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**Wednesday, December 15, 2010**



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

Wednesday, December 15, 2010

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

Prayers.

[Translation]

### ROYAL ASSENT

#### NOTICE

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

RIDEAU HALL

December 15, 2010

Mr. Speaker,

I have the honour to inform you that the Right Honourable David Johnston, Governor General of Canada, will proceed to the Senate Chamber today, the 15th day of December, 2010, at 4:15 p.m., for the purpose of giving Royal Assent to certain bills of law.

Yours sincerely,

Sheila-Marie Cook  
*Secretary to the Governor General*

The Honourable  
The Speaker of the Senate  
Ottawa

[English]

## SENATORS' STATEMENTS

### THE SENATE

#### AUDIT REPORTS

**Hon. David Tkachuk:** Honourable senators, at our own initiative, the Senate has brought in outside auditors to look at different aspects of our operations.

Over the next few years, we will receive the results of these audits as they are undertaken and completed. Last year, three audits were completed.

The *Annual Report on Internal Audits, 2009-2010* that I will table shortly, presents these three internal audit reports in their entirety, as prepared by the auditors from Ernst & Young, together with summary management responses.

The first audit covered service contracts, including financial and management controls over procurement and contracting processes for all personnel services, consulting and legal service contracts.

The Senate's management has made corrections to ensure that contract files are properly documented and to allow processing of legal service contracts through Senate contracting. Policy and guideline improvements are under development.

The second internal audit reviewed Senators' office expenditures, including travel, living expenses, and research and office budgets. That audit has resulted in many corrections and changes, and senators' office expenditures will now be reported publicly.

Time frames for submitting certain expense claims have been tightened.

The third internal audit reviewed the job classification functions for employees of the administration, noting that effective controls and many effective management practices are in place.

Again, our Senate management has begun corrective actions such as establishing a cyclical job description review process and properly documenting files.

The findings in these three audits, where not particular to our unique environment, are not uncommon in similar audits of government departments and agencies.

Senators, your Standing Committee on Internal Economy, Budgets and Administration is encouraged by the usefulness of the 2009-10 audits, and is committed to further implementing a strong audit function within the Senate.

I thank honourable senators who previously served on the Internal Economy Committee who had begun this process; specifically, Senator Furey and Senator Stratton, who had worked with their colleagues to begin this audit process and to begin this new era of transparency. Their leadership should be commended.

### THE LATE ALAN H. HOLMAN, O.C.

**Hon. Catherine S. Callbeck:** Honourable senators, today I pay tribute to one of Prince Edward Island's most outstanding citizens, who died earlier this month at the grand old age of 95.

Alan Holman was a respected business person, community leader and devoted family man. For 30 years, he served as president of a family retail firm, which was established by his grandfather in 1857. R.T. Holman Ltd. was known widely throughout Prince Edward Island and the other Maritime provinces. The firm pioneered many innovations, attracted loyal customers and was a thriving business. Under the presidency of Alan Holman, it continued to be a progressive and dynamic company.

Mr. Holman was the driving force behind the establishment of Confederation Court Mall, which made a significant contribution to the revitalization of downtown Charlottetown.

Mr. Holman was also a visionary community leader. He was one of a small group of people who played a leading role in the establishment of the Confederation Centre of the Arts, completed in 1964 to commemorate the one hundredth anniversary of the meeting of the Fathers of Confederation in Charlottetown. He twice served as chair of the board, and made an outstanding contribution to the centre's growth and development over the years. The Confederation Centre of the Arts today is one of the premier arts and cultural institutions in this country.

A veteran of the Second World War, Mr. Holman was a proud Canadian who served his country with distinction. In 1980, he was made an Officer of the Order of Canada in recognition of his contributions to the business and arts communities.

Mr. Holman was active in his church and community, and the strength of his character became an inspiration to all who knew and admired him. He took great pride in his family, who now mourn the loss of a much loved father, stepfather, grandfather and great-grandfather.

I ask all honourable senators to join with me in expressing our sympathies to the family of the late Alan Holman.

### HEALTH CARE

**Hon. Fred J. Dickson:** Honourable senators, I rise in the chamber today to address a priority of mine and many Canadians — health care. Canadian health care, if it were a corporation, would be amongst the biggest in the world. According to an article by Rachel Mendleson, Canada's health care would be third on the Fortune 500 list behind the oil giants Exxon Mobil and Chevron. She describes health care as the worst run industry in Canada. She sets aside the myth held by most Canadians that the problem is rooted in inefficient funding, demographic overload or corporate profiteering.

Based on the opinion of economists, policy analysts and doctors, the real issue is mismanagement — horrible, pervasive inefficiency. A number of non-governmental organizations, public policy organizations, think tanks and health advocates have been calling for an adult conversation on what type of health care we want throughout our lives and how it will be delivered.

Among those calling for a frank discussion on our health care future is the Honourable Michael Kirby and the Right Honourable Brian Mulroney, who offered ideas as to what could be discussed. Among those ideas was a need to accelerate the rate of primary care reform and eHealth records, of which I will say more later.

• (1340)

I congratulate the Canadian Medical Association, which initiated a national dialogue on the future of health care by unveiling a new website on Monday, [www.healthcaretransformation.ca](http://www.healthcaretransformation.ca). This initiation will also include a series of consultations across the country beginning in the new year.

Dr. Jeff Turnbull, the current president of the CMA, said the following, with which I agree:

First and foremost, Canadians deserve a health care system that puts patients first and that will be sustainable over the long term. Their voices need to be heard.

Honourable senators, a patient-focused health care system is imperative to the success of health care delivery in Canada. Governments, within their areas of responsibility, need to rethink and redesign how health care is delivered. One of the health care action steps I will be taking in the new year will be to try to focus decision makers on primary care reform. Alan Weil, Executive Director of the National Academy for State Health Policy, said:

The big push these days is around primary care, really coordinating care to assure that you get the preventative services you need."

There is a huge amount of interest in prevention and engaging the public to take better care of themselves.

Dr. Judy Monroe, Indiana's Health Commissioner, identified three levels of prevention: primary prevention, which is preventing something from ever happening; secondary prevention, which is diagnosing the condition early and treating it early with medication or lifestyle changes; and tertiary prevention, which is disease management.

Prevention provides more effective health care outcomes and, in fact, if decision makers do not focus on prevention, we will never be able to contain costs.

An article in the *Journal of the American Medical Association* often cited to support the point that prevention is a key to cutting health care costs, is entitled: "Bending the Cost Curve: A Critical Component of Health Care Reform." This article, by Stephen M. Shortell, Dean and Professor of the School of Public Health at the University of California, Berkeley, said that disease prevention initiatives aimed at nutrition, physical activity, tobacco use and lifestyle changes will have the greatest impact on bending the health care curve. These factors have the largest influence on reducing the future burden of disease, particularly when it comes to obesity and what follows: diabetes, heart disease and cancer.

Another area of concern related to my action steps on health care is the program of electronic health records, specifically the Canada Health Infoway. I will be having discussions with the steering committee of the Standing Senate Committee on National Finance to consider eHealth in Canada, the cost and benefits, as well as the experience in other jurisdictions.

Honourable senators, none of the solutions for how health care is delivered are impossible, but putting them into practice depends upon overcoming entrenched interests and political inertia. We, as representatives of the public in this chamber, have the responsibility to put aside partisanship and ideology and seek consensus on essential issues such as health care.

## AFGHANISTAN

### HUMAN RIGHTS OF WOMEN AND CHILDREN

**Hon. Mobina S.B. Jaffer:** Honourable senators, I rise before you today to shed light on the importance of empowering women in Afghanistan.

This past Friday, the Honourable Minister Lawrence Cannon stated that Canada would mark December 10 as International Human Rights Day. He stated:

Canada supports the Government of Afghanistan and Afghan civil society organizations in their efforts to promote and protect human rights, especially those of women and children. Canada consistently raises human rights issues such as freedom of expression and women's rights with the Government of Afghanistan.

I would like to commend Prime Minister Harper and Minister Cannon for showcasing Canada's commitment to the protection and promotion of human rights at home and abroad. However, I believe that it is important to recognize that the situation for women and children in Afghanistan is still particularly volatile.

As we reconfirm our commitment to championing human rights, I believe it is important that we reflect upon the great work that is being done and that needs to be done in Afghanistan. Although many development organizations have been working tirelessly on promoting and protecting the rights of women and children in Afghanistan, there is one organization that is particularly close to my heart.

The Aga Khan Development Network is one of the world's largest private development networks, and with the support of its donors and partners it has channelled over US\$700 million toward Afghanistan's reconstruction.

The Aga Khan Development Network has established several programs in Afghanistan focusing on health, infrastructure rehabilitation, education, micro-finance and large-scale rural development. Not only do these initiatives help create a more stable and secure environment for the Afghan people, they also provide a beacon of hope for young Afghan girls who would otherwise be destined to a life of domestic labour.

Honourable senators, 23 years of war has destroyed Afghanistan's infrastructure and has further increased the illiteracy rate. I strongly believe that by educating women we are empowering them in an important way, for we are providing them with the ability to fight for their rights. As various Aga Khan Development Network projects have demonstrated, investing in the health and education of women and girls will help usher peace into countries that have been plagued by war.

The head of this organization, His Highness Prince Karim Aga Khan, who recently celebrated his seventy-fourth birthday, stated in an interview earlier this week:

I have always taken the attitude that it is better that the work should speak rather than the individual.

Your Highness, your work speaks volumes.

I urge honourable senators to join me in commending our Prime Minister, Minister Cannon, and His Highness the Aga Khan for their ongoing commitment to empowering women and girls, not only in Afghanistan but around the world.

[Translation]

## AUNG SAN SUU KYI

### HONORARY CITIZENSHIP

**Hon. Consiglio Di Nino:** Honourable senators, I would like to read a personal message from Aung San Suu Kyi:

I hope you will excuse me for not having sent a proper speech, or even a video, but I was only informed of this ceremony late last night.

I deeply appreciate the award of honorary Canadian citizenship, both for myself and because it symbolizes the help that Canada has given my people. Canada has never faltered in its support for the democracy movement in Burma, for which I am very grateful.

I would particularly like to thank the generosity of the government for taking in so many Burmese refugees and the help that they have received when they arrived.

[English]

A good example of Canadian generosity is the recent donation to the victims of cyclone Giri in Western Burma, which has scarcely impinged on the consciousness of the outside world.

I have always felt a particular closeness to Canada because of my French Canadian mother in law, Josette Vaillancourt who was always proud to be Canadian and always kept her Canadian passport though living in England for 60 years. I am also aware of the history of the Vaillancourt family's efforts to foster good relations between the peoples of Canada, something that I have always advocated for Burma. . . . Finally I look forward very much to the day that conditions in Burma will allow me to be free to visit Canada myself and thank the Canadian people in person.

Thank you very much.

In response, I say to Aung San Suu Kyi, thank you and good luck in your efforts to promote democracy in Burma. Canadians strongly support you.

[Translation]

## COMPETITION BUREAU

**Hon. Pierrette Ringuette:** Honourable senators, I would like to tell you about another small victory for all Canadians that was announced this morning in a press release issued by the Competition Bureau of Canada:

The Competition Bureau announced today that it has filed an application with the Competition Tribunal, to strike down restrictive and anti-competitive rules

that Visa and MasterCard impose on merchants who accept their credit cards.

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

**Senator Ringuette:**

The Commissioner of Competition alleges that these rules have effectively eliminated competition between Visa and MasterCard for merchants' acceptance of their credit cards, resulting in increased costs to businesses and, ultimately, consumers. Merchants in Canada pay an estimated \$5 billion annually in hidden credit card fees.

The anti-competitive restraints on merchants result in higher prices for all consumers, whether they pay by cash, cheque, debit or credit, because merchants pass along some or all of the high costs they are forced to pay as a result of Visa's and MasterCard's anti-competitive rules.

[English]

Visa and MasterCard's anti-competitive behaviour hurts businesses and consumers alike.

• (1350)

Said Melanie Aitken, Commissioner of Competition:

It is particularly harmful for small and medium sized businesses, key engines for economic growth in Canada. Without changes to the rules, merchants will continue to face high costs for credit card acceptance, while consumers, even those who use lower-cost methods of payment like debit or cash, will continue to pay higher prices.

Visa and MasterCard operate the two largest credit card networks in Canada. Together they processed more than 90 per cent of all credit card transactions by Canadian consumers in 2009, representing over \$240 billion in purchases.

The rules challenged by the bureau prohibit merchants from encouraging consumers to consider lower-cost payment options, like cash or debit, and prohibit merchants from applying a surcharge to a purchase on a high-cost card. Further, once a merchant agrees to accept a Visa or MasterCard card, that merchant must accept all credit cards offered by that company, including cards that impose significant costs on merchants, such as premium cards.

Canada has among the highest credit card fees in the world. Many countries have taken steps to reduce the fees paid by merchants. Canadian merchants that accept Visa and MasterCard credit cards must pay a fee ranging between 1.5 per cent and 3 per cent or more on each purchase — nearly twice as much as their counterparts in Europe, New Zealand and Australia, but slightly less than in the U.S.

By contrast, the card accepted, and processing fees paid, by merchants in the case of an Interac debit transaction, is a flat fee of approximately 12 cents, regardless of the value of the

purchase. To provide a practical example, a 3-per-cent hidden credit card fee on a \$400 set of snow tires is \$12 for the merchant, but if a debit card is used for the same purchase, the fee is 12 cents.

The bureau is challenging Visa and MasterCard rules under the price maintenance provisions of the Competition Act. The bureau launched its investigation in response to complaints by merchants and their associations, and initiated a formal inquiry in April 2009.

Honourable senators, this is a victory, a second one for all consumers and all merchants in Canada, and we shall continue.

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## ROUTINE PROCEEDINGS

### INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

#### ELEVENTH REPORT OF COMMITTEE TABLED

**Hon. David Tkachuk:** Honourable senators, I have the honour to table, in both official languages, the eleventh report of the Standing Committee on Internal Economy, Budgets and Administration.

### STUDY ON STATUTORY REVIEW OF THE BUSINESS DEVELOPMENT BANK OF CANADA

#### SEVENTH REPORT OF BANKING, TRADE AND COMMERCE COMMITTEE TABLED

**Hon. Michael A. Meighen:** Honourable senators, I have the honour to table the seventh report of the Standing Senate Committee on Banking, Trade and Commerce, entitled: *Ten-year Statutory Review of the Business Development Bank of Canada*.

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

### STUDY ON GOVERNMENT'S ROLE IN SUPPORTING THE PROMOTION AND PROTECTION OF WOMEN'S RIGHTS IN AFGHANISTAN

#### SEVENTH REPORT OF HUMAN RIGHTS COMMITTEE TABLED

**Hon. Nancy Ruth:** Honourable senators, I have the honour to table the seventh report of the Standing Senate Committee on Human Rights, entitled: *Training in Afghanistan: Include Women*.

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

## MAPLE LEAF TARTAN BILL

### FIRST READING

**Hon. Elizabeth Hubley** presented Bill S-226, An Act to recognize the Maple Leaf Tartan as the national tartan of Canada.

(Bill read first time.)

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

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

[Translation]

## CANADIAN NATO PARLIAMENTARY ASSOCIATION

VISIT OF SCIENCE AND TECHNOLOGY COMMITTEE,  
SEPTEMBER 27-30, 2010—REPORT TABLED

**Hon. Michel Rivard:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canadian NATO Parliamentary Association respecting its participation at the visit of the Science and Technology Committee, held from September 27 to 30, 2010, in Paris, Aix-en-Provence and Toulon, France.

## L'ASSEMBLÉE PARLEMENTAIRE DE LA FRANCOPHONIE

CONGRESS OF THE ASSOCIATION CANADIENNE  
D'ÉDUCATION DE LANGUE FRANÇAISE,  
SEPTEMBER 30-OCTOBER 2, 2010—REPORT TABLED

**Hon. Rose-Marie Losier-Cool:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian branch of the Assemblée parlementaire de la Francophonie respecting its participation at the 63rd Congress of the Association canadienne d'éducation de langue française (ACELF), held from September 30 to October 2, 2010, in Charlottetown, Prince Edward Island.

SEMINAR ON THE ROLE OF WOMEN  
PARLIAMENTARIANS IN PROMOTING A GENDER  
PERSPECTIVE IN THE PREPARATION OF NATIONAL  
BUDGETS AND ON THE IMPLEMENTATION OF THE  
CONVENTION ON THE ELIMINATION OF ALL FORMS  
OF DISCRIMINATION AGAINST WOMEN,  
OCTOBER 6-7, 2010—REPORT TABLED

**Hon. Rose-Marie Losier-Cool:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian branch of the Assemblée parlementaire de la Francophonie respecting its participation at the seminar on the role of women parliamentarians in including a gender perspective in the preparation of national budgets and on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), held on October 6 and 7, 2010, in Lomé, Togo.

SEMINAR ON INCLUDING A GENDER PERSPECTIVE  
IN THE PREPARATION OF NATIONAL BUDGETS:  
PUTTING IT INTO PRACTICE,  
NOVEMBER 4-5, 2010—REPORT TABLED

**Hon. Rose-Marie Losier-Cool:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian branch of the Assemblée parlementaire de la Francophonie respecting its participation at the seminar on including a gender perspective in the preparation of national budgets: putting it into practice, held on November 4 and 5, 2010, in Bitola, Macedonia.

## CANADIAN NATO PARLIAMENTARY ASSOCIATION

VISIT OF THE DEFENCE AND SECURITY COMMITTEE,  
AUGUST 30 TO SEPTEMBER 4, 2010—REPORT TABLED

**Hon. Joseph A. Day:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canadian NATO Parliamentary Association respecting its participation at the visit of the Defence and Security Committee, from August 30 to September 4, 2010, in Denmark, Greenland and Iceland.

• (1400)

[English]

## QUESTION PERIOD

### NATIONAL DEFENCE

#### F-35 AIRCRAFT PURCHASE

**Hon. Francis William Mahovlich:** Honourable senators, the federal government recently announced plans to purchase 65 F-35 jets to replace the military's aging CF-18 jets. It was announced that the planes would be purchased from Lockheed Martin at a cost of \$16 billion, the most expensive single military purchase in Canadian history.

I understand that we must support the men and women who put their lives on the line for our country every day, and I am not questioning the need for new equipment to help them protect our country. I am, however, questioning the manner in which the federal government has gone about purchasing these jets.

While it is clear that the current CF-18 jets do need to be replaced, experts have publicly stated that they can continue to fly for another eight to nine years, meaning we should not be hasty in making a decision. We have some time to source out the best option for Canada's military while still obtaining the best price.

Given that we have so many top quality aircraft manufacturing companies in Canada, it simply makes sense to have a competition to ensure Canadians get a fighter jet they can be proud of, while still getting the best value for their dollar.

Can the Leader of the Government in the Senate tell us why exactly the government decided not to have an open competition and gave the contract to Lockheed Martin?



**Hon. Marjory LeBreton (Leader of the Government):** I thank the honourable senator for the question. In fact, there was a competitive process conducted under the previous Liberal government when the government of the day joined the consortium to develop this new-age fighter aircraft. This investment, as I and people in the industry have said many times, is a win-win for the Canadian Forces and also for the Canadian economy.

As the honourable senator points out, there are still a few years left on our existing fleet. The forces will be replacing aircraft as soon as these aircraft have reached the end of their lifespan. Honourable senators know that on all major purchases such as this there is a long lead-in period between the actual order and purchase of the aircraft and the delivery.

The F-35 purchase gives Canadian aerospace companies privileged access to approximately \$12 billion in contracts for work on thousands of planes in the F-35 global supply, and that is one of the most important things, honourable senators. I must give credit to the previous government for making us part of this process, but we are part of a group of countries now that will have access to all of the F-35 supply chain and, therefore, all of our Canadian manufacturers can contribute not only to the ones we are purchasing but also to the complete global supply chain.

**Senator Mahovlich:** I have a supplementary question. Another concern that I have is in relation to jobs. Lockheed Martin is an American company. While I do realize they have facilities in Canada that employ many Canadians, there are no guarantees that any of these Canadians would be employed through this project. Any such guarantees were given up when the deal was signed without competition. How will the government ensure that the jobs created for this specific project will benefit Canadians?

**Senator LeBreton:** Again, I have to correct the honourable senator. There was a competition that the previous government participated in.

Last week, honourable senators, Ministers Clement and MacKay led a delegation representing over 60 Canadian companies to an F-35 Canadian sustainment conference in Texas. The Canadian industry has shown it can provide the best value and excellent quality, which has already resulted in over \$350 million in contracts for production work, with much more to come. Communities across Canada will see job-creating economic benefits. The F-35 jets will be based in Bagotville and Cold Lake, and we expect our facilities to be able to house all of those jets adequately; and, of course, honourable senators, there are 80,000 Canadian jobs directly employed in the aerospace industry.

To assure the honourable senator that this project will benefit all Canadians, Maurice Guitton, President of Composites Atlantic Limited based in Lunenburg, Nova Scotia, said the following:

We are supporting the program, which will bring us added value to our company, as will advanced technology — as you all know this joint strike fighter is definitely an advanced product — and long-term employment stability in a rural area to those who need more work to stay close to their family.

He said that before the National Defence Committee of the other place on December 9.

Thomas Beach, President of Head Office of Handling Specialty Manufacturing Ltd. in Niagara said:

... I want to express how proud and grateful we are to the Joint Strike Fighter program. It has taken my small business and made us bigger and stronger. ... I don't believe my team would have been able to penetrate the aerospace defence industry the way it has without this relationship and without this program.

He said that to the same committee.

Gilles Labbé, President and Chief Executive Officer, Héroux-Devtek in Longueuil, Quebec:

Héroux-Devtek enthusiastically supports the Government of Canada's decision to purchase the F-35 Joint Strike Fighters. This program, based on a partnership among nine nations, that originated in 1997, will give Canadian companies access to opportunities on the partner fees valued at, up to, around \$12 billion, excluding the maintenance of the aircraft.

Now is the time to integrate the supply chain and make the most of this extraordinary opportunity. Two years from now would be too late.

This is a direct quote from the same committee.

**Hon. Wilfred P. Moore:** Honourable senators, I have a supplementary question. Last week I asked the Leader of the Government in the Senate to clarify the matter of the industrial regional benefits. At that time, I pointed out to her that the Pentagon stated that the benefits to Canada are \$3.9 billion and her government said \$12 billion. She said, "No, we did not say that. That was Lockheed Martin."

I happen to have some information here from Industry Canada saying that the industrial participation plans outlined and the opportunities available to Canadians is currently valued at \$12 billion. I would like her to explain the discrepancy, please.

**Senator LeBreton:** I may have missed something, honourable senators, but I do believe that we have talked about the \$12 billion figure. Industry has talked about it. With regard to various reports from various sources, Canada is purchasing the most cost-efficient variant of the F-35 at the peak of its production when the costs are projected to be at their lowest.

The senator did ask a specific question and, as he knows, I referred it to the Department of National Defence for a written response.

**Senator Moore:** I have a further supplementary question. It was originally indicated that the cost per airplane for Canada would be \$50 million per unit. Last week Minister MacKay, the Minister of National Defence, was in the United States for a photo op, and the price came out at \$140 million per unit. That is almost three times more.

I asked the leader last week if we had a guaranteed price. If it is now \$140 million, almost three times the budget, where will the money come from? We could not be budgeting for a possibility of a three-time increase. That just does not make sense.

• (1410)

**Senator LeBreton:** Honourable senators, I would hardly suggest that a meeting held in the United States, representing 60 Canadian companies, would be classified as a “photo op.” One does not have 60 Canadian companies participating in an important project like this one only because they want to be part of a photo op. That is insulting to those companies.

With regard to the specific question, as I said last week on all these questions, I have referred them to the department and I will provide the honourable senator with a written response.

**Hon. Jane Cordy:** Honourable senators, could the leader tell us if a written guarantee is in place as to how many jobs and what percentage of the work will be done in Canada?

**Senator LeBreton:** Honourable senators, I hate to give Liberals credit for anything, but I believe it was a good decision of the previous government to get in on the ground floor of this consortium. We are not dealing only with the aircraft that the Canadian government is purchasing; Canadian companies have access to the global supply chain in all the countries that will purchase this aircraft.

The committee in the other place heard testimony from representatives of the industry outside of Canada as well as the Canadian industry that should allay any fears. Canadian companies are excellent companies. They are technologically advanced. They are more than capable of competing for these contracts. I think we should have faith in the Canadian industry, honourable senators.

I saw testimony earlier in the year where the defence critic — and, I think he still holds that position — Dominic LeBlanc, was questioning the potential suppliers to these contracts. One of them, which silenced Mr. LeBlanc for a few moments, was from his own riding in New Brunswick and they were receiving contracts on this aircraft.

**Senator Cordy:** I do have a great deal of faith in the aerospace industry. In Nova Scotia, that industry is developing. We are proud of these people, particularly in Nova Scotia, but all Canadians. That had nothing to do with my question, though.

Perhaps the honourable senator answered my question, but I did not hear it. My question was this: Do we have a written guarantee with the United States as to what percentage of the work will take place in Canada and will be done by Canadian workers in Canada?

**Senator LeBreton:** I think I answered the question. The answer is that, as opposed to past practices where we would order an aircraft and then have only the work that surrounds the actual number of aircraft that we order, in this case — and I must give credit to the previous government — we joined a consortium that allows Canadian companies to be part of the global supply chain. The proof, honourable senators, is that all these companies and

their workers, especially those in major aerospace industry centres like Montreal and Winnipeg, are saying that they are encouraging the government to participate and to carry through with this contract because 80,000 jobs are involved.

I think we will have to rely on our companies. They have great faith in their ability. We are into a new era. Obviously, the aerospace industry is satisfied with the actions of the government.

**Senator Cordy:** Is that a “yes”?

**Senator LeBreton:** It is not a “no.”

**Senator Cordy:** Not a “no,” not a “yes,” a “maybe.”

## TRANSPORT

### RAIL FREIGHT SERVICE

**Hon. Robert W. Peterson:** Honourable senators, my question is for the Leader of the Government in the Senate.

Since 2007, the shippers of grain, oilseeds, pulse crops, forest products, minerals, chemicals, fertilizer, industrial goods and virtually all bulk commodities have complained that railways in this country overcharge and underperform. Two months ago, the Rail Freight Service Review agreed, finding that overall rail freight service is inadequate, largely because market power is concentrated in the hands of the railways. The Conservative government seems content to side with the railways. They are delaying meaningful change by giving these companies three years to fix the service deficiencies.

Honourable senators, nothing is likely to change unless we act. Will this government stand with shippers and begin immediate consultations to force the railways to come up with commercial solutions rather than waiting another three years over which time it is almost certain nothing will happen?

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, I am not in any position to definitively answer the question at this time. I will bring the honourable senator's concerns to the attention of the Minister of Agriculture and Agri-Food and the Minister of Transport, Infrastructure and Communities, and I will provide a written response.

**Senator Peterson:** Thank you very much.

While the minister is providing that information, I want to point out that this report is an interim report. Could we also use the position of her office to encourage the review panel to remove the three-year window in their final report?

**Senator LeBreton:** Without addressing the content of the report and adjudicating on any part of it, honourable senators, I will also make the ministers aware of the honourable senator's concern.

**Hon. Tommy Banks:** Honourable senators, I have a supplementary question to Senator Peterson's question. The best way in our economy to ensure fair pricing is to ensure competitive pricing. I think we would all agree with that. One problem with the railways is that, unlike other one-time publicly supported networks of various kinds, all of which are now obliged to permit competition on their own infrastructure — and here

I am talking about, for example, telecommunications and pipelines, and there are many other examples — the railways have never been required to permit competitive traffic on their main lines. In fact, the railways require that the spur railways that operate on tracks that the main railways have abandoned undertake, before they enter into the use or purchase agreements for those spur lines, to promise that they will never ask for access for their locomotives or rolling stock on the main lines of the main railways.

Will the leader undertake to find out, in response to Senator Peterson's question, whether the government would consider requiring the two Class A railways in Canada that presently operate to permit competitive locomotives and rolling stock on their owned main lines?

**Senator LeBreton:** Honourable senators, I most certainly will.

The issue of the use of our rail lines has been a complex issue for many years — probably as many years as I have been around this place. I most certainly will add the honourable senator's question to those of Senator Peterson.

[Translation]

## CANADIAN HERITAGE

### LINGUISTIC DUALITY AT 2015 PAN AMERICAN GAMES

**Hon. Maria Chaput:** Honourable senators, my question is for the Leader of the Government in the Senate.

Madam leader, on Wednesday, December 1, I asked you a number of questions about the 2015 Pan American Games in Toronto and the agreement between the organizing committee and the federal government.

I shared my concerns about the contribution agreement and the language clauses to delineate the obligation to ensure true equality of both official languages at the 2015 Pan American Games.

Yesterday, the Commissioner of Official Languages, Graham Fraser, tabled his final report on the Vancouver 2010 Olympic and Paralympic Games. He said:

... official language requirements must be specific and clear to ensure that organizing committees grasp the importance of linguistic duality, understand their official languages obligations and plan adequately.

The Commissioner will publish a guide based on the lessons learned at the 2010 Vancouver Games.

• (1420)

Could the leader indicate to the Minister of Canadian Heritage that it would be a good idea for this guide to be read carefully and used by the funded organizations so that they may plan accordingly? Does the leader not believe that we should ensure

that the funding granted by the federal government for equality of both official languages during the 2015 Pan American Games is truly spent on achieving that equality?

[English]

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, we were interested to see the report of the Official Languages Commissioner on bilingualism at the Vancouver Olympics. As I have said many times in this place, we made record levels of investment to ensure that both official languages were incorporated into all aspects of the games. The report of the Commissioner of Official Languages, which was released several days ago, stated:

... the positive results of the 2010 Games showed that Canada has set the bar very high for future Olympic organizing committees.

That, to me, was a great compliment to the government and our efforts to ensure that the Official Languages Act was fully respected and implemented at the Vancouver Olympics. As the Commissioner of Official Languages pointed out, the majority of complaints he received were about the lack of official languages at the opening ceremony. That was no surprise to any of us, and we had all joined in to complain about that.

Obviously, the Commissioner of Official Languages has complimented Canada for setting the bar very high, and I will be happy to say to my colleague that the honourable senator expects the same high standards to be followed for all future games, whether they be Olympic, Pan American or any other international games.

[Translation]

**Senator Chaput:** Honourable senators, could I also ask the minister to ensure that the linguistic clauses in this agreement for the Toronto Games are more specific, better understood and well explained and that the partners' obligations are met? That is what happened during the Olympic Games in Vancouver: the clauses were not specific, not understood and not respected.

Could I ask her to ensure that the minister also ensures that the linguistic duality clauses are understood, explained and respected?

[English]

**Senator LeBreton:** I must disagree with the honourable senator, because what she has just said is not true about the Olympics in Vancouver. That has been borne out by the report of the Official Languages Commissioner. If we set aside the one egregious example of the opening ceremonies, in all other aspects, whether at the various sites or the facilities, the government invested considerable money and the Commissioner of Official Languages proclaimed himself well satisfied.

It would be a mistake to proceed based on the fact that somehow or other the Olympics in Vancouver did not address and implement all of the important areas required by our Official Languages Act.

Having said that, honourable senators, I will speak to my colleague Minister Moore to ensure that he is aware of the honourable senator's concern that, to quote the Official Languages Commissioner, the same bar set very high will be the goal of not only the Pan American games, but also any other international games we host in this country.

[Translation]

**Senator Chaput:** Minister, what happened in Vancouver during the opening ceremonies was a direct result of the language clause not being clarified, discussed and understood. That is the point I want to make today. When everything is clear and precise, incidents like the ones during the opening ceremonies can be avoided. I know for certain that some of the key players who were party to the contribution agreement did not understand or were unaware of their responsibilities, and that it happened afterward.

All I am asking of the minister is to ensure that all these responsibilities are understood in the contribution agreements of the federal government, which is providing generous sums of money for linguistic duality. All that I ask is that the money being granted for official languages be indeed spent on linguistic duality. That is all that I ask.

[English]

**Senator LeBreton:** Again, I will have to disagree with the honourable senator. With regard to the exception at the Vancouver opening ceremonies, we have never had the full explanation as to what happened; at least, I am not aware of one. The various partners understood very well the importance of the Official Languages Act and implemented the requirements to the highest level around the Olympic facilities for which Canada was directly responsible.

There was the one example of the International Olympic Committee and the opening ceremonies. However, I must insist that they not take on more of a life of their own than they should. All of the games, all of the facilities and the high standards we set, as the Commissioner of Official Languages said, met the requirements and more.

Let us not give a black eye to all of the Olympic Games because of one small portion of it, namely, the opening ceremonies, which were hosted by the Olympic committee and were their responsibility.

However, as the honourable senator well knows, after the opening ceremonies, the minister publicly stated that he was concerned and troubled by the lack of official languages at the opening ceremonies, and that is no secret. That was one event, whereas all of the events that went on for two weeks were very successful. Canada's Official Languages Act was fully implemented and understood. As the commissioner just reported, the positive results of the 2010 games show that Canada has set the bar very high for future Olympic organizing committees. That just about says it all.

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

[ Senator LeBreton ]

## INDUSTRY

### LONG-TERM DISABILITY BENEFITS— NORTTEL EMPLOYEES

**Hon. Art Eggleton:** Honourable senators, I realize that I am trying the patience of some of my Senate colleagues by getting up on this Nortel issue every day, but the end of the year is here, Christmas is almost here, and I cannot give up on these people.

I will read a statement from another Nortel employee. This is from Laurie Vowles from Ottawa:

I am bi-polar on the heavily depressed side and have been off work since January 1998. I have been hospitalized several times at the Royal Ottawa for mania. I also have had Hepatitis C for 33 years and am at the point where I now have cirrhosis of the liver. I just found out about it about 5 years ago, so my case is very serious since I've had it for so long. There is a likely possibility of getting liver cancer from this if not treated. I don't know what the treatment costs, I will have no medical coverage, and the treatment is almost worse than the disease, and some people have been known to kill themselves from the depression that comes with the treatment. Therefore, a psychiatrist is trying to help me recover from my depression with new medications so I won't be depressed, to begin with, and, therefore, a likely candidate for suicide.

After I get over my depression, the doctors plan to give me the interferon treatment, but how can I pay for it and the meds I need for my depression right now? This is very serious, PLEASE pass Bill S-216, I pray that you do. I have no idea what will happen to me if you don't. As well as others like me, who need this bill passed, what will happen to people like me in the future when this happens to them?

• (1430)

In today's *Ottawa Citizen*, there is an article entitled: "Nortel pensioners thrown to wolves." This is not on the social justice page but on the business page. The author expresses concern about this issue. He says that the bankers, bond fund managers and business lobbyists received good news when the government defeated the bill. He goes on to say:

But the Conservatives insisted they appreciate the difficult challenges of Nortel pensioners — the crocodile tears bathed Parliament Hill — and said they were working to get some cash into their hands. They weren't saying more. . . .

Christmas is almost here. Honourable senators have just heard testimony from someone who will not be able to get her medications after the end of the year. Will the government do something to ensure these people will get the medicines they need to keep them alive?

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, as I have said before, no one takes any joy out of the situation in which Nortel pensioners find themselves.

I understand the honourable senator reading into the record the situation these people face.

I am not completely familiar with the type of system or with this particular individual. We do have a very good health care system in Canada. I find it hard to understand why our health care system would turn its back on this individual, because I have never heard of anyone who required medical attention who was denied medical attention. I would have to know more of the specific details.

Honourable senators, there is nothing that I can say, that Senator Eggleton can say, or that any of us can say that will take away from the fact that this situation with Nortel, participated in by employees of Nortel, is a result of a court-ordered settlement.

### DISTINGUISHED VISITOR IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, the time for Question Period has been exhausted. Before calling for delayed answers, I would like to draw your attention to the presence in the gallery of our distinguished former colleague, the Honourable Senator Lorna Milne.

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

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

[Translation]

### DELAYED ANSWER TO ORAL QUESTION

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, I have the honour to table a delayed answer to an oral question raised by Senator Tardif on December 1, 2010, concerning the 2011 census.

#### INDUSTRY

#### 2011 CENSUS

*(Response to question raised by Hon. Claudette Tardif on December 1, 2010)*

The government has indicated its intention to introduce a bill to amend the Statistics Act. This amendment will allow the transfer of National Household Survey (NHS) records from Statistics Canada to Library and Archives Canada for genealogical and historical research, as fully consistent with the current practice as regards census records. The records of those who consent to the release will be made available to the public in 2103, 92 years after the taking of the 2011 National Household Survey. Records would not be made available if the individual did not consent. A question on consent to make information available to the public in 92 years is on the NHS questionnaire.

[English]

## ORDERS OF THE DAY

### SUSTAINING CANADA'S ECONOMIC RECOVERY BILL

#### THIRD READING

**Hon. Elizabeth (Beth) Marshall** moved third reading of Bill C-47, A second Act to implement certain provisions of the budget tabled in Parliament on March 4, 2010 and other measures.

She said: Honourable senators, I appreciate the opportunity today to speak to Bill C-47, also known as sustaining Canada's economic recovery act, at third and final reading in the Senate.

Before I continue, let me first thank the Standing Senate Committee on National Finance for its swift consideration of this important legislation, legislation that will help ensure Canada's continued economic recovery. Indeed, Canada's recovery has been one of relative strength compared to other industrialized countries. For instance, when it comes to Canada's fiscal situation, we are a global leader. Our deficit and debt-to-GDP levels are among the lowest in the industrialized world. More significantly, they are projected to remain low going forward. In fact, Canada's fiscal situation remains one of the strongest by international standards.

The International Monetary Fund projects that Canada's total government net debt-to-GDP ratio will only be around 32 per cent in 2015, a mere one third of average debt-to-GDP ratio burdens facing G7 countries.

As credit rating agency Standard & Poor's noted earlier this year when they reaffirmed Canada's top-quality borrower status, they stated:

The ratings on Canada reflect our opinion of the country's strong public finances, its relatively diversified economy, the stability of public policy and its financial sector's soundness. . . . Of the other G7 countries . . . Canada is posting the best fiscal results. . . . Canada . . . is now well positioned to continue to outperform as macroeconomic conditions improve.

However, Canadians do not rest on their laurels. As the English poet Percy Bysshe Shelley once wrote, "Nothing wilts faster than laurels that have been rested upon."

That is why we continue to focus on our economy and address the challenges of the global economic turmoil through the economic recovery act.

The act is a key component of Canada's Economic Action Plan, as it will legislate many key elements of Budget 2010. Canada's economic recovery act will provide real benefits for families, consumers, businesses and taxpayers by indexing the Working Income Tax Benefit; improving the Registered Disability Savings Plan; further strengthening federally regulated pension plans; cutting red tape for registered charities, businesses and taxpayers; closing down tax loopholes; improving the complaint process for consumers when dealing with banks; and much more.

In my remaining time, I would like to highlight a few key elements of this act.

Honourable senators, as we are all aware, in Budget 2010 the government launched a more aggressive, proactive and forward-looking approach to protecting Canadians who purchase financial products. Earlier this year, for example, the government gave the Financial Consumer Agency of Canada new responsibilities to provide valuable and timely information to the government on financial consumer trends and emerging issues. The Financial Consumer Agency of Canada will also continue to ensure that federally regulated financial institutions provide the required disclosures to consumers.

Canada's economic recovery act proposes to go further in protecting consumers of financial products. Specifically, it proposes to amend the Bank Act to strengthen the consumers' complaint handling framework and explicitly requires banks to belong to an approved complaint-handling body. The Financial Consumer Agency of Canada would oversee the third-party complaint-handling body. It will also ensure the establishment of standardized regulatory standards for institutions' internal complaints procedures. This will ensure fair, efficient and timely treatment of complaints that consumers deserve, while also improving the effectiveness of the third-party dispute resolution process.

As users of financial services, Canadian consumers have a significant stake in almost all financial sector issues. Consumers' needs must be monitored and their interests protected. We will continue to remain vigilant to ensure that our financial system stays competitive and consumers receive the highest possible standard of service. All Canadians will benefit from the actions we are taking and the additional information we are providing to help them decide which financial products are best for them. We will continue to exhibit the leadership, discipline and tough choices that have put us on the right track to recovery.

Honourable senators, Budget 2010 also introduced a number of key strategic measures to enhance competition and reduce barriers for business. This included making Canada a tariff-free zone for manufacturers by eliminating all remaining tariffs on productivity-improving machinery and equipment, and goods imported for further manufacturing in Canada.

• (1440)

This important initiative will be a significant incentive for our manufacturing sector. It is estimated that this commitment will create 12,000 jobs, diversify trade and boost Canada's manufacturing sector, as well as overall productivity.

Likewise, the sustaining Canada's economic recovery act will help Canadian public companies more easily integrate into the global marketplace.

As we know, beginning in 2011, the Accounting Standards Board will require that Canadian public companies adopt International Financial Reporting Standards, IFRS. Budget 2010 indicated that, in preparation for the adoption of these

standards, the government will review the impact of the new accounting standards on certain aspects of the tax system and, where necessary, make changes to ensure appropriate outcomes. Accordingly, the sustaining Canada's economic recovery act proposes important transitional measures to ensure that the effect of the introduction of the IFRS is phased in appropriately.

Measures in Budget 2010 also promoted green energy by encouraging investments in clean energy generation. Canada's tax system includes an accelerated capital cost allowance to help businesses invest in generation equipment that conserves energy or relies on renewable or waste sources.

The sustaining Canada's economic recovery act expands the scope of that tax incentive to assets used in heat recovery and clean energy distribution across a broader range of applications. These extensions will encourage investment in technologies that contribute to a reduction in greenhouse gas emissions and air pollutants and increase the diversification of Canada's energy supply.

Canada's energy industry is of vital importance, and we are committed to encouraging investment in clean energy generation technologies.

In Budget 2010, we also promised to close unfair tax loopholes to make our tax system fairer for Canadian families and to stay the course of reducing taxes for Canadian businesses to stimulate economic growth and job creation.

We are working actively with our international partners to combat international tax evasion, in particular by entering into agreements to share tax information with other countries and by devoting more of Revenue Canada's resources to tax audits.

In October, Canada signed an agreement in Switzerland that will further facilitate the exchange of tax information with that country, assisting Canada's tax authorities in administering and enforcing national tax laws and helping to prevent international tax evasion.

Another measure, consistent with the objective of tax fairness, was announced in Budget 2010 and related to the taxation of stock options, a measure included in the sustaining Canada's economic recovery act. Specifically, the proposed measure will change the taxation of stock option cash-outs to address aggressive tax planning practices. In some cases, such aggressive practices allowed a portion of the stock options to escape taxation at both the personal and corporate levels. Closing this tax loophole is the right thing to do. It is little wonder that it has been well received among Canadians.

In the words of noted public policy commentator and co-founder of the Dominion Institute, Rudyard Griffiths:

... the Conservative's snipping of a raft of erroneous tax loopholes met with near universal applause, and rightfully so. ... Closing tax loopholes makes good financial and political sense.

As Greater Kitchener Waterloo Chamber of Commerce President and Chief Executive Officer Joan Fisk has also stated:

... closing a tax loophole allowing both companies and employees to receive deductions when cashing out stock options is ... positive. I don't particularly think it served the greater good of the country.

All in all, this measure will promote fairness in the tax treatment of stock options and will better ensure tax fairness in this country. By closing loopholes in the tax system, we will help ensure all taxpayers pay their fair share of taxes on income earned in Canada and abroad.

Ensuring that taxpayers pay their fair share of taxes means we can keep taxes low. Indeed, our government believes Canadians have a right to keep more of the money they earn and to decide for themselves how and where to spend it.

Lower taxes are helping to ease the financial pressure on individuals, families and businesses, and are helping to build a solid foundation for future economic growth. We have introduced significant new personal income tax reductions that have provided relief, particularly for low and middle income Canadians, as well as measures to help Canadians save.

For example, we introduced the landmark Tax-Free Savings Account. This flexible, registered, general-purpose account has allowed Canadians to watch their savings grow, tax-free. It was the first account of its kind in Canadian history and has proved extremely popular since its initial introduction.

Indeed, a recent Investors Group report showed that the Tax-Free Savings Accounts continue to gain popularity as a savings and investment tool for Canadians, with nearly half of those Canadians surveyed indicating they have opened a Tax-Free Savings Account.

However, a few individuals sought out aggressive tax planning schemes related to Tax-Free Savings Accounts to avoid paying taxes. Specifically, last year, the government became aware of inappropriate transactions occurring in a small minority of Tax-Free Savings Accounts, involving techniques to shelter the return on capital from income tax beyond the intended scope of the Tax-Free Savings Accounts limits.

Accordingly, last October, the government announced quickly modifications to the Tax-Free Savings Accounts rules to respond to this emerging issue.

The proposed amendments as contained in this bill will make any income attributable to deliberate over-contributions and prohibited investments subject to existing anti-avoidance rules in the Income Tax Act. The amendments will also make any income attributable to non-qualified investments taxable at regular income rates and ensure that withdrawals of deliberate over-contributions, prohibited investments, non-qualified investments or amounts attributable to swapped transactions or of related investment income from a Tax-Free Savings Account do not

create additional Tax-Free Savings Account contribution room, and effectively prohibit asset transfer transactions between Tax-Free Savings Accounts and other accounts.

In the words of Jamie Golombek, Managing Director, Tax and Estate Planning, CIBC Private Wealth Management:

... for the average everyday Canadian who is putting \$5,000 a year into a TFSA, these changes will be of absolutely no interest. It is a group of highly sophisticated traders and investors who are exploiting the rules. It is not a lot of people, but the people who do it have huge opportunities for tax-free gains. Again, this is targeting people making enormous amounts of over-contribution.

Without a doubt, the government's improvements to the Tax-Free Saving Accounts rules responded quickly to schemes undertaken by a handful of individuals, which had the potential to avoid unfairly the limits on Tax-Free Savings Account contributions, and shelter large amounts of investment capital.

These proposals will ensure that the Tax-Free Savings Accounts remain viable and strong for Canadians today and in the future and that the use of inappropriate transactions to draw excessive benefits is avoided.

These measures are only a few of the key and vital measures in the sustaining Canada's economic recovery act.

Honourable senators, the global economy remains fragile and, as a trading country, Canada is not unaffected by the difficulties on those who import our goods and services. That is why our government will remain focused on helping those hardest hit by the economic downturn by finishing the implementation of the action plan and helping to create and protect jobs. It is clear that this government is showing the leadership that Canadians expect during difficult times. We are helping Canadians weather the storm, reducing the cost of government and positioning the economy for growth in the years ahead. These measures are especially impressive relative to the position of other countries, especially the United States.

Great progress has been made in combating the unprecedented global recession in Canada and around the world. Given the importance of the measures in the sustaining Canada's economic recovery act, I ask all honourable senators to give this act and our economy the support it deserves.

**Hon. Joseph A. Day:** I remind honourable senators that this is Budget Implementation Act No. 2. I thank and congratulate the Honourable Senator Marshall, the sponsor of the bill, for her speech given at third reading of this Bill C-47. I have been somewhat concerned that we have not been, over the past few days, hearing speeches at third reading. That was a comprehensive speech and, as a result, I can reduce the number of points that I wanted to comment on.

I have only two or three observations about what transpired during our hearings with respect to this particular matter about which honourable senators may wish to be informed.

• (1450)

One of the points raised was the different coming-into-force dates of the various subject matters dealt with by this particular bill, and that is a point we will be pursuing as we proceed with other hearings on this particular matter. Typically, when dealing with one area of subject matter, the coming into force is normally a specified date or at the time determined by order-in-council. In this particular instance, there were some specified different dates and some left to order-in-council. That is in part because this particular bill, being a budget implementation bill, deals with a number of different subject matters. The Honourable Senator Marshall referred to several of those different matters.

For the recollection of honourable senators, I remind them that in this bill there are changes with respect to the CATSA tax on air travel, in addition to the ones talked about. Senators will recall that last year we dealt with the decision of the government to raise an additional \$1.5 billion through air traveller taxes. There are some other changes in that regard, but this reminds us that there is quite a bit of money being collected by the Canadian Air Transport Security Agency in relation to air travel by individual travellers.

There is the point with respect to employee stock options and the changes that are taking place there. So many of these rules are for so few people, but that has been well explained by Senator Marshall and I will not go into that further.

I believe there is generally positive acceptance of the relief to charities with respect to the expenditure rules in existence because of the downturn in the economy and a lot of charities having lost a significant amount of their investment capital. Some adjustments were welcomed and it is good to see the government has responded in that regard and we should be supportive of that.

The capital cost allowance for television set top boxes is one of the items I find quite interesting to appear in a budget implementation bill in this economic downturn period, but it is there.

Honourable senators, those are just some of the points and new accounting rules. There is relief for insurance companies with respect to the new international rules. Since trade and investment are so international, the new international rules coming into place mean that the establishment of similar rules for different countries in the trading world is a welcome decision. Why the insurance companies, in particular, needed relief is another issue that will have to be pursued.

There are also new provisions with respect to employee life and health trusts. Some companies are creating trusts to provide for health and life insurance provisions for their employees, and there is some concern about possible abuses in that regard, so there is some tightening up of the rules.

The other area I want to talk about is with respect to the Registered Disability Savings Plan. We had a very good session with Bank of Montreal financial services personnel, who agreed to come to talk to us. It is an excellent plan that was introduced two years ago, in 2008, to provide for some security and long-term financial predictability for disabled persons. The

concept is a good one. This act provides for certain changes. I will go through some of the changes and some of the rules that have been developed with respect to this program, just to give a bit of flavour of what we are dealing with.

Budget Implementation Act No. 2 provides that balances in Registered Retirement Savings Plans and registered investment programs for those over the age of 71 whose RRSP has been converted into a Registered Disability Saving Plan of a disabled child whom they were supporting, for example, providing a tax-free rollover for a deceased person who had one of those programs. That is a good concept, but when looking at the rules one starts to wonder about this, and I will get to that.

The proposed Canada disability savings act would allow the opportunity to carry forward unused grants and bonds. Grants and bonds are provided for, and I will go through the rules so honourable senators understand.

There are two types of grants and bonds with respect to the Registered Disability Savings Plans.

In order to have the grant or bond, a person must be under the age of 50 and must also qualify for a disability tax credit. If one qualifies for a disability tax credit, is under 50 years of age and has created one of these programs, one can get up to \$3,500 a year and a grant can be paid into the program to the individual for up to a lifetime maximum of \$70,000. This is achieved by contributing at least \$1,500.

Honourable senators, with all those figures in mind, today's threshold for someone who qualifies, if supported by their family and under 18, is \$82,000. If it is over that, they are into a different program and then can contribute \$1,000 per year and can get \$1,000, up to a maximum limit of \$20,000.

I hope senators are taking notes, because we found it quite an interesting session in committee, listening to all of these rules.

The bond is paid automatically for the lower income person. In the grant, there are dollar qualifying limits, whether a person has a larger income, a smaller income or a family income. All one must do is create the Registered Disability Saving Plan and they will receive \$1,000 per year from the government, again, up to the maximum of \$20,000. When the beneficiary turns 18 years of age, if they are a child with a disability, then that individual's amount of annual income will be used to assess eligibility.

The disability tax credit eligibility requirement is also interesting in that one has to go to one's medical adviser, have a form filled out and then one has to qualify. The taxable earnings work like a registered educational fund. One puts in after-tax money, so there is not a tax credit after putting the money in, but one pays certain amounts when taking the money out. One pays tax on the growth of the grant and on the growth of the capital, but not on the capital itself. One must also pay tax on the rollover of any RRSPs that go in there.

One question asked was, "Who is accounting? Who is looking after all of these figures that the people have to look after?" I am afraid a financial adviser will say that they are trying to do that, but that means one has to have a financial adviser.



One also must be a Canadian resident and can only establish this program if younger than 60 years of age. The 50 years and the 49 years that I mentioned earlier are only for getting the grants portion. Any RRIF money that goes into the tax deferred will not trigger any grants, so one will have to keep that in mind. You pay full tax on the growth within the RRSP when the money is taken out.

• (1500)

I could go on, honourable senators, about rules and regulations with respect to this one program. One would need not only an accountant but also a financial adviser, and maybe a tax lawyer, to stay onside with this program. In theory, the program is an excellent concept.

Honourable Senator Marshall referred to the problems with the Tax-Free Savings Accounts. There have been articles in the newspapers recently about that program. Someone withdrew the money they had contributed earlier in the year, because they needed it for an emergency situation, and then tried to replenish the account, and they were accused of being involved in a tax avoidance scheme.

We have to work sensitivity into these programs that will allow for reasonable facility of use by the people we are trying to help. Tax-Free Savings Accounts are an example of a good idea being sacrificed by bureaucratic over-indulgence, frankly, and this is not the first example that we have seen.

I wanted to take the time to go through this because we heard from good witnesses who spend all their time explaining these rules to people. However, the people they are explaining them to are disabled individuals with low incomes who are not likely to be the sophisticated investors some of the rest of us are. However, these rules apply to them and, therefore, the program may not have nearly as much uptake as would be the case if the program were not so complex.

Honourable senators, that is what we learned in the Standing Senate Committee on National Finance. I wish to thank all those on the committee who participated during the last year. The committee dealt with this bill expeditiously. We received the bill only last week and we have completed our work on it and we are now pleased to report it back for third reading.

**The Hon. the Speaker *pro tempore*:** Is there further debate?

Are honourable senators ready for the question?

**Some Hon. Senators:** Question.

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

**Hon. Senators:** Agreed.

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

## KEEPING CANADIANS SAFE BILL

### SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Manning, seconded by the Honourable Senator Dickson, for the second reading of Bill S-13, An Act to implement the Framework Agreement on Integrated Cross-Border Maritime Law Enforcement Operations between the Government of Canada and the Government of the United States of America.

**Hon. Tommy Banks:** Honourable senators, this is a good bill. American and Canadian enforcement officers have long been cooperating in enforcement of the law on both sides of the border. This bill deals with international waters, mainly, but not restricted to, the Great Lakes. I moved the adjournment of the debate on this bill to assure myself that, at least in the main, the authority that is given in this bill to the Canadian government to empower United States policemen and other enforcement officers to discharge constabulary duties on the Canadian side of the border were being reciprocated, that is, that Canadian enforcement officers, mainly RCMP officers, Canadian Coast Guard officers and Fisheries and Oceans Canada officers would have the same authority to operate on the American side of the border, subject to the provisions in the bill.

I am pleased to tell honourable senators, and I hope that this matter will be discussed in more depth in committee, that it appears, on the basis of the congressional actions that have been taken to give effect to this bill, that the authorities are at least approximately, to the extent that it is possible, commensurate with each other.

This authority is an extremely valuable thing to provide, honourable senators, in order that the combined enforcement teams operating on the border can do their jobs most effectively, particularly with respect to, but not limited to, the Great Lakes.

I join with Senator Manning in urging that we support the passage of this bill at second reading forthwith and send it to committee with the hope that we will pass it into law quickly.

**The Hon. the Speaker *pro tempore*:** Is there further debate?

Are honourable senators ready for the question?

**Some Hon. Senators:** Question.

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

**Hon. Senators:** Agreed.

(Motion agreed to and bill read second time.)

### REFERRED TO COMMITTEE

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

(On motion of Senator Comeau, bill referred to the Standing Senate Committee on National Security and Defence.)

**CONFLICT OF INTEREST ACT****BILL TO AMEND—SECOND READING**

On the Order:

Resuming debate on the motion of the Honourable Senator Day, seconded by the Honourable Senator Losier-Cool, for the second reading of Bill S-208, An Act to amend the Conflict of Interest Act (gifts).

**Hon. W. David Angus:** Honourable senators, I rise today to speak to Bill S-208, a private member's bill sponsored by the Honourable Senator Day, who has spoken most eloquently on at least two occasions in this chamber on the amendments he proposes to the Conflict of Interest Act. I do not propose to rehash the arguments and explanations he has given on this rather complicated matter, which deserves, and I hope will receive, further study in committee.

As it is the Christmas season, however, I think it appropriate that I address the matter today because it deals with gifts. This is, of course, the season for giving, and we all know that it is more blessed to give than to receive. We also know, being in the positions in which we are, that we must be careful with gifts when we are in public life. That is true not only for senators and members of Parliament, but also for public office-holders. The amendments that Senator Day is proposing have to do with gifts to public office-holders. Honourable senators will be glad to know that does not include us.

However, as it is Christmastime and as there will be many gifts given and received, I think it is appropriate to underline the need for great care, especially for public office-holders.

• (1510)

Honourable senators, the government, in principle, supports the amendment, at least one of the amendments, proposed by Senator Day in Bill S-208. There is some question about the second part of the proposed amendments. One of the reasons we have not been addressing this more aggressively in recent months is because there have been questions and discussions behind the scenes involving Senator Day, members of the bureaucracy and people involved with the legislation, in the hopes that solutions will be found that would obviate the need for our process here.

However, no solution was found, as Senator Day said in his speech, so it would be our hope on the government side that this bill would be referred eventually to the Standing Senate Committee on Legal and Constitutional Affairs for appropriate study.

I would like to make a few observations, though, because this matter deals with the accountability of public office-holders to the people of Canada.

Admittedly, we have debated and discussed rules respecting conflicts of interest in this chamber, as well as in the other place, for some time now. Indeed, it has been debated for decades, and with good reasons.

The government intervenes in all sectors of our economy. It does this in a multitude of ways: through direct control, regulatory agencies, legislation, tariffs and tax policies, and

things that we have heard today in the speeches of Senator Marshall and Senator Day. Canadians need to have the confidence that public office-holders are impartial and that they act with integrity. Canadians need the assurance that their interests come first whenever these elected officials act on behalf of the government.

For many years, the situation was not entirely satisfactory, and it was not until this government came to power that some real substantial changes were made with the implementation — and I do not deny that very controversial and heated debate took place at the time — of the Federal Accountability Act. This government thereby took the necessary steps to restore public trust in federal institutions.

The legislation enacted, among other things, the Conflict of Interest Act. I might say that, at the time, a number of amendments were suggested from all quarters, and particularly from Senator Day. Some of those included the amendments that are now being sought to the Conflict of Interest Act in Bill S-208. Those amendments were passed unanimously in this chamber but were rejected in the other place.

Again, being the Christmas season, I used the word “unanimously,” but I might have added “magnanimously,” because we asked for our own independent regime on conflicts of interest and matters of ethics, to run our own affairs. There was a heated debate at that time, and so far be it from us to interfere with the views of the other place on rules designed to cover their acts and omissions. We have our own to worry about.

I would refer honourable senators to our rules, the *Conflict of Interest Code for Senators*. I refer you simply to sections 17(1), (2) and (3), which deal with our gifts and the rules that appertain in the case of senators. Do not be concerned in terms of your personal comings and goings with these amendments being suggested in this particular bill.

Honourable senators, I believe these changes, set forth and suggested by Senator Day in his bill, would be a substantial improvement to Canada's accountability regime. The whole Federal Accountability Act and the Conflict of Interest Act came on the heels of more failed attempts to clean up ethics than one would care to remember. The Conflict of Interest Act brought about a number of important changes. There is not time, obviously, today to discuss them all, but let me just mention a few: One, we now have a definition of what constitutes a conflict of interest; two, blind management agreements are no longer permitted, which is a practice I know many of us have fought hard to stop over the years; three, public office-holders are now subject to monetary fines when they are found to have violated certain sections of the act; four, all public office-holders must comply with the act as a condition of their appointment or employment.

As for the matter of gifts, the Conflict of Interest Act puts Canada in a leading position, as compared with our international partners. Compared to other nations that are based on the Westminster model of government, Canada's approach to the disclosure of gifts for public office-holders is indeed robust. The approach not only has a lower threshold for disclosure of gifts

than countries like Australia, New Zealand and the United Kingdom, but it also strikes the appropriate balance between the rights of Canadians to know about certain activities of public office-holders and their personal privacy.

Striking an appropriate balance is the crux of the matter, and is one I hope the committee will eventually find. In short, the Conflict of Interest Act includes a robust and effective regime of substantive and comprehensive requirements for public office-holders.

Honourable senators, Bill S-208 proposes amendments to the gift provisions of the Conflict of Interest Act. We have seen these amendments, as I said here before, and so I will not dwell on them. Today these amendments are back before us once again. Before I get to the detail of them in the honourable senator's bill, let me explain the provisions of the Conflict of Interest Act, as it stands today, that deal with gifts, so we all know what we are talking about.

Under that act, no public office-holder or member of his or her family may accept a gift or any other advantage that could be seen as an attempt to gain influence. However, there is an important exception to this general prohibition: Gifts from friends and relatives are permitted and are quite in order. This is in recognition of the simple fact that such gifts are not in normal circumstances, in the morals of our people here today and in Canada, expected to have been given for the purpose of influencing public decision-making. As such, the act strikes an important balance between accountability, transparency and the private lives of public office-holders and their families.

The act also requires public office-holders to disclose to the commissioner all gifts with a total value of \$200 or more from any one source in a 12-month period. Here we are talking about gifts received from anyone other than a relative or a friend. Those are the key words.

Finally, the act, as it now stands, requires public office-holders to publicly declare any gift from anyone who is not a relative or a friend that has a value of \$200 or more. Those are the provisions dealing with gifts.

Bill S-208 purports to strengthen these provisions, and Senator Day says it is designed to close a dangerous loophole. I am not arguing with him in that regard, provided we can assure ourselves that there is a loophole, and that these are the appropriate measures to accomplish that.

First, these amendments would narrow the exception to the general prohibition for accepting gifts. It would do this by replacing the term "friend" — and this is key, — with the words "close personal friend." This is not just semantics. There is a good case to be made that the term "friend" is too generic, that it could allow persons with a purported — not bone fide necessarily — friendship with a public office-holder to provide gifts in a way that is contrary to the act.

In fact, the commissioner has already been interpreting the act along these lines. In a guidance document from the commissioner on gift provisions, a clear distinction has been made between bona fide friends and mere acquaintances or business associates.

In short, she makes a distinction between being just "friends" and being "close personal friends." As such, this proposed amendment reflects our reality today. One could even say that, if we adopted it, it would not really change the landscape. In a way, narrowing the term "friend" to "close personal friend" is not, strictly speaking, necessary, but it does seem to make sense. It would serve to express, in a clear and explicit way, that the act is not intended to allow attempts to influence public office-holders through gift-giving done under a nominal cover of friendship. More important, it would reinforce our government's long-standing commitment to maintaining a robust conflict of interest regime for Canada and the highest standards of ethical behaviour, transparency and accountability. After all, Canada has been a leader in this regard.

• (1520)

Turning now to the second change, and the one we have a bit of a problem with, would expand the second amendment sections 23 and 25. It would tend to expand the circumstances in which public office-holders must make disclosures and public declarations of gifts they and their families receive.

More specifically, it would remove the word "friend" from the exceptions. Today it talks about a "relative or a friend." Those gifts I have described are exempt from being disclosed. Under Senator Day's amendment, only relatives would have that exemption.

Honourable senators, we respectfully submit that there are several problems. It would represent an additional intrusion into the private lives of public office-holders and may result in undesired outcomes, unintended consequences, as the honourable senator knows. For example, a spouse or a child of a public office-holder could inadvertently breach the act by failing to disclose a gift received at a family celebration from a close personal friend.

There are also concerns that this amendment could create an onerous reporting regime. It could do this by adding to the administrative compliance version of public office-holders and the office of the commissioner. Honourable senators, do we really want more paperwork? I am sure I do not need to remind colleagues in this place on both sides of the Senate that government operations are already overburdened by a tangle of red tape. In fact, when the present government came to power, it made a big point and a high priority of reducing the web of rules to ensure that tax dollars are better spent and to provide the good, clean government that Canadians deserve and expect.

To be sure, reports are necessary in certain circumstances because they ensure the safe, fair, stable and accountable functioning of government. However, when they accumulate, they can diminish the efficiency and effectiveness of what they are trying to achieve.

Honourable senators, our government understands that some people may not be entirely comfortable with the fact that under the current conflict of interest code gifts from friends — "friends" is the word — do not have to be disclosed or declared. Surely the solution is not to completely remove this exception from the act, as Senator Day's bill proposes. A better compromise, I submit with respect, would be to narrow the exception to "close personal friends," after the same fashion as the earlier amendment.

In this way, public office-holders and their families would be able to accept gifts from their close personal friends without having to declare them. I am tempted to wonder aloud whether Santa Claus could be deemed a close personal friend. This would ensure a more consistent treatment of close personal friends throughout the Conflict of Interest Act, and it would strike a more appropriate balance between transparency and personal privacy. In addition, it would lessen the administrative burden that Bill S-208 in its present form would cause for public office-holders and the commissioner's office.

Honourable senators, the question we need to address, therefore, is how to strike that balance. This can and should be done by the Standing Senate Committee on Legal and Constitutional Affairs. We can take pride in the fact we already have one of the most robust ethics regimes in the world, one that requires the highest standards of ethical conduct from our public office-holders. Because of this, Canada finds itself in a unique and enviable position.

Our government has put into legislation its conflict of interest and post-employment rules for ministers, their staff and most of the Governor-in-Council appointees. Not only that, but these rules are enforceable by an independent commissioner and the judiciary. With Bill S-208, we must now consider whether we want to make this regime stricter and even more rigid. We need to examine what unintended consequences might result from enactment of this bill. We must weigh whether the additional intrusion into the private lives of public office-holders, which will likely result from this bill, is offset by the gain from having tougher legislation.

We must also consider whether or not it is worth increasing the reporting burden on public office-holders who will have to track all gifts received from their friends, close personal ones or otherwise. As I said a moment ago, it is a matter of striking the right balance, and I believe that the approach I have suggested does just that and would accomplish the ends Senator Day is seeking.

Honourable senators, I believe that with amendments along these lines, the changes proposed in the bill would indeed serve to strengthen and clarify the Conflict of Interest Act. I believe it would send a further signal to Canadians that their government is committed to ensuring it continues to be effective and accountable.

**The Hon. the Speaker *pro tempore*:** Further debate or questions?

**An Hon. Senator:** Question.

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

**Hon. Senators:** Question.

**The Hon. the Speaker *pro tempore*:** It was moved by the Honourable Senator Day, seconded by the Honourable Senator Losier-Cool, that this bill be read the second time. Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

(Motion agreed to and bill read second time.)

## REFERRED TO COMMITTEE

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

(On motion of Senator Day, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.)

[*Translation*]

## ITALIAN-CANADIAN RECOGNITION AND RESTITUTION BILL

### SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Fraser, seconded by the Honourable Senator Rompkey, P.C., for the second reading of Bill C-302, An Act to recognize the injustice that was done to persons of Italian origin through their "enemy alien" designation and internment during the Second World War, and to provide for restitution and promote education on Italian-Canadian history.

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, this is the fourteenth day of debate on this bill, but I have not completed my research. I would therefore like to move adjournment of the debate for the remainder of my time.

(On motion of Senator Comeau, debate adjourned.)

[*English*]

## SCRUTINY OF REGULATIONS

### SECOND REPORT OF JOINT COMMITTEE AND REQUEST FOR GOVERNMENT RESPONSE ADOPTED

The Senate proceeded to consideration of the second report of the Standing Joint Committee for the Scrutiny of Regulations (*Report No. 86 — Indian Estates Regulations*), tabled in the Senate on December 14, 2010.

**Hon. Yonah Martin:** Honourable senators, I move:

That the report be adopted and that the Senate request a complete and detailed response from the government, with the Minister of Indian Affairs and Northern Development being identified as Minister responsible for responding to the report by April 9, 2011: and

That the Clerk of the Senate transmit this request to the Minister of Indian Affairs and Northern Development and to the Leader of the Government in the Senate.

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

**Hon. Senators:** Agreed.

(Motion agreed to and report adopted.)

[Translation]

## TRANSPORT AND COMMUNICATIONS

### BUDGET AND AUTHORIZATION TO TRAVEL— STUDY ON EMERGING ISSUES RELATED TO CANADIAN AIRLINE INDUSTRY— FIFTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the fifth report of the Standing Senate Committee on Transport and Communications (*budget—study on the emerging issues related to the Canadian airline industry—power to travel*), presented in the Senate on December 14, 2010.

**Hon. Dennis Dawson** moved the adoption of the report.

(Motion agreed to and report adopted.)

• (1530)

[English]

## THE SENATE

### MOTION TO CALL UPON CHINESE GOVERNMENT TO RELEASE LIU XIAOBO FROM PRISON— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Di Nino, seconded by the Honourable Senator Stewart Olsen:

That the Senate of Canada call upon the Chinese Government to release from prison, Liu Xiaobo, the 2010 Nobel Peace Prize Winner.

**Hon. Joseph A. Day:** Honourable senators, this item is adjourned in my name and I do wish to speak. After the Honourable Senator Kochhar speaks, I would ask that the motion be adjourned in my name.

**The Hon. the Speaker *pro tempore*:** Is that agreed, honourable senators?

**Hon. Senators:** Agreed.

**Hon. Vim Kochhar:** Honourable senators, last week Senator Di Nino made a motion in the Senate regarding the 2010 Nobel Peace Prize winner Liu Xiaobo. It was enthusiastically supported by the Honourable Senator Jim Munson and most senators on both sides of the chamber.

As a new senator, I was moved and proud to realize that when it comes to basic freedoms — freedom of speech, freedom of worship, freedom to agree and disagree and freedom to protest peacefully — are the values where all Canadians are united and they will stay united.

Last Friday, the Nobel Peace Prize was awarded to Liu Xiaobo, but there was no one to receive it. Liu Xiaobo was somewhere in jail. His entire family is under house arrest and friends were barred from leaving China. The last time this happened was

75 years ago, when Hitler banned pacifist Carl von Ossietzky, who was imprisoned in a concentration camp, from going to accept the award.

Last week a Communist Party newspaper, *Global Times*, accused the Nobel committee in an editorial of trying to force Western values in China.

Honourable senators, we are not talking about Western values or Eastern values; we are talking about human values. We are talking about human dignity and freedom. We should learn from history that the human spirit is the most powerful power and, in the end, it always triumphs. They can torture people, they can break their bones and they can even kill them. What they have then is their dead body — not their dignity or obedience.

On Friday, Norwegian actress Liv Ullmann read Liu Xiaobo's statement, which was given in the court last year at his sentence for 11 years for speaking against Chinese government. It said the following:

I have no enemies. I, filled with optimism, look forward to the advent of a future free China. For there is no force that can put an end to the human quest for freedom, and China will in the end become a nation ruled by law, where human rights reign supreme.

Honourable senators can experience the strength of these words. The man has to be a saint to show no bitterness and the hope that wisdom will prevail on an authoritarian regime.

Canadian writer John Ralston Saul, who watched the ceremony from a front-row seat, praised Liu Xiaobo for this courage, these ideals and moderation. He said that Liu Xiaobo's bravery in standing up for the basic right for freedom of expression had made him a voice that cannot be avoided. He went on to say that his imprisonment will hurt China's image. He further said:

You can do Olympics and Expos and trade and finance, but at a certain point all that seems — in terms of international reputation — not that much when a single person stands up as a representative of values that people in China and elsewhere recognize as essential.

For China to move forward, it will have to recognize that words have power, that ideas matter and their international reputation can be helped or hindered by how they stand on these issues.

Honourable senators, unless we stand up to tyranny and stand firm on our values and human rights, we will join the ranks of cowardly nations. I urge all honourable senators to support Senator Di Nino's motion.

**Hon. Anne C. Cools:** Would the honourable senator accept a question?

**The Hon. the Speaker:** Senator Kochhar, will you accept a question?

**Senator Kochhar:** Yes, I will.

**Senator Cools:** I also wish to signify my intention to speak to this debate at some point in time.

Honourable senators, I am having difficulty understanding the motion as it is articulated:

That the Senate of Canada call upon the Chinese Government to release from prison, Liu Xiaobo, the 2010 Nobel Peace Prize Winner.

Can the honourable senator tell me what the motion proposes? Is this a temporary absence, perhaps, that the motion is asking for, or is this a royal mercy or a royal pardon?

**Senator Kochhar:** From my understanding, the motion is to urge the Chinese government to release Liu Xiaobo from prison.

**Senator Cools:** I am trying to establish the nature of the release from prison. For example, here, in Canada, we have something called a temporary absence, where a person can be released for a day or two to go to a funeral or something like that. There are all manners of release.

The business of releasing from prison involves the highest exercise of the prerogative powers of every sovereign. Here we call these powers the Royal Prerogative, particularly the Royal Prerogative of Mercy, Clemency. I am trying to understand because the motion is not clear. It is remarkably ambiguous. Exactly what kind of release is intended in the words of this motion?

**Senator Kochhar:** The motion is trying to signify that the House of Representatives in the United States passed this motion and it was conveyed to China. The House of Commons here passed the motion. All we are trying to show is that this Senate should pass this motion, unanimously if possible, so that the will of the Senate can be conveyed to China.

**Senator Cools:** Honourable senators, I hope the Senate does not pass this motion. I wish to debate this motion but not today. We are very aware that we are running out of time before the adjournment. The adjournment of this debate should fall back to Senator Day.

**Senator Di Nino:** Merry Christmas from Liu Xiaobo!

**Senator Cools:** I would love to ask the Honourable Senator Di Nino some serious questions about this motion, if he would answer them. I would love to do so.

There is a huge complexity, a gravity and an enormity contained in this motion that does not meet the eye. The motion should be explained.

• (1540)

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

**Hon. Jim Munson:** Will the honourable senator accept a question?

**Senator Kochhar:** Yes.

**Senator Munson:** Honourable senators, this is not complex. Is the honourable senator aware of other Parliaments that have already, in a very time sensitive way, issued unanimous resolutions dealing with Mr. Liu Xiaobo? In other words, is the honourable senator aware of others in Europe, the U.S. Congress and others who are aware of this and have passed resolutions?

**Senator Kochhar:** The honourable senator is right; it is a time sensitive issue. That is why I am arguing that if we can show unanimous consent on the motion, then the job is done.

**Hon. Tommy Banks:** Would Senator Kochhar accept another question?

**Senator Kochhar:** Yes, I will.

**Senator Banks:** Is it the case that the basic human rights to which the honourable senator refers should be available to all the citizens of all countries, or are there some countries where the citizens should not have access to basic human rights or be treated according to them?

**Senator Kochhar:** Honourable senators, human rights should be available to all citizens, but there are countries such as China and Myanmar that will suppress information. Many countries will not let information go to all citizens. However, when one makes a motion here, the word somehow filters through from one person to two people to three people with a chain reaction. That is how people have access in countries where information is not spread by the government.

**Senator Banks:** If those basic rights should be available to all persons, should they also be available to Omar Khadr?

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

**Senator Kochhar:** Honourable senators, two wrongs do not make one right. Let us concentrate on the problem at hand, and then we can debate what the honourable senator is asking. He can put a motion based on his beliefs and we will debate that. Right now, however, the motion is to send a message to China, and it is our responsibility to get together and get that message out.

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

**Hon. Consiglio Di Nino:** I would like to ask Senator Kochhar a question, if I may.

I just wondered if Senator Kochhar was aware that back on March 27, 2007, the Speaker ruled on a similar debate, also instituted by Senator Cools who questioned a particular motion at that time, which was for a different purpose but very similarly prepared. He ruled that the motion was in order. That was on Tuesday, March 27, 2007. Is Senator Kochhar aware of that?

**Senator Kochhar:** I was not aware of that because I was not here, but I am aware of it now that the honourable senator has mentioned it.

**Senator Di Nino:** My other question deals with the fact that this motion was referred to the Law Clerk of the Senate, who also believes it to be in order. Is Senator Kochhar aware of that?

**Senator Kochhar:** Yes, I am.

**The Hon. the Speaker *pro tempore*:** Further debate? There being none, this matter, by agreement, shall be adjourned in the name of Senator Day.

(On motion of Senator Day, debate adjourned.)

## RIGHTS OF MINORITIES AND INDIGENOUS PEOPLE

### CHIAPAS DECLARATION—INQUIRY—ORDER STANDS

**Hon. Donald H. Oliver** rose pursuant to notice of November 30, 2010:

That he will call the attention of the Senate to the “Chiapas Declaration” which was adopted by consensus at the International Parliamentary Conference on “Parliaments, Minorities and Indigenous Peoples: Effective participation in politics” in Mexico on November 3rd, which urges every parliament to:

- Hold a special debate on the situation of minorities and indigenous peoples in their country;
- Recognize the diversity in society; and
- Adopt a Plan of Action to make the right to equal participation and non-discrimination a reality for minorities and indigenous peoples.

He said: Honourable senators, I would like to speak, but I do not think there is time, so I will wait until the next sitting.

(Order stands.)

## WOMEN IN PRISONS IN CANADA

### INQUIRY—DEBATE ADJOURNED

**Hon. Grant Mitchell** rose pursuant to notice of December 8, 2010:

That he will call the attention of the Senate to issues related to women in prisons in Canada.

He said: Honourable senators, there is time for me to speak, which might mean that I have the last word in 2010. Finally, I get the last word.

I want to speak on my inquiry, which is to draw attention to two issues with respect to women in prisons. The first one concerns the work of the Greater Edmonton Library Association and its prison library and reintegration committee. This group has been working for about three years on several library-related and library-specific projects in the Edmonton Institution for Women. It started over three years ago. The Edmonton organization that employs a librarian in the public legal education community hired a woman who had been convicted of killing her husband after years of brutal abuse. This woman offered to take the librarian and others from the Greater Edmonton Library Association to

the Edmonton Institution for Women for a tour. When they saw what was construed as the institution’s library, they were struck by the fact that there were all kinds of books, as she said to me, but nothing to read. The books were a mess. They were out of date and they were in disrepair. What they saw at that moment was truly a gap in the kind of fundamental resources that would be so important for inmates in an institution like this.

With that start, they began to build literacy and library-related programs in the Edmonton Institution for Women. Three years later, they have a structured program called Storybook. This is a program whereby women inmates read stories, which are recorded on a disk. The disk and a new book, a new version or a new copy of the book from which they read, are sent to their children outside the institution. The mother of that child, in effect, as close as she can come to it under the circumstances, is able to read to her child, which, of course, sends an important message to that child about literacy, creates at least some form of contact and relationship-strengthening between that mother and that child, and gives the mother who does the reading and offers it to her child a sense of worth and purpose that she probably does not get to feel very often in an institution of that nature.

• (1550)

The second program the Greater Edmonton Library Association’s Prison Library and Reintegration Committee has set up is a book club in the medium- and minimum-security wings of this prison. Of course, that means that women are able to get books, read them in consort with one another, and discuss them periodically, just as any other book club would function. They are now beginning to move that book club program into the maximum-security side of the prison, which is more complicated because of the balkanization of that facility, which is necessary for security. However, again, the book club offers a valuable literacy program to women who probably get relatively little programming of that nature.

Third, the committee has established a technical literacy program, under which they seek to provide literature, books, and manuals to assist inmates in learning about technological changes with which they will be confronted when they finally get out of prison. Many of the inmates may well have been in prison at a time when for example, cellphones became common; it depends how long they have been in prison. This allows for these women, at least in some measured way, a chance to begin to understand the complicated world, or at least a portion of it, in which they will have to reintegrate.

Finally, the library has a fourth program, which is a borrowing program that they have structured with the Edmonton Public Library so that they can, more or less, like anyone else, borrow books and other materials from the library. They now have access to materials which, before this program, they simply did not.

Honourable senators, this program is valuable at many levels, for many reasons. Clearly, the program addresses the literacy issue, which affects many inmates. Often we are told, and science tells us, that people who have literacy issues end up on the margins of society and often in the criminal system by virtue of the difficulties they have encountered because of literacy issues alone. This program strongly promotes literacy, and because the Storybook program is part of the program, it strongly promotes family literacy.

Second, the program allows inmates to maintain a meaningful connection with their children while in prison. As limited as that might be, it is often better than what they have been able to sustain. Of course, the program generally fosters reading, information seeking and education amongst inmates. In fact, one of the side effects or benefits of this program is that it offers the chance for inmates who are literate to read to inmates who are not, and to provide a service to others, which of course is a therapeutic process.

What is absolutely striking is that these four programs, and this program generally, are funded and supported absolutely by volunteer work and volunteer donations of materials, books and money. That, of course, makes the program difficult to sustain. However, it is striking to consider that there is no budget in the Edmonton Institution for Women — zero budget — for library facilities and services.

**An Hon. Senator:** Shame.

**Senator Mitchell:** Honourable senators, how could it be that some of the most fundamental elements, surely, of support for inmates who one day need to reintegrate into a society — including literature, information, literacy, connection with their family and children — simply are not provided for in this prison. I ask how it can be that this support is unavailable in this prison specifically and, I am led to believe, in the federal prison system for women in this country, generally.

I raise this inquiry to applaud the volunteer members of the prison and the Prison Library and Reintegration Committee of the Greater Edmonton Library Association. There are many wonderful volunteers in Edmonton, as there are, of course, across the country. I want to applaud them. I want to recognize the women in our institution in Edmonton who participate in this program in an effort to better themselves so that they can become productive citizens or so that they have a greater chance to do that when they leave prison. I want to applaud those who undertake to participate in the Storybook project for that which they offer their children by participating in that program.

I want to say that the real gap and misfortune in all of this, and the issue I want to point out every bit as strongly, is that this program is not supported in our federal prison system. It is all but incomprehensible that there not be budgeted money and structured programs to promote literacy, storybook telling for inmates' families to foster that relationship, technical literacy, and borrowing of books in local libraries.

I would appeal to the government, in its efforts to reduce crime, to look at this as a way of reducing crime in a productive and, very likely, successful way, compared with minimum sentences, which science tells us will actually increase crime and not make us safer at all.

The second issue I would like to raise concerning the status of women in prisons in Canada is the Mother-Child Program, which has been a mainstay for a number of years in the federal women's system. This program allows women, under supervised circumstances and rigorous parameters, to actually have their children visit, stay for visits or actually live with them in their prison environment. There are those who might say that that does not seem to be particularly appropriate; however, in fact the

experience has been positive. We have not heard, as long as I can remember, of any problems with the program. Over the years, up until changes about two years ago, there would be roughly 25 women with children enrolled and participating in this program.

Today in the penitentiary system in Canada, there are about 500 women, 330 of whom have children under the age of five who, without this program, are largely severed from any close relationship with their children. This program was positive in terms of the therapy it provided implicitly. It provided therapy for the mothers who were able to retain the sense of worth of caring for their children directly. It provided therapy for the children who are often too young to know where they are but are aware they want to be with their mother and have the warmth, sense of relationship and love that we all know is so important, those of us who support family values.

Yet, what happened? Two years ago, arbitrarily and surreptitiously, the Minister of Public Safety changed the rules and raised the bar so impossibly high as to make it all but impossible for any one of those 330 women who have children under the age of five, for example, to participate in this program. The participation in this program has dropped from 25 children to two children.

Honourable senators, what does that say, once again, about the punitive, short-sighted, limited-in-its-creativity approach to reducing crime and supporting people who need help to reintegrate adequately into our society? What does it say about creating greater safety in our society and greater fulfillment in their lives at the same time? What does that say about how this government approaches these issues? It says a great deal. It is a striking contrast between what is now, as a result of this government's tough-on-crime policy, and what, in fact, was successful and could be successful once again.

Honourable senators, I implore this government to reassess the way it approaches crime and to look at these programs that are successful, that were successful and that should be supported because they are the way of a modern, intelligent, creative crime policy for the people of this country.

**Hon. Terry M. Mercer:** Would the honourable senator accept a question?

**Senator Mitchell:** Yes.

**Senator Mercer:** I think this is an interesting program and one that should be duplicated across the country. To the honourable senator's knowledge, has anyone made a proposal to the Minister of Public Safety to duplicate this program; and, if so, what has been his response? It seems a no-brainer to me to have a library program, particularly one run by volunteers. I would hope that while volunteers run the program, the government would put money into purchasing some books for the library. Is the honourable senator aware of any attempts to have it duplicated?

• (1600)

**Senator Mitchell:** Thank you very much, senator. It is not inconsistent to have volunteers perform work that is supported and sustained by government funding. Clearly, it might be the best of all possible worlds in certain circumstances, and I expect that this circumstance would be one of them. I am not aware of



how explicitly this matter has been put generally to the minister, but I know that the correctional ombudsman made the recommendation in a recent report that he and his office prepared, saying that this program should be reassessed and opened up. That is the implication of his recommendation.

Thank you for reminding me, because I forgot to mention that when this group went to their member of Parliament in Edmonton, they were encouraged to apply to the Department of Public Safety and Emergency Preparedness for money. They applied for \$5,000 for the Storybook program, and they received a rejection because the department said that funding would duplicate a program that already exists, the Family Literacy Program. When they went to find the Family Literacy Program, it did not exist, so they went around the proverbial circle and they are back to where they started. “Tautological” is the word that was suggested.

They were not asking for a huge amount of money here to sustain a powerful program, and what did they receive from government? They were misled.

(On motion of Senator Hubley, debate adjourned.)

## BUSINESS OF THE SENATE

### FELICITATIONS

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, before we suspend to await the arrival of His Excellency, I want to rise and briefly acknowledge some important people. Honourable senators, many people work extremely hard to ensure that we perform our jobs as senators. Without them, it would be difficult, if not impossible, for us to function. Before we adjourn for the holidays later today, on behalf of our side, and, indeed, I am sure all senators, I want to thank everyone who has worked so hard throughout the year to make this place run as smoothly as it does.

I want to thank the table officers, led by our clerk, Gary O'Brien, and all the committee clerks for the excellent work they do, with special thanks to our Usher of the Black Rod, Kevin MacLeod, and our Mace Bearer, Jan Potter.

What would we do in this chamber without the hard work of our Senate pages? Thank you very much. I especially want to thank all the maintenance staff, especially my friend Bill, and our courteous and efficient Senate security staff. Again, to all, we deeply appreciate all your hard work.

To the senators on both sides and our staff, I wish you all the best over the holiday season. I hope we all have some well-deserved rest and have the opportunity to spend quality time with our families and friends. Merry Christmas, Happy Hanukkah, season's greetings, and Happy New Year to all.

**Hon. James S. Cowan (Leader of the Opposition):** Honourable senators, I want to associate myself with the words of my friend, Senator LeBreton. All of us appreciate the work that is done for us on behalf of this institution by the table officers, by the pages, by all of those who interpret our sometimes incomprehensible comments, and who serve us, serve the Senate, in so many ways. Often unheralded are those who work for us in our offices, without whom it would be impossible for us to do the work that we do. On my own behalf and on behalf of all colleagues here,

I want to express to colleagues opposite best wishes for a safe and happy holiday. We look forward to returning to do battle in the new year.

**The Hon. the Speaker:** Honourable senators, is it your pleasure that the sitting be suspended to await the arrival of His Excellency the Governor General?

**Hon. Senators:** Agreed.

(The Senate adjourned during pleasure.)

• (1610)

[Translation]

## ROYAL ASSENT

His Excellency the Governor General of Canada having come and being seated on the Throne, and the House of Commons having been summoned, and being come with their Speaker, His Excellency the Governor General was pleased to give the Royal Assent to the following bills:

An Act to implement conventions and protocols concluded between Canada and Colombia, Greece and Turkey for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income (*Bill S-3, Chapter 15, 2010*)

An Act to amend the Federal Sustainable Development Act and the Auditor General Act (involvement of Parliament) (*Bill S-210, Chapter 16, 2010*)

An Act to amend the Criminal Code and other Acts (*Bill S-2, Chapter 17, 2010*)

An Act to promote gender equity in Indian registration by responding to the Court of Appeal for British Columbia decision in *McIvor v. Canada* (Registrar of Indian and Northern Affairs) (*Bill C-3, Chapter 18, 2010*)

An Act to amend the Criminal Code (suicide bombings) (*Bill S-215, Chapter 19, 2010*)

An Act to amend the Criminal Code (justification for detention in custody) (*Bill C-464, Chapter 20, 2010*)

An Act respecting the safety of consumer products (*Bill C-36, Chapter 21, 2010*)

An Act to amend the Old Age Security Act (*Bill C-31, Chapter 22, 2010*)

An Act to promote the efficiency and adaptability of the Canadian economy by regulating certain activities that discourage reliance on electronic means of carrying out commercial activities, and to amend the Canadian Radio-television and Telecommunications Commission Act, the Competition Act, the Personal Information Protection and Electronic Documents Act and the Telecommunications Act (*Bill C-28, Chapter 23, 2010*)

A second Act to implement certain provisions of the budget tabled in Parliament on March 4, 2010 and other measures (*Bill C-47, Chapter 25, 2010*)

The Honourable Peter Milliken, Speaker of the House of Commons, then addressed His Excellency the Governor General as follows:

May it please Your Excellency.

The Commons of Canada have voted certain supplies required to enable the Government to defray the expenses of the public service.

In the name of the Commons, I present to Your Excellency the following bill:

An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2011 (*Bill C-58, Chapter 24, 2010*)

To which bill I humbly request Your Excellency's assent.

His Excellency the Governor General was pleased to give the Royal Assent to the said bill.

The House of Commons withdrew.

His Excellency the Governor General was pleased to retire.

(The sitting of the Senate was resumed.)

• (1630)

## BUSINESS OF THE SENATE

### FELICITATIONS

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, earlier today in this Chamber, Senator Mitchell said he would have the last word. He nearly had the last word.

We are trying to delay the adjournment of the Senate for a few minutes.

• (1640)

[English]

Honourable senators, we will delay our proceedings for a few minutes before we are invited into the other chamber, and this gives me the opportunity to thank both sides for the vigorous means by which we conducted this fall session.

I know there have been differences of opinion sometimes on both sides, but there is an old saying, "where you stand depends on where you sit." I do not think anything could be any truer than

that old saying; however, it gives me the opportunity to thank senators on both sides. The debates have been vigorous, and have been fought with a lot of emotion and a lot of hard work.

Honourable senators, I particularly want to thank my colleague on the other side, Senator Tardif. We meet every day. Sometimes she is not happy when she comes into my office, but at least she always leaves with a smile. We rarely have the chance to say such things on the floor of the Senate. I know she works hard, and I know what she has to work with so it is not always easy.

With your permission, honourable senators, since Senator Tardif rarely has the opportunity to have the almost last word, I want us to give her the opportunity to say a few words.

**Hon. Claudette Tardif (Deputy Leader of the Opposition):** Honourable senators, I guess one should never underestimate the power of a woman; you see I do have the last word today in our meetings.

[Translation]

On behalf of all honourable senators, I would like to thank each and every one of you for the remarkable work you have accomplished.

We do not always share the same opinions and we all defend our viewpoints passionately and enthusiastically. Despite our differences, we are all working for the well-being of our fellow Canadians, sometimes very enthusiastically, sometimes very passionately, and sometimes we may even go a little overboard. However, we are always very committed to our work, which we do in the best interest of Canadians.

I would like to thank Senator Comeau. He said that at times I was not too happy upon first entering this Chamber, but I think there have been times when he has stopped smiling after I have left this honourable place.

I wish all honourable senators a very Merry Christmas and a Happy New Year!

[English]

**The Hon. the Speaker:** Honourable senators, practice and the rules require that if the Speaker wishes to speak, he must go to his place in the Senate. However, I have the unanimous consent of the house, Senator Cools, that I be given this opportunity to express my admiration and appreciation to each and every one of the honourable members of this honourable house, for the hard work that is undertaken by each and every senator in spite of the ill-informed criticism that we are subject to. The reality is that there is no country in the world where the practice of freedom has had such a grand success as in Canada.

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

**The Hon. the Speaker:** For some 143 years, the practice of freedom has grown and matured. To the extent that we and visitors who come, particularly students, reflect on this reality, I challenge them to find some other place in the world where the people are freer, and they cannot.

So, yes, Canada is a great free nation and, to the extent that that is true, there has to be something right about a system of governance — the Westminster parliamentary monarchy — that contributes to that freedom. In my judgment this chamber — this honourable house — plays a critical role.

To honourable senators, I beg for your forgiveness that any errors made by the chair over the past fall session be attributed to me personally and not to the chair itself.

I conclude by saying that Her Majesty's representative, His Excellency the Governor General, would love to meet each of you in the Speaker's quarters when we rise, so I invite you to come and meet with His Excellency as soon as we rise.

[*Translation*]

### ADJOURNMENT

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

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

That when the Senate adjourns today, it do stand adjourned until Tuesday, February 1, 2011, at 2 p.m.

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

**Hon. Senators:** Agreed.

(Motion agreed to.)

(The Senate adjourned until Tuesday, February 1, 2011, at 2 p.m.)

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