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**Wednesday, June 17, 2009**



THE HONOURABLE NOËL A. KINSELLA  
SPEAKER

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## THE SENATE

Wednesday, June 17, 2009

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

Prayers.

### SENATORS' STATEMENTS

#### HONOURABLE PATRICK BRAZEAU

##### COMMENTS MADE DURING COMMITTEE OF THE WHOLE

**Hon. James S. Cowan (Leader of the Opposition):** Honourable senators, on June 11, 2008, the Prime Minister of Canada offered a formal apology, "on behalf of the Government of Canada and all Canadians," to the former students of the Indian residential schools.

On that same day, Pierre Poilievre, a member of Prime Minister Harper's caucus, told an Ottawa radio station:

Are we really getting value for all of this money, and is more money really going to solve the problem? My view is that we need to engender the values of hard work and independence and self-reliance. That's the solution in the long run — more money will not solve it.

The following day, Mr. Poilievre apologized for his remarks, which he described as "hurtful."

Exactly one year later, on June 11, 2009, we again had inappropriate comments from a member of the Conservative caucus, this time when we assembled in Committee of the Whole to commemorate the one-year anniversary of that historic event.

I will not compound the wrong by repeating on the record the outrageous remarks made by Senator Brazeau in this chamber to the National Chief of the Assembly of First Nations, Phil Fontaine.

Following those remarks, Chief Fontaine said:

What I have heard from Senator Brazeau is defamatory. . . . I am quite disappointed that Senator Brazeau would make those kinds of allegations. They are completely uncalled for but very consistent with Senator Brazeau.

When Chief Fontaine agreed to grace us with his presence last week, I, for one, did not expect that he would be attacked and defamed from behind that special immunity we parliamentarians enjoy in this chamber.

**Senator Comeau:** That is what you are doing now.

**Senator Cowan:** A year ago, Prime Minister Stephen Harper stood in his place to offer an apology on behalf of the Government of Canada to Aboriginal peoples. Today, as leader of Her Majesty's Loyal Opposition in the Senate, I stand to offer

an apology on behalf of my caucus colleagues to Chief Fontaine for the outrageous comments made by the member of Prime Minister Stephen Harper's caucus last week. I want to assure him that Senator Brazeau does not speak for members on this side of the chamber.

#### YUKON WATER TREATMENT PROJECTS

**Hon. Hector Daniel Lang:** Honourable senators, last Thursday the following statement was made by Kevin Daniels, Interim National Chief of the Congress of Aboriginal Peoples:

Another water issue that comes to my mind is in Watson Lake in Southern Yukon, where water problems are causing Aboriginal peoples to get very sick. That is a concern to me as well. It is as a result of dumping waste and military hardware and all kinds of other garbage that is going into the water systems.

As a senator for Yukon, I want to clarify for the record that the results of my inquiries into these allegations are as follows: First, there has been no reported illness of Aboriginal people or other residents due to contaminated water in Watson Lake and area. Second, over the years, there has been some concern about the possible effects the military hardware buried by the U.S. military during the Second World War might have on the drinking water in the Watson Lake area. This concern prompted a number of scientific studies to be completed over the years, and I am pleased to report that no water contamination was found.

Honourable senators, Yukon has up-to-date drinking water regulations in place and they are enforced. Further, the Government of Yukon, with the assistance of financing provided by the Government of Canada through the Canada Economic Action Plan, is proceeding this year with a number of water treatment projects in our rural communities. I trust this information corrects the record.

#### 2009 CANADA SUMMER GAMES

**Hon. Catherine S. Callbeck:** Honourable senators, this summer from August 15 to 29, Prince Edward Island will be playing host to the 2009 Canada Summer Games, which are expected to attract upwards of 5,000 athletes from across Canada, together with their officials, families and friends. P.E.I. is proud to be hosting this prestigious national sporting event. It will be Island-wide, with venues for different sports held in communities across the province.

Since their beginning in Quebec City, during Canada's centennial year in 1967, more than 50,000 young Canadians have participated in the summer and winter games. The games provide a unique opportunity for young Canadians to develop their abilities and engage in friendly competition with other young people from across the country. The games also provide a stimulus for Canadian young people to reach their athletic potential, pursue personal excellence and develop their social and culture ties with others from across the country.

The summer and winter games have also left a legacy for the host communities. Nearly \$120 million has been invested in capital projects for the various sporting events. Sports facilities have been built across Canada, which have been invaluable for growth in sports excellence and fitness in those communities.

In conjunction with the Canada Summer Games, a cultural arts festival will be taking place in various venues across the province. Island artists, performers and chefs will showcase our rich and varied cultural traditions through the visual, performing and culinary arts.

The province hosted the Canada Winter Games in 1991, and is looking forward to hosting its first-ever summer games. Although Prince Edward Island is Canada's smallest province, Islanders have lots of experience in hosting regional, national and international sporting events.

A team of committed volunteers has been busily preparing for the Canada Summer Games. About 6,000 Island volunteers look forward to welcoming people from across the country and beyond to enjoy the games and the many other attractions the Island has to offer.

Honourable senators, I wish to recognize the efforts of these young athletes, their coaches, families and the P.E.I. volunteers. I am sure that, together, they will make the Canada Summer Games a great success. I also invite all Canadians to come celebrate the 2009 Canada Summer Games in August and visit the beautiful province of Prince Edward Island.

#### MRS. FRANCIS BROOKE

**Hon. Yonah Martin:** Honourable senators, I rise today with these words: A teacher's purpose is not to create students in her own image, but to develop students who can create their own image.

Although I can tell you, honourable senators, that when Mrs. Brooke drove up to Renfrew Elementary School, in Vancouver, B.C., in her fancy red convertible wearing her snazzy Adidas tracksuit with her long brown hair perfectly windswept and flowing, the students stopped their courtyard hopscotch or tag to watch and greet their favourite teacher.

All the girls wanted to be just like her — including three little girls who adored Mrs. Brooke and she inspired them to dress like her, be athletic like her and grow up to be just like her. Those three little girls, Nancy Falcone, Lana Sam and Yonah Martin grew up and became teachers and went on to coach volleyball, basketball, floor hockey, badminton, gymnastics and track and field, inspired by their favourite teacher and coach, Mrs. Brooke.

At the end of June 2009, Francis "Franny" Brooke retires after a 35-year career with the Vancouver School Board. Thirty-four of those years were spent at Renfrew, where she taught and coached me, and 30 years later, my daughter Kiana.

• (1340)

To me and my best friends, Nancy and Lana, Mrs. Brooke remains our favourite teacher and lasting role model. We are three of thousands of students who learned to love sport due to

her countless hours of dedicated coaching. Through her delivery of a dynamic physical education program and opportunities to participate in athletics, Fran Brooke taught us to become healthy, active participants and to pursue excellence in all fields.

As yesterday's eight-hour marathon session in the chamber demonstrates, June is a month like no other on the Hill and for all teachers. From endless marking to preparing final report cards, from preparing students for final exams and the big world beyond, all the while maintaining order in the classrooms as the loud call of summer sings in everyone's ear, teachers are true public servants. I have the utmost respect for all of my former colleagues and teachers everywhere and thank them for making a difference in the lives of our students and our children, including my own daughter.

In honouring Fran Brooke, I also honour all teachers past and present who have nurtured and inspired and are nurturing and inspiring the next generation of teachers; captains of Stanley Cup champions, like Sidney Crosby; astronauts, like Julie Payette; outstanding Prime Ministers, like Stephen Harper; and humble senators, like me.

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

#### MR. JACK YAZER, C.M.

**Hon. Jane Cordy:** Honourable senators, a few weeks ago, I received a copy of the book *Youth Speaks Up* from my friend, Jack Yazer, of Sydney, Nova Scotia. I had been invited to the book launch but was unable to attend. Today, I am honoured to pay tribute to Jack Yazer, the subject of the book and the founder of Youth Speaks Up, a student empowerment program.

Honourable senators, Jack Yazer is 95 years old and is not slowing down. A recipient of both the Order of Nova Scotia and the Order of Canada, Mr. Yazer emigrated from Poland to Cape Breton in 1928 at the age of 14. Through hard work and determination, he went on to become a successful businessman, a community leader and activist in the Sydney area. He was approached many times to run for mayor of Sydney, and I would be willing to bet that he was asked by a few political parties to run for office as well, but he always declined.

After watching a TV program dealing with the adverse effects of alcohol and drug abuse on the lives of young people, Mr. Yazer, who had a grandson about to start junior high, was concerned about the young people in the Sydney area. His wife Zelda's response was: Why not do something about it? In 1996, at the age of 82, with the help of his son Brendon, and a few people in the community, Jack organized the first meeting of Youth Speaks Up.

The program was run in Sydney during the school year for students who were in Grade 6. The students met on the first Sunday of each month at the local hotel. They had a formal dinner meeting similar to many organizations they might join as adults. A guest speaker was brought in each month to give a presentation after lunch followed by an open mike session, giving the students an opportunity to ask questions or make comments.

I was fortunate to be one of the guest speakers. Each meeting was hosted by a different Sydney school to give students a chance to chair a meeting. Each student was required to raise \$30 and, at the end of the year, the students decided where to donate the funds that were raised. The costs of the meetings were covered by Mr. Yazer, community donations and sponsors.

Approximately 60 students a year were selected to be part of the program. The students were asked to sign a pledge not to smoke, take drugs or consume alcohol for six years. These contracts were placed in time capsules and buried on school grounds until graduation.

By giving the students a chance to host monthly meetings, listen to guest speakers and take the pledge, the program helped the young people to develop life skills. The program gave them a chance to voice their concerns and opinions on important and diverse issues, and helped them to gain confidence when speaking. It also opened up the students to philanthropy and involvement in their communities.

Youth Speaks Up held its last meeting in June 2005. In April this year, the student empowerment program, Youth Speaks Up, launched a book to celebrate the achievements of the wonderful program and its founder, Jack Yazer. The book is comprised of testimonials from the Grade 6 students who participated in the program over the 10 years, and tells about the positive influence that the program, and especially Mr. Yazer, had on their lives.

One Grade 6 student wrote of the program, “Youth Speaks Up has given me so many wonderful memories, too many to count, I made many friends and learned a lot! It made my Grade 6 year my best yet! Thank you for being at the meetings and always smiling. Your words of encouragement and smiles were warm and friendly and it was a great to be in your presence.”

Honourable senators, Jack Yazer is an outstanding Canadian.

[Translation]

### ACCESS TO CREDIT

**Hon. Donald H. Oliver:** Honourable senators, although the global recession began outside our borders, Canadians are feeling its effects.

In January, the Conservative government presented an Economic Action Plan to protect Canadian jobs by cutting sales taxes and income taxes, investing in infrastructure, improving the Employment Insurance program and stimulating the housing industry.

Our government also wants to ensure better access to credit, and I am delighted that all of the measures in Canada's Economic Action Plan to improve access to credit are now up and running.

Honourable senators, credit is one of the cornerstones of our economy. Canadian banks are in a much better position than many of their foreign counterparts, but the global credit crisis has nevertheless rocked households and businesses across the country.

[ Senator Cordy ]

[English]

Our government is taking action. To date, over \$115 billion has been provided to improve the availability of credit for Canadian households and businesses, all of it on a commercial basis to protect taxpayers. Canada's Economic Action Plan is improving access to credit through a number of measures, including the Business Credit Availability Program, the Canadian Secured Credit Facility, the Insured Mortgage Purchase Program, the Canadian Lenders Assurance Facility and the Canadian Life Insurers Assurance Facility.

Honourable senators, we are making a difference. For starters, household credit is growing. As of April this year, the quarter-over-quarter annualized growth of total household credit stood at 6.7 per cent. Interest rates for households and businesses are not only low but falling. Over the past year, the prime rate has fallen by 250 basis points and posted five-year mortgage rates have dropped 140 basis points. The average effective household interest rate was 4.23 per cent in May compared to 5.46 per cent in December 2008. Similarly, the average effective business rate was 4.16 per cent in May versus 5.75 per cent in December 2008.

Honourable senators, these signals are encouraging. The Organisation for Economic Co-operation and Development recently listed Canada as one of four industrialized countries that has shown signs of improvement. By cutting taxes, investing in infrastructure, improving Employment Insurance, boosting the housing industry and ensuring access to credit, our government is taking action to protect jobs, help those who need help and get Canadians back to work as quickly as possible.

## ROUTINE PROCEEDINGS

### CONFLICT OF INTEREST AND ETHICS COMMISSIONER

#### 2008-09 ANNUAL REPORT TABLED

**The Hon. the Speaker:** Honourable senators, I have the honour to table, in both official languages, the Annual Report of the Conflict of Interest and Ethics Commissioner in relation to public office holders for the fiscal year ending March 31, 2009, pursuant to paragraph 91(1)(b) of the Parliament of Canada Act.

• (1350)

### WAR VETERANS ALLOWANCE ACT

#### BILL TO AMEND—FIFTH REPORT OF NATIONAL SECURITY AND DEFENCE COMMITTEE PRESENTED

**Hon. Michael A. Meighen,** for Senator Kenny, Chair of the Standing Senate Committee on National Security and Defence, presented the following report:

Wednesday June 17, 2009 [English]

The Standing Senate Committee on National Security and Defence has the honour to present its

#### FIFTH REPORT

Your committee, to which was referred Bill C-33, An Act to amend the War Veterans Allowance Act, has, in obedience to the Order of Reference of Tuesday, June 9, 2009, examined the said bill and now reports the same without amendment.

Respectfully submitted,

MICHAEL A. MEIGHEN  
*For Colin Kenny, chair of the committee*

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

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

[Translation]

#### COMMISSIONER OF LOBBYING

##### NOTICE OF MOTION TO APPROVE APPOINTMENT

**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 in accordance with section 4.1 of the *Lobbying Act*, Chapter 44 of the Statutes of Canada, 1985, the Senate approve the appointment of Karen E. Shepherd as Commissioner of Lobbying.

#### THE SENATE

##### MOTION TO EXTEND TODAY'S SITTING AND AUTHORIZE COMMITTEES TO MEET DURING SITTING OF THE SENATE ADOPTED

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

That, notwithstanding the Order adopted by the Senate on February 10, 2009, the Senate continue sitting beyond 4 p.m. today, unless earlier adjourned;

That if the Senate is still sitting at 6 p.m. today, it stand adjourned at that time;

That committees of the Senate scheduled to meet today be authorized to sit after 4 p.m., even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

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

(Motion agreed to.)

#### CANADA-UNITED STATES INTER-PARLIAMENTARY GROUP

##### NATIONAL GOVERNORS ASSOCIATION WINTER MEETING, FEBRUARY 21-23, 2009—REPORT TABLED

**Hon. Jeremiah S. Grafstein:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canada-United States Inter-Parliamentary Group to the National Governors Association Winter Meeting: Strengthening our Infrastructure for a Sustainable Future, held in Washington, D.C., United States of America, from February 21 to 23, 2009.

##### PACIFIC NORTHWEST ECONOMIC REGION CONFERENCE, FEBRUARY 24, 2009—REPORT TABLED

**Hon. Jeremiah S. Grafstein:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canada-United States Inter-Parliamentary Group to the Pacific NorthWest Economic Region—Border Challenges and Regional Solutions: 2010 Olympics and the Pacific NorthWest Experience, held in Washington, D.C., United States of America, on February 24, 2009.

##### U.S. CONGRESSIONAL VISITS, FEBRUARY 25-26, 2009—REPORT TABLED

**Hon. Jeremiah S. Grafstein:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canada-United States Inter-Parliamentary Group to the U.S. Congressional Visits, held in Washington, D.C., United States of America, from February 25 to 26, 2009.

[Translation]

#### CANADIAN NATO PARLIAMENTARY ASSOCIATION

##### VISIT OF OFFICERS OF SCIENCE AND TECHNOLOGY COMMITTEE, APRIL 24, 2008—REPORT TABLED

**Hon. Pierre Claude Nolin:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian delegation of the Canadian NATO Parliamentary Association concerning its participation in the visit of the Officers of the Science and Technology Committee, held April 24, 2008, in Warsaw, Poland.

##### MEETING OF UKRAINE-NATO INTERPARLIAMENTARY COUNCIL, MAY 5, 2008—REPORT TABLED

**Hon. Pierre Claude Nolin:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian delegation of the Canadian NATO Parliamentary Association concerning its participation in the Meeting of the Ukraine-NATO Interparliamentary Council, held in Brussels, Belgium, May 5, 2008.

[English]

## FISHERIES

### CESSATION OF SEAL HUNT— PRESENTATION OF PETITION

**Hon. Mac Harb:** Honourable senators, I have the honour of introducing a petition signed by residents from Manitoba and British Columbia calling on the Government of Canada to amend the Fisheries Act to end Canada's commercial seal hunt.

## QUESTION PERIOD

### NATURAL RESOURCES

#### GREEN TRANSFORMATION PROGRAM

**Hon. Terry M. Mercer:** Honourable senators, today the federal government has announced \$1 billion to support the forestry sector across Canada for green capital upgrades to pulp and paper mills.

Rural communities across this country have been hit hardest by the forestry sector crisis, with more than 55,000 forestry jobs lost over the past two years. One out of every five jobs has just disappeared. This announcement does nothing for the mills that have already closed.

The previous Liberal government saw this coming when we proposed a \$1.6 billion aid package in 2005, which included \$800 million for loan guarantees. I dare say that would have lessened the impact on those 55,000 people who have lost their jobs.

Therefore, what does this new announcement do for those people already unemployed and for the mills that have already closed?

**Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)):** I thank the Honourable Senator Mercer for his question. I actually thought he might take a bit of credit for bringing the issue of black liquor to the attention of the chamber. I thought he would start off with a slight congratulatory note. Since he did not, I accept that.

Senator Mercer was the first in this chamber to raise the issue of black liquor. As he knows, black liquor created an incredible competitive imbalance between the Canadian and U.S. pulp and paper sectors. That imbalance was caused by a loophole in the United States with regard to the Alternative Fuel Tax Credit.

Minister Raitt has announced that, effective immediately, we are investing \$1 billion to create the Pulp and Paper Green Transformation Program. This new funding will ensure that Canada has a pulp sector that is both commercially and environmentally sustainable for years to come.

I am well aware of the situation in the pulp and paper industry. It is no secret that the global economic downturn has created a tremendous strain on this industry across the country. The government has put significant funds into the industry.

With regard to the people who have lost their jobs, that is precisely why, under the Employment Insurance fund, great effort and a significant amount of money has been invested in the retraining of older workers, especially those who are in single-industry towns or in locations where the industry may not recover, so that they can contribute to the new economy.

**Senator Mercer:** Honourable senators, I guess, like many of us on this side, I am surprised that they were actually listening over there.

The announcement was welcome news. I will say that. However, it is merely a drop in the bucket, to be frank. Our forestry sector will still face an uphill battle as the Americans have thrown an \$8 billion life jacket in their black liquor subsidies.

• (1400)

I remind honourable senators that only 27 mills qualify for this money. That is 27 communities out of 300 affected communities; that does not seem equitable to me.

The federal government, through the Green Transformation Program, intends to provide funding of 16 cents per litre of black liquor, up to a maximum program total of \$1 billion.

Let me tell you what Jean-Pierre Benoit, the General Manager of the East Papers division of Fraser Papers in New Brunswick, said as he tried to illustrate the imbalance between the U.S. and Canadian markets. He said:

If our pulp mill was three miles south in Maine, we would be receiving \$3 million a month.

How can the Canadian forestry sector compete with \$1 billion that only attempts to solve one problem out of the many problems in the forestry sector? What further action will the federal government take to balance the scale so that Canadian mills can operate on an even playing field?

**Senator LeBreton:** There is no denying that the forestry and pulp and paper industry has faced very difficult circumstances as a result of the global economic recession. I believe the announcement today will allow Canadian pulp mills to have access to this funding to increase their energy efficiency and environmental performance.

As the world moves out of this recession, those companies, with the assistance of this investment, will be better positioned to participate in the marketplace.

All of this to say, honourable senators, that there is no question that the global economic recession has caused great difficulty, especially for the forestry industry but also for many industries. I believe the announcement today is an acknowledgement of the difficulties faced by the industry. This is the government's effort to help this industry become greener.



Obviously, any announcement the government makes pleases some and not others. However, this is an effort by the government to help our industry. I believe it is a positive step.

**Senator Mercer:** I do not disagree with the minister that it is a good announcement, but I do disagree that it will be of any help to the 55,000 Canadian forestry workers who are out of work.

I wish to read to honourable senators a quote from the release from the minister's office:

Eligible companies participating in the Green Transformation Program will be required to invest these funds over the next three years in capital expenditures . . .

"Over the next three years," however, 55,000 people are unemployed today, honourable senators. They have been unemployed for some time. This program is not addressing this issue. We need to go further. The honourable senator needs to go back to the cabinet table, talk to her colleagues, and tell them that while this is a welcome announcement, it does not go far enough. There are 55,000 Canadians waiting for the government's help.

**Senator LeBreton:** Obviously, the global economic recession has caused difficulty in this country. Many people are unemployed. This is not a good situation.

Honourable senators, that is precisely why the government, through the Community Adjustment fund, put extra resources into the forestry industry and those one-industry towns. The government will assist older workers by retraining them for other jobs. That was one of the reasons why the benefits were extended for five weeks, to do precisely that. We will retrain our workforce so Canadians will be equipped when the country comes out of the global economic recession. They will be trained and better equipped to apply and take advantage of new jobs as a result of new industries and other opportunities that may present themselves.

Honourable senators, this is not in any way to minimize the severity of the unemployment numbers in the forestry sector. This step today, announced by the Minister of Natural Resources, the Honourable Lisa Raitt, is in response to an appeal by the industry and people like Senator Mercer, and will assist the industry in this particular area. Today's announcement is our government's response to the forest industry.

## NATIONAL DEFENCE

### JOINT SUPPORT SHIP PROGRAM

**Hon. Lorna Milne:** Honourable senators, contrary to what the Conservative government said when it re-announced the former Liberal government's Joint Support Ship program; it is clearly not committed to getting the right equipment for the right price with the right benefits for Canadian industries.

My question to the Leader of the Government in the Senate is this: What does this government intend to do with the Joint Support Ship program?

**Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)):** Honourable senators, I will take Senator Milne's question as notice.

**Senator Milne:** Given the shortness of that answer, I am delighted to ask a supplementary question, if I may.

Media reports indicate that, after spending \$44 million on office furniture, training, travel and bilingual bonuses, the Conservative government may scrap the Joint Support Ship program entirely.

How can the Prime Minister justify such a gross waste of public funds, particularly at a time of such economic uncertainty in Canada?

**Senator LeBreton:** The honourable senator started her question by saying "media reports." I would have to verify the sources of those reports and allow my colleagues in the government to properly respond with the facts.

**Senator Milne:** May I have a second supplementary and a third question, since these answers are so delightfully short?

An official with the Navy League of Canada, Ken Bowering, says that the existing two supply ships are outdated and rely on a propulsion system that uses steam. They need to be replaced and, in fact, whether this government scraps the plan entirely or goes back to square one and starts over again, taxpayers will be on the hook because of Conservative negligence and mismanagement.

What is happening?

**Senator LeBreton:** Honourable senators, no one can accuse this government of neglecting our navy. This government has done a great deal to refurbish our equipment and support our navy and our other forces after a "decade of darkness," to quote the former Chief of the Defence Staff.

I will have to read the quote before I can comment on it.

**Senator Milne:** Actually, I can help the Leader of the Government in the Senate, if I may. This came from a report in the *Ottawa Citizen* on June 15, 2009.

**Senator LeBreton:** The Honourable Senator Milne quotes from an article out of a newspaper. I have no idea of the motives of the person or why the person said what he or she said. I have no idea on what information he or she bases his or her views. We read many views and opinions in newspapers that are quite incorrect. As I indicated earlier, I will be happy to look into the matter.

[Translation]

## NATURAL RESOURCES

### GREEN TRANSFORMATION PROGRAM

**Hon. Jean-Claude Rivest:** Honourable senators, I would point out that the measures announced concerning the forestry industry are welcome, although a little late. I have three questions about this.

First of all, were these measures discussed by the joint task team formed between the Government of Canada, the Government of Quebec and other eastern Canadian provinces?

Second, will these measures put an end to the work of that joint forestry task team?

Third, were the provinces informed before this measure was announced, so that the provincial and federal governments can continue combining their efforts to help forestry workers?

• (1410)

[English]

**Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)):** This announcement, honourable senators, would not preclude any study that might be under way or undertaken.

Minister Raitt, Minister Blackburn, Minister Lebel in Quebec, and others, have been working on this particular issue of the problems caused by the so-called black liquor and the loophole that was used in the United States, where they had a tax credit for this alternative fuel.

I can assure the honourable senator that the government has consulted widely on this issue with industry and with our provincial counterparts. All other negotiations or studies that are undertaken with this industry are in no way impacted or impeded because of this announcement.

## CITIZENSHIP AND IMMIGRATION

### TEMPORARY FOREIGN WORK PERMITS FOR EXOTIC DANCERS

**Hon. Mobina S. B. Jaffer:** Honourable senators, my question is to the Leader of the Government in the Senate regarding exotic dancer work permits.

Why is Canada still issuing these permits? The U.S. State Department has just released its ninth annual *Trafficking in Persons Report*. Amongst its findings and reprimands about Canada was the issue of temporary foreign work permits for exotic dancers.

The Canadian government said that it would eliminate these permits, but the U.S. State Department says that Canada is still issuing them, to the tune of 14 permits last year and 15 in 2007. These permits put women at risk. Human traffickers use them as a loophole to legally import women into forced prostitution.

Can the Leader of the Government in the Senate tell us if the Canadian government is in fact issuing these permits and why?

**Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)):** Honourable senators, this is an issue of great concern to all of us. Apparently, the figures the honourable senator cites are accurate, and they are down considerably from the hundreds of permits that were issued previously.

All I can say to the honourable senator is that my colleague, the Minister of Citizenship, the Honourable Jason Kenney, is working on this and other matters with regard to our citizenship

and immigration system. I expect that in the not-too-distant future he will be coming forward on behalf of the government to address this and other issues. Obviously, this is a program that has caused great difficulty in the past and was widely abused, and it is the minister's intention for that not to continue.

**Senator Jaffer:** I have a supplementary question. May I ask the minister to inquire as to why these permits are still being issued? I understood that we would no longer be issuing these permits.

**Senator LeBreton:** I do not know the details or how exactly this happened. I will take that question as notice.

## HERITAGE

### EXHIBIT TRANSPORTATION SERVICE

**Hon. Catherine S. Callbeck:** Honourable senators, my question is to the Leader of the Government in the Senate. Last year, the government cancelled the Exhibit Transportation Service, which helps small museums and galleries receive exhibits without paying huge shipping costs. It was a cost-recovery freight program run by the federal government. The trucks were climate controlled and the drivers well trained in the transportation of the artifacts. However, despite the fact that the small museums and galleries depended on this program, it was discontinued. Why did the government cancel this program?

**Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)):** Honourable senators, I believe I answered the Honourable Senator Callbeck's question previously. I am not absolutely certain, but I understand that this program expired.

I also understand there were serious insurance issues surrounding this program. I understand that many of the pieces are available across the country. Again, this particular contract, if memory serves, was not renewed because of serious insurance issues. I will have to take this question as notice.

**Senator Callbeck:** The minister says that pieces are available. I do not know whether she is talking about pieces of art. These exhibits are available, but the museums and galleries cannot get them because of the freight costs.

One of the museums in my province noted that last summer the shipping costs were as much as the rental costs. Another museum noted that there was no way they could now bring in any exhibits. This has also affected our Confederation Centre Art Gallery in a very negative way.

The people who care about these museums and galleries are disappointed because they see the value of Canadians sharing their heritage. They see the value in having visitors learn about people and places all across the country.

Will this government consider implementing a new program to help small museums and galleries defray shipping costs?

**Senator LeBreton:** Honourable senators, of course I was referring to pieces of art. I do not imagine how I could be referring to pieces of anything else when I am talking about art.

Many pieces of art, such as photographs and other artwork that is of strong cultural and heritage value, are being made available to small museums across the country. The program that the honourable senator asked about previously — which I believe I answered, if not in person, then by way of delayed answer — was a specific contract that was cancelled. I do not believe that the government has in any way pulled back on providing pieces of art to the various museums across the country. However, I will inquire whether my belief is right — I could be wrong — and I will be happy to get back to the honourable senator.

**Senator Callbeck:** Certainly, the government has pulled back because it cancelled this program. As I said, many small museums and galleries cannot even think of bringing in exhibits. The exhibits are available, but there is no way that the museums and galleries can afford to bring them in.

With all due respect, the minister did not answer my last question. Will the government consider implementing a new program that helps small museums and galleries defray shipping costs?

**Senator LeBreton:** I do not think we actually cancelled the program; I think it was a contract that expired. The government did not renew the contract because of serious concerns raised in an audit.

The government has implemented many programs in support of small locally- and provincially-based museums and cultural centres. That is one of the good things that we have done in the Department of Canadian Heritage. We have taken considerable sums of money and ensured that it is dispensed through the smaller facilities around the country. I think the honourable senator is incorrect when she says that the government has not supported these facilities.

The honourable senator is now specifically asking if the government will establish a new program to support the transportation of these pieces of art. I will have to check, but we have increased considerably the amount of money provided to small museums across the country. Whether that agreement would allow them to bring in more pieces, I do not know. However, as promised, I will reply by written response.

• (1420)

## FOREIGN AFFAIRS

### PROTECTION OF CANADIAN CITIZENS ABROAD

**Hon. Claudette Tardif (Deputy Leader of the Opposition):** Honourable senators, it appears that the Conservative government chooses who it deems worthy of Canadian protection. Three well-known Canadian citizens abroad require the help of the Canadian government.

The first is Omar Khadr, a child soldier and the only western citizen deteriorating in Guantanamo Bay since 2003. He is there even though the U.S. administration has chosen to shut down Guantanamo Bay, and our own Supreme Court of Canada declared that our government has a responsibility to repatriate Mr. Khadr.

The second is Ronald Allen Smith. He has been in jail for the last 25 years and is on death row in Montana, in spite of the recent ruling by the Federal Court of Canada that the government's handling of the *Smith* case is unlawful.

The third is Abousfian Abdelrazik. His is a Canadian citizen living in the Canadian Embassy in Sudan for the last year and for whom the Conservative government refuses to issue a passport.

On what basis does this government pick and choose which Canadians it will represent abroad?

**Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)):** Honourable senators, this is about the fifth time I will answer the question about Mr. Khadr and Mr. Smith. I have not heard anyone express any concern about their victims. In any event, that is another matter.

With regard to Mr. Khadr, there is no question that the Government of the United States has announced it will close Guantanamo Bay. It is interesting to watch the media reports to see the difficulty that announcement is creating in the United States.

Having said that, the decision to close Guantanamo Bay has nothing to do with the charges against Mr. Khadr. Mr. Khadr faces serious charges. The United States government is in the process of dealing with these legal charges. The Government of Canada should respect the Obama administration and the process that it is currently following to deal with the legal proceedings against Mr. Khadr.

With regard to Mr. Khadr, the government has appealed the court ruling. We believe the government in the United States should be allowed to deal with the criminal charges against him.

With regard to the gentleman in Africa, the honourable senator is right. The court has ruled, and the Minister of Justice is reviewing that Federal Court decision at present.

**Senator Tardif:** Canada's world reputation for protection of human rights is plummeting. I quote from page 19 of the Universal Periodic Review by the Human Rights Council of the United Nations published on May 29, 2009. Denmark denounces Canada's policy:

Of no longer seeking clemency for Canadians convicted and given the death penalty in countries deemed to have "the rule of law."

Furthermore, the Netherlands recommends that Canada:

Consider reinstating the policy of seeking clemency for all Canadian citizens sentenced to death in other countries.

When will this government put into practice the Human Rights Council's recommendations?

**Senator LeBreton:** Again, I am amazed, honourable senators, at the concern for these individuals and no concern for their victims.

**Senator Cordy:** Not true.

**Some Hon. Senators:** Shame!

**An Hon. Senator:** What about China?

**Senator LeBreton:** The government responded to the recommendation regarding our clemency policy as part of our formal written response to the Universal Periodic Review. It was submitted to the United Nations on June 3. We indicated that we do not accept recommendation 30. We continue to consider whether to seek clemency for Canadians facing the death penalty abroad, as their cases arise. Canadian citizens detained abroad continue to receive all support and consular assistance from the government. However, we do not believe that we must automatically seek clemency.

**Senator Dawson:** Shame!

**Senator Tardif:** Shame!

**Senator Stratton:** Why not talk to the President of the United States? Talk to Obama.

**Senator Milne:** Short answers today.

## CITIZENSHIP AND IMMIGRATION

### ELIGIBILITY FOR CITIZENSHIP

**Hon. Jim Munson:** Honourable senators, my question concerns “Canadian-ness.” This government recently put forward a law that could effectively deny citizenship to a certain group of people.

Forgive me if I become personal, but I am thinking of my future grandchildren. Both my children were born overseas while I was working for a Canadian television company. The law I am talking about denies citizenship to potential grandchildren if they are born overseas. Under the proposed legislation, if my son were to fall in love with a beautiful French girl and have a child in France, the child would not be a Canadian citizen.

Can the Leader of the Government in the Senate explain why the Canadian government wants to exclude children who have been born abroad? Are they less Canadian?

**Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)):** Honourable senators, this law was brought in and I believe it was supported by the honourable senator’s party in the other place.

The Minister of Citizenship and Immigration was clear on this issue. We saw examples where the children of children of children of Canadians were eligible for Canadian citizenship although they had no intention of living, nor would they ever live, in Canada.

The law is clear. It does not discriminate against people who have legitimately claimed Canadian citizenship or who want to come to this country and live as good contributing citizens of this country. The minister was dealing with a situation where people had Canadian passports who had never lived in the country, and

never had any intention to live in the country, but expected Canada to step in and assist them when they had absolutely no connection with the country at all.

[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 answer to a question raised by Senator Milne on May 12, 2009, concerning Canadian Heritage, the Canada Media Fund.

## CANADIAN HERITAGE

### CANADA MEDIA FUND

*(Response to question raised by Hon. Lorna Milne on May 12, 2009)*

### ELIGIBILITY OF DOCUMENTARIES

The Canada Media Fund (CMF) will continue to support documentaries, along with drama, comedy, performing arts and children’s programming.

A market test will ensure that CMF investments are directed where they are most needed by the documentary production sector. The sector will be consulted on how best to design the test.

### SUPPORT TO INDEPENDENT PRODUCERS

While eligibility will be expanded for broadcaster-affiliated and in-house production, this will be introduced gradually to ensure the continued success of the independent production sector.

Our Government believes that the best ideas will come when there is a healthy level of competition, and when risk-taking is rewarded.

Independent small and medium-sized producers are well positioned to succeed in this environment, particularly given the advances and opportunities that new distribution technologies offer.

[English]

## QUESTION OF PRIVILEGE

### SPEAKER’S RULING

**The Hon. the Speaker:** Honourable senators, at the end of Orders of the Day on June 2, the Deputy Leader of the Opposition, Senator Tardif, rose on a question of privilege related to Bill S-7, An Act to amend the Constitution Act, 1867 (Senate Term Limits). She explained that on May 27, the Minister of State (Democratic Reform) issued a media advisory regarding the bill, which had not yet been introduced in the Senate. The next morning there was an announcement about the bill, and the Minister issued a release providing some information about its contents. All of this occurred before the bill was introduced in the

Senate. According to Senator Tardif the media thus had access to details about the bill's provisions in advance of it coming before the Senate.

[Translation]

Senator Tardif explained that these events appeared to run counter to government policy as described in the *Guide to Making Federal Acts and Regulations*. As far as she knew, no briefing had been offered to senators, at least to those in the opposition, although the guide suggests that briefings should be available to both sides if one is provided to the media before introduction. As she saw it, a press conference had taken "precedence over our rights as parliamentarians to be the first to examine and learn of the details of legislation introduced into Parliament." She went on to argue that, "If the contents of the bill were disclosed in private meetings to some of us but not to others before it was formally introduced into Parliament, the contempt against this chamber was compounded."

[English]

The Deputy Leader of the Government, Senator Comeau, was of a different opinion. He noted that Bill S-7 does not contain significant new proposals. In fact, the bill is similar to ones introduced in previous sessions. The government's policy of seeking to limit senators' terms has been common knowledge for some time, and the possibility of legislation formally restricting the terms of certain sitting senators has also been widely discussed.

• (1430)

Senator Fraser then noted two cases of possible relevance from the other place, both from 2001. In particular, the fourteenth report of the Procedure and House Affairs Committee, from March of that year, took the position that the House should have pre-eminence in legislative matters, with "the right . . . to be informed first." The report took the position that providing information to the media before introduction, but not to members, "impedes, obstructs, and disadvantages Members of Parliament in carrying out their parliamentary functions."

[Translation]

Honourable senators, the Speaker's role at this preliminary stage is to examine whether there is a *prima facie* question of privilege. Rule 43(1) outlines certain tests that the Speaker is obliged to consider. The matter "must, *inter alia*,

- (a) be raised at the earliest opportunity;
- (b) be a matter directly concerning the privileges of the Senate, of any committee thereof, or any Senator;
- (c) be raised to seek a genuine remedy, which is in the Senate's power to provide, and for which no other parliamentary process is reasonably available; and
- (d) be raised to correct a grave and serious breach."

[English]

Senator Tardif obviously raised her concern at the earliest opportunity. Bill S-7 was only introduced in the Senate on May 28, and she had to verify to what extent the previously

released material actually covered the contents of the bill. She has also indicated that she is prepared to move a motion should a *prima facie* question of privilege be established, thereby satisfying the third criterion.

The second and the fourth criteria can perhaps be best considered together. The fundamental concern appears to be that the events preceding the introduction of Bill S-7 constituted a form of contempt, tending to undermine or weaken respect for the Senate as a legislative body. Marleau and Montpetit, at page 52, defines contempt as "Any conduct which offends the authority or dignity of the House, even though no breach of any specific privilege may have been committed . . . Contempt may be an act or an omission; it does not have to actually obstruct or impede the House or a [senator], it merely has to have the tendency to produce such results."

[Translation]

In this case, however, nothing actually obstructed the Senate in its work, nor did the actions preceding the bill's introduction tend to produce that result. The media advisory and the release did not impair or minimize the role of the Senate. To be clear, senators will be able to debate Bill S-7 fully. They will be able to study the bill extensively in committee. They will be able to propose and debate amendments. This chamber will be able to accept or reject the bill. Nothing in the media advisory or press release in any way affected these basic rights and functions of the Senate. This house remains entirely unfettered when it comes to dealing with Bill S-7.

[English]

When considering this question of privilege, the distinction between the pre-parliamentary and the parliamentary stages of a bill must be taken into account. It is only after an individual senator actually introduces a bill, whether on behalf of the government or not, and it has been read a first time and ordered printed, that the Senate has formal knowledge of the proposal. Until introduction, the bill has no parliamentary existence; it belongs to the sponsor, whether the government or an individual senator, who can choose to do with it as he or she wishes.

An intention to introduce legislation can be indicated in different ways. The Speech from the Throne, for example, is used for this purpose. Both the government and individual parliamentarians frequently engage in widespread consultations before bringing bills to Parliament. This is sometimes preceded by news conferences or press releases. These practices are in keeping with the principles of openness and freedom of expression that are important to our society. This chamber must be most prudent before seeking to curtail or impede this useful, indeed essential, range of pre-parliamentary activities.

[Translation]

It is true that the fourteenth report of the Procedure and House Affairs Committee, mentioned by Senator Fraser, notes that in the Commons an issue of contempt may sometimes arise if the content of a bill is revealed. But we must be clear that this possibility only arises after formal notice has been given to the Commons that the bill will be introduced. This notice marks the point at which the bill takes on a parliamentary existence. Prior to this notice, the report recognizes that there can be consultations and discussion on the possible bill's contents.

[English]

Honourable senators, in the Senate, however, the point at which a bill begins its parliamentary existence is different. Unlike the Commons, we have no requirement for notice before first reading, so at no time do we have cognizance of a bill prior to first reading. Here, a bill is simply introduced at the appropriate time in Routine Proceedings, without notice. The Senate has not chosen to establish an intermediate phase during which we have been informed of the bill's existence but do not have access to its contents. An attempt by the Senate to control activities related to a possible bill, as yet unintroduced, would involve us trying to determine what can happen during the pre-parliamentary stages of a bill, claiming the power to determine who can talk to whom about what and in what circumstances.

It may be helpful, honourable senators, to consider the situation in some other jurisdictions when it comes to abusive contempts, that is to say words or actions disrespectful of a House of Parliament. The 1999 report of the Joint Committee on Parliamentary Privilege in the United Kingdom stated, at page 269, that:

In practice the Lords have long ceased to take any notice of an abusive contempt, and the Commons decision in 1978 to require evidence of substantial interference before treating a matter as a contempt has considerably reduced its scope. It may be noted that the Australian joint committee in 1984 considered claims of contempt in this area should be abandoned, and sections 4 and 6 of the Parliamentary Privileges Act 1987 (Australia) effectively abolished abusive contempt.

[Translation]

These jurisdictions are, therefore, not overly concerned about abusive contempt. For these houses to take note of such complaints, some significant interference in parliamentary work must be demonstrated.

It is also interesting to note that in Australia the government may decide to publish a draft bill and explanatory memorandum prior to the introduction of legislation in Parliament.

Of course, none of the above affects the situation when it comes to committee reports. As entities created by the Senate, whose work is authorized by this body, committees can only report to the Senate itself. This is not the case where bills originating in the Senate, either from the government or individual senators, are concerned. To repeat, until a bill is introduced, the Senate has no cognizance of it. Once introduced here, the bill is public.

[English]

Some senators may have objected to the way in which information was revealed prior to the introduction of Bill S-7. It must also be recognized that these events do not appear to be in keeping with the government's own guidelines. Those are, however, the government's guidelines, not Parliament's. In my judgment, neither the second nor fourth criterion of rule 43(1) has been met. There was no substantial interference in the work of the Senate or with its position as a House of Parliament. The ruling is, therefore, that a *prima facie* question of privilege has not been established.

[The Hon. the Speaker]

• (1440)

## POINT OF ORDER

**Hon. Joan Fraser:** Honourable senators, rule 18(5) states:

When the Speaker rises, all other Senators shall remain seated or shall resume their seats.

While His Honour was delivering his ruling I counted at least eight senators, and probably more, who were moving around the chamber as he spoke; senators on both sides of the chamber — this is not a partisan comment. I would be grateful if His Honour could remind senators of this rule.

**The Hon. the Speaker:** I thank the honourable senator for raising this matter.

Honourable senators, it is not out of any need for respect for the incumbent of this chair, but I would request that out of respect for the office that that particular rule be attended to.

I have hesitated to interrupt proceedings during my tenure as Speaker to remind senators that if they must have conversations, it would be much better if they would not be held in the chamber but rather outside the chamber, at least below the bar.

I know this is the desire of all honourable senators because many, as we know, work very hard in preparing arguments and presentations, and it is more than simply offensive to an honourable senator to have a lot of noise while he or she is presenting their paper. It is also offensive to others who are deeply interested in what that honourable senator is saying.

Therefore, I would ask that all of the rules that are there for the good order and conduct of the chamber be respected, which generally speaking are well respected. Certainly, as we know when we visit the other place, the quality and the atmosphere here is far more conscious of good order in the chamber.

I thank the Honourable Senator Fraser for raising that matter.

[Translation]

## ORDERS OF THE DAY

### BUSINESS OF THE SENATE

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, pursuant to rule 27(1), I wish to inform the Senate that, when we proceed to Government Business, the Senate will begin with Item No. 3 under Bills, followed by the other items as they appear on the *Order Paper and Notice Paper*.

[English]

## MAANULTH FIRST NATIONS FINAL AGREEMENT BILL

### SECOND READING

**Hon. Gerry St. Germain** moved second reading of Bill C-41, An Act to give effect to the Maa-nulth First Nations Final Agreement and to make consequential amendments to other Acts.

He said: Honourable senators, in the course of one's life, rarely do we get summoned to do tasks of great importance, but when opportunities to do good arise, there must be no hesitation to act.

As honourable parliamentarians, June 10, 2009, was one of those days. On that day we passed Bill C-28, An Act to amend the Cree-Naskapi (of Quebec) Act. That legislation put the force of law behind key aspects of this historic New Relationship Agreement. That legislation will have a profound influence on the lives of the Cree peoples of Northern Quebec and the futures of their communities.

As an Aboriginal person, I am truly honoured and impressed with the way all senators in this place support Aboriginal issues. Today, less than one week later, we have another opportunity to accomplish something truly exceptional.

Honourable senators, should the Senate adopt Bill C-41, Parliament will have made it possible to bring life to another landmark accord: The Maa-nulth First Nations Final Agreement.

This accord will have a profound influence on the peoples of the Maa-nulth First Nations and the future of their communities in British Columbia. The Maa-nulth First Nations Final Agreement is the second comprehensive treaty concluded under the British Columbia Treaty Process and the first under the process that involves more than one First Nation community.

As a senator from beautiful British Columbia, I am honoured that my home province continues to play such a prominent and successful role in Canada's efforts to negotiate and conclude final agreements with First Nations communities. The British Columbia Treaty Process can work and this agreement is proof of that. It works because of patience, diligence and collaborative spirit of federal, provincial and First Nations leaders. It works because of the faith and the wisdom of British Columbians. We know that the only true path to enduring settlements is marked by a spirit of equality, mutual respect and partnership.

In this spirit, I would like to take this opportunity to recognize Prime Minister Stephen Harper, Minister Chuck Strahl and Premier Gordon Campbell for their steadfast commitment to the process. I would also like to commend Chief Commissioner Sophie Pierre and her colleagues at the British Columbia Treaty Commission for their tireless efforts. I want to thank the negotiating teams led by chief federal negotiator Eric Denhoff, chief provincial negotiator Mark Lofthouse, and Maa-nulth First Nations lead negotiator Gary Yabsley.

The chiefs of the five Maa-nulth First Nations communities also deserve recognition for the leadership they have shown in enabling Canada to be in this special position today: Chief

Councillor Charlie Cootes of the Uchucklesaht Tribe; Chief Councillor Violet Mundy of the Ucluelet First Nation; Chief Councillor Tess Smith of the Ka:'yu:'k't'h'/Che:k'tles7et'h First Nations; Chief Councillor Robert Dennis Sr. of the Huu-ay-aht First Nations; and Hereditary Chief Anne Mack of the Toquaht Nation.

Thank you and congratulations to all of you.

Honourable senators, before I delve into the details of Bill C-41, the Maa-nulth First Nations Agreement, let me help you gain a greater understanding of the resourceful, ambitious people who will be immediately and directly affected by this legislation: the people of Maa-nulth First Nations. The Maa-nulth First Nations are five communities that have a combined population of some 2,000 people.

"Maa-nulth" means "villages along the coast" in the Nuu-chah-nulth language. Not surprisingly, the traditional lands of Maa-nulth First Nations are situated in two areas along the Pacific Coast of Vancouver Island, near Kyuquot Sound and Barkley Sound, approximately 3,300 square kilometres of land containing some of the most beautiful coastline anywhere in the world. It is easy for us to appreciate the respect and reverence that the people of Maa-nulth First Nations have for their traditional lands and waters, and their desire to preserve their rich and irreplaceable natural and cultural heritage.

I am pleased to tell honourable senators that the Maa-nulth First Nations Final Agreement enables these people to take greater steps to safeguard their traditions, their lands, their waters and their communities. In fact, the final agreement covers five vital aspects of community success, growth and prosperity, namely: land use, finances, taxation, natural resources and governance. Allow me to touch briefly on each of these key components of the final agreement.

The first component is land use. Through the final agreement, the Maa-nulth First Nations will hold in fee simple approximately 25,500 hectares of treaty settlement lands and former Indian reserves. This type of ownership gives the five communities flexibility to manage their lands and use them to generate long-term economic benefits. While the final agreement provides the government of these communities a wide range of law-making authority over these lands, federal and provincial laws continue to apply.

• (1450)

The next component is finances. Over the next 10 years, the five First Nations will receive a total of \$73.1 million in capital transfers, and during the next 25 years, these communities will receive an estimated \$1.2 million annually in resource payments.

The Maa-nulth First Nations will also be responsible for the delivery of a variety of agreed-upon social programs and services to their people. At the same time, these communities are fully accountable to their people and to the Government of Canada and British Columbia for the financial transfers they receive to support these programs and services.

Along with receiving these transfer payments, each Maa-nulth First Nation community is granted authority to level direct taxes on community members who live on treaty settlement lands. The section 87 Indian Act exemption for transaction and other taxes will also be phased out after eight and twelve years respectively.

At the same time, non-Maa-nulth First Nation members who live on Maa-nulth First Nation lands, and registered property owners who do not ordinarily reside on Maa-nulth First Nation lands, will be able to participate in discussions and votes on taxation decisions that directly and significantly affect them.

The fourth component of the final agreement deals with natural resources. Under its terms, members of each Maa-nulth First Nation community have the right to harvest fish and aquatic plants for food and for social ceremonial purposes. However, these rights will be limited by prudent measures related to conservation, public health and safety. At the same time, members of the Maa-nulth First Nations communities will be able to purchase commercial fishing licences in the open market and fish them according to the terms and conditions that apply to all other fishers in the commercial industry.

Finally, the Maa-nulth First Nations Final Agreement enables each of the five Maa-nulth First Nations to establish open, democratic and accountable governments. To be more precise, each community will develop its own constitution and each government will be elected largely according to an election code. I say "largely" because these communities will be able to appoint traditional chiefs to their governments if they so choose, an important recognition of the culture and heritage of Maa-nulth communities.

I am particularly pleased to point out that with the exception of determining Indian status, the Indian Act no longer applies to Maa-nulth First Nations, their lands or their members. However, the Canadian Charter of Rights and Freedoms will continue to apply to the people of Maa-nulth First Nations and their governments.

At the same time, each of these governments will enjoy all the attributes of modern democratic governments including: rigorous systems of financial administration; conflict of interest guidelines; processes that enable citizens to review and appeal administrative decisions; and specific provisions that protect the rights of non-Maa-nulth residents who live on treaty lands.

Land use, finances, taxation, natural resources and governance: Honourable senators, it is plainly visible that the Maa-nulth First Nations Final Agreement covers all aspects of modern civic life. It is also an agreement rooted in the time-honoured traditions, culture and practices of the Maa-nulth people.

These mutually reinforcing reasons convince me that the passage of Bill C-41 will have a transformative impact on the people of the Maa-nulth First Nations. Indeed, with the passage of Bill C-41, the Maa-nulth First Nations will be in an ideal position to take full advantage of the crucial levers necessary for community success, growth and prosperity.

Strong, elected, accountable governments will enable the five Maa-nulth communities to make their own decisions, create business partnerships with other communities and build more self-reliant communities of their own, communities that are ready,

willing and able to participate in the overall economic growth and development of Canada.

Honourable senators, I should remind you that these core aspects of the Maa-nulth First Nations Final Agreement dovetail perfectly with the key determinants of economic and social development for Aboriginal communities. These are determinants that we in this very chamber identified in our March 2007 report, *Sharing Canada's Prosperity: A Hand Up, Not a Handout*; determinants that we in this very chamber urged the government to make certain were central components of all settlement agreements.

To put this matter as succinctly as I can, if honourable senators really believe in the findings and recommendations of the *Sharing Canada's Prosperity: A Hand Up, Not a Handout* report — and I believe we do — then we must support Bill C-41.

Honourable senators, it is our duty to help the people of Maa-nulth First Nations build stronger, more successful, more prosperous communities. The Maa-nulth people and Canada have seized this chamber to act without hesitation by opening their door to a better future.

Honourable senators, in the B.C. legislature when they ratified the Maa-nulth agreement many months ago, I raised the words of the late Chief Dan George who used to say, "This is a good day."

Today, honourable senators, I say, let this be a good day. Let us read Bill C-41 and refer it to committee for further examination after a great delivery by my colleague, Senator Campbell.

**The Hon. the Speaker:** Questions and comments?

**Hon. Jeremiah S. Grafstein:** Will the honourable senator allow a question or two?

I will go back to the issue of water, an issue with which the honourable senator is familiar. I have not had a chance to read this thick document, the final agreement that is being implemented by this very slender bill. However, I find parts of it very interesting and perhaps one part might be of interest to the honourable senator. Section 8.5 of the agreement deals with groundwater. Essentially, it talks about water flows. Let me just quote the section. It says:

British Columbia will negotiate and attempt to reach agreement with the applicable Maa-nulth First Nations on the volume of groundwater that may be extracted and used for domestic, agricultural and industrial purposes.

What does that mean?

**Senator St. Germain:** It means the rules of British Columbia apply as to the taking of groundwater. It applies throughout. We have to have licences for our wells, and the laws of the province and federal laws apply to Maa-nulth First Nations.

**Senator Grafstein:** There appears to be some inconsistency. If you look at the recital of the act, it talks about self-determination, in effect, recognizing self-determination. On the other hand, we have the provincial overview responsible.



I agree with the honourable senator; the one thing that is absolutely clear in this agreement is that the Charter of Rights and Freedoms takes precedence, which solves many of our other questions we raised with previous agreements. However, this is a rather curious and confusing element in the agreement.

While on one hand, it says that the province has some sort of priority — I am not too clear about what that is — and the federal government has some sort of priority, which I am not too clear about either, it makes clear in this provision that this is not a settled matter. It indicates that British Columbia will negotiate and attempt to reach an agreement, so it does not appear to be clear that the federal government and the provincial government have prior and clear-cut authority on the question of water flow as it applies to all of the citizens of British Columbia.

**Senator St. Germain:** I will attempt to secure an answer for the honourable senator and clarify this issue. Hopefully, if it is the wish of the Senate, this bill will be going to committee and we will certainly clarify the honourable senator's question at that time.

**Senator Grafstein:** There are certain other things that I would like clarified because I do not expect the honourable senator to have these answers at his fingertips. Again, it is not clear to me whether or not the federal or provincial regimes with respect to drinking water, which is now clearly under the jurisdiction of the federal government, is changed by this agreement.

Is this a downloading? Is this a delegation? It is just not clear to me, and perhaps Senator St. Germain might have an answer to that question.

I was pleased just yesterday to meet in Utah with the chief of the Navaho Nation. He indicated to me, for the information of all honourable senators, that the Navaho Nation follows federal standards when it comes to clean drinking water, but their standards are even higher than the mandated federal regulation. I am curious to know what the federal government says about these questions.

**Senator St. Germain:** I will obtain the information for the honourable senator.

• (1500)

**Hon. Larry W. Campbell:** Honourable senators, it is my pleasure to rise today and give my support for Bill C-41, which will give effect to the Maa-nulth First Nations Final Agreement. I want to assist Senator Grafstein, who said that the bill is small. I have in my hand one of two binders available to all senators to read. They contain a description of the treaty with respect to water. I urge the honourable senator to read it. We will address that issue in committee tonight if the bill is referred to committee today.

As honourable senators know, I was a proud supporter of the Tsawwassen First Nations Treaty, the first of its kind in Canada. The Tsawwassen First Nations have set a precedent for Canada's First Nations groups through self-governance, and have been exemplary in their efforts thus far. It is my hope that the Maa-nulth First Nations will be granted self-governance, further empowering them and giving them the opportunity to grow and thrive as a unique First Nations group.

This area is of special significance to me. I have spent many summers in the Broken Islands Group, fishing with members of this nation. It was probably the best salmon and halibut groundfishing I have had in the Broken Islands Group. More importantly, this area is of special significance to these First Nations. The villages that were there and their presence that you can feel when you are in that area is truly amazing. It is without a doubt to my mind one of the most beautiful places in the world, and these First Nations have respected that and grown on it.

These sorts of treaties are exactly the sort of efforts that Canada needs to encourage if we are serious about making good on Canada's reconciliation efforts based on last year's residential school apology.

The implementation of this agreement will mean democratic and accountable governments for the five Maa-nulth First Nations. Under the agreement, each First Nation will have the ability to levy direct taxes on their members, harvest wildlife on their lands for food, social or ceremonial purposes, and acquire commercial fishing licences. The Maa-nulth people will gain self-governance law-making powers with regard to their land, the resources on it, the dispensation of health services, adoption policies and education. They will have financial stability. Most importantly, they will have all these privileges knowing that they are constitutionally protected.

I am encouraged to see that the giant step toward self-governance taken by the Maa-nulth have been given great support. This treaty has been in process since 1992. The bill will not only foster stronger, more stable communities for the Maa-nulth peoples, but also will provide a framework for other First Nations across Canada and will promote positive relationships with the First Nations people nationwide.

Bill C-41 has support from local and provincial governments, from honourable senators in this place and our counterparts in the other place. Most importantly, the bill has the support of the Maa-nulth people. I thank the community members, elders and chiefs who have dedicated so much to bringing this treaty before us. I look forward to the rapid passage of this bill.

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

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

## CANADA—PERU FREE TRADE AGREEMENT IMPLEMENTATION BILL

### THIRD READING

**Hon. Consiglio Di Nino** moved third reading of Bill C-24, An Act to implement the Free Trade Agreement between Canada and the Republic of Peru, the Agreement on the Environment between Canada and the Republic of Peru and the Agreement on Labour Cooperation between Canada and the Republic of Peru.

He said: Honourable senators, I thank you for this opportunity to speak to Bill C-24, an act to implement the Free Trade Agreement and parallel agreements on labour cooperation and the environment.

I want to take a few moments before delving into the details of this agreement to express that the Canadian government deeply regrets the loss of life that occurred recently in the Peruvian Amazon. We are following the situation closely, and we are encouraged that a mediation process has been established. We continue to urge both sides to resolve this issue through peaceful and constructive dialogue.

Working toward a deeper economic relationship with Peru and Canada is of great importance to the Government of Canada. The initiative for an FTA with countries in the Andean region dates back several years, when Canada and the Andean Community countries began discussions on a possible FTA. The government carried out extensive consultations with domestic stakeholders in Canada, which revealed broad support for pursuing an FTA.

Through the ensuing exploratory process, it became clear that not all of the Andean countries were prepared to move forward with a comprehensive trade agreement. Peru, however, clearly stood out as a country that was actively engaged in economic reform and seeking free-trading partners with priority countries such as Canada.

[Translation]

This free trade agreement is part of the government's comprehensive efforts under its global commerce strategy to open new opportunities for Canadian businesses. It also forms part of the government's efforts to strengthen Canada's engagement in the Americas by fostering economic development and strengthening democracy and security.

The current global economic downturn creates an additional urgency to succeed in these efforts for both Canada and Peru — not only as an instrument to increase economic activity, but also as a means to fight trade protectionism that could seriously undermine global recovery efforts.

[English]

The FTA with Peru will give Canadian exporters, investors and service providers preferential access to a dynamic, emerging economy with approximately 28 million people and a market that experienced growth in gross domestic product of over 9.8 per cent in 2008 — a growth higher than that experienced by China and India.

In its April 2007 report entitled, *Ten Steps to a Better Trade Policy*, the House of Commons Standing Committee on International Trade, CIIT, instructed the government to give priority to negotiating defensive FTAs to address competitive disadvantages. This proposed FTA with Peru responds to this recommendation.

Canadian exporters are at immediate risk of losing markets in Peru due to the coming into force of the United States-Peru Trade Promotion Agreement on February 1, 2009. Recently, Peru

completed trade negotiations with China and the European Free Trade Association, and is negotiating with the European Union, South Korea, Mexico and Thailand. Each of these preferential agreements will erode the competitiveness of Canadian businesses. Our firms and Canadian workers deserve FTAs that address the situation and allow them to compete in international markets on a level playing field.

• (1510)

In the area of market access for goods once this FTA is implemented, Peru will eliminate tariffs on virtually all of Canada's current exports, including on key products such as wheat, barley, lentils, peas, as well as wood and forestry products, and a range of industrial machinery. Canadian tariffs on the vast majority of imports from Peru will also be eliminated immediately.

On services, the FTA will provide enhanced market access for a range of services in key sectors of interest to Canada, including mining, energy and professional services like engineering, architecture and information technology. Canada's banking, insurance and securities sectors will also enjoy greater access to the Peruvian marketplace.

The FTA also builds on the existing Foreign Investment Promotion and Protection Agreement, FIPA, and gains new ground for Canadian investors. Strong obligations ensure the free transfer of capital related to investment; protection against expropriation without adequate and proper compensation; and, non-discriminatory treatment of Canadian investments.

Also, contrary to some assertions, the FTA clarifies that the parties can take non-discriminatory measures to protect legitimate public welfare objectives such as health, safety and the environment.

[Translation]

This agreement also provides an effective method of legally-binding, impartial conflict resolution. Together, the investment provisions of the FTA provide investors with the security, stability and predictability they need. To compete effectively in global markets, Canadian firms must increasingly import, export and invest abroad to improve efficiencies through global supply chains.

[English]

Research shows that foreign investment facilitates improved research and development, innovation and productivity. According to Export Development Canada, every dollar of investment is expected to generate approximately \$2 of additional exports in emerging markets.

We have seen this demonstrated in our relationship with Peru. Our stock of investment stands at \$2.4 billion and our exports have more than doubled over the last five years. Imports from Peru are also increasing and they are, in many cases, directly

[ Senator Di Nino ]

related to our mining investments. Most of our imports from Peru are in the form of metals that are imported for further processing in Canadian facilities or for use in Canadian production.

Given these facts, it is important that we view this FTA holistically. This is not just about exports; the success of Canadian firms and jobs in Canada are also linked directly to investment and imports. This is the nature of a globally-integrated trade.

Canadian direct investment abroad connects Canada to global operating platforms that are critical to our competitiveness. These investments need to be protected or they place our companies and Canadian workers at risk. In this regard, the investment provisions of the Canada-Peru FTA, like our many FIPAs, are intended to provide such protection.

On government procurement, the FTA guarantees Canadian suppliers the right to bid on a broad range of goods, services and construction contracts carried out by Peru's federal government entities. Opening up government procurement ensures that benefits negotiated with other chapters, such as tariff cuts, are not eroded by barriers behind the border, such as procurement policies that favour domestic suppliers or other trading partners like we have seen elsewhere recently.

Accessing the government market in Peru represents a significant opportunity for Canadian exporters. The total value of government contracts in Peru was about U.S. \$5.6 billion in 2006 and is projected to increase to U.S. \$9.8 billion for 2009. In addition, in response to the current economic downturn, approximately U.S. 3 billion has been set aside for stimulus spending on infrastructure. American suppliers already have preferential access to this market. Our firms deserve the same.

I would like now to emphasize that the Government of Canada always encourages Canadian business communities, including the mining, oil and gas sectors, to respect all applicable laws, to meet corporate social responsibility, CSR, standards and to operate transparently and in consultation within the country and its local communities, including indigenous communities.

As such, honourable senators, the FTA and parallel agreements on the environment and labour cooperation with Peru include new provisions that further encourage governments that promote principles of responsible business conduct with their business communities. These commitments complement Canada's broader efforts, including the government's new CSR strategy that will enhance the ability of Canadian mining, oil and gas companies to meet and exceed their social and environmental risks while operating abroad. This includes the creation and continued support for a new CSR councillor. It includes the development of Peru's Mining Information Kit for Aboriginal Communities, an adaptation of the Canadian version, and an example of cooperation on CSR activities among stakeholders. Third, it includes Canada's ongoing support to Peru's implementation of the Extractive Industry Transparency Initiative, EITI, through the Multi-Donor Trust Fund.

[Translation]

The Labour Cooperation Agreement will also help strengthen labour rights and protect workers. By signing this agreement, Peru has committed to ensuring that its laws respect high

standards of labour rights, including the International Labour Organization's 1998 Declaration on Fundamental Principles and Rights at Work. This declaration covers the right to freedom of association and collective bargaining, the abolition of child labour, the elimination of forced labour, and the elimination of discrimination.

[English]

This labour agreement opens up new pathways for cooperation. Canada is offering its resources and expertise to help Peru fully implement this agreement and the government has announced a \$1 million labour-related cooperation program. Furthermore, honourable senators, the side agreement on environmental cooperation has committed both Canada and Peru to pursuing high levels of environmental protection.

Special focus is being given to corporate social responsibility and the preservation of biodiversity, which are important issues for Peru, given that it is home to some of the most diverse biological resources in the world. Canada is committed to working with Peru and Canadian companies to help protect and conserve these resources.

[Translation]

I would like to conclude by noting that Peru has achieved remarkable economic progress in recent years. This success has reinforced social progress with a decline in poverty rates, the halving of infant mortality rates, and significant advancement in the role of women in the workplace and in political office. Even in the face of the current economic crisis, Peru's economy is expected to grow by 3.5 per cent this year.

[English]

Honourable senators, let me say again the Canadian government is very concerned any time there is a loss of life, such as those that occurred last week in the Peruvian Amazon, and will continue to monitor the situation closely and encourage a peaceful solution. Building a mutually-beneficial relationship with Peru through instruments at our disposal, such as this FTA, will deepen and solidify Canada's relationship with Peru and increase Canada's influence on developments in this region.

The FTA has the support of key exporters and investors across Canada. It responds directly to the House of Commons Committee on International Trade's call for negotiations of defensive FTAs in a timely manner, and is the key element in the government's re-engagement in the Americas to promote prosperity, security and democracy.

**Hon. Percy E. Downe:** Honourable senators, Bill C-24 is before this chamber for third reading. It was referred to the Standing Senate Committee on Foreign Affairs and International Trade on June 9, 2009.

We have heard statistics on how Canada's trade with Peru has grown, and we heard from this government how the Canada-Peru Free Trade Agreement will lead to increased opportunities for trade. We have not, however, heard from stakeholders, such as the agricultural sector, about how they will be affected by the passage of this bill. We have not heard from experts on intellectual property rights on what Canada can do to improve the provisions of this agreement in the future. We have not heard from those concerned about the link between free trade and the government's decision to shift foreign aid priorities from Africa to our trading partners, Peru and Colombia.

• (1520)

Peru is travelling the world negotiating trade agreements with everyone they can: Singapore, China, the EU, Chile and Canada. However, despite a clear willingness on their part to complete trade negotiations with Canada, the federal negotiators were unable to obtain a strong and effective trade agreement for Canada. In a number of sectors, the agreement puts Canadians at a competitive disadvantage from other countries, specifically the United States.

This bill and trade agreement should not be considered in isolation. The prosperity of Canada does not depend on the signing of a free trade agreement with Peru. However, if the results achieved in trade negotiations with Peru reflect Canada's ability to negotiate a strong trade agreement, we are in serious trouble. If this is the best deal we can negotiate with the Republic of Peru, a developing country, what will the Government of Canada be able to achieve negotiating with more aggressive trading partners such as the European Union?

Despite the clear willingness on the part of Peru to complete trade negotiations, this agreement puts Canada at a disadvantage in a number of sectors. To assist the Government of Canada in an effort to prevent the same problems from occurring in future trade agreements and to improve the outcomes, the Standing Senate Committee on Foreign Affairs and International Trade has made a number of recommendations for the government to be attached to Bill C-24.

We expressed our concern that the bill, and the agreement that it enacts, puts Canada in a number of sectors at a competitive disadvantage that we can address.

We recommended that the Minister of International Trade undertake a review of the Canada-Peru Free Trade Agreement, the Agreement on the Environment and the Agreement on Labour Cooperation five years following its implementation to evaluate the trade implications for Canadian exporters and, if necessary, put forward a plan to undertake further negotiations with the Republic of Peru to enhance the agreement.

We also put forward that at a minimum in all future free trade agreements, Canada should seek to obtain a provision as that found in Appendix 1, section 2(d)(ii) of the Tariff Schedule for Peru in the United States-Peru Trade Promotion Agreement. That section allows the United States to automatically obtain any beneficial agricultural-related provision negotiated by Peru and other countries in the future. The Canada-Peru agreement does not include such a clause; therefore, Canada will fail to benefit from future trade measures adopted by Peru that will otherwise benefit other countries.

Finally, we recommend that the Government of Canada ensure that our best negotiators, either inside or outside of the federal government, in the public sector or in the private sector, represent Canada in trade proceedings to obtain stronger and more effective trade agreements. We expressed the view that trade priorities should be excluded from Canada's decisions regarding foreign aid. Let us hope the government follows our advice.

Before concluding, honourable senators, I should like to address the recent violence in Peru between the police and the Aboriginal population in the Amazon. I am sure there is concern from senators on all sides, as Senator Di Nino outlined. It is my hope that this situation improves as soon as possible to restore peace so that all parties can work together to resolve these issues.

I spoke this morning to the Ambassador from Peru to Canada. He advised me that the government has established a commission with representatives from the national government, regional governments and the Aboriginal population, and they are working toward developing new land laws. I am sure all honourable senators join me in wishing them great success.

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

**Hon. Senators:** Question.

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

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

## CONSTITUTION ACT, 1867

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

On the Order:

Resuming debate on the motion of the Honourable Senator LeBreton, P.C., seconded by the Honourable Senator Comeau, for the second reading of Bill S-7, An Act to amend the Constitution Act, 1867 (Senate term limits).

**Hon. James S. Cowan (Leader of the Opposition):** Honourable senators, here we go again. We have seen this movie before. This is essentially the same bill on Senate tenure that was extensively studied by this chamber only two years ago. At that time, serious issues as to the bill's constitutionality were raised by provincial governments and by a significant number of eminent Canadian constitutional experts. After considering these views — in contrast to the Harper government, we listen to Canadians — we suggested that the government ask the Supreme Court of Canada whether the bill was constitutional; but, the government was not interested in hearing from the Supreme Court. It had decided that the bill was constitutional and no one — no constitutional expert, no provincial government, not even the Supreme Court of Canada — was going to tell it otherwise. How ironic.

Under the guise of its supposed “commitment to strengthen our democratic institutions,” as Senator LeBreton put it last week, the Harper government is doing an end-run around our Constitution and the Supreme Court of Canada.

Our Constitution, honourable senators, is the bedrock of our Canadian parliamentary democracy and federation. The Supreme Court is the ultimate arbiter of our Constitution. However, this Prime Minister is not interested. He knows best what our Parliament should look like and how it should work and has only disdain for any Canadian who dares to disagree. Is the bill constitutional? He says it is, and that should be enough. Who cares what the experts and the provincial governments and the Supreme Court say? I have heard various names for that kind of government, but “strengthened democracy” is not one of them.

Can the Senate be improved? Of course it can, but reform of one of our houses of Parliament deserves to be done seriously, not by cheap political ploys designed to appeal to a particular political constituency. I would welcome the opportunity to engage in serious discussion of ways to improve this place. Frankly, I believe that those Canadians who advocate for Senate reform want and deserve serious proposals. However, this bill is not serious. It does not even pretend to address the real issues of concern to anyone who cares about Senate reform.

No one believes that if only we had term limits, then finally the Senate would be able to “fulfil its potential as a democratic institution,” to quote Senator LeBreton again. The Leader of the Government in the Senate was refreshingly frank when she spoke here last week about this bill. She admitted that term limits are not the real issue of concern to those desiring Senate reform, but she says that, under present day circumstances, real Senate reform is not “doable” — “there is no climate now for those discussions.”

**Senator Comeau:** You are in full spin now.

**Senator Cowan:** In other words, honourable senators, this government knows that this is not a serious proposal. Mr. Harper has no interest in presenting any serious proposal. Why, you may ask, would he table this bill again? The obvious answer is that it is yet another attempt by the Harper government to deflect Canadians’ attention away from its mismanagement of the truly pressing issues of the day — to change the channel. I suspect it is also an attempt to appease its so-called political base that is increasingly unhappy with Mr. Harper’s government.

• (1530)

**Some Hon. Senators:** Shame.

**Senator Cowan:** Honourable senators will have their opportunity to participate in a minute.

How disrespectful to Canada to treat the Constitution and fundamental institutions of Canadian democracy as a political bone to be tossed to unhappy constituents. How insulting it is to those constituents to believe that they can be manipulated so easily.

Although the essence of Bill S-7 is the same as Bill S-4, which the Harper government tabled here on May 30, 2006, there are some curious differences. I was intrigued to see the proposal in

Bill S-7 that a person whose term as senator is interrupted may be summoned again to fill the remainder that senator’s term. Does that mean we may have the pleasure of Senator Fortier’s return to this chamber?

I found the retroactive provision in clause two interesting. It must come as a surprise — I suspect an unpleasant surprise — to our 18 new colleagues to learn that their tenure here may be shorter than expected.

**An Hon. Senator:** We will miss you.

**Senator Cowan:** Unlike Bill S-4, this time the eight-year term limit is not renewable and the mandatory age of retirement remains at age 75.

Honourable senators, we took Bill S-4 seriously. Our Standing Senate Committee on Legal and Constitutional Affairs spent many hours studying the bill. Witnesses flew in from across the country, including numerous prominent constitutional lawyers and scholars who took time from their busy schedule to give us their considered views of the bill. Provincial ministers and even premiers wrote thoughtful and serious analyses of the bill detailing their profound concerns with its constitutionality.

Let me quote from the committee’s report to this chamber:

The overwhelming weight of testimony that our committee heard supported the conclusion that there are significant constitutional concerns if we proceed as proposed by the current federal government and pass Bill S-4 pursuant to the amending powers set out in section 44 of the Constitution Act, 1982.

The committee recommended that the Senate ask the government to refer the bill to the Supreme Court of Canada to determine whether it is constitutional. The Senate agreed. Indeed, when the vote took place on the committee’s report, the record shows that the decision was unanimous — no dissenting voices. After belated protests from several honourable senators opposite, the vote was recorded as being on division.

That was exactly two years ago, June 19, 2007. This government, whether out of hubris or because it feared what the Supreme Court would say, chose to do nothing. Here we are two years later and we are absolutely no further ahead. Mr. Harper now chooses to table essentially the same bill. Absolutely nothing has changed.

**Senator Comeau:** No respect.

**The Hon. the Speaker *pro tempore*:** Order please.

**Senator Cowan:** Without a doubt, had the Harper government accepted our advice to ask the court for its opinion, the matter would have been settled long ago. We would have known if this bill is constitutional, or whether Prime Minister Harper’s recipe for Senate reform must proceed along a different constitutional path.

As I said, our Legal and Constitutional Affairs Committee studied Bill S-4 extensively. Eminent constitutional scholars and representatives of provincial governments — Senator Comeau, when you speak, I listen to you. I ask the same from you.

**Senator Comeau:** Have some respect for the Prime Minister of Canada, for crying out loud.

**Senator Cowan:** I have great respect for the office of the Prime Minister of Canada.

**An Hon. Senator:** Call him mister.

**Senator Comeau:** Show him some respect.

**Senator Cowan:** You will have your opportunity, Senator Comeau. I listen to you when you speak; I ask you to listen to me when I speak. You will have your turn to participate in this debate.

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

**Senator Cowan:** Their views have been ignored, swept aside by the Harper government without even the dignity of a response. Mr. Harper did not like what he heard, so he simply pretended it never happened. Once again, we see that the Harper government listens only to those who agree with its positions. Scientists, constitutional scholars and, now, even the Supreme Court are ignored by this government — their views deep-sixed.

Indeed the Leader of the Government in the Senate told us that we should, “not let the deliberations surrounding the original Bill S-4 prejudice the important progress that we can achieve by moving this bill forward.” Exactly what in those earlier deliberations would the government leader prefer that we not spend any time thinking about? Perhaps it is this observation contained in the committee’s report on Bill S-4, which reminded everyone of the critical role the Senate played in the Confederation compromise of 1867. I quote from the report:

The place of the Senate within the governing framework of Canada was arguably the most important and contentious issue faced by the framers of our Constitution. Though there were some, particularly those from the most populous region, Upper Canada (Ontario), who would have preferred a unicameral parliament, a second chamber was critical for those from the less populous regions. As George Brown described it: “Our Lower Canada (Quebec) friends have agreed to give us representation by population in the lower house, on the express condition that they would have equality in the upper house. On no other condition could we have advanced a step.” Alexander Mackenzie, who went on to serve as our second Prime Minister, observed: “The most important question that arises relates to the constitution of the upper house.”

Honourable senators, proposals to reform the Senate have been put forward from the very day that the Senate was established. In 1978, the government of Prime Minister Trudeau asked the Supreme Court of Canada on a reference whether any or all of a list of changes to the Senate could be effected by legislation passed by the Parliament of Canada — in other words, without the involvement of the provinces.

One of the proposed changes was to change the tenure of members of that house. That was the well-known upper house reference. The court said:

At some point, a reduction of the term of office might impair the functioning of the Senate in providing what Sir John A. Macdonald described as “the sober second thought in legislation.” The [1867 Constitution] Act contemplated a Constitution similar in principle to that of the United Kingdom, where members of the House of Lords hold office for life. The imposition of compulsory retirement at age seventy-five did not change the essential character of the Senate. However, to answer this question we need to know what change of tenure is proposed.

At the end of its decision, the court summarized the law on what changes may and may not be made by the Parliament of Canada acting alone:

Dealing generally with Question 2, it is our opinion that while s. 91(1) [the relevant provision at the time] would permit some changes to be made by Parliament in respect of the Senate as now constituted, it is not open to Parliament to make alterations which would affect the fundamental features, or essential characteristics, given to the Senate as a means of ensuring regional and provincial representation in the federal legislative process. The character of the Senate was determined by the British Parliament in response to the proposals submitted by the three provinces in order to meet the requirement of the proposed federal system. It was that Senate, created by the Act, to which a legislative role was given by section 91. In our opinion, its fundamental character cannot be altered by unilateral action by the Parliament of Canada and s. 91(1) does not give that power.

The witnesses before the Legal and Constitutional Affairs Committee agreed that under the Supreme Court’s decision, some reductions of tenure would be constitutional, like the change of lifetime tenure to retirement at age 75, but others would not. None of the witness, not even the Department of Justice’s general counsel for constitutional and administrative law could say where the dividing line falls.

The evidence before the committee indicated that there are three critical characteristics that must be maintained in any proposed change of tenure for the change to be constitutional. First is the Senate’s thorough independence. Second is the Senate’s capacity to provide sober second thought. Third is the Senate’s role as a means of provincial and regional representation.

• (1540)

Let me quote again from the committee’s report:

Witnesses raised a number of concerns about the proposed 8-year term that related to these constitutional issues, including the fact that the term would allow a two-term Prime Minister to appoint every single senator in the Chamber. This would profoundly undermine the Senate’s ability to fulfil its role as “a thoroughly independent body” of sober second thought. Virtually every expert who testified before us agreed that this is a significant problem.

Honourable senators, think about it: An eight-year term for senators means that a two-term prime minister could appoint every single senator. I cannot believe any of us in this chamber would seriously argue that this would be an acceptable state of affairs.

The Government of Ontario, in commenting on this issue before the committee in its submission to the committee, said:

The Prime Minister's new power to appoint every member of the Senate over eight years would significantly expand his appointment power and impair the independent functioning of the upper chamber. The result would be a partisan institution with nearly co-equal powers to the House of Commons and an institution that would be more likely to exercise those powers in order to appease or obstruct a government, creating an untenable situation.

Other problems with the proposed eight-year term were raised by witnesses. In the end, the committee amended Bill S-4 to change the proposed eight-year term to a longer one, which would not allow a two-term Prime Minister to appoint the entire chamber and thus utterly undermine its ability to perform its constitutional function.

Unfortunately, Mr. Harper has stuck with the eight-year term in Bill S-7. Apparently, this is precisely the result that he wants — to be able to appoint every single member of this chamber.

Our colleague Senator Oliver once, in another context, referred to the importance of upholding the Senate's ability to serve as a "watchdog" and not a "lapdog" of the Prime Minister. I am confident that my friend Senator Oliver will be one of the first to protest this proposed term of eight years.

That is an invitation, Senator Oliver.

Honourable senators, we are well aware that the Senate was created "as a means of protecting sectional and provincial interests," to quote from the Supreme Court of Canada's decision. However, nowhere in her speech on Bill S-7 did the Leader of the Government in the Senate even mention the word "provinces."

During questions and answers following her speech, she was finally forced to use the word "provinces," but only to say that they "have not involved themselves in the debate on a simple matter of Senate tenure." Their concern is restricted to "regional representation," which she told us is not relevant in terms of Senate tenure. I was surprised to hear her say that. Perhaps it is time she re-read the report of our Legal and Constitutional Affairs Committee and the submissions received from the various provincial governments. Once again, this government hears only what it wants to hear.

Honourable senators, let me read to you from the letter from the Premier of the Province of New Brunswick, Shawn Graham:

An additional concern of the Government of New Brunswick regarding Bill S-4 in its current form is the ability of any Federal Government in power for at least two full mandates to completely replenish the ranks of the Senate using an as yet undefined process. This follows

directly from the proposed reduction in the tenure of senators to only eight years. Again here, this can only lead to a dilution of the independence of the regional representation in the Senate. For a Province like New Brunswick, it is difficult to conceive how such a proposal could be favourable to its interests.

Honourable senators, the government is being disingenuous in presenting Bill S-7 to us as a stand-alone bill to effect a minor reform of the Senate. In fact, in a press conference announcing the tabling of Bill S-7, the Minister of State for Democratic Reform was very clear that this is only one part of the government's plan to reform the Senate. He said:

In the coming weeks we will introduce legislation to allow for nominees to the Senate to be selected by voters.

The Leader of the Government in the Senate confirmed this later in the same press conference when she said:

We will shortly, as Minister Fletcher mentioned, be introducing a bill to implement a Senate Appointments Consultation Process.

In other words, honourable senators, Bill S-7, just like its predecessor Bill S-4, is really part of a larger scheme — part of an overall design to reform the Senate. Indeed, just as the tabling of Bill S-4 was followed by the tabling of Bill C-43, the Senate Appointment Consultations Act, so we are told that Bill S-7 will be followed shortly by "a bill to implement a Senate Appointments Consultation Process."

Two years ago, this fact that Bill S-4, contrary to the government's representation, was not a minor, stand-alone reform of the Senate but rather was part of a larger plan, was an important factor for several constitutional experts and, as well, a number of provinces.

The central issue before the Standing Senate Legal and Constitutional Affairs Committee, and then for the Senate in considering the committee's report, was the constitutionality of Bill S-4. This involved examination of both the substance of the proposal and, as I have mentioned, there were serious concerns about the constitutionality of the proposed eight-year term, and also the proposed method of amending the Constitution.

Honourable senators, as we are well aware, our Constitution contains several amending formulae depending on the substance of the proposed amendment. These amending formulae were very carefully negotiated and drafted. It is critical that any amendment be effected in accordance with the proper formula.

The Harper government contends that the amendment set out in Bill S-7, like Bill S-4, can be effected under section 44 of the Constitution Act; that is, by act of the Parliament of Canada without involvement of the provinces.

Our Legal and Constitutional Affairs Committee heard extensive testimony from prominent constitutional experts who advised that this issue is far from clear. They suggested that the correct formula could well be section 42 of the Constitution Act, the so-called 7/50 amending formula.

As I mentioned before, the Premier of New Brunswick felt that the change to an eight-year tenure in itself diluted the independence of regional representation in the Senate and, as such, was not an amendment that could be implemented at the federal level without any provincial involvement.

A number of constitutional experts similarly told the committee that this was not an amendment that could be made by the federal Parliament acting alone. For example, Professor David E. Smith of the Saskatchewan Institute of Public Policy, a highly respected scholar, who has written extensively on the Senate, told the committee:

Any proposal to alter the Senate, whose effect would compromise the Senate's independence and which, at the same time, has not met some standard of provincial concurrence for amendment of the Constitution — a set of circumstances, I believe, that echoes those leading to the reference opinion itself in 1980 — would undermine the essential characteristic of the upper house in my view.

The government maintains that the proposed change to a fixed term of eight years for senators in place of a mandatory retirement at the age of 75 may be implemented by Parliament acting alone under section 44 of the Constitution Act, 1982. Honourable senators have heard contradictory testimony from constitutional experts as to the soundness of that position. Professor Smith stated:

My own view is that a fixed term for senators — whether renewable, or elected or appointed — challenges the principle of independence that the Fathers of Confederation sought to entrench in the structure of the Senate and which the Supreme Court of Canada reiterated in 1980.

The committee heard from expert after expert who expressed the same view. The fact that the tenure bill was being followed by a Senate appointments consultation process bill cast the constitutionality of using section 44 into even greater doubt.

Professor Joseph Magnet, a highly respected professor of constitutional law, testified that he believed there was “a real risk” that Bill S-4 would not survive constitutional scrutiny.

• (1550)

Roger Gibbins of the Canada West Foundation, who has been one of the most active proponents of Senate reform, testified the same day as Professor Magnet before our committee. To his own dismay, he found himself persuaded by Professor Magnet. He agreed that a reference to the Supreme Court of Canada was required. He said:

I would say that the test you have heard this evening has introduced more serious questions in my mind about the constitutionality of what we are doing, and I find that deeply depressing, but also somewhat convincing.

Professor Errol Mendes, another professor of constitutional law, agreed with Professor Magnet:

It is generally known that Bill S-4 is only a precursor to a larger attempt to have future appointments to the Senate come under a federally regulated advisory elections framework. In my view, if the two statutes or two attempts are linked, it profoundly is unconstitutional.

...

In conclusion, with all of the arguments I have presented, there is good reason to suggest that Bill S-4 should be withdrawn until further study is undertaken to understand what is really at stake in this piecemeal and dubious attempt to reform the Senate so that it is consistent with the principles of modern democracy.

I will not list all the constitutional experts who came to Ottawa to testify about the bill. Repeatedly, the committee was warned that the government's proposal to make piecemeal incremental reforms to the Senate using section 44 would not pass constitutional muster. At the least, the question should be referred to the Supreme Court.

Honourable senators, last week Senator LeBreton told this chamber:

The government's position is clear, honourable senators: Bill S-7 is constitutional and there is no need to further delay the reform process with a Supreme Court reference or any other obstructionist tactic.

She referred to the committee's request for a Supreme Court reference as a “stunt.”

Honourable senators, in the view of the Harper government, that recommendation is “an obstructionist tactic” and a “stunt.” I could understand such a statement if there was no question of a bill's constitutionality; but in a case like this one, where eminent witness after eminent witness urged us not to pass the bill without a reference to the Supreme Court, to call a request “an obstructionist tactic” is nothing less than insulting.

Do the Leader of the Government and her colleagues opposite fully understand the nature of the issues presented by the government's bill?

At one point during the press conference announcing the tabling of the bill, she said that the bill “allows us to change the tenure in the Senate without changing the Constitution.” She really did say that. It is in the transcript.

Honourable senators, it is a simple fact that Bill S-7 would change the Constitution. The title of the bill says so: An Act to amend the Constitution Act, 1867 (Senate term limits).

In addition, while Senator LeBreton and Minister Fletcher appear to believe that the other proposed bill, to implement a Senate appointments consultation process, could also rely on section 44 to amend the Constitution, their caucus colleague,



Senator Rivard, is on record as disagreeing. He appeared at the same press conference alongside Senator LeBreton and Minister Fletcher, and said:

As to an elected Senate and how to achieve it, that is different. We have to reopen the Constitution and that takes the agreement of 50 per cent of the population, represented by seven provinces.

**Senator LeBreton:** He was right.

**Senator Cowan:** Honourable senators, three people attended that conference on behalf of the government, and they had a difference of opinion as to whether the government can properly proceed as it proposes to do. Given this — and the government chose these people to represent its position at the public press conference — how can we be expected to trust the government when it assures us, contrary to the massive evidence heard by our Legal and Constitutional Affairs Committee on virtually the same bill, that this bill is constitutional?

This brings me to the critical issue of the position of the provinces, our partners in Confederation. As I said before, I was struck by the fact that Senator LeBreton did not even mention the word “provinces” in her speech. Once again, this government has refused to consult the provinces on this proposal for Senate reform.

Contrary to what Senator LeBreton would have us believe, provinces have expressed a desire to be consulted. They have stated in crystal-clear terms that amendments such as those proposed by this government may not be properly made under section 44. Their position is that provincial consent is required under the Constitution, under the 7/50 rule.

To quote the Premier of New Brunswick in his letter to the committee:

The Government of New Brunswick does not accept the conclusions . . . that the Government of Canada has the constitutional authority to unilaterally proceed with this proposed change to the tenure of senators. . . . The genius of the Canadian Constitution is the careful balance that has been struck between the more populated and less populated regions of the country as well as between the rights of the majority and the protection of minorities. While a term limit of eight years might be appropriate as part of a comprehensive reform of the Senate, a piecemeal and unilateral approach by the Government of Canada to Senate reform has the potential to lead to a highly unsatisfactory and divisive result.

From one of the smallest provinces in the federation, we now go to one of the largest. The then-Minister of Intergovernmental Affairs and Minister Responsible for Democratic Renewal of the Province of Ontario wrote to the committee expressing her government’s reservations regarding the unilateral nature of the Harper government’s proposed Senate reforms. She said:

I believe it is appropriate under our constitutional federal system that significant changes to federal institutions are agreed to by both partners — the federal government and the provinces. All Premiers, in a July 28, 2006 communiqué,

agreed that “the Council of the Federation must be involved in any discussion on changes to important features of key Canadian institutions such as the Senate and the Supreme Court of Canada.”

On the specific issue of the proposal set out in Bill S-4, she wrote:

Turning to the reforms proposed in Bill S-4, the Government of Ontario generally endorses the constitutional and other concerns outlined by Premier Graham in his letter of April 20, 2007 to your Committee. Piece-meal and unilateral Senate reform has “the potential to lead to a highly unsatisfactory and divisive result.” I note that similar concerns regarding an incremental reform approach were raised by the Governments of Saskatchewan and Newfoundland and Labrador.

The Premier of Newfoundland and Labrador, Danny Williams, wrote to the Prime Minister to express his government’s view that Bill S-4 and Bill C-43 —

. . . represent attempts to alter the Constitution of Canada so as to significantly change the powers of the Senate and the method of selecting Senators within the meaning of Section 42(1)(b) of the Constitution Act, 1982. Such constitutional amendments may not be made by acts of Parliament alone, but also require resolutions of the legislatures of at least two-thirds of the provinces that have, in the aggregate, at least 50 per cent of the population.

The Government of Quebec was equally blunt. Then-Minister Pelletier, himself an eminent constitutional law expert, wrote:

In summary, the Government of Quebec considers that the federal legislative initiative represented by Bill S-4 and Bill C-43 is liable to modify the nature and role of the Senate, in a manner which departs from the original pact of 1867.

Such changes are beyond the unilateral powers of the Parliament of Canada. They instead require a coordinated constitutional amendment formula, which in turn requires the participation and consent of the provinces.

The well-known legal rule that one may not do indirectly what cannot be done directly fully applies to the amendment process that is in question here with Bill S-4 and Bill C-43.

The Government of Quebec is not opposed to modernizing the Senate. But if the aim is to alter the essential features of that institution, the only avenue is the initiation of a coordinated federal-provincial constitutional process that fully associates the constitutional players, one of them being Quebec, in the exercise of constituent authority.

The Government of Quebec, with the unanimous support of the National Assembly, therefore requests the withdrawal of Bill C-43. It also requests the suspension of proceedings on Bill S-4 so long as the federal government is planning to unilaterally transform the nature and role of the Senate.

Honourable senators, I think you will agree that the Government of Quebec, in particular, was strong in its objections to the proposed reforms in Bill S-4, which, as I have demonstrated, are virtually identical to those in Bill S-7. If the Harper government believes that, on what it believes to be a serious constitutional issue, Quebec does not even have a say, let alone a veto, then it should come right out and say so.

• (1600)

As honourable senators can see from my brief overview, Quebec was not alone in that view. As the committee stated in its report:

In summary, your Committee received representations opposing the proposed unilateral Senate reforms contained in Bill S-4 from the governments of the two largest provinces in Canada and the governments of two of the smallest provinces and one territory. In total, these governments represent significantly more than 50 per cent of the population of the country, and three out of the four regions described in our Constitution. Only one province —

— Alberta —

— has come forward supporting the Bill. Other provinces have expressed at best ambivalence and more generally opposition to the proposed incremental approach.

Given the strong testimony and submissions received by the committee, it recommended that the government refer the bill to the Supreme Court of Canada on a Constitutional reference. This chamber agreed.

This was no “stunt,” honourable senators. It was not an “obstructionist tactic.” For Senator LeBreton and indeed for the Harper government to say such a thing demeans each and every witness who took the time and trouble to come before our committee to express their concerns. Was the Government of Ontario playing games? Was the Government of Quebec pulling a “stunt,” and the Premiers of New Brunswick, Newfoundland and Labrador and Nunavut? Does the Harper government simply dismiss the views of these governments — duly elected and with strong majorities, a claim that Mr. Harper cannot make? What nonsense.

None of these governments has ever had to shut down their legislatures to avoid a no-confidence vote. They have the confidence of their legislatures and of the Canadians they represent — the same Canadians whom Mr. Harper represents.

**Senator Comeau:** Mr. Harper; not Iggy.

**Senator Cowan:** Yet, when they deign to challenge a position of the Harper government — when they ask the Senate, the body established specifically to represent provincial and regional interests, not to pass a bill for constitutional reasons — that is dismissed by the Harper government as a “stunt” and “obstructionist.”

Honourable senators, serious issues were raised about the constitutionality of Bill S-4. I fully expect the same issues to be raised about Bill S-7 because, as I say, nothing has really changed. We could have had an opinion from the Supreme Court by now,

but the Harper government, in its arrogance, refused to refer the matter to the court.

**Senator Comeau:** Ontario Iggy.

**Senator Cowan:** That is the real obstructionist act here.

**Senator Comeau:** Count Iggy.

**Senator Cowan:** It is the government that is engaging in stunts by pretending to try to reform the Senate by introducing and re-introducing a possibly unconstitutional bill, while loudly proclaiming that this bill is constitutional but refusing to test that assertion in the Supreme Court and demeaning Canadians and duly represented representatives of Canadians — the government's constitutional partners in the Canadian federation — by accusing them of being obstructionist and of engaging in stunts.

**Senator Comeau:** Canadians are clamouring for this.

**Senator Cowan:** Honourable senators, this is not a serious effort to improve the Senate or its place in our parliamentary framework. It is a callous attempt to change the channel to direct public attention away from the real issues confronting Canadians. Once again, Mr. Harper has allowed his ideology and love of political gamesmanship to get the better of him.

**Senator Mercer:** He cannot help himself.

**Senator Cowan:** Fixed election dates, term limits for senators, a single ethics regime and mandatory minimum sentencing.

**Senator LeBreton:** All supported by Iggy.

**Senator Cowan:** They are simplistic solutions driven by ideology rather than common sense — quick fixes desperately in search of a real problem to solve and often missing the mark.

**Senator LeBreton:** Like Iggy.

**Senator Cowan:** Worse than that is trying to bamboozle Canadians into believing, at least for awhile, that they are more democratic or safer as a result. This is no way to strengthen our democracy.

Honourable senators, Canadians deserve better — much better — from this government.

**The Hon. the Speaker *pro tempore*:** Continuing debate?

**Hon. Michael Duffy:** Honourable senators, I have a question.

**Senator Murray:** Honourable senators, I propose to enter the debate.

**Senator Duffy:** For a while I closed my eyes and thought I had gone back 27 years. I was impressed by the passion of my honourable friend's speech. I thought that same speech was given 27 years ago, only in reverse, as the Trudeau government brought forward its constitutional plan.

[ Senator Cowan ]

In 1982, as Senator Joyal will remember, there was a reference to the Supreme Court of Canada. Is it the honourable senator's belief today that if there were such a reference and if the Supreme Court of Canada were to rule against this measure, it would be stopped in its tracks?

**Senator Cowan:** I missed the last part of the honourable senator's question.

**Senator Duffy:** Would a negative Supreme Court of Canada ruling stop this proposal, in your view?

**Senator Cowan:** The suggestion of the Standing Senate Committee on Legal and Constitutional Affairs was that the specific reference to an eight-year term be referred to the Supreme Court of Canada. That recommendation of the committee was approved by the Senate, and the government did not act on it.

On the reference before, they said that a change in tenure, depending upon the length of the term proposed, would affect whether it was constitutional and what formula was required for its approval. However, they said that without having a specific proposal before it, they could not determine any general terms.

As I recall, the reference from the Trudeau government was whether they could change the tenure. I do not believe that the reference was in respect of a specific number of years. That is the difference, Senator Duffy.

**Senator Duffy:** If my memory is correct, and perhaps Senator Joyal can remind us, the Supreme Court of Canada ruled that it was not in the Canadian constitutional tradition to patriate the Constitution but that it was not illegal, as they split the question in two, to do so. The honourable senators seems to be suggesting that the current government be bound by a higher standard than the one that was applied to the administration of Mr. Trudeau about 27 years ago.

**Senator Cowan:** I am not suggesting that.

**Senator Comeau:** Good point.

**Hon. Bert Brown:** I believe that the Honourable Senator Cowan said that no constitutional expert had consulted with the committee that had agreed with the principle of both elections and term limits. Is that correct?

**Senator Cowan:** No, I did not say that, Senator Brown.

**Senator Brown:** What did the honourable senator say about constitutional experts?

**Senator Bacon:** Read the speech.

**Senator Mercer:** Send him a copy of the speech.

**The Hon. the Speaker *pro tempore*:** Senator Cowan will answer the question.

**Senator Cowan:** I will check my text, but I believe I said that the preponderance of evidence before the committee was that most constitutional experts were of that view. I did not say that every single witness held the same view. I did not say that.

**Senator Brown:** Has the honourable senators ever heard of IRPP? It is the Institute for Research on Public Policy. Last November, I was invited to a meeting, as was my seatmate, who has abandoned me. There were 20 constitutional experts at the meeting. My only expertise is having gathered a bit of knowledge about Senate reform over the last 25 years. It was the unanimous conclusion of all 20 experts, who were from across-Canada and from Australia, that it was possible for term limits to be included in a bill because it is an agreement between the prime minister of the day and the people that he appoints. It depends only on their honour as to whether they step down at the end of the term.

I know that because I have been in three Senate elections in Alberta, as the honourable senator knows. We were told that we could not do anything that would contravene the Constitution of Canada when the bill was drafted. I was present when the committee drafted the bill. We have held three Senate elections in Alberta over a span of 20 years, and there has been no constitutional challenge.

• (1610)

I believe the honourable senator also said that no other province has come forward with any amendments to the Constitution. Actually, Saskatchewan has a bill for elections. It is called Bill No. 60. Manitoba has a bill that was drafted in 2006 called Bill 22. I am sure the honourable senator could find both of those bills on the Internet. If not, I could provide him with copies.

There has been no constitutional challenge by either one of those provinces. I believe that makes up three provinces. British Columbia actually has dormant legislation that was passed under a different government. Senator Pat Carney, who sat in this chamber for many years, said that British Columbia's bill could be activated with a simple one-sentence amendment.

I do not think there is anything constitutionally challengeable about the election of senators as a method of allowing the people of the province to have their say in future senators. I say that because Alberta's done it three times. The term limit is the same thing: It is an agreement between the prime minister — of the day and the people who run in an election. If they are successful, it is his honour that is at stake, whether he accepts the person that is elected as number one or not.

**Senator Tardif:** Is that a question?

**Senator Brown:** There are no constitutional challenges, I believe, in either one of the bills. There were 20 experts who came to that same conclusion.

**Senator Tardif:** What is the question?

**Senator Mahovlich:** Where is the question?

**Senator Cowan:** I am not sure.

**The Hon. the Speaker *pro tempore*:** The honourable senator was asking a question.

**Senator Cowan:** I am not sure there was exactly a question in there anywhere.

**The Hon. the Speaker *pro tempore*:** Does the Honourable Senator Cowan have a response to the statement?

**Senator Cowan:** I do not think there was a question there but I took it as being a comment.

I am familiar with the work of the Institute for Research on Public Policy. I was a director and trustee of that organization for some time and I have a high regard for their work. I did not attend the conference to which the honourable senator referred, but my colleague, Senator Joyal, did attend. I understand from Senator Joyal that the experts or the presenters were not unanimous in their views on the issues that the honourable senator addressed.

I am sure that, if, as and when this bill wends its way to the Standing Senate Committee on Legal and Constitutional Affairs, those who support the government's position and the position Senator Brown obviously supports will have an opportunity to come and present their views.

I certainly did not say that there is any unanimity on this matter. In my experience, any time you get a group of lawyers together, you will have a variety of views. That is perfectly understandable and acceptable. It is not because the committee had determined that this was unconstitutional but because, on the basis of the preponderance of evidence before it, there was a legitimate point. It seemed sensible, in order to avoid a waste of time or misunderstanding or anything else, that the bill should be referred to the Supreme Court.

The Supreme Court would pass judgment on a specific reference, unlike the earlier reference that said, "Can the Parliament of Canada change, unilaterally, the tenure of senators?" The court said, "We need to have a specific proposal before us." This was a specific proposal, and the suggestion of the committee, endorsed by the Senate, was that the government should ask the Supreme Court of Canada for its opinion on that specific proposal.

As I said in my speech, had that been done and had that position been supported, then presumably this bill would have passed a long time ago.

**Senator Brown:** I believe the honourable senator also said that the Prime Minister had not consulted with any constitutional experts on this issue.

**Senator Cowan:** I did not say that.

**Senator Brown:** I would like him to know that we had —

**Senator Cowan:** With respect, I did not say that.

**Senator Brown:** Okay. What did the honourable senator say, then?

**Senator Tardif:** Would he like the speech again?

**Senator Cowan:** I would be happy to provide Senator Brown with a photocopy of my speech and I am sure that, if he waits until the morning —

**Senator Tardif:** It is in the *Debates of the Senate*.

**Hon. Tommy Banks:** Further to the question asked by Senator Brown, would Senator Cowan agree that, if the question of term limits is a matter of honour as between the Prime Minister and the appointees, then there is no bill to talk about that subject?

**An Hon. Senator:** What if it is a Liberal who is appointed?

**Senator Cowan:** To be honest, I do not know that, Senator Banks. I have not looked at the terms. It seems to me that a senator is appointed until death or a certain age. I do not know whether it is possible, by letter or understanding, to contravene those terms. I simply do not know the answer to that question.

**Hon. Lowell Murray:** Honourable senators, let me begin, please, by referring to the exchanges that we have just heard between the Leader of the Opposition on the one hand and Senators Duffy and Brown on the other.

I believe that Senator Duffy is confusing two different references to the Supreme Court of Canada. The reference to which Senator Duffy refers is the patriation reference in 1981. The Supreme Court reference to which Senator Cowan, the Leader of the Opposition referred, is the upper house reference of 1978, which was brought about after the Trudeau government's Bill C- —

**Senator Joyal:** Bill C-60.

**Senator Murray:** That was it. It was Bill C-60. In 1977, it ran into some heavy weather.

**Senator Duffy:** I do not think it affects my point.

**Senator Murray:** I think it does affect the honourable senator's point because the reference to which Senator Cowan referred puts the question:

Is it within the legislative authority of the Parliament of Canada to enact legislation altering, or providing a replacement for, the Upper House of Parliament, so as to effect any or all of the following:

I will not go through it all, but paragraph (d) reads, "to change the tenure of members of that House." That was a very specific question in response to which the court delivered itself of the paragraph that Senator Cowan quoted in his speech; namely, to the effect that a reduction of a term of office might impair the functioning of the Senate in providing what Sir John A. Macdonald described as "sober second thought" in legislation.

The court went on to say, in a nutshell, that to answer the question, we need to know what change in tenure is proposed. That was the position of the court.

With regard to Senator Brown's point about a political agreement, a gentlemen's agreement or an honourable agreement, between the prime minister and his appointees for the Senate on the question of term limits, I take the point implicit in Senator Banks' question: We are not dealing with a gentlemen's agreement or a political agreement here. Rather, we are dealing with a proposed law.

Senator Brown raises one of the very points I wanted to raise myself and that is the retroactivity provision in this bill. I have not consulted with any constitutional experts on this matter but I cannot but believe that there is a serious constitutional problem about the retroactivity. These term limits would now apply, not to future appointees to the Senate, but to all those appointed since October 14, 2008, which is to say the class of 2009, some senators from which are seated here today.

I think it is irrelevant that these senators, our new colleagues, have given their political support to this idea. They were appointed the same way we all were. They were appointed by an instrument of advice from the Prime Minister to the Governor General. They are here until the age of 75 years.

I do not think that retroactive legislation can really change that. How can it?

**Senator Mahovlich:** They make up rules as they go along.

• (1620)

**Senator Murray:** I would defer to people more expert than I in these matters, but I have very serious reservations. Why could the government not decide to apply this retroactivity provision to everyone in the Senate who has more than eight years to go in his or her term?

**Senator Comeau:** Why not?

**Senator Murray:** Why not, says Senator Comeau? They were appointed until the age of 75 years, according to the relevant provisions of our Constitution; that is why not. The same thing applies, notwithstanding their political or moral support for the measure, to the class of 2009. I would be interested to hear some expert opinion on that matter.

Senator Cowan has not been categorical, and I am not either, as to whether this bill can be done legitimately and constitutionally under the amending formula in section 44, that is to say, by the Parliament of Canada acting alone, or whether it requires the general amending formula involving seven provinces having at least 50 per cent of the population. We have heard arguments on both sides. Those of us who were associated with previous governments have had advice on the issue. Advice can change, and advisers can change, but I think we are aware of the advice. Again, to take the words of the Supreme Court in the *Upper House Reference*, depending upon the tenure that is suggested, it might or might not be within the power of the federal Parliament to enact. What is significant about this — and Senator Cowan put this on the record in some detail — is that at least three or four provinces take the position that for Parliament to proceed under section 44 is unconstitutional. Obviously, those provinces would ask the courts to overturn this bill if it is passed into law. This would set off a potentially protracted and divisive process.

Under the circumstance, most of us here have been of the view that the federal government should itself refer the bill to the Supreme Court of Canada for an opinion rather than wait for these provincial cases to wend their tortuous journeys through the various provincial appeal courts. This would be the prudent course from a constitutional standpoint, the efficient and economical course from a governance standpoint, and the

respectful course from a federal-provincial relations standpoint. As the Honourable Senator Cowan pointed out during his speech, the constitutional issue would by now have been settled had the government taken the action that we recommended when Bill S-4 was before us.

This is the third time this bill or something like it has been before Parliament. One of those bills died on the Order Paper in the House of Commons, which would have been Bill C-19 and which was brought in on November 13, 2007. Prior to that, we had Bill S-4 brought in by the Deputy Leader of the Government on May 30, 2006. This is the third time it is has before Parliament, the second time with some changes, including the retroactivity provision and the non-renewable nature of the term. We now have it in the form of Bill S-7.

I am opposed to it anyway. Even if it were brought forward under the general amending formula, I would have serious reservations about it on substantive grounds. I think an eight-year term might be appropriate and probably would be appropriate for an elected Senate, in which case the term should certainly be renewable by the electors, but we are not there yet. We are far from it. In going to an elected Senate, we have to redefine the powers of the Senate and the relationship of the Senate to the House of Commons and, indeed, representation in the Senate.

I did not ask Senator Cowan a question when he finished, but if I had asked him, I would have referred to the very apt quotation that he put on the record from George Brown in which Mr. Brown, Senator Brown as he was later to become, referred to the trade-off in which Lower Canada agreed to representation by population in the lower house in exchange for equality of the regions in the upper house. I would have asked Senator Cowan whether he would not look kindly on the idea that Senator Austin and I had put forward to correct one of the real scandals of the present Senate. I refer to the under-representation of Western Canada at large and the need to redefine the regions as first, the Prairie region and, second, British Columbia and the northern region. However, I will leave that for the moment. That is for another day. I hope to bring that resolution back at some point in the future.

Honourable senators, I see no advantage and many disadvantages to an eight-year term for appointed senators. Among those disadvantages is the fact that it would give prime ministers the ability to manipulate the Senate by a more frequent change to its membership. Second, this institution would lose the advantage of continuity and institutional memory at the very time in our history when there is an unprecedented turnover in the House of Commons. This is an argument that our friend Senator Atkins has made repeatedly, most recently in what I take to be his farewell speech to us. Third, a non-renewable eight-year term seems to me less likely, not more likely, to make a senator more accountable, responsible and diligent.

Where I do agree with the Leader of the Government is that we took rather a long time with this bill when it was before us as Bill S-4 in 2006. As I mentioned, Senator Comeau introduced Bill S-4 on May 30, 2006. We referred the subject matter of the bill to our special committee on June 28. That committee reported on October 26. We gave second reading and referred the bill as such to the Standing Senate Committee on Legal and Constitutional Affairs on February 20, 2007. That committee

reported on June 18, 2007. Altogether, it was in our hands for more than a year, which was a long time even allowing for the many serious implications of the bill for our Canadian parliamentary system and our Canadian federal system.

I think we are more vulnerable as an institution to criticism for delaying matters such as this than we would by simply defeating it. In the spirit advanced by Senator LeBreton, I say, "Bring it on." I know how I will vote if there is a recorded vote on the matter. Whatever the outcome, I believe we should bring matters to a head without delay. To focus everyone's mind on this, I move, seconded by the Honourable Senator Atkins that the previous question be now put.

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

(On motion of Senator Comeau, debate adjourned.)

[*Translation*]

### THE SENATE

MOTION TO RESOLVE INTO COMMITTEE OF THE WHOLE TO RECEIVE MS. KAREN E. SHEPHERD, COMMISSIONER OF LOBBYING, AND TO PERMIT ELECTRONIC AND PHOTOGRAPHIC COVERAGE DURING COMMITTEE OF THE WHOLE PROCEEDINGS AND THAT THE COMMITTEE OF THE WHOLE REPORT TO THE SENATE NO LATER THAN ONE HOUR AND THIRTY MINUTES AFTER COMMITTEE OF THE WHOLE BEGINS ADOPTED

**Hon. Gerald J. Comeau (Deputy Leader of the Government),** pursuant to notice of June 16, 2009, moved:

That at the end of questions and delayed answers on June 22, 2009, the Senate resolve itself into Committee of the Whole in order to receive Ms. Karen E. Shepherd respecting her appointment as Commissioner of Lobbying;

That television cameras be authorized in the Chamber to broadcast the proceedings of the Committee of the Whole, with the least possible disruption of the proceedings;

That photographers be authorized in the Senate Chamber to photograph the witnesses, with the least possible disruption of the proceedings;

That the Committee of the Whole report to the Senate no later than one hour and thirty minutes after it begins; and

That when the Senate sits on Monday, June 22, 2009, that Rule 13(1) be suspended.

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

(Motion agreed to.)

[ Senator Murray ]

• (1630)

[*English*]

### THE ESTIMATES, 2009-10

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

The Senate proceeded to consideration of the ninth report of the Standing Senate Committee on National Finance (*Supplementary Estimates (A), 2009-2010*) presented in the Senate on June 16, 2009.

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

He said: Honourable senators, this report was filed yesterday in the chamber. The *Journals of the Senate* found on honourable senator's desks when they arrived this afternoon has the report at page 1091. I will outline some of the highlights of the report if you wish to follow along.

Honourable senators will know that this report is based on the study done on Supplementary Estimates (A) referred to the Standing Senate Committee on National Finance two weeks ago. We have had an opportunity to meet with representatives of the Treasury Board Secretariat and others. I will outline some of the work that we did and some of the highlights of the report, which I think will be of interest to senators.

Honourable senators will know that supplementary estimates follow the Main Estimates, about which I spoke yesterday. We review Main Estimates for the year in March and consider interim supply on those Main Estimates followed by the main supply. I expect the main supply bill to arrive in this chamber at the beginning of next week. My latest information is that the other place will be dealing with two supply bills on Friday evening. One is based on Main Estimates and the other is based on Supplementary Estimates (A). Unless we are sitting late Friday evening, we will receive them Monday when the Senate sits.

Honourable senators, these reports constitute a pre-study of those supply bills. When the supply bills arrive, it is not necessary for this chamber to refer them to the committee for study because we have already studied them. I spoke yesterday to the report on main supply. I am now asking honourable senators to consider the report of the Finance Committee with respect to Supplementary Estimates (A).

Supplementary Estimates (A) typically would come in the fall in other years because we would not have had enough time to develop from Main Estimates the government's requirements to operate government until well into the fiscal year. Therefore, it has generally not been necessary to have a Supplementary Estimates (A) as soon as we have received this one. We typically would have two or sometimes three supplementary estimates.

However, we have an extraordinary economic situation and the budget was earlier this year than it had been in previous years. I indicated to honourable senators yesterday that in order to get projects into Main Estimates, a deputy minister has to be talking

to Treasury Board in October of the previous year. Obviously, none of the initiatives in the January budget are in the Main Estimates. Many of them are here, while other initiatives were in Bill C-10.

There are two ways the government gets authority to proceed with its proposed initiatives. First, is in the budget through budget implementation bills. We probably will have two of those bills and we have dealt with one. Second, is through Main Estimates and supplementary estimates. We have been told there will be Supplementary Estimates (B) and Supplementary Estimates (C) as well.

I submit to honourable senators that it is particularly important for transparency and oversight with all of the extraordinary spending taking place. We are in areas that we have not been before. We are moving ahead and trying to move ahead very quickly.

That is why the government has agreed to quarterly reports. We have learned today that the government has agreed to come forward with a special report in September. It will provide more detail than the report that came out last week in terms of what money has been delivered to projects referred to in various initiatives of the January budget and what is actually happening in various provinces and communities. We are told that report will be forthcoming in September.

Honourable senators, we have worked very hard as a committee. The deputy chair and I want to commend committee members. We are very appreciative of all members attending each of our meetings and helping with this important work. Senator Gerstein as deputy chair, will probably speak on this particular report either when the supply bill comes or otherwise. He and I have been talking about the importance of relaying these highlights to honourable senators.

I also want to thank our clerk, Adam Thompson and the two researchers from the Library of Parliament, Jean-François Nadeau and Guy Beaumier for the hard work they do. Both researchers are very skilled with respect to supply cycle issues and general government financing. They have worked significant overtime to help our committee get these reports to you in a timely fashion to ensure we will be ready when the supply bills arrive. This happens on a regular basis. Printing and translation also are put in "overspeed" mode just before the end of each quarter of the supply cycle. We see it in March, June and December.

It is very important that we show our appreciation to those who make all of this possible for us. Otherwise, honourable senators, if we are not receiving these supply bills until the beginning of next week, we could be here for half of the summer dealing with this if we did not have that support and cooperation. We very much appreciate it.

Honourable senators, let me tell you briefly some of the points in this report. The report is basically what we learned from our study of the supplementary estimates.

Voted appropriations are typically in this range of \$5 billion made up of budgetary and non-budgetary appropriations. Non-budgetary are expenditures that the government intends or hopes to get back such as student loans, buying mortgages, et cetera. Statutory appropriations — those in other statutes we

have passed — are \$1.5 billion. Honourable senators, here is the big number, \$52.2 billion in non-budgetary statutory appropriations.

It is important for you to keep these figures in mind. We are in an entirely new area trying to deal with this economic downturn. In one breath we have to commend various government departments and agencies for their initiatives. However, in the second breath, we have to be watching this very carefully to ensure that errors and unintended consequences do not occur.

I talked yesterday about \$235 billion being the total budget for the year. With this addition, we are up to \$242 billion, another \$6 billion of voted appropriations, both budgetary and non-budgetary. We anticipate, honourable senators, that there will be further expenditures. There will be two more supplementary estimates and there will be another budget implementation so there will be other items.

• (1640)

One way that we keep an eye on expenditures from the committee point of view is to review, for example, the government's plan for stimulus. We want to know what has been spent, what has been authorized and where we are with respect to the \$22.7-billion fiscal stimulus.

Brian Pagan, from the Treasury Board Secretariat, has been good in providing us with that information. Once we pass the Supplementary Estimates (A), the supply bill that goes with that, \$20.6 billion of the \$22.7 billion will have been authorized. That does not mean it is out there, but it has been authorized by Parliament and it is up to government and the government departments to distribute the money into the economy. That leaves \$2.1 billion. We anticipate we will authorize another \$2 billion, in either a budget implementation bill or in another Supplementary Estimates (B) or Supplementary Estimates (C), for example.

Honourable senators, some of the major items and major initiatives may be of interest to you. They were of interest to our members on the committee. With respect to the Afghanistan mission, my recollection is we had approved approximately \$400 million or \$500 million. In these Supplementary Estimates (A), the Department of National Defence is asking for another \$822 million.

We asked why the supplementary estimate request was in excess of the Main Estimates request and we had discussion on that point. The reason related to timing and approvals, et cetera. Through that discussion, we learned that their overall annual estimate — for DND alone — for expenditure for the fiscal year that started in April is \$1.5 billion in total for this fiscal year. They have now received \$800 million plus \$500 million, and they will ask for more as they develop their programs in that regard.

They have also asked for major capital equipment of \$141 million and \$140 million to acquire medium-sized military trucks to transport troops and supplies. There are significant expenditures there.

With respect to statutory budgetary spending, spending that has been approved otherwise but we are told about it, \$2 billion in infrastructure was budgeted.

One area that is important to be aware of comes under fiscal equalization. Senators will recall we were not able to study that area under our study of Bill C-10 because we did not have time. I spoke about that yesterday. The government told us last year that they had solved the equalization problem forever. Then it was changed this year.

As a result of the change in fiscal equalization, \$1.9 billion less will go from the federal government to the provinces. The provinces planned that money — \$1.9 billion — into their budgets based on the arrangement made last year. We will probably hear from the provinces on that item as we move forward.

Another area where there was a decrease in the estimate was the revised forecast by the Department of Finance of public debt charges due to significant downward revision in the forecasted interest rates, and also a lower expectation for inflation; a combined \$2.4 billion because our debt servicing is less due to the low interest rate.

Honourable senators, the interest rate will not stay down and neither will inflation. We are increasing the debt. I made this point yesterday. We will not have this kind of saving. We will not see that in the future. This amount was \$2.4 billion below estimate.

Statutory non-budgetary spending is the point I talked about earlier. Statutory means it is in another statute — we have already approved it previously — and there are a lot of those major items in Bill C-10. This one, for \$52 billion, goes to Canada Mortgage and Housing Corporation.

**The Hon. the Speaker:** I regret to inform honourable senators that the honourable senator's time has expired.

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

**Senator Day:** I am almost finished. Thank you, honourable senators.

Canada Mortgage and Housing Corporation has an amount of \$52.3 billion. That is part of a \$125-billion program by Canada Mortgage and Housing Corporation to buy insured loans in the marketplace to try and increase liquidity. They are in the process of buying these mortgage loans or groups. The way they buy those loans is that a bank will issue a number mortgages and loans, then will put them all together and try to sell them to various people for investment purposes. CMHC is buying \$125 billion worth of those syndicated loans. This statutory approval so far is for \$52 billion. They have already had \$75 billion in that regard previously.

Treasury Board vote 35 is another area we can watch. Treasury Board vote 35 is the \$3 billion we approved in late March to allow Treasury Board to start money flowing. That money is approved only until the end of June and then it is over. We have asked for an accounting on a regular basis. To the end of May, \$1.9 billion of that \$3 billion has been sent out by Treasury Board. We receive a listing of that money. Honourable senators have already approved the \$3 billion, but we are given an indication of where the money has gone in the supplementary estimates.

Honourable senators, vote 35 will end at the end of June. If it is not all spent, then it stops. The government will not have that money to pass out later on. The money goes back into the Consolidated Revenue Fund. We are keeping an eye on that item. The end of June is coming up and we anticipate that significant money will not have been disbursed at that time. If other funds are needed for programs that did receive funds they had hoped for from the \$3 billion, that money will have to come out of either the next supplementary estimate or the next budget implementation bill in the fall.

Honourable senators, that is a brief outline of what is in this report. To remind you again, when honourable senators receive the supply bill they will be asked to vote for \$5.25 billion on this particular one. Keep in mind, honourable senators, that there is another \$52.6 billion in already approved money reported in there as well.

**The Hon. the Speaker:** A little time is left for questions and comments.

• (1650)

[Translation]

**Hon. Fernand Robichaud:** Honourable senators, I would like to thank the Honourable Senator Day. I believe that at one point he talked about figures. I see that there is a \$905.5 million decrease in projected transfer payments to the provincial and territorial governments. Lower down, I see that there is a \$1.901 billion decrease in fiscal equalization. That means that the provinces will be deprived of these amounts, is that not true?

**Senator Day:** Yes.

**Senator Robichaud:** Would you like to explain so that I understand better?

**Senator Day:** You understood very well. This is going to pose problems for the provinces, because they have already prepared their budgets with the information they received. Now, the federal government is unilaterally changing that. There has been a \$1.9 billion change in equalization. In addition, there are the other amounts for federal-provincial programs. This will be hard on the provinces.

[English]

**Hon. Terry M. Mercer:** Honourable senators, I, too, wanted to ask a question, but I guess the only way I will get my point across is by entering the debate.

Senator Day has heard me say this every year since I have been here and every time this comes up. I have in my hand the parliamentary calendar, as circulated to all of us. It is now June 17. According to the calendar, if we follow the schedule, we will be here until June 26, yet we do not have the estimates from the other place.

This is a pre-study that the honourable senator has talked about. I appreciate the work of the committee — it is hard work — but it seems to me we have done it again. We continue to do it. We continue to have the frustration that the estimates will



end up in our lap and we will be expected to get them through here in very short order. Thank God we have good people like the honourable senator and his committee to do this work.

I guess that I will be saying the same thing at this time of the year for the next 14 years, which is that one of these days the other place will get its act together and send the estimates to us in time for us to do the good work we do in examining them in detail.

For example, Senator Robichaud raised the serious issue about the money that the provinces anticipated are not receiving. We do not have time to examine it in the detail we would like.

I would like to know how much money the Province of Nova Scotia is not getting. I would like to know which programs in Nova Scotia are being cut because this government has cut that money. I would like to know how many nurses are not being hired in Nova Scotia. I would like to know how many hospital beds have to be closed because that money is not going to Nova Scotia.

I would like to know all of these things, and I am sure my colleagues on the other side would like to know the same things. However, again we are behind the eight-ball. The estimates will be dropped into our lap, the clock is running and we will all be forced to say, "Well, I guess we will have to accept them." We will rely, as we usually do, on the good work of the committee chaired by Senator Day to tell us they have done the best job that they can do in the short period that they have had the estimates.

The pre-study probably helps, although I know when I first came here, I thought pre-studies would be a good idea and I was quickly told that, historically, pre-studies have been frowned upon. I guess the only saving grace here is that we have opted for a pre-study.

I thank Senator Day and his committee for his work. However, on my behalf and I think on behalf of some others, I express our continued frustration that this happens to us every year at this time.

**Hon. Jeremiah S. Grafstein:** Honourable senators, I want to join with Senator Mercer in congratulating the Honourable Senator Day.

I am against pre-study. I think it is inconsistent with the idea that we are a chamber of sober second thought. By the invidious position the other place puts us in, we are compelled to pre-study in these circumstances, particularly because of the recession.

I would hope that somehow we would be able to re-establish rules that suggest, based on what Senator Mercer has said, that we get these reports on a timely basis so that we can consider them and give them an independent sober second thought.

Having said that, one question that keeps arising in my city of Toronto is how much money has really been spent by the federal government on its stimulus package? I have listened carefully to the honourable senator, I have looked at the action report and I cannot find the number.

Back to what Senator Mercer said, I cannot find the number. How much money — not that has been promised — has actually been expended to create jobs in my city of Toronto? Perhaps the honourable senator might be able to respond, if not now, in the future.

What is important to us in Toronto, the so-called engine of growth, where unemployment is at historic highs — in excess of 10 per cent in some categories — is the need for financing, credit and, specifically, federal funding. It is crucial.

I still do not know today, having looked at all the material, how much money the federal government has expended to the City of Toronto to create jobs in Toronto today. Perhaps we can find that out, if not now, before we adjourn next week.

**The Hon. the Speaker:** Is there further debate? Are honourable senators ready for the question?

**Hon. Senators:** Question.

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

(Motion agreed to and report adopted.)

## THE SENATE

### TRIBUTE TO DEPARTING PAGES

**The Hon. the Speaker:** Before we proceed to the next item, let us say farewell to two departing pages.

[*Translation*]

After one year as a page, Jeff Ahonoukoun is proud to have served the Senate and its members. He feels privileged to have completed what he calls an important step on his career path. We wish him every success as he pursues his dream of becoming a diplomat one day.

Marc-André LeBlanc is leaving us for new horizons and will continue his education in information and communication at the Université de Moncton. In addition to studying in this field he is so passionate about, Marc-André has just been named to the board of directors of the Fédération des jeunes francophones du Nouveau-Brunswick. He wants to thank all the honourable senators and the Senate staff, who have made the past year an unforgettable experience.

[*English*]

## INTERNATIONAL BOUNDARY WATERS TREATY ACT

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

On the Order:

Resuming debate on the motion of the Honourable Senator Murray, P.C., seconded by the Honourable Senator Atkins, for the second reading of Bill S-222, An Act to amend the International Boundary Waters Treaty Act (bulk water removal).

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, Senator Murray is not in the chamber at this time, but I have discussed this Order Paper item with him. In order to deal with the subject matter of this bill, he has agreed with me that rather than send the bill itself to committee, we refer the subject matter of the bill to committee. He is in agreement with that proposal and I have discussed it with my colleague on the other side.

#### MOTION IN AMENDMENT

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Therefore, honourable senators, I move:

That Bill S-222 be not now read the second time but that the subject matter thereof be referred to the Standing Senate Committee on Energy, the Environment and Natural Resources; and

That the order to resume debate on the motion for the second reading of the bill remain on the *Order Paper and Notice Paper*.

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

**Hon. Senators:** Question.

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

(Motion in amendment agreed to and subject matter of bill referred to the Standing Senate Committee on Energy, the Environment and Natural Resources.)

• (1700)

#### CRIMINAL CODE

##### BILL TO AMEND—SECOND READING— ORDER STANDS

On the Order:

Resuming debate on the motion of the Honourable Senator Hervieux-Payette, P.C., seconded by the Honourable Senator Carstairs, P.C., for the second reading of Bill S-209, An Act to amend the Criminal Code (protection of children).

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, Senator Wallace is unable to speak to this item today and wishes to speak to it tomorrow. With the indulgence of the chamber, I would ask leave to have this item stand in his name.

**The Hon. the Speaker:** Is it agreed, honourable senators?

**Hon. Senators:** Agreed.

(Order stands.)

#### LIBRARY AND ARCHIVES OF CANADA ACT

##### BILL TO AMEND—SECOND READING— ORDER STANDS

On the Order:

Resuming debate on the motion of the Honourable Senator Grafstein, seconded by the Honourable Senator Pépin, for the second reading of Bill S-201, An Act to amend the Library and Archives of Canada Act (National Portrait Gallery).

**Hon. Jeremiah S. Grafstein:** Honourable senators, I understand from Senator Di Nino that he intends to speak to this bill before the house rises for the summer.

**Hon. Consiglio Di Nino:** Honourable senators, I told Senator Grafstein that I would try to speak to this item next week. I will do my best.

(Order stands.)

#### BANK OF CANADA ACT

##### BILL TO AMEND—SECOND READING— ORDER STANDS

On the Order:

Resuming debate on the motion of the Honourable Senator Grafstein, seconded by the Honourable Senator Pépin, for the second reading of Bill S-230, An Act to amend the Bank of Canada Act (credit rating agency).

**Hon. Jeremiah S. Grafstein:** Honourable senators, I spoke informally to Senator Oliver. He has undertaken to speak to this matter before the house rises, and I accept his undertaking.

(Order stands.)

#### FINANCIAL ADMINISTRATION ACT

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

On the Order:

Resuming debate on the motion of the Honourable Senator Murray, P.C., seconded by the Honourable Senator Banks, for the second reading of Bill S-221, An Act to amend the Financial Administration Act (borrowing of money).

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, I note that this item stands at day 13. I would not want this bill to fall off the Order Paper, and so I move the adjournment of the debate for the balance of my time.

(On motion of Senator Comeau, debate adjourned.)

## STUDY ON RURAL POVERTY

### FOURTH REPORT OF AGRICULTURE AND FORESTRY COMMITTEE AND REQUEST FOR GOVERNMENT RESPONSE—DEBATE CONTINUED

On the Order:

Resuming debate on the motion by the Honourable Senator Fairbairn, P.C., seconded by the Honourable Senator Grafstein, that the fourth report of the Standing Senate Committee on Agriculture and Forestry, entitled: *Beyond Freefall: Halting Rural Poverty*, tabled in the Senate on June 4, 2009, be adopted and that, pursuant to rule 131(2), the Senate request a complete and detailed response from the government, with the Ministers of Agriculture and Agri-Food; of National Revenue and of State (Agriculture); of Citizenship, Immigration and Multiculturalism; of Environment; of Finance; of Fisheries and Oceans; of Health; of Human Resources and Skills Development; of Justice and Attorney General of Canada; of Industry; and of Natural Resources being identified as Ministers responsible for responding to the report.

**Hon. Terry M. Mercer:** Honourable senators, I wish to propose an amendment to No. 9 under “Reports of Committees.”

#### MOTION IN AMENDMENT

**Hon. Terry M. Mercer:** Honourable senators, I move that the motion be amended by:

- (i) inserting, before the words “Ministers of”, the words “President of the Queen’s Privy Council for Canada being identified as Minister responsible for responding to the report, in consultation with the”; and
- (ii) deleting all words following the words “Natural Resources”.

**The Hon. the Speaker:** On debate?

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, that is an extremely helpful amendment. I support the amendment.

Senator Segal wishes to speak to the main motion tomorrow. My understanding is that he supports its substance. Given that he had to attend a meeting of the Social Affairs Committee this afternoon, I wish to adjourn the debate in his name.

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

## ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

### BUDGET AND AUTHORIZATION TO TRAVEL— STUDY ON ISSUES RELATED TO MANDATE — TENTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the tenth report of the Standing Senate Committee on Energy, the Environment and Natural Resources (*budget—study on emerging issues—power to travel*) presented in the Senate on June 11, 2009.

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, Senator Angus also had to attend a committee meeting this afternoon. He asked if I would, on his behalf, ask for the question to be called on this item.

**The Hon. the Speaker:** I take it that the Honourable Senator Comeau is moving the adoption of the tenth report of the Standing Senate Committee on Energy, the Environment and Natural Resources, seconded by Senator Stratton. That is the question before the house.

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

(Motion agreed to and report adopted.)

## THE SENATE

### MOTION TO TELEVISION PROCEEDINGS— REFERRED TO COMMITTEE

On the Order:

Resuming debate on the motion of the Honourable Senator Segal, seconded by the Honourable Senator Cochrane:

That the Senate approve in principle the installation of equipment necessary to the broadcast quality audio-visual recording of its proceedings and other approved events in the Senate Chamber and in no fewer than four rooms ordinarily used for meetings by committees of the Senate;

That for the purposes set out in the following paragraph, public proceedings of the Senate and of its Committees be recorded by this equipment, subject to policies, practices and guidelines approved from time to time by the Standing Committee on Internal Economy, Budgets and Administration (“the Committee”);

That selected and packaged proceedings categorized according to subjects of interest be prepared and made available for use by any television broadcaster or distributor of audio-visual programmes, subject to the terms specified in any current or future agreements between the Senate and that broadcaster or distributor;

That such selected proceedings also be made available on demand to the public on the Parliamentary Internet;

That the Senate engage by contract a producer who shall, subject only to the direction of that Committee, make the determination of the programme content of the selected and categorized proceedings of the Senate and of its committees;

That equipment and personnel necessary for the expert selection, preparation and categorization of broadcast-quality proceedings be secured for these purposes; and

That the Committee be instructed to take measures necessary to the implementation of this motion.

**Hon. Michael Duffy:** Honourable senators, I rise today to respond to the motion put forward by my friend, the Honourable Senator Segal, with regard to televising the proceedings of this chamber and four committee rooms.

As a former journalist, it has long been my view that an informed public is a hallmark of our democratic society. However, notwithstanding that principle, there are more than a few issues in Senator Segal's proposal that I believe demand close examination before we move in that direction.

Senator Segal proposes that selected and packaged proceedings be prepared and made available for use by any television broadcaster or distributor of audio-visual programs. I draw the attention of honourable senators to the word "packaged," which implies edit. Would it be the editor? Who is the producer? Senator Segal proposes "that the Senate engage by contract a producer who shall, subject only to the direction of that Committee, make the determination of the programme content."

• (1710)

Honourable senators, I ask you to reflect for a moment on what this could mean. Can honourable senators imagine getting a committee to agree on what parts of the proceeding should be broadcast? In our Question Period, whose questions would be deemed to be in the public interest?

**Senator Mercer:** Mine.

**Senator Duffy:** Which honourable senators' statements would be judged worthy of broadcast?

**Senator Mercer:** Mine.

**Senator Duffy:** If we were to broadcast a speech, must we also broadcast the questions as well as the answers they prompt? This editing proposal is, frankly, a minefield.

In my view, Senate proceedings should be broadcast in an unedited form. Who would carry this unedited broadcast? Last year, CPAC applied to the Canadian Radio-television and Telecommunications Commission, CRTC, for a second channel. That facility would have been the ideal venue for more coverage of the Senate and of our committees. Sadly, the broadcast regulator, the CRTC, refused to approve CPAC's application.

I think we all agree that CPAC now does an excellent job of re-broadcasting key Senate committee meetings. The public reaction to these Senate committee broadcasts has been very positive, as we have heard.

Would honourable senators want to give up those excellent broadcasts, which I believe give the public a real look at the work being done by Senate committees? If we were into a question of time constraints, there is only so much time on CPAC. Should it be this chamber or should it be Senate committees?

I believe we would be well served to have discussions with CPAC about how we can cooperate with them in expanding their live and unedited coverage of the Senate. We have all kinds of new technologies on the market today, such as signal compression. Would it be possible for CPAC, in effect, to piggy-back two signals on their one channel using these encryption and compression techniques?

Senator Segal and other honourable senators have suggested that we wire this chamber and broadcast our proceedings over the Internet as a kind of web broadcast. Camera technology, as my friend Senator Munson knows, is improving every day. Wiring this chamber for high-definition television without a broadcast partner seems to me to be a very expensive stopgap.

Experts tell me that when it comes to webcasting as opposed to traditional broadcasting, only a small fraction of the public watches streaming video for any significant period of time. By "significant period of time," the experts say most people get tired of watching it on their computer after less than five minutes.

It would seem to me that the more prudent course would be to wait until CPAC has the capacity, whether through technology or through a second channel from the CRTC, to provide a real broadcast venue before we undertake the major expenditure required to wire this chamber for high definition.

It is not just wiring; hi-def television requires a lot of light. When we have television here for coverage of meetings of the Senate's Committee of the Whole, we gain an appreciation of the impact a full-blown broadcast setup would have on those who spend hours every day sitting in this chamber. In other words, without addition air-conditioning and ventilation, we would be in a real hot-house.

In summary, honourable senators, I think we should have a close look before we jump on this idea.

#### MOTION IN AMENDMENT

**Hon. Michael Duffy:** Therefore, honourable senators, I move:

That the question now before the Senate be referred to the Standing Committee on Rules, Procedures and the Rights of Parliament for study; and

That the committee submit its final report no later than Wednesday, November 18, 2009.

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

**Some Hon. Senators:** Question.

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

(Motion in amendment agreed to and question referred to the Standing Committee on Rules, Procedures and the Rights of Parliament.)

[Translation]

### CBC/RADIO-CANADA

#### INQUIRY—DEBATE CONCLUDED

Leave having been given to revert to Other Business, Other, Inquiry No. 12:

On the Order:

Resuming debate on the inquiry of the Honourable Senator Chaput calling the attention of the Senate to the Conservative government's inaction on CBC/Radio-Canada's urgent financial needs and the disastrous consequences of this inaction on services to official-language minority communities.

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, I rise today to speak to the inquiry of Senator Chaput. On April 2, 2009, she called the attention of the Senate to the government's so-called inaction on CBC/Radio-Canada funding and what she termed its "disastrous consequences."

Honourable senators, our government will give CBC/Radio-Canada more than \$1 billion in public money for 2009 alone. If the senator believes that this is equates to "inaction", allow me to say that Canadian taxpayers would strongly disagree with the honourable senator and her party.

In fact, taxpayers believe that the funding for CBC/Radio-Canada is a good example of action and not inaction.

I imagine that we all agree that the challenges faced by the CBC are identical to those faced by other major broadcasters, namely the loss of advertising revenue resulting from the global recession and the emergence of alternative media, primarily the Internet.

I would like to take a few minutes to talk about our government's record in terms of supporting the CBC.

I will just digress for a moment on another relevant issue. Having sat on the opposition benches, I know what a thankless task it is. The opposition's role is, of course, to oppose and criticize the government.

All the same, I am surprised to see my Liberal colleagues continually say one thing and then do another immediately thereafter or say something and then forget all about it, just as they seem to have forgotten their own record from when they were in power.

The employment insurance debate is an excellent example of such contradictions.

The opposition leader in the House of Commons, Mr. Ignatieff, wants to reduce the requirement for employment insurance benefits to 360 hours across Canada. He would have everyone believe that the Liberals are the great champions of the unemployed.

Mr. Ignatieff has just recently arrived in Canada, so he may be unaware that it was his own party that set up the employment insurance system in the mid-1990s.

It was also the Liberal Party that tightened the employment insurance eligibility criteria for Canadians. It increased the number of weeks required from 10 to 12, at a time when the unemployment rates were higher than they are now.

Given that Mr. Ignatieff was living outside Canada when employment insurance was cut, perhaps he can be forgiven for not knowing his party's record on this issue. But his Liberal colleagues here and in the other place cannot use that excuse.

The same applies to the Liberal record on CBC/Radio-Canada funding.

Senator Chaput made some extraordinary statements on April 2, including this one:

The entire communications and arts industry is affected by these cuts. It is generally said that for every job that is eliminated at the CBC, three jobs will be lost in independent productions.

• (1720)

I do not know how my honourable colleague calculated that number of three independent jobs for every CBC job, or where she is getting her facts from, but let us suppose for our purposes that those numbers are correct.

From 1994 to 1997, previous Liberal governments cut CBC/Radio-Canada funding by \$414 million — that is a lot of zeros — causing the loss of nearly 4,000 jobs.

Based on the three-for-one calculation, that means that Jean Chrétien and Paul Martin and their Liberal colleagues in this chamber eliminated some 12,000 more jobs among independent producers.

That does not include the job cuts that flew in the face of their election promise. On page 89 of the Liberals' 1993 red book, it states that:

... a Liberal government will be committed to stable multi-year financing for national cultural institutions such as the CBC.

As we all know, our Liberal friends broke a number of the election promises they made in the early 1990s, particularly concerning the GST.

However, the fact that they did not keep their word concerning CBC/Radio-Canada funding was serious enough that the Liberals wrote in their 1997 red book, and I quote:

Given the severe constraints the government has faced in dealing with the deficit, we have not fulfilled this commitment [made in the 1993 red book]. [However,] our financial commitment to Canada's public broadcasting system will grow.

Honourable senators, that promise was never honoured either.

In fact, cuts to CBC/Radio-Canada funding continued, and even increased, after the 1997 election, so much so that the corporation's budget in 1998-99 was lower than it had ever been, totalling just \$745 million.

In addition, in 2000, the Liberals slashed supper-hour programming across Canada.

Honourable senators, those are striking facts, and they speak for themselves.

In April, I mentioned these cuts in a question I asked Senator Chaput when she had completed her presentation.

She acknowledged that CBC/Radio-Canada's budget had been cut repeatedly over the past 20 years, but she did not go any further in her criticism of the former Liberal government.

Senator Chaput also said, and I quote:

All I can say is that if I had been in the Senate then, I would have talked about it, but I was not a senator at the time.

Honourable senators, I am honoured to speak today in this chamber to debate the important issues of the day, but I know that a person does not have to be a parliamentarian to talk about major political issues.

And if my honourable colleague did speak out publicly against the cuts at the time, I congratulate her.

I seem to remember that the Liberal senators who sat in our chamber at the time had absolutely nothing to say about the cuts to CBC/Radio-Canada.

Honourable senators, for years the Liberal Party has portrayed itself to Canadians as the great defender of CBC/Radio-Canada. But the facts are indisputable: the former Liberal government slashed the corporation's funding in the 1990s. And prominent Liberals repeatedly criticized CBC/Radio-Canada publicly.

For example, former Liberal MP Roger Gallaway introduced motions in the other place to reduce public funding for the corporation's English network.

[English]

Former Liberal cabinet minister Stan Keyes said the CBC had "become a monster" and added "a billion dollars we have put towards CBC television and we witness direct competition between a public broadcaster and the private sector."

I could quote Dan McTeague, the Liberal member for Pickering-Scarborough East, who opposed the idea of tax increases to fund the CBC, saying:

It is my belief that the Canadian people have had enough of the GST and the PST and they don't want a CBC-ST.

I have two other quotes for you. One individual said:

If CBC were to close its doors tomorrow morning, nobody would be in the street protesting.

[ Senator Comeau ]

**Senator Munson:** I would.

**Senator Comeau:** Honourable senators, do you know who said that? I will tell you exactly who it was. It was former Prime Minister Jean Chrétien during an appearance on the late Peter Gzowski's radio show.

**Senator Munson:** Say it ain't so.

**Senator Comeau:** It is so. In 1989, another individual said:

I see our efforts as a struggle against the assumption by existing broadcasters, including the CBC, that their audiences are fools who can't think for themselves.

Who said that? Take a guess. It was the leader of the Liberal Party of Canada, Michael Ignatieff.

**Senator Munson:** Say it ain't so.

**Senator Comeau:** The problem is that these things come back to haunt you.

**An Hon. Senator:** Shame, shame.

[Translation]

Honourable senators, as I already said, for years the Liberal Party claimed to be the champion of the corporation and it attempted to label the Conservative Party as being anti-CBC/Radio-Canada.

However, I would remind my honourable colleagues that the corporation was created thanks to a Conservative government. Yes, a Conservative government created the CBC.

I do not claim to speak for all Conservatives, but it just so happens that I really like CBC/Radio-Canada. I do not always agree with its news coverage. I sometimes watch programs on other channels, just as I listen to other radio stations. But I am not against CBC/Radio-Canada, nor is the current government.

Honourable senators, allow me to provide you with some additional facts.

As I stated earlier, CBC/Radio-Canada will receive more than \$1 billion of taxpayers' money this year, \$1.1 billion to be exact. This is the largest budget envelope ever given to the corporation.

I would like to be very clear about this. From 2006 to 2009, over four budgets, our Conservative government increased the corporation's funding.

The Liberal Party voted against three of these four budgets. Last year we made an election promise regarding CBC/Radio-Canada funding.

Honourable senators, allow me to read a paragraph from the document entitled *The True North Strong and Free, Stephen Harper's plan for Canadians*.

[English]

It reads:

A re-elected Conservative Government led by Stephen Harper will maintain financial support for arts and culture at or above existing levels, while continuing to improve the effectiveness of allocations wherever possible. The current government has already invested more in arts and culture than the previous government, including an additional \$30 million for the Canada Council for the Arts, \$9 million to improve our national museums, \$30 million per year to support arts and heritage festivals and renewed \$60 million in additional funding in each of the last two years for the CBC. We will continue our record of strong support for the arts.

[Translation]

Unlike the Liberals, who cut CBC/Radio-Canada funding in the 1990s, the Conservatives are committed to supporting the broadcaster, and we have kept our promise.

I would like to comment on another of Senator Chaput's remarks. She said:

What is happening is taking us back to the late 1960s, and it is reducing information about Canada, its regions and the world. We are witnessing the erosion of information. And a poorly informed population is at the mercy of undemocratic forces and special interests.

I hope that our honourable colleague will be able to tell us more about these so-called undemocratic forces and special interests.

But that is the least of my disagreements with Senator Chaput's remarks.

She talked about "erosion of information", but on the contrary, we are now in the information age. We are living in the age of Wikipedia, online news and opinion websites.

We are living in the age of 10-year-old video clips that were impossible to find until YouTube came along.

We are living in the age of Facebook, which enables people to renew old friendships, the age of blogs, live blogs, Twitter and countless other ways to communicate online.

We keep up with the latest news on Twitter. Twitter is where we get information about what is going on in Iran. If not for Twitter, we would have no idea what is going on in Iran; the people of Iran themselves would not know what is going on in their own country.

• (1730)

If my honourable colleague does not believe me, I encourage her to visit the Liberal research office on the Hill, where they will tell her that the Internet has been the way to do things for a long time now.

She could talk to André Pratte, who wrote in *La Presse* on March 28, 2009, and I quote:

If the CBC has hit a dead end today, it's not because the Conservatives were cheap, but as a result of a decline in advertising revenue as a result of the recession. In addition, the public broadcaster is facing the same structural problems that the private broadcasters are generally experiencing: costs are increasing, but demand is decreasing as a result of the appearance of new media on the broadcast landscape.

[English]

**The Hon. the Speaker:** The honourable senator's time has expired.

[Translation]

**Senator Comeau:** If my 15 minutes have expired, we will move on to something else.

**Hon. Claudette Tardif (Deputy Leader of the Opposition):** I would like to ask my honourable colleague some questions.

**Senator Comeau:** I would like to have another five minutes and I will conclude my comments.

**The Hon. the Speaker:** Senator Comeau is requesting an extension of five minutes.

[English]

**Senator Cowan:** Give him an hour. We will listen quietly to everything he says.

**Senator Comeau:** However, did you notice I called him Prime Minister Jean Chretien rather than Mr. Jean Chrétien?

**Senator Cowan:** I did not notice that.

[Translation]

It is interesting to note that, despite the drop in advertising revenue, CBC/Radio-Canada has refused to broadcast fact-based advertising prepared by the Conservative Party. This is the corporation that says to Canadians, "We want your tax dollars."

[English]

We want your tax dollars. We want you to put more money into it. However, we reserve the right to refuse to have advertising money come our way.

[Translation]

Honourable senators, CBC/Radio-Canada is not at an impasse.

In a speech he gave in March, Hubert Lacroix, President and CEO of CBC/Radio-Canada, said that the corporation could come out of the current situation stronger by focussing on the priorities in the long-term strategy approved by the board.

Mr. Pratte is right when he talks about the recession, the advent of new media and the need to invest taxpayers' money wisely.

That brings me to the idea of bridge financing for CBC/Radio-Canada that was included in a Liberal motion recently debated in the other place.

Bridge financing is not the answer to the corporation's problems. First, it would not protect jobs.

[English]

In March, Richard Stursberg, Executive Vice-President of CBC English services told *CBC Newsworld*, "if they had given us the bridge financing, we still would have had to cut 800 jobs."

[Translation]

Moreover, bridge financing is not in the best interests of our public broadcaster.

Honourable senators, our government does not want CBC/Radio-Canada to find itself in a position where it could not repay a loan. If it could not repay a bridge loan, either the government would have to erase the debt, which would be a waste of taxpayers' money, or services would be cannibalized across the country, which would be of no benefit to Canadians.

And I can assure all the honourable senators that public opinion is opposed to granting a bridge loan to CBC/Radio-Canada. No one is in favour of a major corporate bailout.

Honourable senators, I will end my remarks on this note: the Liberals promised stable, multi-year financing for CBC/Radio-Canada in every one of their terms.

However, they broke their promise and cut more than \$400 million in funding and eliminated 4,000 jobs — or 16,000 jobs if we use Senator Chaput's multiplication factor — at a time in our history when the unemployment rate was higher than it is today.

Our party, on the other hand, promised to maintain and even increase the corporation's budget. We have kept our promise by increasing CBC/Radio-Canada budget envelope in four federal budgets.

Obviously, honourable senators, this cannot be referred to as "inaction".

Clearly, our government is taking action by attempting to undo the damage wrought on the corporation by our Liberal friends 10 years ago.

We have made a real commitment, given support to linguistic communities and that, honourable senators, is proof of action and leadership.

**Senator Tardif:** Honourable senators, I would like to ask the honourable senator a question. I would like to know whether the senator acknowledges that the corporation's funding in the 2009-10 estimates falls short by \$63 million compared to the 2008-09 estimates. There is a \$63 million shortfall and 336 fewer jobs on the French side because of the refusal to provide \$125 million in bridge financing. Do you acknowledge those facts?

[ Senator Cowan ]

**Senator Comeau:** I can tell you what I do acknowledge. A very recent study by the Société Nationale des Acadiens examined services provided in Atlantic Canada and found that coverage by the CBC, on the English side, was 4 per cent whereas that by Radio-Canada, on the French side, represented 1.4 per cent. I am interested in those statistics. Why would Radio-Canada not have the same coverage in Atlantic Canada as the CBC? That is the type of question we should be asking ourselves.

A few years ago, I asked Radio-Canada to provide comparative statistics for western, central and eastern Canada. Radio-Canada refused outright to provide the statistics. It was none of my business and I had no right to ask the question. That is the type of issue we should be examining. Rather than slinging arrows back and forth, we should instead be working together.

Senator Chaput is criticizing the government because it is making budget cuts. I even read in an article by the Fédération Acadienne this week that there had been cuts at Radio-Canada in the past year. That is not true. Those are the types of things to be examined more closely. By working together we could provide services to our communities.

[English]

**The Hon. the Speaker:** Continuing debate?

If no other honourable senator wishes to speak, the inquiry is considered debated.

(Debate concluded.)

• (1740)

## CANADA NATIONAL PARKS ACT

### BILL TO AMEND—FIRST READING

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons with Bill C-38, An Act to amend the Canada National Parks Act to enlarge Nahanni National Park Reserve of Canada.

(Bill read first time.)

### SECOND READING

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

**Hon. Consiglio Di Nino:** Honourable senators, with leave of the Senate and notwithstanding rule 57(1)(f), I move that the bill be read the second time now.

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

**Hon. Senators:** Agreed.

**Senator Di Nino:** Honourable senators, it is a great honour for me to rise today to introduce Bill C-38, An Act to amend the Canada National Parks Act to enlarge Nahanni National Park Reserve of Canada.



I believe, honourable senators, that its short title, *An Act Creating One of the World's Largest National Park Reserves*, sums up what we are being asked to consider in this chamber. The purpose of the bill is to enlarge Nahanni National Park Reserve, one of the crown jewels of Canada's national parks system, and to ensure the lands within its massive expansion are protected as part of the park reserve.

With this important piece of legislation, Nahanni will be expanded to over 30,000 square miles in size, truly an inspired act of conservation. The bill will protect a huge wilderness area, both to the South Nahanni Watershed and all of its renowned karst landscape. This represents a gift to the future generations of Canada and, indeed, a gift to the people of the world.

Nahanni National Park Reserve is the Northwest Territories premier destination for outdoor enthusiasts from around the world. It is a region that has a powerful impact on anyone who has ever been there.

Honourable senators may recall that a few years ago CBC sponsored a contest to choose the seven wonders of Canada. Nahanni National Park Reserve was included among the top seven chosen by the CBC audience at the time.

I am particularly privileged to speak on this bill because honourable senators will recall that in April 2004 I brought forward a motion that, in part, called for the Government of Canada to expand Nahanni National Park Reserve to protect the South Nahanni Watershed and to work with the Dehcho First Nations to achieve this goal. At that time, the waters flowing into the mighty South Nahanni River and its watershed were not protected.

Honourable senators, I will shorten my speech because of the time frame and I will include some remarks on third reading. This was undertaken in consultation with the Dehcho First Nations and all of the other stakeholders. The reserve, with all of its majestic sights, will be protected but also, as suggested by Senator Sibbeston when we debated this issue in 2004, he spoke about concluding an energy and mineral resources assessment as part of the expansion process. I am pleased to inform this chamber that such assessment was completed.

The bill will protect the karst land. I believe we went through this the last time. It is a unique geological part of the world, probably the largest of its kind in the world. It is a limestone formation containing caves and other unique features.

The boundaries of the reserve will also, in respect to the suggestion made by Senator Sibbeston, allow for the continuation of some mining interests, which I will expose fully during consideration of the bill in committee. As time passes, there will be some attempt to purchase these mines in a willing buyer/willing seller type of negotiation.

The bill will also allow three existing hunting outfitters to continue their activities in the park for up to 10 years, while the negotiations for the purchase of these outfitters will continue and hopefully conclude with the Government of Canada purchasing the rest of the land.

Honourable senators, in conclusion, just over five years ago fellow senators and I rose in this chamber to state that it was time for the Government of Canada to act on the advice of the Dehcho First Nations, scientists, conservationists, canoeists and wilderness lovers from all over Canada by protecting the South Nahanni Watershed, including the Nahanni karst. Today it is our turn to act to protect this magnificent watershed with the boreal forests of Canada so that it will continue to sustain the wildlife and Aboriginal culture that draw their sustenance from this land.

Support from Aboriginal peoples, the Government of the Northwest Territories and the Canadian public has brought us to this day. I urge honourable senators, in the spirit of collaboration that we have seen in the preparation of this bill, to pass the bill as soon as we can.

**Hon. Grant Mitchell:** Honourable senators, I would like to support this bill in principle at second reading. This is, in many ways, a remarkable achievement. It is the product of literally years and years of negotiations and consultations based upon the dreams of peoples who inhabit this area in the North.

The consultation process is worthy of note and emphasis. It certainly included the Aboriginal First Nations people in the North, most notably the Dehcho First Nations and other groups as well. It involved, clearly and obviously, the diligent work of Parks Canada throughout this long period of negotiation. The process also included the Sahtu, Dene and Metis settlement area peoples. It was based as well upon extensive public consultations which were, in their first round, centered on local communities. The second round was much more national in scope.

The fundamental premise of the relationship of this kind of policy initiative to the needs, desires and dreams of people most directly affected has been, I believe, fulfilled very adequately with great care and caution.

The upshot of the policy decision is to create, as my colleague Senator Di Nino has indicated, what can properly be described as a huge national park area. It will be, in its depth and breadth, ranked alongside internationally renowned national parks such as Banff, Yellowstone and the Serengeti. It will preserve the features of this remarkably beautiful area — specifically its ecosystem and the many important species of animals that inhabit that area — for the people who are indigenous to that area. It also has huge appeal and importance for the many Canadians who use this kind of area for recreational pleasure. It also has huge implications for international communities who value this kind of area for their recreational and tourist pleasure.

• (1750)

This newly expanded park will provide protection for the habitat and ranges of about 500 grizzly bears, more grizzly bears than in Banff National Park and Jasper National Park combined.

It will also protect the habitat of two herds of the northern mountain woodland caribou, including migration routes and calving, rutting and wintering grounds. It will protect the habitat for alpine species, including Dall sheep and mountain goats. It will include important trumpeter swan nesting areas and it has

entire bull trout stream systems. As an Albertan, I have to underline how important the bull trout is because it is Alberta's official provincial fish. We have shared it with the North.

It is also important to note that in addition to the areas of habitat and range of animals that it will include, this new boundary of the Nahanni National Park Reserve will include some of the highest mountain ranges and some of the largest ice falls in the Northwest Territories. It will protect many of the tributaries to the South Nahanni River; and, importantly, it encompasses the entire watersheds of the Caribou River, Clearwater Creek, Cathedral Creek, Rapid Kettle River, Meilleur River, Irving Creek, Ram River and many more.

The enlarged park will also protect the internationally significant Nahanni North Karst Area, featuring spectacular canyons, caves, underground rivers, sinkholes, isolated rock towers and many other landforms created by the erosion and dissolution of limestone in that area.

I could go on but I know time is pressing. Not to repeat the comments of my colleague, Senator Di Nino, I would simply like to underline that this is a remarkable area of the world and of Canada. It is a gift from Canada, in some sense, to the world.

I want to place the caveat that we will be discussing matters in more detail with the minister tomorrow, but pending the outcome of those discussions, this park is a remarkable gift to Canadians. In size, it is now six times larger than it originally was. It meets a great deal of input and desire on the part of many people to have this park and this area of the country preserved.

I had an interesting conversation today with a long-standing associate of mine, Harvey Locke, who is very active in the Canadian Parks and Wilderness Association. He has spent the last seven years of his life doing almost nothing else but working on this park to bring this proposal to fruition today.

I spoke to him earlier today and he was very deeply moved about the decision that was made in the other place and that potentially we will make here in this house. He was very moved at a deep level and not just because it is the culmination of years of work. — I could sense in his voice and from what I know about him that his reaction reflects the deep relationship Canadians have with wildlife, with ecosystems, with the outdoors of our country.

I think there are times when we all too easily take that for granted. We forget how important our wildlife and surroundings are to us — the magnitude of the beauty, the depth of the beauty, the remarkable and wonderful nature that Canadians enjoy. This park is a very important step in capturing that nature and in preserving one of the most important and significantly beautiful areas of this country for Canadians. It is the meeting place of that deep fundamental characteristic of what we are as Canadians.

**Hon. Tommy Banks:** Honourable senators, it is not on to argue against the creation of a national park. We do not do that. It is very easy for governments of all stripes to say they are creating a new national park or a new marine protection area. We have been

creating them left and right, admirably, under whatever governments there have been in the short time that I have been here in this chamber.

However, I am assuming that Senator Di Nino might have an opportunity to speak with the minister. We found out today that we will get this bill and the minister is prepared to appear tomorrow morning.

One of the questions that I will ask the minister is a question that we have been asking on the committee to which this bill has been referred. We have been asking this question for the last nine years. I will ask the minister if there is enough money to run the park.

It is lovely to create national parks and we are all proud of our national parks, but they do not have enough money to operate properly. They have never had enough money to operate properly. There are things in them, public facilities, that are falling apart. There is stewardship that is not being done because there is not enough money or staff to do the job that national parks are set out to do.

We are proposing to create one of the world's largest national parks. I will be asking the minister whether the government will or has already arranged to provide enough money to operate our national parks properly. I would be grateful if the honourable senator would mention that to the minister, if he has the opportunity.

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

**Hon. Senators:** Question.

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

(Motion agreed to and bill read second time.)

#### REFERRED TO COMMITTEE

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

(On motion of Senator Di Nino, bill referred to the Standing Senate Committee on Energy, the Environment and Natural Resources.)

#### TOBACCO ACT

#### BILL TO AMEND—FIRST READING

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons with Bill C-32, An Act to amend the Tobacco Act.

(Bill read first time.)

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

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

## BUSINESS OF THE SENATE

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, I wonder if I could seek the indulgence of the house to extend the order we passed earlier today by about 10 minutes so we could deal with an item of interest, and that all other matters currently on the Order Paper will stand in their place.

**Hon. Senators:** Agreed.

**Senator Comeau:** I may need help with this.

**Senator Tardif:** It is Item No. 25 on the Notice Paper.

**The Hon. the Speaker:** Honourable senators, shall we proceed to Item No. 25 on the Notice Paper now?

**Hon. Senators:** Agreed.

[Translation]

## FOURTH WORLD ACADIAN CONGRESS

### INQUIRY—DEBATE ADJOURNED

**Hon. Rose-Marie Losier-Cool** rose pursuant to notice of June 11, 2009:

That she will call the attention of the Senate to the fourth World Acadian Congress (2009), scheduled to take place from this August 7th to the 23rd, in the Acadian Peninsula, in the province of New Brunswick.

She said: Honourable senators, I promise you that my speech will be refreshing.

It is with much pleasure and great pride that I rise today to tell you about a very exciting event that will soon take place in New Brunswick and the entire Atlantic region. That event is the fourth World Acadian Congress, which will be held in the place I call home, the Acadian Peninsula, from August 7 to 23, 2009.

Each World Acadian Congress brings together Acadians and francophones from all over the world. People from every Canadian province and territory will be there, along with people from Louisiana, New England and elsewhere.

I believe it was Antonine Maillet, our Prix Goncourt winner, who said, "Wherever there is one Acadian, there is Acadia."

Some 40,000 people will attend the 2009 World Acadian Congress, nearly doubling the resident population of 55,000 in the hundred or so communities scattered across the Acadian Peninsula.

• (1800)

The first World Acadian Congress was held in 1994 in the Moncton, New Brunswick area. This congress reawakened the pride of the Acadian people in the French language.

This congress also encouraged the francophone people of my province to become more involved in the political and social lives of their communities, and it gave a boost to the cultural life of francophone New Brunswick by sparking the creation of many festivals, book fairs, art galleries and cultural centres.

The 1994 congress was even recognized by UNESCO as one of the activities of the World Decade for Cultural Development. Even more importantly, during that congress, the United Nations Secretary General of the time, Boutros Boutros-Ghali, recognized Acadians as a distinct people.

The second World Acadian Congress was held five years later in 1999 in Louisiana, and the third congress was held in 2004 in various regions of Nova Scotia.

From the outset, the organizers wanted the 2009 World Acadian Congress to usher Acadia into modernity, to involve the communities of the Acadian Peninsula, and to promote the maritime character of my part of the country. From 2006 to 2008, the organizers promoted the congress at every available opportunity, as far away as Poitiers, Louisiana, and Quebec City.

I would like to commend and thank the 2009 World Acadian Congress management team: the president, Jean-Guy Rioux; the executive director, Robert Frenette; and the administrative director, Jacques Lanteigne, just to name a few. I would also like to commend and congratulate Lisette Cormier-Noël, the family reunion coordinator, and the Fédération des femmes acadiennes et francophones du Nouveau-Brunswick.

I would also like to thank the major sponsors, whose generosity has made the 2009 World Acadian Congress possible: the Department of Canadian Heritage, the Atlantic Canada Opportunities Agency, the Government of New Brunswick, the Fédération des caisses populaires acadiennes, the *Acadie nouvelle* newspaper, Acadie Presse, the Web portal [CapAcadie.com](http://CapAcadie.com), and last but not least, all the communities of the Acadian Peninsula.

I would now like to explain why everyone will want to come and visit us on the peninsula in August.

[English]

I want my English-speaking colleagues to know that in the Acadian Peninsula we manage in both official languages. While the World Acadian Congress will take place mostly in French, the locals will be able to make you feel welcome in your own language.

[Translation]

The Congress will begin with a ceremony at the Miscou Island lighthouse at 5 a.m. on Friday, August 7. I highly recommend being there, because there is nothing lovelier than sunrise over the Atlantic and because the wind is usually calm at that time of day. Later that morning, we will all parade across the high bridge between Miscou Island and Lamèque in the Marche de l'Acadie. I guarantee that it will take your breath away.

That evening, the Shippagan wharf will be the site of the first concert of the Congress, Racines oceans—l'Acadie accueille, which will showcase our maritime roots and our hospitality as Acadia's greatest musicians get people swinging.

Those interested in business should come learn more about businesses and industries on the Acadian Peninsula during Route des Affaires from August 9 to 11. The World Acadian Congress has organized these tours to strengthen networks between Acadian entrepreneurs everywhere, and we hope that Route des Affaires will result in new business partnerships.

I invite those interested in youth issues to my hometown, Tracadie-Sheila, from August 12 to 17, to participate in the Grand Rassemblement Jeunesse. We are expecting over 400 young people from all over the world who will discuss three major issues: arts and culture, leadership and politics. The patron of the event will be our very own Governor General, the Right Honourable Michaëlle Jean, who will deliver the opening speech and lead a workshop.

Those who like noise and making noise should check out the Fête nationale de l'Acadie on August 15. They will get a thrill from the decibels and excitement on Caraquet's main street, site of the Grand Tintamarre. This year, with so many visitors in attendance, we expect to see about 40,000 people at the Grand Tintamarre. The day will end with a second fantastic show featuring fireworks called "Tintamarre de feux — le temps de se dire — time to say. . ."

Those who are curious about Acadian innovation and specialties should visit Espace Neuf in Poquémouche from August 16 to 20. Tents will be set up where people can discover all kinds of Acadian products and services, including some delicious culinary specialties.

The 2009 World Acadian Congress will end on August 23 with a closing ceremony in Négouac and with the third and final extravaganza in Tracadie-Sheila, with the theme "With one voice—Acadia comes together".

But these major events at the 2009 World Acadian Congress must not make you miss all the others. Throughout the congress, a number of activities will be held in each community on the peninsula: nature outings; bird-watching sessions; demonstrations of fishing techniques; and exhibitions by "hookers", sculptors and painters, including our own Lieutenant-Governor, multidisciplinary artist Herménégilde Chiasson.

There will be several classical music concerts featuring former and current students of the Conservatoire de musique de l'Acadie. There will even be a bicycle tour of the peninsula from August 10 to 14, for those with strong legs. And I am not even talking about

the many other smaller-scale activities, such as concerts by local choirs, lobster feasts and tours of heritage trails.

Speaking of heritage trails, I would like to make a brief aside to invite you to visit two heritage sites in Tracadie-Sheila, my home town. The first is the Académie Sainte-Famille, an enormous, magnificent, historic white building beside the hospital. I went to school there when I was a little girl, and the Académie means a great deal to me and my people in Tracadie.

Although it is no longer a school today, the Académie Sainte-Famille still plays an educational role, because it is home to music classes, the community college and a museum about the second site you must visit, Tracadie's lazaretto. I will bet you did not know that my town housed and treated lepers for many years and had the only lazaretto in eastern Canada.

The first lazaretto opened in 1844, and the last one closed in 1965. For all those years, the Religious Hospitallers of St. Joseph cared for, loved and cured many residents of the peninsula and foreigners who arrived by ship. The museum tells the story of our lazaretto simply and well. Today, all that remains are a few artefacts and a magnificent cemetery with beautiful wrought-iron crosses.

Go, honourable senators, and discover a facet of our past. If you want to learn more about this page in the history of health care in Canada, I recommend the excellent book by Mary Jane Losier and Céline Pinet entitled *Les enfants de Lazare: histoire du lazaret de Tracadie*.

• (1810)

As a final point, I would like to quickly point out three other aspects of the 2009 World Acadian Congress that will likely interest you. First, there is the "Grande Jasette" speakers' series. These talks will be held across the peninsula and will give Acadian and francophone personalities the opportunity to talk about current, important issues facing francophones. These talks will be given by the following people: author Rino Morin Rossignol; former Supreme Court justice Michel Bastarache; Doctor Réjean Thomas; Secretary General of the Organisation internationale de la Francophonie Abdou Diouf; and poet Raymond Guy Leblanc.

I would also like to draw to your attention the many family reunions that will be taking place during the 2009 World Acadian Congress. At this time, there are 89 families organizing their reunions, which can draw anywhere from a few hundred to over 3,000 participants. The reunions for the Losier family, with all its many spellings, will take place in Saint-Isidore on August 21 and 22, and I will be in attendance. If you have an Acadian-sounding name, why not check the congress' web site to confirm the date and location of your family reunion?

Finally, I would just like to mention that the Women's Summit will be held August 21 and 22, at the Shippagan campus of the Université de Moncton. I will have the honour of attending and giving a speech at this summit, which will bring together Acadian and francophone women from all over the world to discuss common issues and empowerment. Men are also welcome!

I will conclude my plug by inviting you, while you are on the peninsula for the 2009 World Acadian Congress, to try the official wines of the congress made in France. The two red wines are

[ Senator Losier-Cool ]

excellent and the sparkling wine is very refreshing when it is hot. I have not yet tasted the two white wines but I plan to give them a try during the congress. And let us not forget that good New Brunswick beer.

While drinking your wine, do not forget to turn on the radio and listen to the theme song of the congress, *Enfin retrouvé*, written by Daniel Léger from Sainte-Anne. And above all do not forget to take back the souvenir set of five pins for your children or grandchildren.

In anticipation of your trip to my beautiful peninsula in a few weeks, I invite you to have a look at the 2009 Acadian World

Congress website at [www.cma2009.ca](http://www.cma2009.ca). You will find all the information you need about the activities planned for each day, as well as accommodation if required — if there is any left.

Honourable senators, I thank you for listening and hope to see you in my part of the country.

(On motion of Senator Robichaud, debate adjourned.)

(The Senate adjourned until Thursday, June 18, 2009 at 1:30 p.m.)

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