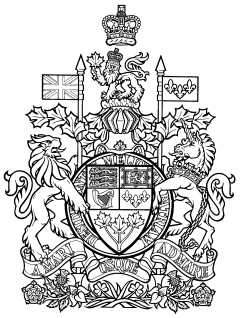

CANADA

Debates of the Senate

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OFFICIAL REPORT
(HANSARD)

Tuesday, October 6, 2009

THE HONOURABLE NOËL A. KINSELLA
SPEAKER

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

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THE SENATE

Tuesday, October 6, 2009

The Senate met at 2 p.m., the Speaker in the chair.

Prayers.

SENATORS' STATEMENTS

QUESTION OF PRIVILEGE

NOTICE

Hon. Joan Fraser: Honourable senators, pursuant to rule 43(3), I give notice that later today, I will raise a question of privilege regarding the proceedings of the Standing Senate Committee on Legal and Constitutional Affairs on October 1, 2009, and the subsequent press conference hosted by the Minister of Justice and Attorney General, the Honourable Rob Nicholson, P.C., wherein the work of the Senate and its committee were impugned.

Pursuant to rule 43(7), I am prepared to move a motion that the Senate refer the matter to the Standing Committee on Rules, Procedures and the Rights of Parliament, if His Honour finds that a prima facie case was made.

EMANCIPATION ACT

ONE HUNDRED AND SEVENTY-FIFTH ANNIVERSARY

Hon. Donald H. Oliver: Honourable senators, on December 2, 2008, I rose in this chamber to recognize the International Day for the Abolition of Slavery — a commemorative day adopted by the United Nations General Assembly 60 years ago.

Today, I rise to celebrate the one hundred and seventy-fifth anniversary of the August 1, 1834 act that abolished slavery in the British Empire, known as the Emancipation Act — an historic law that saw the liberation of millions of Black children, men and women from serfdom. It was a turning point in the history of people of African descent around the world. The Honourable Percy Paris, Minister of African Nova Scotian Affairs and the only African-Nova Scotian member of the provincial legislature, said the following in honour of this special anniversary:

> We recognize this date with mixed emotions. We mourn for our ancestors who were enslaved and for their descendants who have suffered the ramifications of this period.
>
> But we also celebrate the fact that we are still here, nurturing our families and communities, and contributing to the economic, social and political landscape.

This day reminds us of a dark period in the history of mankind, particularly for Blacks, but throughout the month of August, Blacks celebrated this important anniversary in different parts of our country. On August 1, Ontario celebrated its first provincially recognized Emancipation Day. A series of events across the province were organized in Toronto, Owen Sound and Windsor. In fact, it was just last December that the Provincial Government of Ontario adopted Bill 111, which recognizes August 1 as Emancipation Day across the province. The introduction of this bill marked the first time in the history of Queen's Park that two MPPs from different parties co-sponsored proposed legislation.

Closer to home, the Black community of Nova Scotia also organized special events. The twenty-sixth Annual Africville Homecoming Reunion Festival was held in Halifax in August. Africville was a small African-Nova Scotian community destroyed in the 1960s by the City of Halifax. This annual festival is a time to revisit the past, celebrate the present and anticipate the future. During the festivities, a street in Halifax was renamed Africville Road.

On August 1, the Halifax harbour welcomed the arrival of Freedom Schooner *Amistad*, within the context of the celebrations surrounding Black Freedom 175. This program gave the opportunity to ten racially and ethnically mixed groups of young people to participate in workshops that build leadership, to explore the richness of diversity, and to celebrate freedom. Other commemorative events also took place in Amherst and Birchtown, Nova Scotia, in August.

Honourable senators, in honour of the one hundred and seventy-fifth anniversary of the Emancipation Act, I call upon every one of us in this chamber to raise our voices against slavery — a human abomination that is still practised today in many parts of the world, yet in many different forms.

WILLARD S. BOYLE

CONGRATULATIONS ON RECEIVING NOBEL PRIZE

Hon. James S. Cowan (Leader of the Opposition): Honourable senators, early this morning we learned that Dr. Willard S. Boyle, from Nova Scotia, has been awarded the 2009 Nobel Prize in Physics. He shares this award with George E. Smith and Charles Kao.

The Royal Swedish Academy of Sciences described the three men as "the fathers of fibre optics and digital imaging." The Royal Swedish Academy cited Drs. Boyle and Smith for having invented the first successful imaging technology using a digital sensor known as a charge-coupled device. The CCD technology makes use of the photoelectric effect, as theorized by Albert Einstein and for which he was awarded the Nobel Prize in 1921.

Dr. Boyle was born in Amherst, Nova Scotia, in 1924, and moved to a logging community in Quebec with his family when he was three. His mother, whom he cites as one of his mentors, homeschooled him until grade 9, after which he attended Lower Canada College in Montreal. He went on to study at McGill University, where he obtained his BSc, MSc and, in 1950, his PhD in physics. After completing his doctorate, Dr. Boyle spent a year at Canada's Radiation Lab and then taught physics for two years

at the Royal Military College in Kingston, Ontario. In 1953 he joined Bell Labs in New Jersey. There he began to work with Dr. Smith and together they designed an image sensor that could transform light into a large number of image points, what we recognize today as pixels. Digital cameras — now so common they are embedded in cellphones — owe their existence to the work of Dr. Boyle and Dr. Smith. They revolutionized photography and, as the Nobel Committee observed, "helped shape the foundation of today's networked society."

While each of us reaps the benefit of their work every day when we record our lives and loved ones, for Dr. Boyle the greatest achievement came when images of Mars were transmitted back to earth using digital cameras. He said, "We saw for the first time the surface of Mars. It wouldn't have been possible without our invention."

When Dr. Boyle retired in 1979 from Bell Labs, he moved back to Nova Scotia. Once a Nova Scotian, always a Nova Scotian. Back in Canada, he served on the Research Council of the Canadian Institute for Advanced Research and the Science Council of the Province of Nova Scotia.

Honourable senators, Dr. Boyle provided some good advice in a profile on the science.ca website, which I believe merits quoting. He said:

> Know how to judge when to persevere and when to quit. If you're going to do something, do it well. You don't have to be better than everyone else, but you ought to do your personal best.

In Dr. Boyle's case, his personal best was the best in the world. Our warm congratulations to Dr. Boyle and his co-winners, Dr. Smith and Dr. Kao.

• (1410)

VISIT OF DALAI LAMA

Hon. Consiglio Di Nino: Honourable senators, this past Sunday, October 4, 2009 in Montreal, together with the Honourable Jason Kenney, Minister of Citizenship, Immigration and Multiculturalism, I had the privilege to meet one of our honorary citizens, His Holiness the Dalai Lama. His Holiness came to Canada to participate in the Vancouver Peace Summit from September 27 to 29, which was attended by thousands of people who came to hear His Holiness along with Nobel Peace Laureates, Mairead Maguire, Betty Williams, Jody Williams and spiritual teacher, Eckhardt Tolle.

His Holiness also traveled to Calgary where more than 15,000 people participated in the University of Calgary's NOW conference. In Montreal, an additional 13,000 people were present at the Bell Centre to hear His Holiness give a public talk entitled, "Educating the Heart: The Power of Compassion."

On Sunday morning, Minister Kenney and I had the great fortune of meeting with His Holiness to discuss the efforts and plans of the Parliamentary Friends of Tibet, PFT, to support meaningful dialogue between the Chinese government and representatives of His Holiness. We also discussed support by PFT for genuine autonomy for Tibet and the Tibetan people. We also touched on the possibility of members of PFT visiting Tibet and Dharamsala, India, in spring 2010.

Honourable senators, I am always humbled in the presence of this genuine ambassador of peace, a man whose teachings have influenced millions around the world. To quote His Holiness at the Vancouver Peace Summit:

> Real change must start with individuals, then family, then community. . . . We really need to embrace the concept of the whole world as "we."

Honourable senators, I am sure all of us in this chamber can support this concept. Thank you kindly.

[*Translation*]

INTERNATIONAL TEACHERS' DAY

Hon. Rose-Marie Losier-Cool: Honourable senators, yesterday, October 5, was a very special Monday. It was International Teachers' Day.

Let us ask ourselves this: where would we be without teachers? What would we know? What would we do? Since knowledge is the most important key to success, and since this knowledge can only be transmitted by teachers, let us take a moment to think of and thank those who taught us and helped us become who we are today.

This year's theme, chosen by the Canadian Teachers' Federation, was "Peace. Live it. Teach it."

[*English*]

Peace. Live it. Teach it. A greater theme one could not find in this day and age where war still rages almost every day and everywhere. Who better than teachers to decry war and to promote peace among today's children, so that they do not become tomorrow's soldiers?

I look back fondly upon my more than 30 years as a high school teacher. How I miss those years when I could make a difference on a daily basis. Fortunately, I now have the chance to make a difference — differently. Yet, my heart still glows when I meet former students or talk to former colleagues.

[*Translation*]

I would like to take this opportunity to say a special hello to my friends at the Association des enseignantes et enseignants francophones du Nouveau-Brunswick. I applaud their daily commitment to education and peace in the schools and communities of my home province. The association has my utmost respect.

Honourable senators, along with parents and friends, teachers make up one of the three pillars that raise and support our children as they become adults. Let us not forget that, and let us show our gratitude to our teachers.

[*English*]

PRIME MINISTER'S AWARDS FOR EXCELLENCE IN EARLY CHILDHOOD EDUCATION

Hon. Carolyn Stewart Olsen: Honourable senators, yesterday, I attended the Prime Minister's Awards for Excellence in Early Childhood Education. It was especially an honour to meet with and congratulate Suzanne Belanger, a recipient from my home province of New Brunswick.

The Prime Minister's awards honour outstanding and innovative early childhood educators who excel at fostering the early development and socialization of children in their care, and who help to build the foundation that children need to meet life's challenges. The criteria include clear evidence of support of child development; innovation; involvement with parents, families and communities; and commitment and leadership in the field.

Ms. Belanger, whose work with the Madawaska Maliseet First Nation Head Start Program in Edmundston, not only meets all these criteria, she expands and enhances them. Her days are spent with these young leaders of tomorrow fostering and nurturing their culture, unleashing their creativity and opening their minds to the wonders of education. I was truly honoured to meet Suzanne Belanger.

I congratulate her, and all the recipients, on this well deserved award for their dedication and fine contributions to our youth.

[*Translation*]

INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

Hon. Roméo Antonius Dallaire: Honourable senators, 15 years ago the United Nations created an international criminal tribunal to try those responsible for the Rwandan genocide. Since then, many people have been brought before the court. The purpose of the tribunal was to make an example of governments and unstructured nongovernmental groups that commit massive human rights abuses, thereby reducing their impunity.

The goal was not only to pick up the pieces and reduce impunity, but also to prevent circumstances from arising in which the chaos affecting humanitarian efforts defies the human imagination.

[*English*]

Last week, the All-Party Parliamentary Group for the Prevention of Genocide and Other Crimes Against Humanity held a forum to support a report that studied how we can prevent catastrophic failures of humanity. The report, entitled "Mobilizing the World to Intervene: Leadership and Action to Prevent Mass Atrocities," was prepared by the Montreal Institute for Genocide and Human Rights Studies. The report looked at the recommendations in regard to this country — a leading middle power — and its ability to involve itself in prevention. The aim, ultimately, is to operationalize the concept that Canada created the Responsibility to Protect where massive abuses of human rights are perpetrated by a nation. We have the responsibility as a leading middle power, along with other nations, to intervene and to stop the abuses by all means and not purely by military means. The report has had some political support, but it is not fully recognized.

An interesting assessment was prepared by Tom Flanagan:

> . . . they are not mushy-headed idealists obsessed with soft power. They know that in a brutal world, it is often necessary to use force. They want to marry the liberal notion of humanitarian intervention with the conservative conception of national interest.

I will add one last comment of support by parliamentarians who attended, and those who will continue to attend, the all-parliamentary group. In an email Senator Hugh Segal said:

> This is an issue beyond partisanship. It is an opportunity to reflect together on what preparations are necessary so that governments can act with competence and workable instruments that can prevent tragedies and atrocities that kill thousands and blot all of humanity.

Senators, we have instruments to prevent the massive destruction of human beings. It is for us to take charge.

WILLARD S. BOYLE

CONGRATULATIONS ON RECEIVING NOBEL PRIZE

Hon. Kelvin Kenneth Ogilvie: Honourable senators, I rise to ask you to join me in celebrating the accomplishments of a great Canadian. Even though my distinguished colleague opposite was first to celebrate his accomplishments, I believe this Canadian deserves to be recognized on more than one occasion.

That distinguished Canadian is Willard Boyle, one of the masters of light, a Nova Scotian by birth and in retirement. Today, he is a Nobel laureate.

This year's Nobel Prize in Physics is awarded for two scientific achievements that have helped to shape the foundation of today's networked societies. They have created many practical innovations for everyday life and provided new tools for scientific exploration.

• (1420)

In 1966, Charles K. Kao made a discovery that led to a breakthrough in fibre optics. He carefully calculated how to transmit light over long distances via optical glass fibres. Today, optical fibres make up the circulatory system that nourishes our communication society. A large share of the traffic over these fibres is made up of digital images, which constitute the second part of this award.

In 1969, Willard S. Boyle and George E. Smith invented the first successful digital imaging technology. They were able to transform light into electrical signals. This invention revolutionized photography, as light could now be captured electronically instead of on film.

The device they created is the digital camera's electronic eye. The digital form facilitates the processing and distribution of these images.

Digital photography has become an irreplaceable tool in many fields of research, including in many medical applications such as imaging the inside of the human body, both for diagnostics and microsurgery.

Willard Boyle is an exceptional individual, a wonderful Nova Scotian and a great Canadian. I had the privilege to work with him on a key committee in Nova Scotia in the late 1980s and early 1990s. He is a member of Discovery Centre's Hall of Fame in Nova Scotia.

I am sure honourable senators will join with me in congratulating this great Canadian on his recognition as a Nobel laureate, and in sharing together our national pride in his achievements.

[*Translation*]

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of participants in the Parliamentary Officers' Study Program.

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

[*English*]

ROUTINE PROCEEDING

PRIVACY COMMISSIONER

PERSONAL INFORMATION PROTECTION AND ELECTRONIC DOCUMENTS ACT— 2008 ANNUAL REPORT TABLED

The Hon. the Speaker: Honourable senators, I have the honour to table, in both official languages, the Annual Report of the Office of the Privacy Commissioner of Canada on the Personal Information Protection and Electronic Documents Act for the period January 1 to December 31, 2008.

[*Translation*]

OFFICE OF THE SUPERINTENDENT OF FINANCIAL INSTITUTIONS ACT

BILL TO AMEND—FIRST READING

Hon. Pierrette Ringuette presented Bill S-241, An Act to amend the Office of the Superintendent of Financial Institutions Act (credit and debit cards).

(Bill read first time.)

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

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

CANADIAN PAYMENTS ACT

BILL TO AMEND—FIRST READING

Hon. Pierrette Ringuette presented Bill S-242, An Act to amend the Canadian Payments Act (debit card payment systems).

(Bill read first time.)

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

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

CANADA-EUROPE PARLIAMENTARY ASSOCIATION

WINTER MEETING OF THE ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE PARLIAMENTARY ASSEMBLY, FEBRUARY 19-20, 2009—REPORT TABLED

Hon. Consiglio Di Nino: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian delegation of the Canada-Europe Parliamentary Association regarding its participation in the eighth winter meeting of the Parliamentary Assembly of the OSCE, held in Vienna, Austria, from February 19 to 20, 2009.

[*English*]

COMMITTEE OF PARLIAMENTARIANS OF THE ARCTIC REGION, MAY 27 TO 28, 2009— REPORT TABLED

Hon. Lorna Milne: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canada-Europe Parliamentary Association respecting its participation at the Standing Committee of Parliamentarians of the Arctic Region, held in Ilulissat, Greenland, from May 27-28, 2009.

QUESTION PERIOD

HUMAN RESOURCES AND SKILLS DEVELOPMENT

ASSISTANCE FOR WOMEN

Hon. Mobina S. B. Jaffer: Honourable senators, my question is to the Leader of the Government in the Senate. The recent report, *How Canada Performs: a Report Card on Canada*, released by the Conference Board of Canada, addresses key areas in which

Canada is losing the fight against poverty. The report presents alarming figures in key areas such as child working age and elderly poverty.

The nonpartisan organization Make Poverty History, which was founded in 2005 and is headquartered in Ottawa, also indicates that Canada is losing the fight against poverty. Its numbers indicate that, as of 2007, one sixth of Canadian children live in poverty. Canada's child poverty rate of 15 per cent is three times that of Sweden, Norway and Finland. Each month, more than 770,000 people in Canada use food banks.

Honourable senators, sadly, 40 per cent of those relying on food banks are children. According to the figures presented by the Conference Board, the child poverty rate increased from 12.8 per cent in the mid-1990s to 15.1 per cent in the mid-2000s. The working-age poverty rate rose from 9.4 per cent to 12.2 per cent over the same period, and the elderly poverty rate also increased from 2.9 to 5.9 per cent.

This report gave Canada a B grade and ranked us ninth out of seventeen countries, behind such countries as the Netherlands, Austria, Switzerland and Belgium.

Honourable senators, poverty is directly connected to persons obtaining jobs, and it is especially difficult for women. The third report of the government's economic plan makes the point of highlighting many infrastructure jobs it created, together with upcoming jobs, which will be created disproportionately for men.

Currently, 7 per cent of construction workers are women; 7 per cent of those in trades and transportation are women; and only 22 per cent who are employed as engineers are women.

Some Hon. Senators: Shame.

Senator Jaffer: My question to the Leader of the Government in the Senate is, what is the government doing to help women obtain jobs at this time?

• (1430)

Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)): I thank the honourable senator for her question; however, it would take up all of Question Period to respond to her question by itemizing all of the efforts the government is making to help Canadians obtain jobs during this economic downturn.

Honourable senators, with regard to poverty, the government is acting to support low-income families. Canada's Economic Action Plan raises the income level at which the National Child Benefit supplement for low-income families and the Canada Child Tax Benefit are phased out. This initiative will provide a benefit of up to $436 for a low-income family with two children.

These new family tax benefits came into effect on July 1, as the honourable senator may know. We are effectively doubling the tax relief provided by the Working Income Tax Benefit, WITB, created in Budget 2007, to help low-income Canadians, both women and men, over the so-called "welfare wall" and into employment.

Our economic action plan also makes significant investments for social housing to support low-income Canadians, persons with disabilities and seniors. These investments are in addition to the support we provide to families with the introduction of the Universal Child Care Benefit in Budget 2006, and the Child Tax Credit, introduced in Budget 2007. Through the Universal Child Care Benefit, the government provides more than $2.4 billion each year to the benefit of over two million Canadian children.

Concerning employment for women, the government participates in many programs including the job-sharing program, which has been a tremendous success. That successful program has ensured that companies can keep their employees, both women and men, on the job. The program has created a cohesive atmosphere in many of these companies where people, for the first time in their lives, through job sharing, are beginning to care about each other and are helping each other through these difficult economic times.

Some Hon. Senators: Hear, hear!

ASSISTANCE FOR REFUGEE AND IMMIGRANT WOMEN

Hon. Mobina S. B. Jaffer: I wish to thank the leader for her answer. I would ask that, perhaps, she could give a detailed written answer as to exactly what the government is doing for women.

I have another question. Sadly, when it comes to obtaining jobs, the situation for refugee and immigrant women is even worse. A Commitment to Training and Employment for Women, states that, six months after women have been in Canada, only 32 per cent of women are employed compared to 54 per cent of men. In 2001, immigrant women had an unemployment rate of 8.1 per cent compared to 7 per cent of Canadian-born women and 6.8 per cent of immigrant men.

What is the government doing, not for the family, but for refugee and immigrant women to help them obtain jobs?

Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)): I thank the honourable senator for her question. It is interesting to look at the unemployment numbers as a result of the worldwide economic downturn. Although the crisis has affected both men and women, women, who often have jobs in the fields of teaching, nursing and health care, have, in some areas of the country, been less affected than some men employed in the manufacturing industries.

However, the honourable senator asked about immigrants, particularly immigrant women. I will be happy to provide Senator Jaffer with a long list of the programs the government has embarked upon help new Canadians who either have lost their jobs or are trying to enter the workforce. I would be happy to provide that in a long, written answer, as the honourable senator asked.

SENIORS

GUARANTEED INCOME SUPPLEMENT

Hon. Sharon Carstairs: Honourable senators, my question is to the Leader of the Government in the Senate. Let me begin by thanking the leader for tabling the government's response to the final report of the Special Senate Committee on Aging. I know that all members of that committee will read the government's response in detail, as I have.

My question today relates to poverty among those very seniors, the aging members of our society. We know that many seniors are living better than they have ever lived. They have more income than they have ever had. However, there are pockets of seniors who are living well below the poverty line. Honourable senators, I refer to single seniors, Aboriginal seniors, immigrant seniors and elderly women.

Can the government leader explain why the government has failed to give a further supplement to the Guaranteed Income Supplement, GIS, which would put those seniors in a position to live above the poverty line? As the minister knows, our report recommended such a supplement, as did the leader's own commission on seniors.

Why has the government failed to implement those recommendations?

Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)): I wish to thank the Honourable Senator Carstairs for that question. As the honourable senator is aware, the number of seniors that live below the poverty line has fallen significantly over the last number of years; however, that in no way diminishes the fact that many seniors still live below the poverty line.

As the honourable senator read in the report, the government has taken a number of measures to assist seniors living below the poverty line, such as the increased Old Age Security pension and GIS payments. We have made great efforts to contact hard-to-reach seniors to ensure they are benefiting from all of the available government programs.

In Canada's Economic Action Plan, we have also set aside significant sums of money for housing for low-income seniors. In the report that I tabled on behalf of the government, we attempted to respond to each and every one of the recommendations of the report as they were grouped. I believe the government has laid out for the Senate and for the committee comprehensive details on what we have done in terms of assisting seniors, especially seniors who live below the poverty line.

This matter was also raised at the recent federal-provincial-territorial meeting I attended in Edmonton. This is an area where the provinces, the territories and the federal government worked together to try, as much as possible, to make the lives of all seniors more fulsome, especially those who have limited income.

Senator Carstairs: Honourable senators, the reality is that those seniors living below the poverty line must choose whether to buy food or prescription medicines. This is Canada; they should not have to make those types of decisions. We have talked about the billions that we are spending on stimulus funding. The stimulation by giving additional money to seniors who are living below the poverty line is immediate; it could not be spent faster.

Again, I want the minister to tell this chamber why this government refuses to bring the Guaranteed Income Supplement to a level such that no senior needs to live below the poverty line.

Senator LeBreton: There is no denying that the federal government, the provinces and the territories grapple with this difficult situation. However, it is important to put on the record exactly what the government has done, as we noted in the report.

Recently, we substantially increased investments towards seniors, as the honourable senator knows. Since January 2006, GIS benefits have been increased by 7 per cent over and above quarterly indexation. This represents an investment of $2.7 billion over five years. Furthermore, in 2008, the GIS earnings exemption was increased to $3,500 from the $500 it was under the previous government, enabling GIS recipients with outside income to earn more without being penalized in terms of their GIS. Through this increase to $3,500 from $500, working GIS recipients can keep an additional $1,500 in GIS benefits.

• (1440)

With regard to the honourable senator's claim that some low-income seniors have to make a choice between buying food and buying prescriptions, this is an area where the provinces, which are responsible for the delivery of the health care system, work hard with the various groups. I would hope that in this day and age, considering the amount of money the federal government transfers to the provinces vis-à-vis the health care system, there should not be a situation where a low-income senior is put in that position.

I will request more information for the honourable senator on that specific area. We discussed this issue at the federal-provincial-territorial meeting, and there was general agreement among the provincial ministers responsible for seniors that they had made great strides in alleviating the problem of seniors going without proper medication.

Senator Carstairs: On a final supplementary question, the Guaranteed Income Supplement has nothing to do with the provinces and nothing to do with the territories. It is a federal government program. Why will this minister not accept her responsibility as the minister responsible for seniors and lobby to have the GIS increased?

Senator LeBreton: Honourable senators, I believe I made it clear what the federal government has done in regard to the Guaranteed Income Supplement, including the introduction of a one-time application. The reason I was talking about the provinces and territories is because in the honourable senator's question she specifically raised the issue of prescription medicines.

As the honourable senator knows, provinces and territories are responsible for the delivery of the health care system and I was simply acknowledging the views of the ministers at the conference with regard to the cost of prescription medicines. I was trying —

and obviously I was not successful — to communicate that the provinces and territories felt that they had made significant progress in ensuring that low-income seniors are not deprived of the medications that they require.

With regard to the Guaranteed Income Supplement, I am fully aware, honourable senators, that this is a federal program. I stand by the government's record in this regard and the fact that we have done much more in this area since we came into power than has any previous government.

FOREIGN AFFAIRS

NUCLEAR WEAPONS IN IRAN

Hon. Hugh Segal: Honourable senators, my question is to the Leader of the Government in the Senate. In view of new reports in the American and British press that Israel's Prime Minister visited the Russian capital on September 7 to inform Russian leadership of solid intelligence confirming the presence of Russian nuclear scientists and experts in Iran to help with nuclear weaponization, and in view of a report circulating to the effect that the International Atomic Energy Agency has data suggesting that Iran is not only more advanced but may have, in fact, sufficient fissionable material to construct a bomb, could the Leader of the Government in the Senate share with the chamber and Canadians where our government is on this issue, the increasing risk, and our support for Canadian allies and trading partners, including the Gulf Cooperation Council and Israel?

Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)): I wish to thank the Honourable Senator Segal for that question. This is a serious matter.

The government believes that the revelation of Iran's covert uranium enrichment facility is completely shocking and unacceptable. The government has condemned Iran's continued and deliberate disregard for the UN Security Council resolutions and the IAEA requirements.

Having said that, we recognize Iran's compliance to allow IAEA to access all its sites and we expect them to fully cooperate. We expect that there will be a full investigation.

As the honourable senator knows, Canada has in place restrictions to limit relations with Iran under the Tightened Controlled Engagement Policy. We have been active at the IAEA, the G8 and elsewhere, in urging Iran to fully respect its nuclear non-proliferation obligations.

Senator Segal: Could the minister take as notice whether or not Canada is preparing a sanction regime and, if necessary, to deploy forces to the region should the UN or our NATO allies request Canadian support to keep the Strait of Hormuz open to global shipping?

Senator LeBreton: Hopefully, that question is somewhat premature. As the honourable senator knows, the Prime Minister, along with President Obama, Prime Minister Brown, President Sarkozy and our other allies, has been clear that Canada will be supportive of whatever actions are necessary to deal with this threat, which is a serious threat to international peace and security. At the moment, honourable senators, I believe that the government will pursue a diplomatic approach to this situation. Hopefully, Iran will comply with the IAEA and we will not have to contemplate or entertain a scenario such as the honourable senator suggests.

ISRAELI PARTICIPATION IN NON-PROLIFERATION TREATY

Hon. Marcel Prud'homme: Honourable senators, I have a supplementary question. I will certainly make a speech on this subject before I depart.

While the minister proceeds along the lines suggested by Senator Segal, could she add a request to the Prime Minister, in order to help the situation in the Middle East, that he ask Israel to sign the non-proliferation treaty, which would send a positive signal in the region that everyone is treated equally.

Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)): I wish to thank the honourable senator for his comments. I will simply pass on his suggestion to the government.

There is nothing more that can be said at the moment. We are dealing with a serious situation in Iran, and I will be happy to make the honourable senator's views known to the Prime Minister and to the Minister of Foreign Affairs.

INDIAN AFFAIRS AND NORTHERN DEVELOPMENT

TAX RELIEF AND JOB CREATION

Hon. Charlie Watt: Honourable senators, my question is for the Leader of the Government in the Senate. Honourable senators, Canada's Economic Action Plan includes $6.2 billion over two years to stimulate the economy and support job creation by providing personal tax relief to Canadians, allowing Canadians to decide how best to spend their money.

What specific initiative is this government offering to Northern residents in the way of tax relief, and how will this government support job creation for the Inuit in Canada, especially in the four Inuit land claim regions?

Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)): I wish to thank the Honourable Senator Watt for his question. The Prime Minister has taken a great interest, as has the government, in the North. He has spoken directly about putting in place a regime whereby development in the North will benefit the people who live in the North.

As the honourable senator knows, Canada's Economic Action Plan provided $200 million in the area of education for ten new schools. Education is the most important area to facilitate job creation for people who live in the North and for our Inuit population.

• (1450)

There have been major renovations to three other schools, and through the Building Canada Plan we have provided $103 million over three years for eight new schools or renovation projects, including the Red Earth First Nation in Saskatchewan, but, of course, that is not in the North.

Canada's Economic Action Plan also invests $100 million over three years for the Aboriginal Skills and Employment Partnership, and $75 million in the two-year Aboriginal Skills and Training Strategic Investment Fund.

On April 2, Minister Strahl and Inuit Tapiriit Kanatami president Mary Simon signed the Inuit Education Accord to create a national committee to develop a strategy on educational outcomes for Inuit students. We have reached historic tripartite educational agreements in other provinces as well to give our First Nations community more control over education.

The fact is that the government believes that any development in the North cannot be to the benefit of only those people who live in the South. It must benefit the people who live in the North. That is why the government has undertaken a number of initiatives in the North to strengthen our sovereignty there. Most importantly, the Prime Minister and the government believe and are committed to the northern population being involved in their own future by being full partners and participants in the development of the North.

VETERANS AFFAIRS

SURVIVOR BENEFITS

Hon. Rod A.A. Zimmer: Honourable senators, my question is for the Leader of the Government in the Senate. Stable employment, associated benefits and financial independence are difficult to secure for the spouses of the Canadian Forces members who are assuming the domestic role and the responsibility of the home and the children. It is even more difficult for widows to suddenly transition from being a financially dependent spouse to an independent surviving spouse, considering they receive only half of their deceased spouse's pension.

Veterans Affairs Canada awards some widows who are not able to support themselves financial assistance from the War Veterans Allowance. This allowance tops off at $1,273 a month. We are all aware that this amount per month leaves a single individual in a life of poverty.

Minister, what is the government doing to help these people refrain from falling into a life of poverty because of their choice to support the decision of their spouses, our heroes, to defend our country?

Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)): I wish to thank Honourable Senator Zimmer for a thoughtful and excellent question. I appreciate receiving it. As honourable senators know, the situation is becoming even more acute as we now have more people serving overseas, more deaths and injuries, more people left at home, either as widows or dealing with returning soldiers who are severely physically or mentally injured. The Department of National Defence and the Department of Veterans Affairs has been working hard to address the needs of the families of our soldiers. There is a rather lengthy list of things that they are now doing that I will be happy to provide in a delayed answer.

[*Translation*]

HUMAN RESOURCES AND SKILLS DEVELOPMENT

CHILDHOOD POVERTY

Hon. Lucie Pépin: Honourable senators, I have a question for the Leader of the Government in the Senate. The facts we have on childhood poverty are overwhelming. Behind those statistics, children are suffering. The increase in federal child benefits is a step in the right direction, but it is still not enough for many families. We need to take a more coordinated approach.

Can the Leader of the Government in the Senate tell us why it is so difficult for her government to develop an action plan with clear objectives and deadlines, in an effort to reduce child poverty?

[*English*]

Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)): I believe that the issue of poverty among children and poverty in general is unacceptable no matter who is in government. All governments are seized with this issue, no matter what their political stripe.

I do not accept the honourable senator's premise that our government has no plan or does not treat this issue seriously. In fact, we do. I outlined a number of things the government has done to work with these families and also with the provinces and territories to deal with this problem. However, it is incorrect to suggest that our government either does not care or has no plan.

I have outlined some of the things the government has done in this area. I do not for a moment stand here and suggest that there is an easy solution. There is no easy solution. If there were an easy solution, we would not have the problem.

I do not accept the honourable senator's statements that we have no plan and that we are overlooking this important element in our society. I will be happy to provide the honourable senator with further information on all the programs of all our departments, because it does not affect just one department. Many departments deal with this area, such as Indian and Northern Affairs, Health and, obviously, Finance. There are components in many departments, such as HRSDC.

I will be happy to provide the honourable senator with much greater detail, but I want to make it clear that I do not accept her statement that we have no plan and that we do not care about this group of people.

[*Translation*]

DELAYED ANSWER TO ORAL QUESTION

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, I have the honour presenting a delayed answer to a question raised by Senator Rivest on April 22, 2009, concerning Natural Resources and the Forest Industry.

NATURAL RESOURCES

FOREST INDUSTRY

(*Response to question raised by Hon. Jean-Claude Rivest on April 22, 2009*)

The Canada-Quebec Forestry Task Team was created to better coordinate and fast-track the initiatives of both the federal and provincial governments in support of forest-dependent communities in Quebec.

Our Government is willing to explore solutions that will help improve the coordination of programs between the federal government and provinces. The Federal government works in partnership with all provinces and it is working closely with them to find ways of providing support to workers and communities affected by the global downturn in the forest sector.

For example, through the $1-billion Community Adjustment Fund our Government, managed by the regional development agencies, collaborates with provincial governments to help mitigate the short-term impacts of the economic downturn in communities across Canada.

For example, New Brunswick was allocated roughly $28 million (M) and Ontario was allocated roughly $349 M. Of the total envelope allocated to New Brunswick, more than half (or $15.5 M) has been committed to initiatives in the province, as of September 10, 2009, including $9 M dedicated specifically to forest-related project. In Ontario, more than a third of the total provincial envelope (or $131.5 M) has been committed to date, including support to forest-related projects.

ANSWER TO ORDER PAPER QUESTION TABLED

TREASURY BOARD—EMPLOYMENT EQUITY

Hon. Gerald J. Comeau (Deputy Leader of the Government) tabled the answer to Question No. 17 on the Order Paper—by the Hon. Senator Mitchell.

[*English*]

ORDERS OF THE DAY

TOBACCO ACT

BILL TO AMEND—THIRD READING

Hon. Gerald J. Comeau (Deputy Leader of the Government) moved third reading of Bill C-32, An Act to amend the Tobacco Act.

Hon. Jane Cordy: Honourable senators, I am pleased to rise today at third reading to speak to Bill C-32, an Act to amend the Tobacco Act.

After study of the bill by the Standing Senate Committee on Social Affairs, Science and Technology, I continue to support this bill without amendments. Maybe it is because I am allergic to cigarette smoke and I would love it if everyone would stop smoking.

The number of young people smoking in Canada is still far too prevalent and Bill C-32 takes a step in the right direction to curb the tobacco industry's blatant marketing of tobacco products to Canada's youth. Little cigars, or cigarillos, and blunt wraps are marketed today with fruit flavours such as grape, cherry, peach, banana split and tropical punch. They have additives such as vitamins and sugars that taste like candy, making the taste more appealing to young people.

Bill C-32 strives to protect children and youth from tobacco industry marketing practices that encourage them to use tobacco products. These marketing practices include the use of these flavourings and additives that would make the tobacco product easier to smoke and, therefore, be more appealing to young people.

Bill C-32 repeals the exemption that permits tobacco advertising in publications with an adult readership of not less than 85 per cent. It prohibits the packaging, importation for sale, distribution and the sale of little cigars and blunt wraps unless they are in a package that contains at least 20 units. We know the price point for tobacco is very important to children.

I fully support Bill C-32 without amendments and I believe that Bill C-32 takes important steps toward reducing the number of youth in Canada who take up smoking. However, I was left with a number of concerns following the testimony heard when Bill C-32 was studied by the Standing Senate Committee on Social Affairs, Science and Technology.

• (1500)

During the study, several witnesses raised the issue of contraband cigarettes. In 2008, over 3 billion more contraband cigarettes were sold in Canada than in 2007; that is 3 billion more cigarettes available to Canadian youth.

Contraband cigarettes cost the Canadian government nearly $2.4 billion a year in lost revenues. The availability of contraband tobacco products on the Canadian market is the major issue when it comes to tackling the problem of youth smoking in Canada. Studies show that in Ontario 48.6 per cent of the cigarette butts found on playgrounds are contraband; illegal cigarettes that kids are buying out of duffle bags in the parking lot for $6 a carton. This is where many young people are getting their cigarettes and this is how they are ultimately becoming addicted to tobacco.

I believe Bill C-32 is a good first step toward curbing youth smoking in Canada by removing flavoured tobacco products from store shelves. These tobacco products are packaged in such a way as to appeal to children. However, Canadian law currently prohibits storeowners from selling these products to minors, and the source of cigarettes for children is not from over the counter.

Bill C-32 is limited in its powers to truly deal with the problem of youth smoking. Canadians need the government to stop ignoring the problem of contraband tobacco and bring forth strong policies to engage directly the issue of the contraband tobacco market. The government must do this and provide leadership and vision before we can truly say we are tackling the problem of youth smoking.

We need to make cigarettes unappealing to eliminate the "try" factor of these products and, most important, these products have to become unavailable to Canada's youth.

Another serious concern I have that was raised during the committee hearings was with regard to the government's idea of consultation with stakeholders during the development of Bill C-32. When questioned by committee members regarding the level of consultation the government had with stakeholders when drafting Bill C-32, it was obvious that consultation was not high on the government's priorities. Witness after witness testified that the government ignored their requests for consultation.

I would like to quote Paul Glover, Assistant Deputy Minister, Healthy Environments and Consumer Safety Branch from Health Canada, who appeared before the committee on September 17. This was his response to the question of whether Health Canada consulted with the tobacco industry and others when developing Bill C-32:

> With respect to consultation, this was a platform commitment in some ways. As a platform commitment, it was very visible and public to all Canadians through the election process.

I was quite surprised that a senior bureaucrat would talk about the election platform of any political party when appearing as a witness, and to say that this was consultation.

The following quote was typical of witnesses' responses to questions on the level of involvement stakeholders had during the development process of Bill C-32. In referring to committee hearings on the other side, Laurie Karson, Executive Director of the Frontier Duty Free Association stated:

> When Health Canada was asked during those hearings if they consulted specifically with the Frontier Duty Free Association, a question posed by Joyce Murray, they said they did consult with us. I beg to differ on that. I have subsequently contacted the Minister of Health to meet with her directly. I have been refused a meeting. I have contacted Leah Canning twice and have been refused a meeting. I am sure you would agree that we, as an industry, believe that is lack of consultation, and it is very disheartening.

I truly hope that the lack of consultation with stakeholders is not the policy of this government when it comes to developing legislation. Open communication and input from Canadians and stakeholders is crucial to crafting effective legislation when addressing these issues. It takes consultation with stakeholders to minimize the possibility of negative, unintended consequences a piece of legislation may have.

In closing, I wish to reiterate my support for Bill C-32, An Act to amend the Tobacco Act and its intent to reduce the appeal of tobacco products to Canada's youth. We all agree that smoking and the health of our children continues to be of great concern to Canadians, and I applaud the efforts of this bill.

I do hope to see this government put greater emphasis on introducing policies through consultations with stakeholders. Such consultations would aggressively target the problem of contraband tobacco in Canada, which remains the largest source of tobacco for young people.

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.)

BANK OF CANADA ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

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. Donald H. Oliver: Honourable senators, I am pleased to speak to Bill S-230. The bill proposes to amend the Bank of Canada Act in order to create a credit rating agency managed by the bank.

Specifically, the bill proposes that the Bank of Canada create a subsidiary under the Canada Business Corporations Act to provide credit ratings. The corporation would not be a Crown corporation and would not be an agent of Her Majesty. The corporation would be audited by the Bank of Canada's auditors and would be subject to audits by the Auditor General. The amended act would not come into force until necessary funds had been appropriated.

In order to understand the implications of such a change it is important to understand the main priorities of the Bank of Canada as set out in the Bank of Canada Act. The Bank of Canada is responsible for the following areas: Canadian monetary policy, Canadian currency, the management of Canada's financial system, and acting as a fiscal agent and fund manager for the Government of Canada. Operating a credit agency would be outside the mandate of the bank.

Before going into some of the problems that might arise by the bank creating such a subsidiary to provide for direct credit ratings, I would like to deal with what credit rating agencies are and what they do. I will begin, honourable senators, by congratulating Senator Grafstein for his focus on the need to act

in order to resolve the economic crisis in which we and many other nations find ourselves and on the notion that there is a clear need to ensure that financial instruments, particularly those that are complex, are properly rated.

• (1510)

Certainly, failure to rate properly certain financial instruments and the failure by some investors to conduct properly their own due diligence appears to have contributed to the current global financial crisis.

Honourable senators will not be surprised to hear me say that I recognize the need for public sector intervention in some cases. I support private sector businesses over public sector entities as a general rule. For that reason, I would like to focus my next remarks and comments on the need for oversight, transparency and accountability in relation to credit-rating agencies generally, rather than strictly on the specifics of Bill S-230, which would require the bank, as I said, to incorporate a corporation under the Canada Business Corporations Act to be a credit rating agency.

Perhaps I could begin by indicating why, in essence, credit rating agencies exist and what it is they do, and compare that to what is the obligation of the bank. Their analysis and evaluations basically reduce the asymmetry of information between lenders and investors on the one hand, and issuers on the other hand, about the creditworthiness of issuers of debt securities. The essence of what they do is to deal not with liquidity, but with creditworthiness.

This situation is referred to as the asymmetric information problem by some, and as the principal agent problem by others. It is important to recognize as well that Basel II incorporates ratings by credit rating agencies into the rules that exist for setting weights for credit risks. Lower credit ratings mean that higher interest rates may be required in consideration of relatively higher risk, and ratings may affect the eligibility of financial instruments for inclusion in the portfolios of some institutional investors that are restricted in the nature and extent of the investments in speculative-grade instruments; that is, companies like insurance companies, trust agencies, and so on. They are often confined and they wait to see what the rating agencies say about a particular instrument.

Of course, while the science is not exact, or perhaps because the science is not exact, there have been recent examples where the work of these agencies has been called into question. We are all familiar with a lot of the names, such as the Mexican crisis, the Asian crisis, Enron, WorldCom and Parmalat. These and the current economic crisis are among the examples that spring to mind.

To provide some context for my comments, I should note that at the present time credit rating agencies, or CRAs, are not subject to formal regulatory oversight in Canada. There is no agency or organization that regulates them. Consequently, some are not surprised by the allegations that relatively high ratings by CRAs for complex financial instruments, ratings that some believe may have been the result of conflicts of interest, played a role in the current financial crisis. Certainly, some of the instruments that received high ratings are now worth a great deal less than their initial purchase price.

A number of organizations have argued in favour of implementing a regulatory framework for CRAs. Proposals generally address such items as codes of conduct and public disclosure of information used in rating decisions, among other issues. However, before I mention the proposals that have been made, let me begin by noting what has been said in recent months about CRAs in Canada and internationally.

Honourable senators, here are a few comments from three sources: what the House of Commons Standing Committee on Finance has heard, what two Bank of Canada representatives have indicated publicly, and what the Canadian Securities Administrators have said.

The context for what is happening and being said in Canada includes the realization that Canadian investors in asset-backed commercial paper, or ABCP, appear to have relied heavily on the credit ratings provided by the Dominion Bond Rating Service, or DBRS, to assess the risks associated with their investments. In the wake of Canada's nonbank ABCP crisis, questions have arisen about the extent to which CRAs operating in Canada failed to evaluate properly the risk in these and other complex financial instruments and contributed to the crisis.

Professor Ian Lee, who appeared before the Finance Committee in the other place as an individual, but is the MBA program director at Carleton University's Sprott School of Business, said: ". . . there are spurious credit ratings." The Finance Committee also heard from DBRS on the same day that the G20 leaders were talking about the financial crisis and preparing their own communiqué, which I will deal with later.

Honourable senators, I think it should be noted that the DBRS provides rating services for 99 per cent of all corporate commercial paper issuers in Canada, and 98.6 per cent of the asset-backed securities market, according to the Investment Industry Regulatory Organization of Canada.

The DBRS representative told the House of Commons committee members:

> . . . DBRS is committed to ensuring the objectivity and integrity of its ratings, the independence of its analytic staff, and the transparency of its operations.

The representative, Peter Bethlenfalvy, went on to say that DBRS has adopted a code of conduct that is in accordance with the International Organization of Securities Commissions, or IOSCO, about which I will say more later on. In his view:

> . . . the IOSCO code continues to serve as an appropriate foundation for prudent regulatory oversight in all jurisdictions.

He also told the committee that, over the previous 18 months, his organization had implemented changes to enhance the quality and the transparency of its credit rating process and to help restore confidence in the credit rating opinions.

Finally, he indicated that DBRS had not anticipated the global liquidity crisis; it focused on credit quality. In particular, he said:

> We accept our share of responsibility for the ratings, for all ratings that we provide. They are opinions. They're based on public methodologies. . . . [we] accept responsibility in the context of unforeseen events in the global market.

Honourable senators, it is important to note that a credit rating is a measure of credit risk, or the ability of underlying assets to fund the principal and interest under the terms of a particular debt obligation. It is not a measure of the liquidity of the security, which is termed "liquidity risk", or the price at which the security can be sold in the market, which is termed "market risk."

In an April 2008 speech, the Deputy Governor of the Bank of Canada, David Longworth, said that:

> The search for yield [also] led to rapid growth in the demand for, and development of, more complex structured financial products, . . ."

— such as some derivative products.

> These complex instruments were rated by credit-rating agencies using the same scale that they had used in the past for "plain-vanilla" corporate debt. Some sellers of these complex financial instruments emphasized that these products were highly rated — many were AAA — but placed little emphasis on their other features.

— such as their liquidity.

> A number of investors failed to do their own due diligence and instead relied too much on credit ratings as a measure of the overall risk in holding these complex debt instruments. . . . they failed to take into account other risks, in particular, market and liquidity risks. The complexity of these instruments frequently made them opaque, and too often investors put their money and confidence into vehicles that they did not fully understand.

He went on to say that rating agencies, belatedly, realized the quality problems that sometimes existed and that led to the downgrades of some structured products.

In my view, Mr. Longworth made a very important point. Certainly, there are issues with opaque financial products, and there are some concerns about certain credit rating agencies and practices, but there is also the problem of inadequate due diligence by investors themselves. He made this point well when he said that greater transparency of financial instruments isn't enough — investors also need to know how to interpret the information.

• (1520)

He also provided insightful comments when he indicated that:

> . . . because rating agencies rely on their reputations, they have strong incentives to improve the information content of their ratings for complex financial instruments, to ensure that all material facts are disclosed in a concise and timely manner, and to address inherent conflicts of interest in the ratings process. They have shown an ability and willingness to learn from their mistakes, and they are regularly refining their ratings processes. This does not mean, though, that investors can rely exclusively on the judgment of others. In the end, investors must accept responsibility for understanding and managing the credit risk in their portfolios.

The notion of investor responsibility was reiterated by another Deputy Governor of the Bank of Canada, Pierre Duguay, in January 2009 when he said:

> . . . investors of all types — even the most sophisticated — did not always know or understand what they were investing in. Their frantic search for yield led many to presume that others knew what they were doing and that risk had been priced appropriately. These investors substituted the judgments of credit-rating agencies and others for their own due diligence.

The Canadian Securities Administrators, CSA, has also examined a number of issues related to credit-rating agencies. In December of 2007, the CSA announced the formation of a working group to consider securities regulatory issues resulting from the credit turmoil and to make recommendations on appropriate regulatory responses. In October 2008, the CSA issued a consultative paper that contained proposals by the working group.

Regarding CRAs, the working group proposed to implement a regulatory framework, applied to approved credit-rating organizations, that would, among other things: (a) require CRAs to comply with the "comply or explain" provision of the International Organization of Securities Commissions Code of Conduct Fundamentals for Credit Rating Agencies; and (b), give securities regulators the authority to require changes to a CRA's practices and procedures.

The working group also indicated it would consider whether to require disclosure of all information provided by an issuer to a CRA and used by the CRA in determining and monitoring ratings. Moreover, consideration was to be given to reducing reliance on credit ratings in Canadian securities legislation.

Honourable senators, on the international scene, not surprisingly, the leaders of the Group of 20 nations are also concerned about credit-rating agencies and they have discussed the concern in a number of their recent meetings, the most recent having been held in the United States. They have expressed their view in an April 2, 2009, communiqué.

Honourable senators, I think their view is sufficiently important that I would like to read the material parts in full, and I beg your indulgence while I do so.

On April 2, the G20 nations said in their communiqué:

> We have agreed on more effective oversight of the activities of Credit Rating Agencies, as they are essential market participants. In particular, we have agreed that:

> all Credit Rating Agencies whose ratings are used for regulatory purposes should be subject to a regulatory oversight regime that includes registration. The regulatory oversight regime should be established by end 2009 —

This is October.

> — and should be consistent with the IOSCO Code of Conduct Fundamentals. IOSCO should coordinate full compliance;
>
> national authorities will enforce compliance and require changes to a rating agency's practices and procedures for managing conflicts of interest and assuring the transparency and quality of the rating process. In particular, Credit Rating Agencies should differentiate ratings for structured products and provide full disclosure of their ratings track record and the information and assumptions that underpin the ratings process.

That is key, honourable senators: "ratings for structured products and provide full disclosure of their ratings track record" — how successful they had been in their predictions — "and the information and assumptions that" underlie the whole process that they undergo in making their ratings.

> The oversight framework should be consistent across jurisdictions with appropriate sharing of information between national authorities; that is the members of the G-20 group, including through the IOSCO; and,
>
> the Basel Committee should take forward its review on the role of external ratings in prudential regulation and determine whether there are any adverse incentives that need to be addressed.

Honourable senators, I believe that these nations should, and will, monitor the extent to which CRAs in their jurisdictions behave in a manner consistent with these views, and will take remedial actions as required. Clearly, the G20 leaders believe that changes regarding CRAs are needed going forward.

In closing, honourable senators, let me indicate that I completely support the notion that greater oversight of credit rating agencies is needed. These agencies are an important participant in the financial system. In his bill, Senator Grafstein proposed that the Bank of Canada be required to incorporate a credit rating agency. While the notion of what, in essence, would be a public credit rating agency would have a certain appeal for those who place more trust in public entities than they do in private-sector institutions, certain key questions remain unresolved, including the cost of this new entity, the extent to which this new agency would compete with private-sector entities on a level playing field, and the precise value that would be added to the landscape, if you will.

I wonder whether the answer to our current difficulties in relation to credit rating agencies lies more in a better regulatory framework for existing and future private-sector rating agencies than in the creation of a new entity by the Bank of Canada.

Operating a credit agency runs counter to the international trend, and having central banks focus on their core mandates. I note that there can be potential conflicts between operating a credit rating agency and the pursuance of the central bank's core mandates. Operating a credit rating agency will require the central bank to publish credit assessments of individual entities. This requirement could interfere with the efficient allocation of resources in the economy, since private investors might place undue reliance on the central bank's views, thereby undermining their willingness to conduct their own due diligence or to seek out the views of other rating agencies.

A central credit rating agency might also discourage competition in the ratings business, which will prevent investors from having access to a range of views on the creditworthiness of entities and instruments. Moreover, given the Bank of Canada's involvement in the financial institution supervisory committee, they might believe the ratings of financial institutions will benefit from inside access to supervisory information, which can interfere in the effective supervision of regulated financial institutions.

If the bank were to operate a credit rating agency, there is a risk that, as an agency of the federal government, it could expose the government to the risk of being held publicly accountable for the ratings issued by the bank's subsidiary. In other words, the government may become liable under this proposal.

Ratings naturally require a heavy element of judgment, and this judgment could expose the government to the risk of being publicly held accountable for any rating mistakes by a bank-owned rating agent subsidiary.

Credit rating agencies play an important role in capital markets by evaluating and disseminating information on the creditworthiness of financial securities and issuers such as governments, financial institutions and corporations. We are all aware that the current economic crisis has exposed flaws in the credit-rating business.

In the end, it is more important to ensure that the ratings business functions properly with proper supervision over the inherent conflicts of interest that exist in the industry.

As noted in the April 2008 Financial Stability Forum report on enhancing market and institutional resilience, poor credit assessments by agencies contributed both to the build-up of, and the unfolding of, the credit-market events that began in 2007.

Honourable senators should now be aware of the potential conflicts that could be created if the Bank of Canada were required to create and operate a credit rating agency.

• (1530)

In these extraordinary times, we all believe that it is vital that the Bank of Canada be allowed to deliver on its core commitments without having the added burden of the operation of a new and volatile function, especially as the operation of an agency could prove to be a major impediment of the banks' currently mandated operations. I must remind honourable senators that the operation of such an agency could expose the government to increased risk.

Finally, in creating a federally run credit rating agency, Canada would be going against the trend of our G20 partners, thereby calling into question Canada's commitment as a country to work cooperatively with the G20 in dealing with the current economic crisis.

Thank you, honourable senators, for giving me this opportunity to comment on the bill.

Hon. Jerahmiel S. Grafstein: Honourable senators, I first wish to thank the honourable senator for his thorough and balanced analysis of my bill. He and I find ourselves in agreement; there is no oversight with respect to credit agencies, and everyone agrees that the fundamental flaw in our economic system could be placed at the foot of credit agencies. Everyone agrees.

I appreciate as well that the honourable senator drew our attention to the Order Paper by quoting from the Declaration on Strengthening the Financial System, London Summit. That quote is in the Order Paper, and I draw honourable senators' attention to it on pages 19 and 20, which provided the basis of my proposal of this particular bill. I also agree with the honourable senator that there is a question of conflict with respect to the banks' mandate and with respect to this entity.

There is only one question I ask the honourable senator. There was a deadline in this declaration. The G20 agreed that by the end of this year, there would be an oversight mechanism in place. I did not hear from the honourable senator as to whether or not that commitment has been fulfilled in Canada. If so, how has it been fulfilled?

Senator Oliver: Honourable senators, we have not reached the end of the year. The commitment has not been fulfilled, but Canada, as an important member of the G20, is giving it serious consideration. The government has until the end of the year, and this is the month of October.

Senator Grafstein: Under those circumstances, honourable senators, I will adjourn the debate. I will respond —

The Hon. the Speaker: Perhaps we will come back to the honourable senator. I think he has already spoken on it.

Hon. Lowell Murray: Honourable senators, yes, I rather doubt that Senator Grafstein, who opened debate on second reading, can move its adjournment now.

However, my question, if Senator Oliver would accept it, concerns his intention and that of the government with regard to this bill. I appreciate and respect Senator Oliver's opposition to the main provision of this bill, and I take it he was speaking on behalf of the government. I am asking whether the honourable senator can assure us, however, that the government side will not try to stop the bill at second reading and prevent it from going to committee for further study.

As the honourable senator will know, it has been our almost invariable practice here in this chamber, when it comes to private members' bills, without any of us making a commitment to support the bill ultimately, to give them second reading and allow them to go to the appropriate committee.

I was rather disconcerted the other day when the government sought to block Senator Lapointe's private members' bill, and I am asking Senator Oliver whether on behalf of the government he can give me assurance that they will allow this bill to receive second reading and that they will not try to stop this bill from receiving second reading and going to committee.

Senator Oliver: I thank the honourable senator for his question. Honourable senators heard Senator Grafstein say that he and I agree on a number of items. First, there is a economic crisis; second, credit rating agencies are something that G20 members are looking at very seriously; third, we feel that credit rating agencies had something to do with the economic downturn that began in the fall of 2007; and, fourth, that not only is the G20 looking at them but other agencies are as well.

Senator Grafstein has raised in this bill a number of important economic and financial matters that are worthy of important debate in this Senate. I do not speak for my government; I am an individual member. Senator Comeau in this chamber speaks for the activities of the government. It is a very important piece of legislation worthy of further debate.

Senator Murray: I presume my friend will not try to impede the bill from going to committee.

Senator Oliver: I give Senator Murray my undertaking that I will not.

Hon. Stephen Greene: I move adjournment of the debate.

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

(On motion of Senator Greene, debate adjourned.)

ABORIGINAL LANGUAGES OF CANADA BILL

SECOND READING—DEBATE ADJOURNED

Hon. Serge Joyal moved second reading of Bill S-237, An Act for the advancement of the aboriginal languages of Canada and to recognize and respect aboriginal language rights.

He said: Honourable senators, I would like to remind you that this bill is entitled an Act for the advancement of the Aboriginal languages of Canada and to recognize and respect Aboriginal language rights.

The first thing I did before introducing this bill in the chamber was to send the proposed draft to our Aboriginal senators. Many have replied to me in writing expressing their comments in support of the bill; others have done so orally, also expressing their support and comments on the bill.

I also took the initiative of sending the draft bill to the representatives of First Nations, the Inuit Tapiriit Kanatami, the Métis National Council, the Mohawk council, the secretariat of the Inuit of Labrador and Quebec, and other Aboriginal groups that have a professional interest in Aboriginal languages. I took that initiative before a non-Aboriginal senator took the initiative to table such a bill.

I must inform honourable senators that the above-mentioned groups have all expressed their support in principle of this bill, would like to see it debated and eventually adopted by Parliament.

Before I move on with the substance of the bill, I should like to remind honourable senators that this bill calls on us to reflect upon the history of our country. The first barrier the European settlers encountered when they landed in Canada in the sixteenth and seventeenth centuries was the language barrier. The settlers spoke French or English and they had to learn how to communicate with the Aboriginal people. They did not enter the country as conquerors; they entered the country as settlers. They did not want to impose their presence with the strength of arms; they wanted to negotiate their settlement. That is what Jacques Cartier did when he landed in Gaspé. That is what Champlain did when he landed in Acadia. They did not go to those locations with thousands of armed soldiers; they came to Canada in good faith to try to settle the land. Soon, the language barrier became the first obstacle to their purpose. What did they have to do? The Aboriginal people were much too proud to try to learn the newcomers' language and the settlers had to learn the Aboriginal languages in order to communicate with them. They did not teach the Aboriginal people English or French.

• (1540)

The reverse at that time was the rule. The missionaries were best equipped to learn Aboriginal languages.

The first grammar dictionary was composed — my colleague Senator Nolin will remember that dictionary from his early days in school — by Father Jean de Brébeuf. He was the first person to draft the dictionary and grammar in Huron. The Huron were tribes occupying the site of Quebec with the Algonquin. The Minister of Colonies in France soon complained that the Aboriginal people were not learning French but rather it was the other way around with the French learning Aboriginal languages. The Aboriginal people were in the dominant position of controlling the natural resources that the French settlers wanted to exploit. The settlers were, in a way, at the mercy of the Aboriginal peoples to learn their languages. That relationship lasted for more than two centuries.

The Aboriginal people were so much in control that in 1700, when the French government wanted to sign peace treaties with all the Aboriginal groups in Canada at that time, the governor of Montreal sent five missionaries, five Jesuits — each one of them was fluent in one of the Aboriginal languages, be it Iroquois, Abénakis, Algonquin or Huron — as interpreters and diplomats because they were able to speak the languages of those nations.

When they all convened in Montreal, in August 1701, they all spoke Aboriginal languages. None of the negotiations took place in French. Everything took place in Aboriginal languages. When they signed the treaty, they did not sign their names in French. They signed their names with the pictogram that was the identification mark of the tribes: the mouse, the wolf, the squirrel, the moose, the bear and the wild rabbit. If honourable senators look at the old treaties, it is not their name that appears but rather a design, a drawing of all those signs. It is clear that for 200 years, the only way to conduct business in Canada, to buy fur from the Indian nations of Western Canada and Upper Lakes Canada, was to speak their language.

It is only when the economy of Canada turned at the beginning of the nineteenth century, when the fur trade collapsed and wood became the main resource of Canada, that the balance changed because the wood had to be cut, The settlers, not the Aboriginal people, were cutting and exploiting the wood.

In other words, when the Canadians of the nineteenth century did not need to deal with the Aboriginal peoples to profit from the land, from the natural resources, they stopped learning Aboriginal languages and the balance tipped, so much so that an act was adopted in 1857 by the Legislative Assembly of the United Provinces of Canada. As honourable senators will remember, in the middle of the nineteenth century, the provinces of Ontario and Quebec were united into one Parliament. It was called the Parliament of the United Provinces of Canada. In June 1857, they adopted an act to try to assimilate the Aboriginal people and thus have them lose or forget their languages.

The title of that act is: "An Act to Encourage the Gradual Civilization of the Indian Tribes in this Province, and to Amend the Laws Respecting Indians." Remember this was in 1857. The first "whereas" of the bill states the following:

> whereas, it is desirable to encourage the progress of Civilization among, the Indian Tribes in this Province, and the gradual removal of all legal distinctions between them and Her Majesty's other Canadian Subjects. . .

Later in the bill, honourable senators, a commissioner was appointed:

> . . . such Commissioners shall report in writing to the Governor that any such Indian of the male sex, and not under twenty-one years of age, is able to speak, read and write either the english or the french language readily and well, and is sufficiently advanced in the elementary branches of education and is of good moral character and free from debt, then it shall be competent to the Governor to cause notice to be given in the Official Gazette of this Province, that such Indian is enfranchised under this Act; . . . .

It was an incentive for the Indian population to abandon their original Aboriginal language and turn to French or English to benefit from the act that was adopted, that is, all the benefits of land ownership.

When Confederation was passed in 1867 and Indians became the responsibility of the federal government, there was the Indian Act. Honourable senators will remember what we learned and what we heard when we had the representatives of the Aboriginal people in this chamber two years ago following the official apology for the government policy of residential schools. At that time we learned and heard that one of the main objectives of the residential school policy was to remove the "Indianness" in the Indian. What is "Indianness:" It is language and culture.

Young Aboriginal children were taken from their families and communities, moved 100 kilometres from their home and forced to abandon their own mother tongue in the context of punishment and hardship under the new regime of learning French or English. It is stunning to read the testimony of those Aboriginal peoples of Canada from that time. Let me share information from someone who testified during the hearing related to residential schools. One student says he was forced to kneel in a corner of the classroom as punishment for having spoken Ojibway. Another student says his mouth was washed out with soap every time he spoke his language. That punishment was essentially what the policy was all about. It was deliberate government policy to eliminate the distinction of being Aboriginal. We all know — we have heard about it in this room — how moving it is to listen to how that policy is a direct cause of abandonment by the Indian people of their Aboriginal languages.

We heard one of the national chiefs mention that there were 55 Aboriginal languages in Canada, and only three survived: Inuktitut spoken by our Senator Watt, Cree and Ojibway. The other 52 are more or less extinct for the simple reason that the language is not transmitted from mother to child through the generations. Aboriginal people have lost the basic knowledge of their own language.

The Royal Commission on Aboriginal Peoples was established by former Prime Minister Brian Mulroney. The Erasmus-Dussault Royal commission, report in 1996 concluded with the following:

> Language is one of the main instruments for transmitting culture from one generation to another. Its revitalization, according to the Commission, is the key to renewal for the First Nations, Inuit and Metis and for their culture."

Honourable senators, there is no doubt, and I am quoting Professor Leitch:

"Aboriginal languages are incontrovertibly located at the core of 'Indianness.'"

• (1550)

Those who speak French have mastered French and the heritage that the culture conveys from one nation to another. Those who are English speaking have mastered English and the culture that supports and makes the language thrive. Those who are Indian, who do not speak the language of their nation, cannot express their lore, their religion, their sentiments, or their convictions. Instead, they must express in the language of another, which does not relate to their deeply rooted identity.

Two years ago in this chamber, we heard Chief Phil Fontaine reply to the government apology. He said:

> We are seeking fair treatment. It would be a tragedy if even one indigenous language were to disappear from here, but we are faced with 52 indigenous languages disappearing. We face a huge disaster and we need to do something to fix the situation.

Honourable senators, I am not speaking to a bill introduced out of the blue. Rather, this bill is the result of two main sources of study. The first one is the Taskforce on Aboriginal Languages and Cultures established by the federal government and reported in June 2005. The report resulting from the study is entitled *Towards a New Beginning: A Foundational Report for a Strategy to Revitalize First Nation, Inuit and Metis Languages and Cultures*. The report recommends:

> That Canada enact legislation that recognizes, protects and promotes First Nation, Inuit and Metis languages as the First Languages of Canada. This legislation, to be developed in partnership with First Nation, Inuit and Metis peoples, must recognize the constitutional status of our languages; affirm their place as one of the foundations of First Nation, Inuit and Metis nationhood; . . .

Aboriginal peoples participated in the drafting of the report under the sponsorship of Canadian Heritage. They quote a deep-felt conviction that something must be done to give status to their languages.

Honourable senators, the First Nation prepared a draft bill that was tabled at the National First Nation Assembly meeting in Halifax in July 2007. It was entitled, the National First Nation Languages Strategy and First Nation Languages and Foundation Act. Being a bill, it would fall under the framework of the Senate's capacity to introduce bills. As honourable senators on both sides know, senators may not introduce legislation that has a financial impact. That rule might seem complex to some of our new senators, but it is easy to understand. This house cannot initiate legislation that would compel the government to spend money. Such bills may be introduced only in the other place.

Bill S-237 does not compel the government to spend money. Rather, it serves as an incentive for the Minister of Indian Affairs and Northern Development to promote and recognize Aboriginal languages. Clause 6 of this bill makes that clear. Bill S-237 gives effect to the recognition that Aboriginal languages are part of the heritage languages of Canada. Some honourable senators who recall the debate on the Charter of Rights and Freedoms in 1981 will recognize section 22 of the Charter, which states:

> Nothing in sections 16 to 20 abrogates or derogates from any legal or customary right or privilege acquired or enjoyed either before or after the coming into force of this Charter with respect to any language that is not English or French.

In plain language, it means that the Charter of Rights and Freedoms does not affect customary rights to speak languages other than French and English that might have existed before the Charter was adopted. It is quite clear that the Aboriginal languages were spoken in Canada before the European settlement and the development that ensued. They have status and are part of the heritage languages that contribute to Canada's diversity.

I commend Bill S-237 to the attention of Honourable senators. All Aboriginal senators received a copy of the bill some months ago, and many have answered in writing with comments and suggestions with support in principle. All national Aboriginal groups have received copies of the bill and would like to see it

studied and debated before the proper committee in due time. As a minority Canadian francophone, I understand what it means when one cannot speak his or her own language in the context of our diverse Canadian society.

[*Translation*]

I truly believe that it is an extremely important aspect of Canada's nature that we recognize the status of Aboriginal languages and that, in our laws, we acknowledge the value and the importance that Canada places on the native presence, the status of Aboriginal peoples and the fact that Aboriginal languages contribute to Canadian diversity and form part of our identity.

(On motion of Senator Comeau, debate adjourned.)

[*English*]

INCOME TAX ACT

BILL TO AMEND—SECOND READING—
DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Mitchell, seconded by the Honourable Senator Lovelace Nicholas, for the second reading of Bill S-213, An Act to amend the Income Tax Act (carbon offset tax credit).

Hon. Consiglio Di Nino: Honourable senators, Bill S-213 encompasses important, complex issues that require a great deal of attention and research. I have not yet completed my work on the bill and, therefore, move adjournment of the debate for the remainder of my time.

(On Motion of Senator Di Nino, debate adjourned).

[*Translation*]

LIBRARY AND ARCHIVES OF CANADA ACT

BILL TO AMEND—SECOND READING—
DEBATE CONTINUED

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. Terry Stratton: Honourable senators, Senator Grafstein's bill proposes to change the name of the Portrait Gallery to the National Portrait Gallery and to amend the Library and Archives of Canada Act accordingly. But what is in a name? I believe that is an important question and I will explain.

The Government of Canada's Federal Identity Program stipulates that an institution's title is key to its identity.

• (1600)

The words in that name help define and position the institution, and the choice of a name is an important decision. This is especially true when it comes to communicating to the public the role and mandate of an institution and ensuring that the public remembers the name easily.

When we apply this way of thinking to a cultural agency, we end up at the very heart of our cultural identity. Our distinct cultural institutions create a unique palette that allows us to express our beliefs, customs and characteristics. The names of institutions emphasize their distinct roles and identities in the life of a country. The choice of name can influence the way in which the public becomes interested and participates in an institution.

[*English*]

Take the Canada Council for example. When it was created in 1957 by the Canada Council Act, it did not include the additional words, "for the arts." That phrase was added in 1997 as it celebrated its fortieth anniversary. Why was it added? It is because it reflects the objectives of the council itself to foster and to promote the study and enjoyment of, and the production of, works in the arts.

Let us look at the Portrait Gallery of Canada. The Portrait Gallery of Canada is alive and well, and respected and recognized throughout the country by this name due to its programming and exhibitions. The name was chosen carefully and for good reason.

The National Gallery of Canada is already well known to Canadians. The Portrait Gallery of Canada distinguishes itself from the National Gallery in name and role. The Portrait Gallery of Canada lets people know immediately the kind of artwork to be found there — portraits of all kinds: paintings, drawing, photos, sculptures, et cetera.

If it was called the national portrait gallery, it would likely be confused with the well-known gallery located in London, England; or the ones in Canberra, Australia, Washington or Edinburgh. How would it be found on the web — the first port of call for today's cyber-surfing generation? Type the title, "national portrait gallery," into your search engine to experience the resulting confusion. Users might not have the patience to wade through the entries before reaching our gallery here in Canada.

The Portrait Gallery of Canada finds itself in excellent company with other major cultural institutions like the Canadian Museum of Civilization, the Canadian Museum of Nature, the National Gallery of Canada, et cetera. By calling the institution the Portrait Gallery of Canada, we stress that these portraits belong to Canada and to all Canadians.

Canada has a proud tradition of placing our country's name in the title of our national institutions and the tradition works well. In an era of global communication, the country's name also helps to distinguish our institutions from those of other nations. I do not believe that renaming the portrait gallery will best serve either the gallery or Canadians themselves.

I ask myself how the name change can improve things. We already have an innovative cultural organization in Library and Archives Canada. Freedom and flexibility is built into the Library and Archives Canada Act to connect citizens to their heritage through a variety of ways including the Portrait Gallery of Canada.

It was never necessary to name the program, Portrait Gallery of Canada, within the act. The portrait gallery of today, with its original and innovative programming, has already reached beyond the notion of a physical space to a more versatile notion of space — an unrestricted approach to exhibitions and programming that will allow these portraits to be accessed from one end of the country to another.

Honourable senators, the Portrait Gallery of Canada exists. It is active and vibrant. Canadians have access to the collection and will have even greater access in the future. There is no problem with the name — there is nothing to fix.

Changing it would create a problem. Let me give you an example. One of the most successful ventures of the Portrait Gallery of Canada involved one of the world's finest galleries, the works entitled Four Indian Kings and the growth of our reputation both at home and abroad.

Let us backtrack. In 1710, four representatives of the Iroquoian Confederacy were brought to London by colonial leaders to secure an alliance against the French. To commemorate their visit, Queen Anne commissioned court painter, John Verelst, to paint their portraits. The portraits are now considered a world treasure, and represent some of the earliest painted portraits of Aboriginal life. These rare works belong to all Canadians as part of the Library and Archives Canada collection.

Through the travelling exhibits and outreach programs of the Portrait Gallery of Canada, these kinds of unique collections can be made accessible both nationally and internationally. Through a loan, the Four Indian Kings became a key attraction of the Between Worlds exhibition at the National Portrait Gallery in London, representing the North America component of the exhibit. Thousands of people viewed them. Thousands of people saw the text that indicated the portraits were from the Portrait Gallery of Canada.

This is one way that Canada gains international stature. Imagine how odd it would be to have the paintings loaned from the national portrait gallery to the National Portrait Gallery — curious? Canada would have been in brackets to avoid confusion. It would look odd — would it not — not to mention the lack of national recognition. This is only one example.

Partnering in the Théâtre de la Photographie et de l'Image Charles Nègre in Nice, France, the Portrait Gallery mounted an extremely popular exhibition of portrait photographs by Yousuf Karsh. European audiences were introduced to a noted Canadian artist and to the Portrait Gallery of Canada. Our country gained visibility. Each time artworks travel under the wing of the Portrait Gallery of Canada, they bring with them the possibility of a greater recognition of Canadian art and a stronger sense of the Canadian identity.

In the same way, in the outreach gallery on the Internet of the Portrait Gallery of Canada, the name appears on every page of the site. That name spreads the word quickly and effectively that we have an outstanding portrait gallery and that it belongs to all Canadians.

Today's times call for the most prudent use for public resources. However, there is also a need to lift the spirits of Canadians in times of trouble. One way we lift these spirits is by continuing to foster and take pride in all that is Canadian. That pride goes for the name as well as the gallery's content.

Honourable senators, the mission of the Portrait Gallery of Canada has not changed since its establishment in 2001 — to showcase Canadians from all walks of life that contributed, and continue to contribute, to the development of the country. The institution was envisioned as a mechanism to connect citizens through contemporary and historic exhibits and new media, and to be accessible both in person and through the virtual network.

As the Portrait Gallery of Canada, this mission has been consistently achieved. This mission is how the Portrait Gallery of Canada has been understood from Chemainus through Charlottetown by those who have benefited from this travelling exhibition and state-of-the-art virtual exhibition. The institution has achieved this balance with the programming under way and planned for the Portrait Gallery of Canada.

• (1610)

Our government has recently announced the investment of $3.5 million per year in the Portrait Gallery of Canada. This program money will be used to partner with communities to share the portrait gallery's collection. It will ensure that the greatest number of Canadians possible will have access to their heritage, learn from it, be inspired by it, and take pride in the men and women who have shaped and continue to shape our country. It will be used to continue to produce travelling and virtual exhibitions that will make the portrait collection accessible to all Canadians in locations across the country.

The Portrait Gallery of Canada is also inviting Canadians to celebrate the 100th birthday of artist Yousuf Karsh through Festival Karsh, organized in partnership with the Canadian Museum of Science and Technology and some 20 other partners. From 2010 to 2012, the portrait gallery and its partners will bring Karsh to Canadians across the country with a national touring exhibition. Canadians can also enjoy Karsh at the click of a mouse through a feature website. They will be invited to post their own Karsh photographs on Flicker, once again expanding the way we reach out and connect with individual Canadians using new social media.

The Portrait Gallery of Canada is also planning to participate in the 2010 Vancouver Winter Olympics through various exhibitions such as Space BC, a series of teen-created video portraits in collaboration with Pacific Cinémathèque, as well as Athletes in the Street.

Canadians are also familiar with the gallery through the first-ever portrait commissioning programs, through Portraits on the Ice and in the Streets and through In Your Face and other highly successful programs that have already been discussed.

The success of the gallery has been based not only on the innovation of individual programs, but on the strength of the gallery's reputation. This has taken a number of years to be fully realized; but now that it has been, to change the name would only have a negative impact on cultural relationships and understandings between Canadians, and among artistic organizations and other galleries. These are the kind of relationships that have already produced extremely successful results, such as increasing awareness and interest in our visual heritage through increasing interactive programming and approaches; increasing the understanding of the Canadian experience; generating learning opportunities; and helping individual Canadians make a personal emotional connection with other Canadians, past and present, as well as seeing themselves against the wider backdrop of history.

Honourable senators, all of this has been achieved by using the name Portrait Gallery of Canada.

Hon. Jerahmiel S. Grafstein: I have a question. What percentage of the total collection —

Senator Stratton: If you had asked me, I would have said yes.

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

Senator Stratton: Yes.

Senator Grafstein: I apologize, Senator Stratton. I thought you nodded affirmatively.

What percentage of the total collection of paintings and photographs held by the archives has been exhibited under this program that you have outlined?

Senator Stratton: I do not think we can answer that by stating percentages. This is a new media, and what is transpiring as a result of this is that Canadians across the country, coast to coast to coast, can access the Portrait Gallery of Canada in a new and refreshing way. I think that is the intent and idea of this. Every time that happens, we are advertising the Portrait Gallery of Canada — of Canada.

Senator Grafstein: I move the second reading of this bill.

Hon. David Tkachuk: I am moving adjournment of the debate.

The Hon. the Speaker *pro tempore***:** It was moved by the Honourable Senator Tkachuk, seconded by the Honourable Senator Mockler, that further debate be adjourned to the next sitting of the Senate.

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

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

The Hon. the Speaker *pro tempore***:** All those in favour of motion will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker *pro tempore***:** All those opposed to the motion will please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker *pro tempore***:** In my opinion, the "yeas" have it.

And two honourable senators having risen:

The Hon. the Speaker *pro tempore***:** Is there accordance with the whips on the length of time that the bells will ring? It will be a one-hour bell. The vote will take place at 5:15.

Call in the senators.

Is it agreed that the Speaker may leave the chair?

Hon. Senators: Agreed.

• (1710)

Motion agreed to on the following division:

YEAS
THE HONOURABLE SENATORS

Andreychuk	Mockler
Angus	Nancy Ruth
Brown	Neufeld
Carignan	Nolin
Cochrane	Ogilvie
Comeau	Oliver
Di Nino	Patterson
Dickson	Plett
Duffy	Prud'homme
Eaton	Raine
Frum	Rivard
Gerstein	St. Germain
Greene	Segal
Housakos	Seidman
Johnson	Stewart Olsen
Lang	Stratton
LeBreton	Tkachuk
MacDonald	Wallace
Manning	Wallin—39
Meighen	

NAYS
THE HONOURABLE SENATORS

Banks	Losier-Cool
Callbeck	Lovelace Nicholas
Campbell	Mahovlich
Cordy	Mercer
Cowan	Merchant
Dallaire	Milne
Dawson	Mitchell
Day	Moore
Eggleton	Munson
Fairbairn	Pépin
Fox	Peterson
Fraser	Poulin
Furey	Ringuette

Grafstein
Hervieux-Payette
Hubley
Jaffer
Joyal
Kenny
Robichaud
Smith
Tardif
Watt
Zimmer—37

ABSTENTIONS
THE HONOURABLE SENATORS

Nil

• (1720)

BUSINESS OF THE SENATE

Hon. Ethel Cochrane: Honourable senators, I wish to revert to Motions.

Senator Day: Is that Item No. 15?

Senator Cochrane: No, I am asking for permission to revert to Motions.

Is leave granted, honourable senators, to revert to Motions?

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

The Hon. the Speaker: There is no unanimous consent. Therefore, we will move on to the next item on the Order Paper.

CITIZENSHIP ACT

BILL TO AMEND—SECOND READING—
DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Segal, seconded by the Honourable Senator Brown, for the second reading of Bill S-225, An Act to amend the Citizenship Act (oath of citizenship).

Hon. Hugh Segal: Honourable senators, I will let this item fall from the Order Paper because the government introduced a budget implementation act in the House of Commons on Friday in which the provisions of this bill are broadly included.

I thank members opposite and express my appreciation for their support. As well, I want to thank the Standing Senate Committee on National Finance, Senator Day and others.

The Hon. the Speaker: Honourable senators, to my recollection, Senator Segal has spoken to this bill. If he makes another speech, I must call the attention of honourable senators to the fact that doing so has the effect of concluding the debate.

I want to receive clarification from the house as I did not hear everything because of the noise. It is a good opportunity to indicate that, if there are to be conversations, they are much better held below the bar or outside.

Hon. Gerald J. Comeau (Deputy Leader of the Government): Since it is day 14, we have one more day to deal with this matter. This day will provide me with the opportunity to discuss the ultimate disposition of this bill with the Honourable Senator Segal.

If I can have the indulgence of the house to come back to this item tomorrow, it will be at day 15.

An Hon. Senator: No.

Senator Comeau: I do not need unanimous consent.

The Hon. the Speaker: Honourable senators, Senator Comeau has spoken to this bill and, as I understand it, is moving the adjournment of the debate. (On motion of Senator Comeau, debate adjourned.)

CANADIAN ENVIRONMENTAL PROTECTION ACT, 1999

BILL TO AMEND—SECOND READING—
DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Banks, seconded by the Honourable Senator Day, for the second reading of Bill S-212, An Act to amend the Canadian Environmental Protection Act, 1999.

Hon. Hector Daniel Lang: Honourable senators, this is day 15 for this bill and I have taken the liberty of speaking to the sponsor of the bill. I am in the process of compiling my notes. I will be in a position to speak to it shortly.

I ask all honourable senators if we can continue, and extend the adjournment of the bill for the balance of my time.

(On motion of Senator Lang, debate adjourned.)

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

NINTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the ninth report of the Standing Committee on Internal Economy, Budgets and Administration (committee budget—legislation), presented in the Senate on October 1, 2009.

Hon. George J. Furey: I move the adoption of the report standing in my name.

The Hon. the Speaker: Which item number?

Senator Furey: It is Item No. 1, Your Honour.

The Hon. the Speaker: Honourable senators, Item No. 1 was called. I heard it asked to be stood. I saw there was consultation.

Do we have the unanimous consent of the chamber to return to Reports of Committees, Item No. 1?

Hon. Senators: Agreed.

Senator Furey: Thank you, Your Honour. I move the adoption of the report standing in my name.

Senator Comeau: Unlike the other side, we are prepared to go back.

(Motion agreed to and report adopted.)

[*Translation*]

AGRICULTURE AND FORESTRY

BUDGET AND AUTHORIZATION TO TRAVEL—STUDY ON CURRENT STATE AND FUTURE OF FOREST SECTOR—SIXTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the sixth report of the Standing Senate Committee on Agriculture and Forestry (*budget—release of additional funds (study on the current state and future of Canada's forest sector)—authorization to travel*), presented in the Senate on October 1, 2009.

Hon. Percy Mockler moved the adoption of the report.

The Hon. the Speaker: Honourable senators, is it your pleasure to adopt the motion?

(Motion agreed to and report adopted.)

• (1730)

[*English*]

THE SENATE

MOTION TO URGE THE PRESERVATION OF CANADIAN HERITAGE ARTIFACTS—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Joyal, P.C., seconded by the Honourable Senator Grafstein:
>
> That,
>
> Whereas works of art and historical objects, including silver baskets offered as wedding gifts to the Duke of York (who later became King George V), as well as a porcelain set decorated with war scenes by the Canadian Maritime artist Alice Hagen, kept at the Governor General's residence at Rideau Hall but shelved during the last few years, have recently been sold online through the Department of Public Works;
>
> Whereas there does not seem to be any adequate policy regarding the status and management of works of art and historic objects previously at Rideau Hall;
>
> Whereas there is an urgent need to prevent the scattering of other such items without any regard to their historical character or the protection of Canadian heritage,
>
> It is moved that this chamber:
>
> - deplore that decorative items related to Canada's history, and in the past to Rideau Hall, were sold publicly without any regard to their special importance to Canadian heritage;
> - express its surprise that no heritage management policy at Rideau Hall prevents such scatterings;
> - demand that the contents of rooms reserved for official functions at Rideau Hall be subsequently managed by an authority at arm's length from the building's occupants in order to preserve their historical character;
> - that the National Capital Commission carefully manage the art and artifacts previously in use at Rideau Hall; and
> - that surplus moveable art or decorative works of art be offered first to the Canadian Museum of Civilization, Library and Archives Canada or Canadian museums recognized for their role and mandate in preserving and promoting our country's historical heritage.

Hon. Donald H. Oliver: Honourable senators, I am pleased to rise today to join in this important debate to urge the preservation of Canadian heritage artifacts. I have had to substantially revise what I had originally planned to say because of recent events referred to last week by Senator Murray.

As honourable senators know, this motion was introduced in the Senate on June 9. The motion was moved after Sun Media reported that Crown Assets Distribution, a division of Public Works and Government Services Canada, sold objects of historic value. It must be clearly understood at the outset that the sale of these objects was not a government initiative. The Conservative government was not involved in any way whatsoever, nor was the Department of Canadian Heritage involved in any way in the sale.

The issues raised in this motion go to the heart of what is Canada. This motion deals with Canadiana: our jewels, our artifacts, the things we should preserve and the things we should protect. In short, it touches our Canadian culture and our Canadian heritage.

As a student of history in the 1950s, I have long had a deep and abiding interest in things Canadian. Throughout my life, I and members of my family have been intimately involved in the cultural life of Canada. I refer to the contribution to Canadian

culture of my late aunt, renowned contralto Portia White, and to my own interest in things Canadian. For these reasons, I do not want the opportunity to pass without commenting on the importance of preserving our national historic treasures.

Saving and protecting Canadian art is an important subject matter, and I thank Senator Joyal for providing the opportunity for this debate. If there is to be a debate and study of this subject, I cannot think of a better place for it to start than here in the Senate. We are the body of sober second thought. We are the people with the time and the talent to thoroughly analyze issues as sensitive as the preservation of our country's heirlooms.

Having said that, I am not so sure that our initial approach to the matter should be by way of a motion. There are still many facts not known about what took place. How did this ever get started? What went wrong? Some honourable senators may have further questions about the matter. These questions should be answered and a lot more research should be done before the Senate is called upon to respond to this motion.

Honourable senators, it would be great if we could find a mechanism for us to look more deeply into this matter so we can hear from witnesses and other experts and conduct further research. I believe that this would be in the best interest of Canadians and in the best interest of our Canadian heritage. I will have more to say about such an appropriate committee later on.

In preparation for my remarks today, I have spoken with a number of government officials about this incident. I have learned that remedial action on several fronts has already taken place, even without the adoption of a motion such as this.

As Minister Moore once said, "Our government knows how essential culture and heritage are to our society, our identity, and our economy," and the government has acted accordingly.

A lot has transpired over the summer and in recent days. Every week we have heard new information about this issue. Let me set forth, as succinctly as I can, what transpired, or, as we say in law: what are the facts.

On May 23, Sun Media reported that items of historic value were sold at the request of Rideau Hall through on-line auctions. According to some news reports, some of the items may have been the property of the National Capital Commission and others of the Royal Family. It has been suggested to me that Rideau Hall, the NCC and Crown Assets have not been able to confirm clear ownership of all of the pieces, nor have they been able to present a consistent list of all the pieces.

Some of the artifacts sold on the website include: three ornate sterling silver flower baskets; tea and coffee silverware made by Birks; and 10 porcelain teacups made by Halifax artist Alice Egan Hagen from the 1910s.

These three items, along with other objects of historic value, were listed for sale on the government surplus website. This website allows buyers to view, bid and buy federal government surplus goods. Random items such as desks, office chairs and filing cabinets can be found on this site.

A government official has informed me that these items were inappropriately deemed as surplus by Rideau Hall.

They were not intended for disposition. Isabelle Serrurier, a spokesperson at Rideau Hall, said that once items are declared as surplus, they must be sent to the government's liquidation service. As she said, "According to the act, according to the law, that is how we had to do things and we did it." Ms. Serrurier, who spoke to the press on this issue, said that Rideau Hall asked the National Capital Commission if the items were needed for any other official residence.

Thankfully, four lots that were initially posted on-line for sale were returned to Rideau Hall before the items could find a buyer, ensuring that these items remain in Canada's Crown collection.

In May, a total of six lots containing heritage pieces were then sold through the website. As Minister Moore stated in the other place last Tuesday, the sale of these items "took place independent of this government, independent of my ministry." As reported last week, the six items were sold for $3,934.37.

For example, the three aforementioned baskets were sold on the website for $532 to a resident of Luskville, Quebec on May 18. In an article published in May by journalist Elizabeth Thompson, it was written that some experts believe that each basket's current market value is approximately $10,000 because of their connection with the Royal Family.

These three baskets were offered to the Duke of York, our future King George V, and his wife, Princess Victoria Mary of Teck, as a gift for their July 1893 royal wedding. Moreover, when Her Majesty Queen Elizabeth II visited Rideau Hall, they were used in her room, which gives them an additional historic value.

Fortunately, all of the items that were sold on the Public Works website have since been recovered by the government and repurchased by Rideau Hall.

These are the facts as I know them.

The motion before us is of interest because it has many provisions that seek to protect and preserve our nation's heirlooms. It calls for this chamber to:

> . . . deplore that decorative items related to Canada's history, and in the past to Rideau Hall, were sold publicly without any regard to their special importance to Canadian heritage;

The motion also demands three things. The first is:

> . . . that the contents of rooms reserved for official functions at Rideau Hall be subsequently managed by an authority at arm's length from the building's occupants in order to preserve their historical character;

Honourable senators, it is my view that we should hear witnesses on this. The second demand is:

> . . . that the National Capital Commission carefully manage the art and artifacts previously used at Rideau Hall;

The third demand is:

> . . . that surplus moveable art or decorative works of art be offered first to the Canadian Museum of Civilization, Library and Archives Canada or Canadian museums recognized for their role and mandate in preserving and promoting our country's historical heritage.

A Senate committee should hear witnesses on this as well.

This last provision would ensure that our national treasures be kept in the hands of institutions whose mandate it is to preserve and promote our heritage. For instance, the 10 teacups by Alice Hagen would make a great addition to the Art Gallery of Nova Scotia. She is one of many Nova Scotian artists whose works of art are prominently featured in the gallery's permanent collection in Halifax.

As I have said earlier, I am happy to inform honourable senators that our government, and the parties involved, have already taken the necessary steps to implement the following four measures: first, remedy the situation; second, improve the current policies and procedures; third, update the inventory of Crown assets; and fourth, safeguard our Canadian heritage — all of this without the adoption of the motion before us today.

• (1740)

Public works, Rideau Hall, the NCC and Canadian Heritage have kept their lines of communication open. They have indicated their concern on this matter and they wish to avoid any further mix-up.

To begin, as honourable senators may have heard, the NCC, Crown Assets and Rideau Hall coordinated their efforts in the hopes of recovering these historic pieces. On June 4, the Minister of Canadian Heritage and Official Languages, the Honourable James Moore, assured Canadians that the government would take action. True to this government's word, we took action to remedy this unfortunate incident.

I am happy to report that all of the items sold on the Crown Assets website have already been recovered, with one exception. The government willingly allowed one buyer to keep part of one item.

The Office of the Secretary to the Governor General paid to have all of the objects appraised. It also covered the price for the repurchasing of the items sold, at a cost of $95,150.

Contrary to what Liberal MP Martha Hall Findlay said, this is not "an appalling waste of taxpayer money." May I remind honourable senators that this incident happened independent of the government, but it is the Conservative government that stepped up to the plate to make things right. We do not believe that saving our nation's historical and cultural treasures is a waste of taxpayers' money. These items needed to be recovered, and that is precisely what we did. The government made sure that the items were returned to our national collection.

Second, contrary to what the motion refers to, there are currently adequate policies regarding the status and management of works of art and historic objects at Rideau Hall. It has been said many times already that these items were mistakenly categorized as surplus. As Lucie Caron, a spokeswoman at Rideau Hall, said: "It is now clear that there was a breakdown in the internal process."

A spokeswoman for the NCC also said that the commission already has a policy governing what can be done with the state areas of Rideau Hall, and how the 7,000 artifacts in the official residences' Crown collection are supposed to be handled. As she said, the NCC takes the sale of these items "very seriously."

I have been informed by government officials that the Departments of Canadian Heritage and of Public Works are attempting to work with Rideau Hall to update and improve the already existing policies and procedures to avoid the improper sale of objects of historical importance, as well as those generously donated by members of the public.

The Minister of Canadian Heritage stated the following:

> We are reforming the process by which these assets will be taken care of in the future. We are going to ensure that this does not happen again.

As our colleague Senator Comeau said in this chamber last week, the government—

> . . . will strive to make sure this kind of thing does not happen again by making mandatory the appraisal of unique or attractive items.

Third, the NCC and Rideau Hall are working together towards having updated and concise lists of all items in their respective databases.

I have been informed by government sources that the NCC is currently reviewing the objects on the Rideau Hall list. It intends to compare this list with their own inventory and descriptions of objects to clarify which ones have been in the NCC inventory.

At the same time, Rideau Hall is also reviewing its inventory to against that of the NCC and of Crown Assets. This series of actions will enable us to have detailed and updated information regarding the thousands of artifacts in the Crown collection.

Finally, the government is committed to ensuring that similar events do not take place again. Minister Moore stated that the process of disposing of Crown assets will be modified. He said that it will change, ". . . so that museums in the country have the ability to have first right of refusal for these kinds of items so that this kind of thing doesn't happen in the future." The government wants to ensure that our nation's artistic and historical heritage remains in Canada and in the hands of public institutions for all to enjoy, admire and appreciate.

Although the government was not involved in the sale of these items of historic importance, it is doing what it can to make an unfortunate incident better — along with the NCC and Rideau Hall.

Honourable senators, the motion before us is a commendable one with many key provisions. As Senator Murray said, "It has some interesting formulae."

Perhaps adopting this motion immediately would be premature on our part. Honourable senators, perhaps it might be useful for us to refer this motion to a Standing Senate Committee. A Sun Media article of September 29 reported that Senator Joyal, the sponsor of this motion, is also in favour of sending this matter to a parliamentary committee.

The Hon. the Speaker: Order; I regret to advise the honourable senator that his time of 15 minutes has expired.

The honourable senator is requesting another five minutes. Is it agreed?

Hon. Senators: Agreed.

Senator Oliver: Thank you, honourable senators.

Material witnesses, experts and officials from Rideau Hall, Public Works and the could be called before this committee to comment on current practices and policies. In turn, we would better understand how this "mistake" happened. With the assistance of the Library of Parliament, research could be conducted to look deeper into the matter.

In due course, the committee could also table a detailed report to Parliament with recommendations for these organizations to consider as they update their current databases and policies.

If this motion is sent to committee, honourable senators would then have all the available information before them to make a sound decision before voting on this motion.

This motion also gives rise to another valid question. What is the proper committee to send this matter to? As honourable senators know, the Standing Committee on Rules, Procedures and the Rights of Parliament is currently undergoing a study as established under rule 86 on the Senate committee system. We are looking into the size, mandate and number of committees, among other things. We do not have a committee on culture. We do not have a committee on heritage. Perhaps the Senate of Canada needs a new Canadian Heritage committee, similar to the one in the other place.

As honourable senators will recall, a questionnaire on the Senate committee system was sent to each of you in May. Fifty senators responded. Some of the results are relevant to our discussion today. Fifty-seven per cent of respondents believe that the committee structure should be changed, and that it remains organized around policy fields. Some senators also raised questions as to which committee is responsible for the arts.

To the question, "Do you think that new committees should be established to deal with particular areas," 66 per cent of those senators who responded agreed. In addition, five senators specifically suggested the creation of a Senate standing committee on culture, heritage and the arts.

Such a committee could be charged with a review of matters such as the one before us today, which urges the preservation of Canadian heritage artifacts. It could have the authority to conduct detailed and in-depth studies on issues relevant to our heritage. Our leadership can decide where it may wish to send this motion for further study.

In conclusion, honourable senators, as Minister Moore said last Tuesday:

> This government has an unprecedented and untarnished record of standing up and protecting Canada's character, culture, our heritage, and ensuring that all our assets are treated with the due care they deserve. We are changing the process. What happened in the past will not happen again, because we are taking action.

(On motion of Senator Andreychuk, debate adjourned.)

FISHERIES AND OCEANS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Ethel Cochrane: Honourable senators, with leave of the Senate, I move that the Standing Senate Committee on Fisheries and Oceans be authorized to sit at this time, even though the Senate is sitting.

The Hon. the Speaker: Is it agreed, honourable senators, that the Standing Senate Committee on Fisheries and Oceans has permission to sit even though the Senate is now sitting?

(Motion agreed to.)

• (1750)

FOREIGN AFFAIRS AND INTERNATIONAL TRADE

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Consiglio Di Nino: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(a), I move that the Standing Senate Committee on Foreign Affairs and International Trade, which is scheduled to meet now, have the power to sit even though the Senate is sitting.

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

Hon. Senators: Agreed.

Hon. Marcel Prud'homme: Honourable senators, although I recognize the importance of the study on the rise of China, India and Russia, I am reluctant to give permission for any committee to sit while the Senate is sitting. One day, so many committees might receive permission to sit while the Senate is sitting that the house might not have quorum. Of course, honourable senators, I will agree to the motion, but I do so reluctantly.

Hon. Tommy Banks: Honourable senators, Senator Prud'homme raised an interesting point on which I seek the opinion of His Honour. In the past, if I recall correctly, when a committee sought permission to sit even though the Senate was sitting, it was common for one side in this place to ask why it was necessary. Ordinarily the answer was that a minister was appearing before the committee or other witnesses who had time constraints.

In the case of the two committees seeking permission today, no such question was asked by me or by anyone else. Does the Senate have a new regime in that regard?

The Hon. the Speaker: The honourable senator is quite correct. We can do anything we wish with unanimous consent.

Hon. Anne C. Cools: No, we cannot.

The Hon. the Speaker: Honourable senators, generally speaking, the proper way to proceed is to revert back and then the motion is presented. We did not do that. Unanimous consent was requested, granted and these two committees obtained the order of the house. The matter was not proceeded with in the normal way, and it is good to put that on the record.

Honourable senators, is it agreed to proceed to the next item on the Order Paper?

Hon. Senators: Agreed.

(Motion agreed to.)

RULES OF THE SENATE

MOTION TO AMEND RULE 28(3.1)—
DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Banks, seconded by the Honourable Senator Day:

That Rule 28(3.1) of the *Rules of the Senate* be amended as follows:

That after the words "tables a document proposing a user fee," the words "or the increase or extension of a user fee," be added; and

That after the words "designated in the Senate for the purpose by the Leader of the Government in the Senate or the Deputy Leader of the Government in the Senate", the words ", provided that the respective committee has been properly constituted under the authority of the Senate, and" be added.

Hon. Tommy Banks: Honourable senators, I apologize because I agreed that Senator Di Nino and I would work with the Speaker's office to examine the question again and determine how best to deal with it. I have not done that and, therefore, move the adjournment of the debate for the remainder of my time.

The Hon. the Speaker: Honourable senators, because Senator Banks, who moved the motion, has spoken to the motion, Senator Moore may participate in the debate at this time and adjourn the item in his name for the remainder of his time.

Hon. Joseph A. Day: I would be pleased to speak to this motion and adjourn the debate in my name for the remainder of my time.

The Hon. the Speaker: Honourable senators, it is moved by the Honourable Senator Day, seconded by the Honourable Senator Moore, that debate be adjourned in the name of Senator Day for the remainder of his time. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

(On motion of Senator Day, debate adjourned.)

[*Translation*]

ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE PARLIAMENTARY ASSEMBLY

MOTION TO SUPPORT RESOLUTION
ON WATER MANAGEMENT IN THE OSCE AREA—
DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Grafstein, seconded by the Honourable Senator Banks:

That the Senate endorse the following Resolution, adopted by the OSCE Parliamentary Assembly at its 17th Annual Session, held at Astana, Kazakhstan, from June 29 to July 3, 2008:

RESOLUTION ON WATER MANAGEMENT
IN THE OSCE AREA

1. Reiterating the fundamental importance of the environmental aspects of the OSCE concept of security,

2. Recognizing the link between natural resource problems and disputes or conflicts within and between states,

3. Noting the opportunities presented by resource management initiatives that address common environmental problems, including local ownership and sub-regional programmes and co-operation amongst governments, and which promote peace-building processes,

4. Recalling the OSCE's role in encouraging sustainable environmental policies that promote peace and stability, specifically the *1975 Helsinki Final Act*, the 1990 *Concluding Document of the CSCE Conference on Economic Co- operation in Europe* (Bonn Document), the 1999 *Charter for European Security* adopted at the Istanbul Summit, the 2003 *OSCE*

Strategy Document for the Economic and Environmental Dimension (Maastricht Strategy), other OSCE relevant documents and decisions regarding environmental issues, and the outcome of all previous Economic and Environmental Fora, which have established a basis for the OSCE's work in the area of environment and security,

5. Recognizing that water is of vital importance to human life and that it is an element of the human right to life and dignity,

6. Noting the severity of water management issues and the scarcity of water resources faced by many states in the OSCE region, affected in particular by unregulated social and economic activities, including urban development, industry, and agriculture,

7. Concerned by the impact of poor water management systems on human health, the environment, the sustainability of biodiversity and aquatic and land-based eco-systems, affecting political and socio-economic development,

8. Concerned by the more than 100 million people in the pan-European region who continue to lack access to safe drinking water and adequate sanitation,

9. Concerned by those areas and people in the North American region of the OSCE space without access to safe drinking water and sanitation,

10. Concerned by the potential for water management issues to escalate if options to address and reverse the problem are not duly considered and implemented,

11. Recognizing the importance of good environmental governance and responsible water management for the governments of participating States,

12. Applauding the work of the Preparatory Seminar for the Tenth OSCE Economic Forum which took place in 2001 in Belgrade and which focused on water resource management and the promotion of regional environmental co-operation in South-Eastern Europe,

13. Applauding the work of the 15th OSCE Economic and Environmental Forum and its preparatory meetings, "Key challenges to ensure environmental security and sustainable development in the OSCE area: Water Management," held in Zaragoza, Spain,

14. Applauding the OSCE's *Madrid Declaration on Environment and Security* adopted at the 2007 Ministerial Council which draws attention to water management as an environmental risk which may have a substantial impact on security in the OSCE region and which might be more effectively addressed within the framework of multilateral co-operation,

15. Expressing support for the efforts made to date by several participating States of the OSCE to deal with the problem, including the workshop on water management organized by the OSCE Centre in Almaty in May 2007 for experts from Central Asia and the Caucasus,

The OSCE Parliamentary Assembly:

16. Calls on the OSCE participating States to undertake sound water management to support sustainable environmental policies;

17. Recommends that the OSCE participating States pursue and apply the measures necessary to implement the 2007 *Madrid Declaration on Environment and Security;*

18. Recommends that such water management and oversight activities include national, regional and local co- operative initiatives that share best practices and provide support and assistance amongst each other;

19. Recommends that the OSCE participating States adopt the multiple barrier approach to drinking water protection, with particular attention to water tables, in their national, regional and local regulations to ensure that people living throughout the OSCE space have access to safe drinking water;

20. Recommends that the OSCE participating States consider developing more effective national, sub-national and local results-based, action-oriented and differentiated approaches to sound water management policies;

21. Encourages the OSCE participating States to continue their work with other regional and international institutions and organizations with respect to water management solutions, providing for the establishment of supranational arbitral commissions with decision-making powers delegated by the States.—(*Honourable Senator Fraser*)

Hon. Claudette Tardif (Deputy Leader of the Opposition): Honourable senators, this motion on the Resolution on Water Management in the OSCE Area is an important motion that deserves closer attention. I move the adjournment of the debate.

(On motion of Senator Tardif, debate adjourned.)

[*English*]

MOTION TO SUPPORT RESOLUTION ON COMBATING ANTI-SEMITISM—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Grafstein, seconded by the Honourable Senator Carstairs, P.C.:

That the Senate endorse the following Resolution, adopted by the OSCE Parliamentary Assembly at its 17th Annual Session, held at Astana, Kazakhstan, from June 29 to July 3, 2008:

RESOLUTION ON COMBATING ANTI-SEMITISM, ESPECIALLY ITS MANIFESTATIONS IN THE MEDIA AND IN ACADEMIA

1. Recalling the Parliamentary Assembly's leadership in increasing the focus and attention of the participating States since the 2002 Annual Session in Berlin on issues related to manifestations of anti-Semitism,

2. Reaffirming especially the 2002 Porto Ministerial Decision condemning "anti-Semitic incidents in the OSCE area, recognizing the role that the existence of anti-Semitism has played throughout history as a major threat to freedom",

3. Referring to the commitments made by the participating States in the previous OSCE conferences in Vienna (2003), Berlin (2004), Brussels (2004) and Cordoba (2005) regarding legal, political and educational efforts to fight anti-Semitism,

4. Welcoming all efforts of the parliaments of the OSCE participating States on combating anti-Semitism, especially the All-Party Parliamentary Inquiry on anti-Semitism in the United Kingdom,

5. Noting with satisfaction all initiatives of the civil society organizations which are active in the field of combating anti-Semitism,

6. Acknowledging that incidents of anti-Semitism occur throughout the OSCE region and are not unique to any one country, which necessitates unwavering steadfastness by all participating States to erase this black mark on human history,

The OSCE Parliamentary Assembly:

7. Appreciates the ongoing work undertaken by the OSCE and ODIHR through its Programme on Tolerance and Non-discrimination and supports the continued organisation of expert meetings on anti-Semitism and other forms of intolerance aimed at enhancing the implementation of relevant OSCE commitments;

8. Appreciates the initiative by Mr John Mann MP (United Kingdom) to create a world-wide Inter-Parliamentary Coalition for Combating Anti-Semitism and encourages the parliaments of the OSCE participating States to support this initiative;

9. Urges participating States to present written reports on their activities to combat anti-Semitism and other forms of discrimination at the 2009 Annual Session;

10. Reminds participating States to improve methods of monitoring and to report anti-Semitic incidents and other hate crimes to the Office for Democratic Institutions and Human Rights (ODIHR) in a timely manner;

11. Recognizes the importance of the ODIHR tools in improving the effectiveness of States' response to anti-Semitism, such as teaching materials on anti-Semitism, the OSCE/ODIHR Law Enforcement Officers Programme (LEOP), which helps police forces within participating States better to identify and combat incitement to anti-Semitism and other hate crimes, and civil society capacity-building to combat anti-Semitism and hate crimes, including through the development of networks and coalitions with Muslim, Roma, African descendent and other communities combating intolerance; and recommends that other States make use of these tools;

12. Expresses appreciation of the commitment by 10 countries — Croatia, Denmark, Germany, Lithuania, the Netherlands, Poland, the Russian Federation, Slovakia, Spain and Ukraine — in co-developing with ODIHR and the Anne Frank House teaching materials on the history of Jews and anti-Semitism in Europe, and encourages all other OSCE participating States to adopt these teaching materials in their respective national languages and put them into practice;

13. Encourages participating States to adopt the guide for educators entitled *Addressing Anti-Semitism — WHY and HOW*, developed by ODIHR in co-operation with Yad Vashem, in their respective national languages and put them into practice;

14. Urges governments to create and employ curricula that go beyond Holocaust education in dealing with Jewish life, history and culture;

15. Condemns continued incidents of anti-Semitic stereotypes appearing in the media, including news reports, news commentaries, as well as published commentaries by readers;

16. Condemns the use of double standards in media coverage of Israel and its role in the Middle East conflict;

17. Calls upon the media to have discussions on the impact of language and imagery on Judaism, anti-Zionism and Israel and its consequences on the interaction between communities in the OSCE participating States;

18. Deplores the continued dissemination of anti-Semitic content via the Internet, including through websites, blogs and email;

19. Urges participating States to increase their efforts to counter the spread of anti-Semitic content, including its dissemination through the Internet, within the framework of their respective national legislation;

20. Urges editors to refrain from publishing anti-Semitic material and to develop a self-regulated code of ethics for dealing with anti-Semitism in media;

21. Calls upon participating States to prevent the distribution of television programmes and other media which promote anti-Semitic views and incite anti-Semitic crimes, including, but not limited to, satellite broadcasting;

22. Reminds participating States of measures to combat the dissemination of racist and anti-Semitic material via the Internet suggested at the 2004 OSCE Meeting on the Relationship between Racist, Xenophobic and Anti-Semitic Propaganda on the Internet and Hate Crimes, that include calls to:

- pursue complementary parallel strategies,

- train investigators and prosecutors on how to address bias-motivated crimes on the Internet,

- support the establishment of programmes to educate children about bias-motivated expression they may encounter on the Internet,

- promote industry codes of conduct,

- gather data on the full extent of the distribution of anti-Semitic hate messages on the Internet;

23. Deplores the continued intellectualization of anti-Semitism in academic spheres, particularly through publications and public events at universities;

24. Suggests the preparation of standards and guidelines on academic responsibility to ensure the protection of Jewish and other minority students from harassment, discrimination and abuse in the academic environment;

25. Urges all participants of the upcoming Durban Review Conference in Geneva to make sure that pressing issues of racism around the world will be properly assessed and that the conference will not be misused as a platform for promoting anti-Semitism;

26. Suggests that the delegations of the OSCE participating States hold a meeting on the eve of the Durban Review Conference to discuss and evaluate the Durban Review process.

Hon. Claudette Tardif (Deputy Leader of the Opposition): Honourable senators, this important issue deserves further consideration. Therefore, I move the adjournment of the debate for the remainder of my time.

(On motion of Senator Tardif, debate adjourned.)

QUESTION OF PRIVILEGE

SPEAKER'S RULING RESERVED

The Hon. the Speaker: Honourable senators, it is now time to consider the question of privilege, pursuant to notice given earlier today by Senator Fraser.

Hon. Joan Fraser: Honourable senators, the question of privilege has to do with the Standing Senate Committee on Legal and Constitutional Affairs' study of Bill C-25, An Act to amend the Criminal Code (limiting credit for time spent in pre-sentencing custody). The question of privilege is more precisely to do with events during, before and after the committee's meeting on Thursday, October 1, at 10:45 a.m., and events otherwise related to that committee's work on the bill.

Rule 43(1) of the *Rules of the Senate* states that questions of privilege must be raised at the earliest opportunity. However, for reasons that will become clear as I continue, I was unable to speak to this matter on that Thursday afternoon because I did not have all the facts at my disposal. In particular, I believed it was important to consult the transcript of the committee hearing, which was not yet available on Thursday afternoon. Therefore, today was my earliest opportunity to read the transcript.

I believe that I will establish to the satisfaction of honourable senators that the question of privilege concerns a matter directly concerning the privileges of the Senate or of any a committee, more specifically. I raise the question of privilege to seek a genuine remedy, which is within the Senate's power to provide, and to correct a grave and serious breach.

Honourable senators, in raising the matter I am mindful of the Speaker's ruling on June 17, 2009, which concerned a press conference held in relation to a bill that was to come before Parliament. I will refer, in part, to a press conference that was held last week. The Speaker's ruling stated that a distinction needed to be made between pre-parliamentary and the parliamentary stages of a bill — stages before and after a bill is brought before Parliament. The Senate is deep into the parliamentary stages of its work on Bill C-25, and that is worth stating on the record.

• (1800)

I am also mindful that in the ruling you noted the connection with matters of contempt in the United Kingdom and Australia. For those houses to take note of such complaints, significant interference in parliamentary work must be demonstrated. I believe that interference occurred.

Let me now set out the sequence of events. It will take a little time, but the timeline is important, honourable senators.

During summer break, the steering committee for the Standing Senate Committee on Legal and Constitutional Affairs planned its consideration of Bill C-25. The committee has a heavy workload and we did not want to delay matters any more than was necessary. We agreed to conduct intensive hearings on that

bill during the first three sessions after our return from the summer break. We extended our sitting hours in order to conduct these hearings. We further agreed to schedule clause-by-clause consideration.

The Hon. the Speaker: Honourable senators, I am sorry to interrupt Senator Fraser. I must draw attention to the clock. It is six o'clock.

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, there has been consultation on both sides. I think if His Honour were to seek the advice of the house, he would find that we not see the clock.

The Hon. the Speaker: Is it your desire not to see the clock, honourable senators?

Hon. Senators: Agreed.

Senator Fraser: I thank honourable senators.

The steering committee also agreed to schedule clause-by-clause consideration of Bill C-25 for the morning of Thursday, October 1. The committee was informed on September 17. It was, therefore, public knowledge that we would have clause-by-clause consideration of that bill on that day.

However, on September 22, my office received correspondence from the office of the deputy chair of the committee indicating that Senator LeBreton and Senator Wallace — who is the sponsor of the bill — with the approval of the Minister of Justice, wanted our committee to hear from the western ministers of justice and attorneys general.

In this matter, as in all other matters, all members of this committee have conducted themselves, as usual, entirely appropriately. All members of the committee appreciate the traditionally correct and collegial work of members on both sides of this house in that committee.

The steering committee thought it was entirely appropriate to hear from provincial ministers of justice. The only change we made to the request was that we would invite all provincial and territorial ministers of justice — as seems correct — rather than only those from the four Western provinces.

To hear from the ministers of justice, however, we would have to postpone clause-by-clause consideration of the bill to the next sitting. Ministers of justice were invited to appear on October 1. Several ministers of justice chose to send written submissions, but two accepted our invitation to appear last Thursday morning. They were the Honourable Dave Chomiak, Minister of Justice and Attorney General of Manitoba, and the Honourable Alison Redford, Minister of Justice and Attorney General for Alberta. No other witnesses were scheduled for that day.

The ministers' testimony was extremely interesting and helpful to the committee in its work. Committee members wished to put numerous questions to the ministers, and matters were proceeding in a most serious and interesting manner. At 11:59:53 — seven seconds before noon — Ms. Redford, the minister from Alberta said:

> I apologize. We had been advised by the clerk that we would be here for one hour.

I can come back to that point later if senators wish. She continued:

> The reason I have difficulty with that is, being western ministers, we have made arrangements to catch planes back West. Minister Chomiak needs to be in the house this afternoon.

I said I understood about catching planes and asked if it would be all right to put our last questions to them, and have the ministers respond to our questions in writing, to which Ms. Redford replied:

> I would be happy to do that and to undertake to do that. It would be nice to have the opportunity to carry on, but we do need to get back out West.

After putting the questions to them to respond to in writing, the meeting closed. It was adjourned. As the meeting closed, I was perturbed to be told — but told only indirectly and unofficially — that the ministers were leaving not to go to the airport, but to attend a press conference. I repeat that I was told this information only indirectly and unofficially. However, I asked my staff to verify whether this situation was indeed the case.

Subsequently, I learned that the day before, on September 30 at 5:41 p.m. in the afternoon, a media advisory was sent by the office of the Minister of Justice announcing a press conference with the Honourable Rob Nicholson, Minister of Justice for Canada; Mr. Daniel Petit, his Parliamentary Secretary; Mr. Chomiak and Ms. Redford. The time of that press conference was set at 12 noon on Thursday, October 1. Senators, of course, do not receive media advisories; they go to the Press Gallery.

On October 1, the day of the committee hearing, at 7 a.m., a second media advisory was sent to remind the media of the planned noon press conference. At 11:55 a.m. that day, while the committee was still sitting and hearing from the two ministers, a press release was issued by the office of the Minister of Justice quoting himself, Mr. Petit, Mr. Chomiak and Ms. Redford calling on members of the Senate to pass Bill C-25 unamended. Mr. Nicholson was quoted as urging the opposition in the Senate to ensure that Bill C-25 "becomes law without delay and without amendments."

I remind honourable senators that the only reason clause-by-clause consideration of the bill had not been concluded at the time this press release was sent out was that we delayed it to hear witnesses that the minister himself felt was appropriate for us to hear.

One must assume — politics being what it is — that a press conference was called to achieve press coverage. There was press coverage in various papers and probably broadcast media across

the land in the *Vancouver Sun* and the *Winnipeg Free Press*. In the *Prince George Citizen*, Mr. Nicholson was quoted as saying:

> We hear rumblings in the Senate that they don't like the bill, that there may be amendments, that there may be delays. This is unacceptable.

He was further quoted as saying:

> We are urging the Senate to get on with and pass this piece of legislation. This has wide spread support across the country. I'm once again calling upon (Liberal Leader) Michael Ignatieff to exert some influence, some control over the Senate half of his caucus and get them to expedite the passage of this bill.

Nowhere have I been able to find any acknowledgement in these various public statements —

Senator Mockler: That is a job for Denis Coderre.

Senator Fraser: — of the reason for the delay in clause-by-clause consideration of the bill.

In plain language, what happened here? Several things happened.

First, Ms. Redford misled the committee about the reason for curtailing its hearings.

Senator Comeau: Oh, oh.

Senator Fraser: One may argue that the substance of her misleading was not particularly serious. Had she informed the committee ahead of time that she wished to attend a press conference, we probably would have grumbled a bit, but made adjustments. The fact is, she left the committee with the clear impression that the reason why she and Mr. Chomiak were leaving — and this was the only reason cited — was to catch planes west.

Misleading committees is a serious matter. The whole of Parliament operates on the assumption that we can believe what is told to us, and doubly so when it is told to us by ministers of the Crown. This issue is not a light matter.

Erskine May says in the twenty-third edition at page 725: "False evidence before a committee may be punishable as a contempt."

Senator Comeau: Haul her before the courts.

• (1810)

Senator Fraser: Marleau and Montpetit, at page 862 states:

> . . . the refusal to answer questions or failure to reply truthfully may give rise to a charge of contempt of the House. . . .

It is true, we did not ask her: Are you going to a press conference? But silence, misleading evidence, is also a serious matter, it seems to me.

While I hesitated for some time before raising this in connection with a minister of the Crown —

Senator Comeau: You should have followed your instincts.

Senator Fraser: It seems to me, it now having become such a flagrantly public matter, that I cannot but bring it before this chamber as a question of privilege.

The second thing that happened is that Mr. Nicholson and the two ministers impeded the committee's work by interrupting it for a press conference. I repeat: We had not concluded our questioning of the ministers; there were no other witnesses scheduled; and the committee's normal sitting time runs until 12:30 p.m. By interrupting it for a press conference, these three ministers were, in essence, telling us that press conferences are more important than parliamentary committees. That is surely not what Parliament believes to be the case. I quote Marleau and Montpetit at page 52, which says:

> Any conduct which offends the authority or dignity of the House, even though no breach of any specific privilege may have been committed, —

although I believe such a breach did occur —

> . . . is referred to as a contempt of the House. Contempt may be an act or an omission; it does not have to actually obstruct or impede the House or a Member, it merely has to have the tendency to produce such results.

I would suggest that curtailing committee hearings on such an important bill does tend to have those results.

Finally, the third thing that happened is that, as I suggested, Mr. Nicholson impugned the committee's work by suggesting that we were delaying the bill. I believe I have established that it was a misleading suggestion for him to make. Clause-by-clause consideration would have been completed by the time of the press conference had we not delayed it at the request of government members.

I would finally draw to your attention — although it may be beyond your purview, Your Honour — that it is probably contemptuous of this house to suggest that anyone can exercise control over us and make us act or vote in a way that we might otherwise not do. Mr. Speaker Hays, as he then was, said in a ruling on June 11, 2002:

> Any suggestion, however inadvertent, that any House of Parliament can be improperly influenced or manipulated should be avoided. Both Houses, the Senate and the House of Commons, are wholly independent and autonomous. We can acknowledge and admit that political and partisan interests play a part in our deliberations. This is a fact, but this does not mean that one or another House is actually subject to manipulation by a Minister.

Or, I suggest, by the Leader of the Official Opposition in the other place.

It seems to me clear, Your Honour, that our privileges have been breached. The committee's privileges were breached and, therefore, all senators' privileges were breached.

I am prepared to move a motion for a referral of this matter to the Standing Committee on Rules, Procedures and the Rights of Parliament. Such a motion would not suggest arrest or any such extreme action in connection with the ministers, but it would suggest that the Rules Committee examine this situation carefully and set out clear explanations and guidelines as to the conduct expected of witnesses before Senate committees; the conduct of all parliamentarians with reference to Senate committees; and understandings that witnesses should have about the way they are expected to behave and about what, if any, avenues are available to the Senate for action should the rules or the expectations be breached.

I thank you, Your Honour.

Hon. John D. Wallace: Honourable senators, I would like to bring to the honourable senators' attention not opinion but facts that would relate to the matter that has been raised by the Honourable Senator Fraser.

I am the sponsor of Bill C-25 in the Senate and obviously have followed it very closely. I am a member of the Standing Senate Committee on Legal and Constitutional Affairs. I am aware of the circumstances to which Senator Fraser has referred. I was, as was she, part of that Standing Senate Committee on Legal and Constitutional Affairs on the morning of October 1 when Ministers Redford and Chomiak appeared.

I would like to draw to honourable senators' attention some very important facts that I think that have a strong bearing on all of this. The allegation, or perhaps the insinuation, that has been made in relation to the provincial justice minister and the federal minister is very serious. Any time we hear a suggestion that a "grave and serious breach" has occurred involving potential matters of contempt in relation to ministers, federal and provincial, this needs to be taken in the most serious way. Obviously, to go down that road, one would want to be absolutely certain of the facts that would support that allegation or insinuation.

I would like to refer you — and this is somewhat repetitious, particularly of what Minister Fraser had to say.

Senator Stratton: Senator Fraser, do not promote her.

Senator Fraser: I am flattered.

Senator Wallace: In all seriousness, I am having difficulty finding much humour in the topic so bear with me for the slip of the tongue.

Senator Cools: Me, too.

Senator Wallace: As Senator Fraser points outside, invitations went from the committee to all of the provincial justice ministers. There were only two that responded by saying that they would appear. That was Minister Redford from Alberta and Minister Chomiak from Manitoba. I think it is fair to say that committee members were pleased to have them there.

The committee also received written representations from ministers in a number of other provinces including British Columbia, Nova Scotia and New Brunswick, as well as Yukon.

As Senator Fraser pointed out — and it is found on page 2 of the transcripts of the hearings of October 1, "We count ourselves lucky to have you here."

Honourable senators, I am sure Senator Fraser considered the committee fortunate because of the short notice that Ministers Redford and Chomiak received and the fact that they were able to change their schedules on such short notice.

I will not start sliding over into the merits behind the bill, but suffice it to say the issues behind Bill C-25 have been and continue to be extremely important to all the provincial ministers of justice. As Senator Fraser said, we did count ourselves lucky to have them there.

• (1820)

Ministers Chomiak and Redford began their presentation to the committee as a panel. My recollection is it was around 10:30 or 10:45 that they began their evidence. As Senator Fraser points out, it was just prior to noon, 11:55 or 11:50 that the committee heard from Minister Redford, at page 18 of the committee transcript:

> I apologize. We had been advised by the clerk that we would be here for one hour. The reason I have difficulty with that is, being Western ministers, we have made arrangements to catch planes back West. Minister Chomiak needs to be in the house this afternoon.

This was after giving evidence for approximately an hour and twenty minutes. The minister said:

> We had been advised by the clerk . . .

— which would be the clerk of our committee —

> . . . that we would be here for one hour. . . . we have made arrangements to catch planes back West. Minister Chomiak needs to be in the house this afternoon.

It would be obvious from that statement that Minister Redford obviously felt she was in overtime. She had been there beyond the one hour she felt would cover her appearance. What I just read to you is all that is on the record as to what was said by Minister Redford in relation to the reason why she and Mr. Chomiak felt it necessary to end their evidence and leave.

Senator Fraser, hearing that from Minister Redford, replied:

> We sympathize with that. I think there are still some questions. Certainly, I have some questions which I am willing to put if you could undertake to get back later.

To which Minister Redford replied:

> I would be happy to do that and to undertake to do that. It would be nice to have the opportunity to carry on, but we do need to get back out West.

There were no questions put to either Minister Redford or Minister Chomiak about when their flights were leaving, about whether there were any other matters they had to involve themselves with before catching their flight. That was not asked of them, nor did they volunteer it. She simply said that she had been advised they would be there for an hour, and it was one hour and twenty minutes later that she said: "We have to leave."

In order to not leave the committee short and to curtail the evidence, as I say, she provided an undertaking, as did Minister Chomiak, to provide answers in writing later to any other questions senators may have had.

I will not go through each of them, but there were questions then posed to Ministers Redford and Chomiak by the chair Senator Fraser, Senators Nolin, Baker, Joyal and Watt. The opportunity was extended to me because I had said that I had a follow-up question. Both ministers undertook to respond to any questions from those senators that were received later; they would respond in writing.

It was at that point that the hearing was to end and Senator Fraser said:

> Ministers, bon voyage.

Minister Redford responded:

> Thank you very much.

Those are the facts. When I hear those facts, I hear nothing that comes close to being contemptuous.

Senator Fraser has suggested that Minister Redford, the Minister of Justice and Attorney General for the Province of Alberta, misled the committee as to why she was leaving.

Some Hon. Senators: Oh, oh.

Senator Wallace: On the basis of what I earlier read to you, and it was read by Senator Fraser, I see nothing that indicates she misled our committee. Alleging that any person would mislead a committee is serious. When the allegation is directed towards a provincial minister of justice, perhaps that heightens the seriousness of it. As Senator Fraser says, it is not to be taken lightly.

Senator Fraser then continued in relation to the suggestion that Minister Redford perhaps misled the committee and, somehow, that could constitute contempt. I do not think there is anything that gets much more serious than that. My view of it — and I think the record clearly supports this — is there was nothing misleading; there was nothing contemptuous done by either Minister Chomiak or Minister Redford.

Senator Fraser has also alleged that Minister Nicholson impeded the committee's work by interpreting evidence and then referring to that in a press conference, that somehow that offends the authority and constitutes, potentially, contempt of our committee. I think it is important to remember that Minister Nicholson appeared before our committee, provided evidence to our committee, and undoubtedly has — and this probably understates it — somewhat of a keen interest in this piece of legislation and so has followed closely the evidence that has been brought before our committee.

I think for him to make any statement expressing an opinion or a view on the importance of this work, on the importance of this bill, on the serious way in which literally all the provincial governments, the provincial ministers of justice view this legislation, certainly does not constitute interfering with our work, nor is in any way manipulating the process of our committee.

• (1830)

On the basis of the facts, on the basis of the record and on the basis of what was said, once again, I believe there is nothing that comes even close to supporting the allegations and insinuations that have been made in relation to both Minister Nicholson and Minister Redford, the Attorney General for the Province of Alberta.

Either directly or indirectly, I suppose the allegations involve Minister Chomiak, as well.

Senator Duffy: Did he, at any time, disagree with what the Alberta Minister said?

Senator Wallace: Honourable senators, aside from the facts — and, obviously, there must be facts to support this type of allegation or insinuation, and I do not believe there are — I would like to provide you with a couple of citations. These citations are in addition to those presented by Senator Fraser.

First, on page 168 of *Erskine May Parliamentary Practice*, twenty-third edition, it says:

> A matter alleged to have arisen in committee but not reported by it may not generally be brought to the attention of the House on a complaint of breach of privilege.

Again, it says not reported by "it," where "it" obviously refers to the committee; not reported by the committee.

Second, citation 107 on page 27 in *Beauchesne's Parliamentary Rules and Forms*, sixth edition, says:

> Breaches of privilege in committee may be dealt with only by the House itself on report from the committee. Thus should a witness refuse to attend or refuse to give evidence, the committee must report the fact to the House for remedial action.

Finally, in *House of Commons Procedure and Practice*, by Marleau and Montpetit, in chapter 3, on page 128, it states:

> Speakers have consistently ruled that, except in the most extreme situations, they will only hear questions of privilege arising from committee proceedings upon presentation of a report from the committee which directly deals with the matter and not as a question of privilege raised by an individual Member.

Honourable senators, I suggest to you in the strongest of terms that neither the rules that govern the activities in the Senate, and that govern our committees, nor the facts in this particular situation in any way warrant or support a motion that this issue be referred to the Rules Committee to be examined, as Senator Fraser said, for the purpose of setting out rules in respect of all future witnesses. The facts, the law and the rules of procedure do not support such a motion.

Some Hon. Senators: Hear, hear.

Hon. Anne C. Cools: Honourable senators, will the Honourable Senator Wallace take a question?

The Hon. the Speaker: I am prepared to listen to observations from individual senators. When I have heard enough, I will make a judgment.

Senator Cools: Your Honour, under rules 43 and 44 of the *Rules of the Senate of Canada*, if one senator is not absolutely clear about something that was said, it is in order to put questions to that senator. I do not think there is any hard and fast rule that says that I cannot put a question to His Honour. Maybe there is a new rule and I do not know about it. However, I have taken part in countless numbers of these debates and questions have been asked in the process of debate.

Unless we are running out of time, I want to reserve the right to speak in this debate, as well. However, I think that a question or two for the Honourable Senator Wallace will clarify many other things.

The Hon. the Speaker: Go ahead, senator.

Senator Cools: Senator Wallace has spoken with considerable conviction, as has Senator Fraser. Since Senator Wallace seems to have some knowledge of the facts, can he tell us the purpose of the ministers' visit to Ottawa; whether it was to attend the press conference or to testify before committee.

Senator Wallace: Honourable senators, I do not know all the reasons that either or both Minister Redford and Minister Chomiak came to Ottawa. The only thing that I do know is that they came to provide evidence to the Standing Senate Committee on Legal and Constitutional Affairs regarding Bill C-25 because they received an invitation from the clerk of our committee to attend on October 1 at 10:30 in the morning.

Hon. Claudette Tardif (Deputy Leader of the Opposition): Honourable senators, I believe that the honourable senator opposite is missing the point. It does not matter if the committee did not ask at what time the ministers' flights were leaving. What matters is that the ministers used the excuse of being late for a flight to attend a press conference.

I agree with Senator Fraser's arguments that the actions of the witnesses before the Standing Senate Committee on Legal and Constitutional Affairs on October 1, 2009, violated parliamentary privilege by hindering the committee in its study of Bill C-25. In my view, what occurred sets a dangerous precedent that will diminish the ability of our committees to study legislation effectively in the future.

Press conferences should not take priority over committee matters. Canadians expect that their senators will review thoroughly legislation proposed by this government. The incident of October 1 was not only disrespectful to committee members but also impaired the ability of the committee to fulfill its order of reference; namely, to examine and report on Bill C-25.

Your Honour, page 131 of *Erskine May Parliamentary Practice*, twenty-first edition, states that:

> Any conduct calculated to deter prospective witnesses from giving evidence before either house or a committee is a contempt.

Furthermore, the same edition of the same volume states on page 132 that "to deter or hinder any person from appearing or giving evidence is a breach of privilege."

Scheduling a press conference for witnesses at the same time as those witnesses were appearing before the committee resulted in the inability of those witnesses to be present for the duration of the committee meeting. In other words, it hindered the witnesses' ability to be at the committee and, consequently, prevented some committee members from questioning them in person.

• (1840)

Your Honour, this situation is unacceptable. The government itself asked that the committee delay its scheduled clause-by-clause meeting on the bill in order to hear additional witnesses. The committee agreed to this request, but the result was a truncated committee meeting where those witnesses were whisked away in order to join the Minister of Justice at a press conference to criticize the Senate for delaying the very bill in question.

I support Senator Fraser's question of privilege and believe that this matter should be examined in our Standing Committee on Rules, Procedures and the Rights of Parliament.

Hon. Pierrette Ringuette: Honourable senators, while listening to our colleagues speak on this issue, I could not help but feel that this institution is very blessed to have such capable individuals among us.

Senator Wallace pointed out that that the entire committee had to bring the point of privilege before the Senate. I would remind the honourable senator that was not the case when Senator Wallin brought in an issue of privilege concerning a situation in the Standing Senate Committee on National Security and Defence.

Senator Cools: Honourable senators, I have been listening to the debate with considerable interest. I must confess I find the situation sad and tragic. When I listened to Senator Fraser, I heard a sense of disappointment and a breach of good faith. The committee delayed clause-by-clause consideration and set out to hear these witnesses, I would suspect, with all the earnestness and sincerity in the world. It certainly would feel like a slap in the face to open up the newspaper and read the headline in the *Calgary Herald* of October 2, 2009, "Alberta minister joins fight against jail remand credits. Pressure put on Liberal-dominated Senate."

I am also sympathetic to Senator Wallace's appeal to the rule of law, but I would like to add a few facts to Senator Wallace's facts. I happen to have a copy of the proceedings of the committee, which I happened to be following as both the honourable senators were speaking.

First, I believe that Senator Wallace said that the two attorneys general began testifying at 10:30 and were there for an hour and a half. According to the committee proceedings, it says that the meeting began at 10:50. I just want that as the first fact that I include on the record.

Second, Senator Wallace put on the record the chair of the committee's response, indicating sympathy that they have to catch planes back West. I would also like to put on the record that the statement was reiterated more times in the next several minutes. Following Senator Fraser's response to Minister Redford's first statement that they had made arrangements to catch planes back West, and that Minister Chomiak needed to be in the house that afternoon, the chairman said:

> . . . I have some questions which I am willing to put if you could undertake to get back later.

Minister Redford responded:

> I would be happy to do that and to undertake to do that. It would be nice to have the opportunity to carry on, but we do need to get back out West.

The chair then said:

> Catching flights is not something we are unfamiliar with around here.

Later on, again Minister Redford said:

> Fortunately, even if I did have more time, I would probably want some time to review that before I responded.

The minister is declining to respond, because, one, there is not enough time, and two, she would need some preparation.

> I undertake that, from Alberta's perspective, we will be able to provide a response to you on those questions.

Whether there is a breach of privilege here, there is a breach of something. Let us make no mistake about that.

Senator Comeau: A breach of feelings. Hurt feelings.

Senator Cools: It is more than ego. I am fast to say when it is feelings or ego damaged, not privilege.

Honourable senators, I want to make the point that however you cut it, something wrong has happened, and obviously this attendance at the press conference was a prearranged and planned event. There can be no doubt about that.

We also know, honourable senators, that attorneys general are no ordinary ministers. We must understand that attorneys general are *attornatus rex*, the King's attorney, with an extremely long history. So important it was in the history of Canada that, soon after Confederation, when Sir John A. Macdonald was Prime Minister, he took the role of the Attorney General unto himself, because he understood how troubled the history of it had been in the provinces and so on.

Let us understand very clearly that an attorney general has an additional due diligence to honour the Constitution, to honour the system, to honour his or her oath, and also has an additional duty not to be sharply partisan and not to be sharply political on many questions of the day. This is a role that most attorneys general seem to have been forgetting. We know I have gone head-to-head with quite a few attorneys general in the federal system over the many years.

However you cut it, the committee members were operating under a different belief, on the words of the minister. However you cut it, whatever it was that the minister said, the committee members understood something quite different from what turned out to be the facts. If we are dealing with the facts, we are dealing with this other fact. Those attorneys general, including the Attorney General here in Ottawa, had a duty to ensure that that sort of misunderstanding would not occur.

• (1850)

It is a well-established principle of common law that you cannot allow individuals to operate under misapprehension and misunderstanding of what they are saying. Some would say it is misleading, but these are well- and long-established principles.

These are matters to be dealt with gently and delicately because of the positions of the attorneys general in the legal system of this country. This is one of those situations where I would like us to be involved in the old system of privilege that we used to have in this place, where we could resolve the matter right here and now, on the floor, with a few apologies being exchanged and the matter put to rest. There is something to be said for the old system of process and privilege in respect of invoking all the senators' views and the senators taking a decision as they go through the process.

However you cut it, honourable senators, something wrong has happened, something that does not have the ring of truth or good intention to it. If it is a pure misunderstanding, it would be nice to establish that. I have to say that, at first blush, there appears to be something wrong here. Regardless of the outcome, one has to agree that, prima facie, something wrong has happened.

I know that His Honour brings to this job a high degree of qualification and knowledge, but it would be nice if we could resolve this matter in a better way than just sending it off to committee, because I cannot help but think that the consequences can only be embarrassing and negative. I sincerely mean that. If we could find it in our hearts and in our minds, and in this system, to resolve this matter here, it would be best for all concerned. I belong to that group of people that cannot and does not believe that anyone sets out wilfully and maliciously to lie, and I am not prepared to go there.

His Honour is a creative man. If we could find a way to resolve this matter without bringing enormous embarrassment to these two individuals, we would do the system a great favour. I know I have a habit of speaking quite often from the position of a minority of one, but I would like us to come to a resolution on this matter, because it does not look good for the whole system. These individuals should be allowed an opportunity to apologize, or someone to apologize on their behalf.

I throw that out there. Perhaps some senators will be inspired to have a thought that this is not healthy; it is not healthy for any of us. I am very aware that Senator Fraser takes her chairmanship extremely seriously. If one reads the proceedings, it is clear that her mind is going down one road as those words were being stated.

I do not know what else to say. There was a time when these debates were taken far more seriously, but there are times in the system when we just have to find better ways to deal with some of these issues. Something is wrong here.

Some Hon. Senators: Hear, hear.

Hon. Bert Brown: Honourable senators, this entire argument is getting out of hand. We have some serious charges about some important people. I think the entire question of privilege comes down to one fact, and that is that the attorneys general agreed to a certain time factor, according to the testimony of Senator Wallace. For example, if that request had been for 12 hours or 6 hours or 8 hours for their testimony, or even 2 or 3 hours, they would not have agreed to come to testify on that day. Obviously, they had some other things on their agenda, but the compelling factor was always when their plane would depart to get them back to the West.

I think that what the attorneys general did before they met their plane was not a part of this. They did not have to, for any reason, explain why they wanted to go to a press conference before they got on the plane. The plane's departure time was the ultimate factor in their business and in what they decided to do. It does not matter whether they wanted to go to McDonald's for a hamburger, or they needed to go to the restroom, or whatever. They had reached their commitment of one hour and they had decided that was all they could give.

Senator Wallace: Thank you, honourable senators.

I agree with my learned colleague that there should be a gentle and a more delicate way of handling this situation, because the allegations are so serious and, as I said earlier, I think misguided.

I heard it said that the record of the facts somehow indicates prima facie evidence that something is wrong here. That is not the case. That clearly is not the case.

I will not repeat everything I have said before, but the key point, as Senator Brown points out, is that Minister Redford — and, through her, Minister Chomiak — clearly believed they had honoured their previously made commitment of one hour to be before the committee, which they had.

Minister Redford said that they had made arrangements to catch planes back West, which obviously they had. I do not think it should be a surprise that between the times they would leave the committee and catch their planes, they may have some other things to do. I do not think that crossed anyone's mind. They were not questioned on that. I think we would be shocked if they did not have other things to do, if they just left the committee and roared off to the airport.

Senator Comeau: It is none of our business.

Senator Wallace: Absolutely. It is not our business. That is entirely their business. Why would Ministers of Justice for Alberta and Manitoba be accountable to a committee as to what they are going to do once they leave the committee? There could not possibly be a requirement for them to be accountable for that purpose.

We have heard about a press conference, and obviously the ministers are strong advocates and supporters of Bill C-25. That is nothing new. That is not a surprise to anyone. They have strongly advocated, for months or even years, that this legislation, this bill or a bill of this type, be brought forward.

Are we suggesting that somehow they should be restrained from speaking out for the benefit of the people whom they represent in their province, who expect them to act on their behalf and to strongly endorse a bill that they support?

• (1900)

They have just come to Ottawa, provided evidence in a public forum and then decide publicly to refer to the evidence that they have given in that public forum. Is that wrong, that ministers are not permitted to speak to issues important to the people in their province; to speak to and express a public opinion in support of the bill that others may not be supportive of but they are and, because they have done that and presented evidence in a committee in a public forum, we will suggest that that was inappropriate, contemptuous and misleading?

The fact of the matter is that nothing is on the record in the facts of this situation that come anywhere close to being contemptuous. What was said is what was true. They believed they had made a commitment to be there for one hour and they had flights to catch some time that day. That is it.

I will return to the honourable senator's comment that, because of the nature of these allegations — I totally agree with her — we should find a way to deal with them in a sensitive way and move on and deal with the merits of Bill C-25 which is really what is ultimately important.

Senator Fraser: As members of the committee know, we will be conducting clause-by-clause consideration of the bill tomorrow afternoon.

I agree with Senator Cools that something went wrong here. In my view, what went wrong constituted at the least a contempt and, in my view, a breach of privilege of the Senate. However, it would be for Your Honour to determine whether the prima facie case has been made.

On the matter of facts and timing, may I just correct both myself and Senator Wallace? I had earlier said that the committee would normally sit until 12:30. In fact, our normal slot is until 12:45, and we frequently run a bit over that, as long-suffering committee members know. It is not unusual at all for us to sit until 1:00 or sometimes even 1:15.

I thank Senator Cools for reminding us that, that day, the committee proceedings began at 10:50 and not at 10:45 so, for what it is worth, the committee proceedings lasted for slightly less

than one hour and 10 minutes — seven seconds less than one hour and 10 minutes — before we were told that the ministers wished to leave.

On the matter of whether a question of privilege can arise from committee proceedings, like Senator Ringuette, I had in mind the precedent which I think was a fine precedent in this session of a question of privilege raised by Senator Wallin which was given proper consideration here by Your Honour. I think that is an appropriate way to go.

Senator Duffy asked whether Mr. Chomiak said anything during the much-quoted section during the proceedings. No, he did not. As far as I could see, watching him, he was paying close attention to the proceedings but he did not participate in those exchanges.

Finally, the matter of Attorneys General from Alberta and Manitoba agreeing to a certain timetable, which was raised by Senators Wallace and Brown, I do not know who told Ms. Redford that they would only be asked to see us for one hour. What I have is a written record in which we were asked whether the minister would be able to catch a 2:30 p.m. flight. The answer to her staff was that in order to catch a 2:30 p.m. flight the minister would need to leave the Hill at 1 p.m. and that should not be a problem since our time slot ran until 12:45 p.m.

I regret having to get into the nitty-gritty of correspondence between our table staff and ministerial staff.

Senator Comeau: We can see why.

Senator Fraser: However, since the matter has been raised, I am afraid I have to put that on the record.

The last point is that, as I tried to suggest when I was laying out the long series of events earlier, although this related to committee proceedings, in my view, the matter involves contempt not only of the committee but of the Senate. Some of the remarks impugning our work concerned the Senate and not just a Senate committee. I believe the matter is properly before this house and properly before Your Honour for consideration.

The Hon. the Speaker: Honourable senators, I wish to thank all honourable senators for their interventions. This is an important issue, and we will study all the procedural references that have been presented and examine the transcript and so on and will try to have a ruling on this as soon as possible.

(The Senate adjourned until Wednesday, October 7, 2009, at 1:30 p.m.)

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