years, has worked diligently to convince the government that it should provide sealers with alternative, long-term and sustainable employment opportunities. One of the most obvious and effective solutions — a sealing industry buyout — involves exchanging federal funds for fishing licences. This is not a new concept as buyout or "licence retirement" programs have been used for decades in Canada, the United States, Britain, Europe, Australia, Taiwan, and other countries when fisheries closed or capacity decreased.

In 1992, after the collapse of the northern cod fishery in Atlantic Canada, the Canadian government at the time provided nearly $4 billion to help fishers and plant workers adjust to the closures. Before the 1992 moratorium, the cod fishing industry was worth $250 million per year. I submit to you, honourable senators, that in 2008, the value of the seal hunt in Newfoundland and Labrador was about $6.5 million. You can see that the funds needed for a sealing industry buyout would be marginal compared to the funds the government committed to larger fishery buyouts in the past.

[*Translation*]

The programs could be combined with retraining and community economic development initiatives, such as the $1 billion Community Adjustment Fund recently announced to help mitigate the short-term impact of restructuring in these communities.

• (1630)

The government announced the program; now it must implement it in the areas where it is most needed.

This kind of funding could allow communities that used to rely on the seal hunt to develop a tourism industry. The proximity of seal birthing areas makes those communities ideal eco-tourism destinations, since it would guarantee them a source of income and create jobs for residents.

[*English*]

Nature tourism is one of the fastest-growing segments of the Canadian tourism industry and shows a 50 per cent growth each year. Canada's East Coast, with its exceptional beauty and warm and welcoming people, is a national draw for tourists. However, as it stands, honourable senators, I was amazed to discover the number of Canadian, Americans and Europeans who will not visit this region because of the ongoing commercial seal hunt.

In Newfoundland — Canada's main sealing province — more than 1.3 million whale watchers contribute nearly $20 million in annual revenues to the provincial economy. This number dwarfs the meagre income from the dwindling commercial seal hunt.

We need to apply what we have learned from whale watching and develop and expand the seal watching industry, which has tremendous potential.

Senator Mercer: You do not have to go far to see that. They are tripping over the bloody things. Come on! You could give everyone a seal. "Visit the Maritimes; we will give you a seal."

Senator Harb: Seal watch tours are already available on Canada's East Coast. For the interest of my colleagues opposite, a recent story in the *Canadian Press* reported that seal eco-tourism brings about $1 million to the Magdalen Islands every year, with visitors coming from as far away as Japan, France, Italy, the United Kingdom and Germany.

Honourable senators, allow me to quote from a travel website recommending a visit to the Magdalen Islands:

> These islands are a wonderful place to watch wildlife, as more than 50 species of birds stop there during the spring and fall migrations. Seals line many of the beaches, and local guides (many of them former seal hunters) take visitors out on the ice in spring to see the . . . baby seals.

In 2007, with a total quota of more than 13,000 seals, the economic boost to the Magdalen Islands region from seal watching was likely much higher than the income generated by the dying commercial seal hunt. Stopping the hunt for good would further increase the eco-tourism benefit in this area.

Honourable senators, I could continue but I have made my point.

Senator Meighen: No, no.

Senator Harb: Sealers have every right to be angry, not because we are calling for the —

Senator Stratton: At you!

Senator Harb: — end of this anachronistic hunt but, rather, as Bridget Curran of Halifax, Nova Scotia, writes, in reference to the sealers:

> They should be angry at a government that forces them to stay in a deal-end industry, instead of assisting them to move forward and explore other opportunities. . . .

The solution, honourable senators, will take creative and progressive thinking, and a real commitment from this government. It is time to take a step in the right direction. Canadians across the country are calling for it, and Canadians involved in the moribund commercial seal hunt deserve nothing less.

Senator Mercer: "Come to Atlantic Canada and get a free seal!"

[*Translation*]

The Hon. the Speaker *pro tempore*: Honourable senators, if no other honourable senator wishes to speak, this matter will be deemed debated and the inquiry will be withdrawn from the Order Paper.

(Debate concluded.)

ADJOURNMENT

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

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

> That when the Senate adjourns today, it do stand adjourned until Tuesday, April 28, 2009, at 2 p.m.

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

Hon. Senators: Agreed.

(Motion agreed to.)

(The Senate adjourned until Tuesday, April 28, 2009, at 2 p.m.)

THE SENATE OF CANADA
PROGRESS OF LEGISLATION

(*indicates the status of a bill by showing the date on which each stage has been* ***completed***)

(2nd Session, 40th Parliament)

Thursday, April 23, 2009

(**Where royal assent is signified by written declaration, the Act is deemed to be assented to on the day on which the two Houses of Parliament have been notified of the declaration.*)

GOVERNMENT BILLS
(SENATE)

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-2	An Act to amend the Customs Act	09/01/29	09/03/03	National Security and Defence	09/03/31	1	09/04/23		
S-3	An Act to amend the Energy Efficiency Act	09/01/29	09/02/24	Energy, the Environment and Natural Resources	09/03/11	0	09/03/12		
S-4	An Act to amend the Criminal Code (identity theft and related misconduct)	09/03/31							
S-5	An Act to amend the Criminal Code and another Act	09/04/01							

GOVERNMENT BILLS
(HOUSE OF COMMONS)

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-2	An Act to implement the Free Trade Agreement between Canada and the States of the European Free Trade Association (Iceland, Liechtenstein, Norway, Switzerland), the Agreement on Agriculture between Canada and the Republic of Iceland, the Agreement on Agriculture between Canada and the Kingdom of Norway and the Agreement on Agriculture between Canada and the Swiss Confederation	09/03/31	09/04/22	Foreign Affairs and International Trade	09/04/23	0			
C-5	An Act to amend the Indian Oil and Gas Act	09/04/21	09/04/23	Aboriginal Peoples					
C-9	An Act to amend the Transportation of Dangerous Goods Act, 1992	09/03/26							
C-10	An Act to implement certain provisions of the budget tabled in Parliament on January 27, 2009 and related fiscal measures.	09/03/04	09/03/05	National Finance	09/03/12	0	09/03/12	*09/03/12	2/09
C-12	An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2009 (*Appropriation Act No. 4, 2008-2009*)	09/02/12	09/02/24	—	—	—	09/02/26	09/02/26	1/09

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-17	An Act to recognize Beechwood Cemetery as the national cemetery of Canada	09/03/10	09/03/12	Social Affairs, Science and Technology	09/04/02	0	09/04/02	*09/04/23	5/09
C-21	An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2009 (*Appropriation Act No. 5, 2008-2009*)	09/03/24	09/03/25	—	—	—	09/03/26	*09/03/26	3/09
C-22	An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2010 (*Appropriation Act No. 1, 2009-2010*)	09/03/24	09/03/25	—	—	—	09/03/26	*09/03/26	4/09

COMMONS PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.

SENATE PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-201	An Act to amend the Library and Archives of Canada Act (National Portrait Gallery) (Sen. Grafstein)	09/01/27							
S-202	An Act to amend the Canada Elections Act (repeal of fixed election dates) (Sen. Murray, P.C.)	09/01/27							
S-203	An Act to amend the Business Development Bank of Canada Act (municipal infrastructure bonds) and to make a consequential amendment to another Act (Sen. Grafstein)	09/01/27							
S-204	An Act to amend the National Capital Act (establishment and protection of Gatineau Park) (Sen. Spivak)	09/01/27							
S-205	An Act to amend the Criminal Code (suicide bombings) (Sen. Grafstein)	09/01/27	09/03/31	Legal and Constitutional Affairs					
S-206	An Act respecting the office of the Commissioner of the Environment and Sustainable Development (Sen. McCoy)	09/01/27							
S-207	An Act to amend the Employment Insurance Act (foreign postings) (Sen. Carstairs, P.C.)	09/01/27	Bill withdrawn pursuant to Speaker's Ruling 09/02/24						
S-208	An Act to amend the Food and Drugs Act (clean drinking water) (Sen. Grafstein)	09/01/27							

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
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S-210	An Act respecting World Autism Awareness Day (Sen. Munson)	09/01/27	09/03/03	Social Affairs, Science and Technology					
S-211	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 (Sen. Grafstein)	09/01/27							
S-212	An Act to amend the Canadian Environmental Protection Act, 1999 (Sen. Banks)	09/01/27							
S-213	An Act to amend the Income Tax Act (carbon offset tax credit) (Sen. Mitchell)	09/01/27							
S-214	An Act to regulate securities and to provide for a single securities commission for Canada (Sen. Grafstein)	09/01/27							
S-215	An Act to amend the Constitution Act, 1867 (Property qualifications of Senators) (Sen. Banks)	09/01/27	09/03/24	Legal and Constitutional Affairs					
S-216	An Act to amend the Federal Sustainable Development Act and the Auditor General Act (Involvement of Parliament) (Sen. Banks)	09/01/27	09/03/11	Energy, the Environment and Natural Resources	09/04/02	0	09/04/23		
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S-218	An Act to amend the Parliamentary Employment and Staff Relations Act (Sen. Joyal, P.C.)	09/01/29							
S-219	An Act to amend the Bankruptcy and Insolvency Act (student loans) (Sen. Goldstein)	09/02/03							
S-220	An Act respecting commercial electronic messages (Sen. Goldstein)	09/02/03	09/04/02	Transport and Communications					
S-221	An Act to amend the Financial Administration Act (borrowing of money) (Sen. Murray, P.C.)	09/02/04							
S-222	An Act to amend the International Boundary Waters Treaty Act (bulk water removal) (Sen. Murray, P.C.)	09/02/04							
S-223	An Act to amend the Immigration and Refugee Protection Act and to enact certain other measures in order to provide assistance and protection to victims of human trafficking (Sen. Phalen)	09/02/04							

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
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S-225	An Act to amend the Citizenship Act (oath of citizenship) (Sen. Segal)	09/02/10							
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S-228	An Act to amend the Financial Administration Act and the Bank of Canada Act (quarterly financial reports) (Sen. Segal)	09/03/03							
S-229	An Act to amend the Fisheries Act (commercial seal fishing) (Sen. Harb)	09/03/03							
S-230	An Act to amend the Bank of Canada Act (credit rating agency) (Sen. Grafstein)	09/03/10							
S-231	An Act to amend the Investment Canada Act (human rights violations) (Sen. Goldstein)	09/03/31							
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PRIVATE BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.

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Thursday, April 23, 2009

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