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(HANSARD)

Tuesday, March 22, 2011

THE HONOURABLE NOËL A. KINSELLA
SPEAKER

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

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THE SENATE

Tuesday, March 22, 2011

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

Prayers.

[*Translation*]

BUDGET SPEECH

ACCOMMODATION FOR SENATORS IN COMMONS GALLERY

The Hon. the Speaker: I remind honourable senators that the budget speech will be delivered in the other place at 4 p.m. today. As in the past, senators must take their seats in the section of the gallery reserved for the Senate in the House of Commons. Seating will be first come, first served. As space is limited, it is the only way we can ensure that those senators who wish to attend can do so. Unfortunately, there are no seats for senators' guests.

SENATORS' STATEMENTS

OFFICIAL LANGUAGES IN ATLANTIC CANADA

Hon. Percy Mockler: Honourable senators, once again, I must state the facts. Service Canada provides an essential service across the country, and as I have already said, Service Canada plays an important role in Atlantic Canada.

Once again, I would like to quote the Minister of Human Resources and Skills Development, Diane Finley:

[*English*]

> In fact, Service Canada is increasing the bilingual capacity of regional senior management in the Atlantic region. We have 25 executives in the Atlantic region, and 60 per cent of them hold bilingual positions. We are currently working toward increasing that to 80 per cent. All 10 executives in New Brunswick remain fully bilingual.

[*Translation*]

Honourable senators, I agree with Minister Finley. Our federal government will continue to ensure that Service Canada remains and is determined to ensure that all Canadians and Acadians have access to high-quality services in the official language of their choice.

[*English*]

Under the leadership of Prime Minister Stephen Harper, our government strongly supports the linguistic duality of our country, and has invested more in support for our official languages than any previous government.

[*Translation*]

I want to take this opportunity today to thank Marie-France Kenny, chair of the Fédération des communautés francophones et acadienne. The energy she devotes to protecting and promoting our linguistic duality deserves to be acknowledged in this chamber. She can always count on our support, and we encourage her to continue defending the rights of francophones in Acadia and the rest of Canada. She knows that showing leadership is not about creating a tempest in a teacup. Thank you, Ms. Kenny, for your leadership.

[*English*]

Honourable senators, in conclusion, let us always consider the facts and not be distracted by unreliable information.

WOMEN IN AFRICA

Hon. Mobina S. B. Jaffer: Honourable senators, I rise today to speak about the powerful, courageous and strong women who reside in Africa's Rift Valley.

On March 8, which marked the one hundredth anniversary of International Women's Day, I had the opportunity to visit Kajiado, a small Maasai village located just outside of Nairobi, Kenya. The Maasai are a pastoral community.

As I am sure honourable senators are aware, International Women's Day is a time when we all come together and celebrate the economic, political and social achievements of women around the world. Typically on this day, we take time to honour women who have made their mark in the political, professional or philanthropic arenas.

Although the achievements of Maasai women like the ones I met in Kajiado often go unrecognized, these women truly exemplify what International Women's Day is all about.

After hearing several Maasai women offer testimony, I quickly learned that the Maasai women of Kajiado are not only the glue that holds their communities and families together but that they are also patrons of peace and beacons of hope. Historically, these women have had little exposure to formal education, have battled gender inequality and have fallen victim to practices such as female genital mutilation and forced marriage.

However, grassroots organizations like Amani Communities Africa have worked diligently to empower these women and generate awareness and understanding of women's human and legal rights, while at the same time providing them with the tools they need to respond effectively to abuses and violations.

My good friend Joy Mbaabu, the Executive Director of Amani Communities Africa, introduced us to Agnes, the leader of the Maasai women in Kajiado. She spoke to us about the challenges Maasai women continue to face and provided insight into what a day in her life is like. She also spoke about the responsibilities she had, both inside and outside her home.

After hearing from Agnes, I learned that it is the women in these communities who are responsible for taking care of their families, tending to the cattle, harvesting the crops and for generating income.

The most important message that Agnes and many other Maasai women conveyed that afternoon was the importance of educating their daughters. They acknowledged that many of their daughters were now given the opportunity to attend primary school. However, they stressed the importance of higher education. The women I had the pleasure of interacting with made it clear that the future of their communities lies in the hands of their daughters, as they would be the ones who would usher in sustainable change.

Upon departing, I asked the women of Kajiado what message I should give to the Canadian people. They responded: "Help us educate our daughters and we will do the rest."

• (1410)

Honourable senators, the achievements of Maasai women, organizations like Amani Communities Africa and women's efforts should no longer go unnoticed. I urge all honourable senators to join me in congratulating Maasai women, Amani Communities Africa and Joy Mbaabu for demonstrating the importance of empowering women.

THE LATE HONOURABLE SHAHBAZ BHATTI

Hon. Salma Ataullahjan: Honourable senators, on March 3, I had the opportunity to travel to Pakistan with the Minister of Immigration and Multiculturalism, Jason Kenney. Despite endless threats from terrorists and even warnings from the Canadian government that it was not safe to travel to Pakistan, Minister Kenney and I felt obligated to honour our dear friend, the recently assassinated Minorities Minister of Pakistan, Shahbaz Bhatti.

After a 20-hour flight and hours spent at airports waiting for connecting flights, we arrived in Pakistan at 7:30 a.m. After touring the embassy and addressing its staff, we went to the church for Shahbaz Bhatti's funeral.

There were thousands in attendance to honour Mr. Bhatti. It was evident that Shahbaz Bhatti's dedication to human rights and his will to stand up for what he believed in was admired by many around the world. The thousands of crying faces at the funeral had an emotional impact on me, as I had come to realize that, although I had lost a close personal friend, the world had lost an influential man who had carried the hopes and dreams of the oppressed and marginalized.

I was surprised to see that the staff of most embassies stayed away from the funeral because of security concerns. Canada, on the other hand, had the largest representation at the funeral. Minister Jason Kenney and I sat near the coffin of our dear friend.

Our presence was truly appreciated by the Pakistanis. We were acknowledged by the Prime Minister of Pakistan, the bishop, and Shahbaz Bhatti's family. I was deeply honoured when Mr. Bhatti's mother reached out for my hand and kissed it while crying and pleading, "Wake up, my prince," to her dead son.

After the funeral, Minister Kenney and I held bilateral talks with the Prime Minister of Pakistan, who was accompanied by some of his ministers. This meeting was followed by a meeting with the interior minister, and then followed by a press conference and a meeting with members of the minority communities. These types of meetings ensure that my home country of Pakistan and my new home of Canada work closely together for a successful bilateral relationship.

Sixteen hours had gone by since we had arrived in Pakistan, and then we started our 20-hour flight back to Canada. I have made numerous trips to Pakistan before, but this trip was by far the most emotionally and physically exhausting.

Despite the threats and warnings, I am glad I was able to sit by my friend's coffin and honour his inspirational life. I am positive that Mr. Bhatti's life is one that can be admired by many and inspire change around the world.

[*Translation*]

INTERNATIONAL DAY OF LA FRANCOPHONIE

Hon. Claudette Tardif (Deputy Leader of the Opposition): Honourable senators, I rise today to recognize the International Day of La Francophonie and the end of the festivities surrounding the 2011 Rendez-vous de la Francophonie.

On March 20 of each year, francophones on every continent celebrate this day dedicated to the French language, which unites 220 million French-speaking people throughout the world and is a rallying point for 890 million people represented by the 75 states and governments of the Organisation internationale de la Francophonie.

This day is an opportunity for francophones throughout the world to reaffirm their solidarity and their desire to live together while embracing their differences and their diversity here in Canada.

This celebration of the French fact is clear evidence of the vitality of over 9.5 million Canadians who, in their everyday lives, help to keep the French language alive and flourishing.

Celebrations were held across Canada from March 4 to 20, 2011 to mark the 2011 Rendez-vous de la Francophonie.

The Rendez-vous de la Francophonie reflects the modern and dynamic francophone presence that is firmly established in our Canadian communities. This francophone reality is a unique strength that provides added value to our country.

[*English*]

The theme of this year's Rendez-vous de la Francophonie, "Interagir pour s'enrichir," which, translated into English is "Interaction leads to understanding," serves as a reflection of the actions taken by francophone communities from coast to coast to coast to establish relationships and partnerships in a variety of areas. These areas include those related to the economy, culture, tourism, education, health and immigration.

[*Translation*]

Mr. Abdou Diouf, Secretary General of La Francophonie, dedicated this International Day of La Francophonie to francophone youth. He said:

> I would like to dedicate this International Day of La Francophonie to our youth: to young people in every country and on every continent; to young people in the Arab world who had the courage and dedication to peacefully seek political freedom and economic and social equality; and to young people who are no longer condemned to oscillate between hopelessness and revolt, but who can now, in dignity and trust, go forward with a very real hope for a future bright with liberty, stability and prosperity.

The International Day of La Francophonie allows us to celebrate the shared values, the traditions and the heritage that characterize the francophone identity, and the feeling of solidarity that is proudly developing throughout the world. It reminds us that the French language is a treasure that must be celebrated.

[*English*]

2011 TIM HORTONS BRIER CURLING CHAMPIONSHIP

CONGRATULATIONS TO TEAM MANITOBA

Hon. Donald Neil Plett: Honourable senators, I rise today to congratulate the city of London, Ontario and men curlers from across Canada for their outstanding curling event last week at the 2011 Tim Hortons Brier curling championship.

I especially congratulate Team Manitoba from the Charleswood Curling Club for their gold medal victory. The Jeff Stoughton team has an impressive curling resumé, having won the Brier no less than three times as well as the World Curling Championships in 1996 in Hamilton, Ontario. To add to his already impressive resumé, Jeff beat me in a game at the Manitoba Curling Association Bonspiel in 1997.

At this year's Brier, Team Manitoba went nine and two, tying them at the top of the standings with Newfoundland and Labrador and Alberta. Manitoba then went on to beat Newfoundland and Labrador, the Alberta team and the Ontario team to win the championship. Teams from Manitoba have won the championship no less than 27 times since the Brier started in 1927. Their closest rival is Alberta at 22 wins. Once again, Manitoba has shown its curling supremacy.

Honourable senators, please join me in congratulating skip, Jeff Stoughton; third, John Mead; second, Reid Carruthers; lead, Steve Gould; fifth, Garth Smith; and coach, Norm Gould, and in wishing our Canadian representatives well at the 2011 Ford World Curling Championships in Regina from April 2 to 10.

[*Translation*]

ROUTINE PROCEEDINGS

INFORMATION COMMISSIONER

PART I OF SPECIAL REPORT TABLED

The Hon. the Speaker: Honourable senators, pursuant to section 39 of the Access to Information Act, I have the honour to table, in both official languages, a special report entitled *Special Report Number 1: Interference with Access to Information*.

[*English*]

STUDY ON NATIONAL SECURITY AND DEFENCE POLICIES

SEVENTH REPORT OF NATIONAL SECURITY AND DEFENCE COMMITTEE TABLED

Hon. Pamela Wallin: Honourable senators, I have the honour to table, in both official languages, the seventh report, interim, of the Standing Senate Committee on National Security and Defence, entitled: *Sovereignty & Security in Canada's Arctic*.

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

CORRECTIONS AND CONDITIONAL RELEASE ACT

BILL TO AMEND—NINETEENTH REPORT OF LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE PRESENTED

Hon. Joan Fraser, Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Tuesday, March 22, 2011

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

NINETEENTH REPORT

Your committee, to which was referred Bill C-59, An Act to amend the Corrections and Conditional Release Act (accelerated parole review) and to make consequential amendments to other Acts, has, in obedience to the order of reference of Thursday, March 10, 2011, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

JOAN FRASER
Chair

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

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

• (1420)

[*Translation*]

THE SENATE

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

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, having spoken with my honourable colleague on the other side of the chamber and having explained to her my reasons for moving this motion, with leave of the Senate, I give notice that later today, I shall move:

> That, notwithstanding the order adopted by the Senate on April 15, 2010, when the Senate sits on Wednesday, April 23, 2011, it continue its proceedings beyond 4 p.m. and follow the normal adjournment procedure according to rule 6(1); and
>
> That committees of the Senate scheduled to meet on Wednesday, March 23, 2011 be authorized to sit even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

I wish to advise honourable senators that tomorrow at 3 p.m., a traditional Royal Assent will be held, in which, for the first time, the Governor General will sign the bills. It will be a very special event.

Hon. Claudette Tardif (Deputy Leader of the Opposition): I would simply like to verify the date with my honourable colleague. It is March 23, and not April 23, correct?

Senator Comeau: Correct.

[*English*]

Word programs are great, except when you change the date, so I agree entirely.

[*Translation*]

The Hon. the Speaker: Honourable senators, with that clarification, is leave granted?

Hon. Senators: Agreed.

[*English*]

QUEEN'S UNIVERSITY AT KINGSTON

PRIVATE BILL TO AMEND CONSTITUTION OF CORPORATION—FIRST READING

Hon. Lowell Murray presented Bill S-1001, An Act respecting Queen's University at Kingston.

(Bill read first time.)

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

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

IMPORTANCE OF LITERACY

NOTICE OF INQUIRY

Hon. Catherine S. Callbeck: Honourable senators, pursuant to rule 57(2), I give notice that, two days hence:

> I will call the attention of the Senate to the importance of literacy, given that more than ever Canada requires increased knowledge and skills in order to maintain its global competiveness and to increase its ability to respond to changing labour markets.

[*Translation*]

QUESTION PERIOD

FOREIGN AFFAIRS

LIBYA

Hon. Roméo Antonius Dallaire: Honourable senators, my question is for the Leader of the Government in the Senate. The Armed Forces were recently deployed to a new combat zone. As part of a UN-supported coalition, we are present on the ground, even though our participation is limited.

To date, government statements by the Minister of Foreign Affairs and the Minister of National Defence have not mentioned at any time that the action on behalf of Libya is based on a fundamental principle established in 2005, the responsibility to protect.

Can the leader tell us if we are applying the responsibility to protect in the Libya operation?

[*English*]

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, the Prime Minister consulted with the leaders of the opposition parties regarding the government's decision in this matter, with regard to Libya, and committed to seek Parliament's approval before extending the deployment of our forces beyond three months. There was serious and enlightened debate in the other place yesterday, which culminated in the support of the members of the House of Commons in the decision of the government to join our allies and support the United Nations Security Council Resolution.

[*Translation*]

Senator Dallaire: I am delighted. Everyone is at least one week too late and the situation has become much more complicated. The subject will surely continue to attract the attention of people looking for a solution to the Libyan problem.

I would like to come back to the question. Together with the coalition, and supported by the United Nations, we are implementing a concept that became a doctrine in 2005. The Government of Canada proposed that the international community adopt the concept of the responsibility to protect, whereby, if a head of state or a state engages in massive violations of human rights and does not stop, we have the responsibility to protect those people.

Why does no one wish to say quite simply that we are applying this concept, since we are following the process established by the doctrine?

• (1430)

[*English*]

Senator LeBreton: First, honourable senators, I noted the honourable senator's criticism of the United Nations, when he said we went in a week too late. However, since the crisis in Libya began, our government has taken a strong and decisive position with regard to the Gadhafi regime, working with our allies, which is obviously what any responsible citizen would want us to do.

We have evacuated Canadian citizens. We have put in place tough sanctions, even tougher sanctions than had been recommended by the United Nations. We called on the Gadhafi regime to stop the bloodshed and to step down immediately. The President of the United States made similar calls. The United Nations Security Council has endorsed immediate action to protect Libyan citizens from the threat of further slaughter. Obviously, the resolution of the Arab League to enforce a no-fly zone was extremely helpful.

Canada fully supports the resolution, and has taken urgent action necessary to support it. We have deployed both naval and air assets as part of the United Nations-sanctioned international effort. Of course, all precautions will be taken to avoid the deaths of innocent citizens.

With regard to the responsibility to protect, the UN resolution and our participation in it is intended to protect Libyan citizens against the ravages of the Gadhafi regime.

As we see in the news, this mission is a difficult one. Every day we hear different stories about what tactics the Gadhafi regime is employing in Libya. I think it is fair to say, honourable senators, that the Canadian Forces in Malta and Italy are very much a part of the effort, along with our allies in the North Atlantic Treaty Organization, all acting under the resolution of the UN Security Council.

RESPONSIBILITY TO PROTECT

Hon. Roméo Antonius Dallaire: Honourable senators, the leader has often accused us on this side — and I have borne the brunt of this accusation a couple of times — that our questions are simply based on newspaper articles. May I say, with respect, that everything the leader has just said I have heard or read at least a dozen times, through a variety of media outlets. I am not here to query the leader on how up to date she is with the media but to query her on the fundamental principles and concepts with regard to operations for which we deploy forces into zones that are in conflict.

This fundamental premise was articulated after Rwanda and after Srebrenica, when we said that we have a responsibility to protect. A whole spectrum of criteria have to be met, and these criteria are there to assist nations in taking even more timely decisions in terms of how to go through the diplomatic processes and ultimately, *in extremis*, how to use force.

Are we going into Libya with that concept in mind, that we are applying what we have sold to the rest of the world?

I can understand that there has been reticence with regard to the responsibility to protect. When we brought in this doctrine, some of the weaker countries were worried that the big boys would use it to come in and take away their dictators. That is not our plan, although there are a few out there who could use it. In the other case, there were the big countries that did not want to be dragged into situations that they were not keen on because of the RTOP.

Are we worried that if we use the term "responsibility to protect" as a fundamental premise and application within this operation, that it might create a precedent of our having to respond in subsequent operations?

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, I think the responsibility to protect is exactly the intent of the government in joining with our allies and with NATO, and also with the support of the Arab League. That responsibility is what the UN resolution is about, namely, to protect innocent people from the ravages of a Gadhafi regime.

Senator Dallaire: Sunday morning, on CTV's "Question Period," the Minister of National Defence was asked specifically whether the operation to which we are committing ourselves is under the rubric of the responsibility to protect, and he said no.

My question is: Under what premise are we there? What grand strategic doctrine are we using to give a warm, fuzzy feeling to the Prime Minister and the cabinet, who are making decisions based on a concept and not on whether we should go in this time?

Senator LeBreton: Honourable senators, I did not see "Question Period." It is one of those shows that I have decided is not worthy of watching.

Some Hon. Senators: Shame.

Senator Munson: Wait until you tell Craig Oliver that.

Senator LeBreton: In any event, honourable senators, we are in Libya specifically as a result of the UN Security Council vote. That is why we are there. I did not see the Minister of National

Defence on television. I doubt, although I have to take the honourable senator's word for it, that he said it in the way that the honourable senator characterized it. In any event, we are there with our allies to enforce the UN Security Council resolution, and there is nothing more I can say about this issue.

Hon. A. Raynell Andreychuk: Honourable senators, I did watch the show on Sunday.

Some Hon. Senators: Oh!

Senator Fox: Was it worth watching?

Senator Andreychuk: Senator Dallaire and I have an exciting life, I guess, on Sundays. I am not sure that was my interpretation of what the minister said, either.

However, my understanding is that when the responsibility to protect concept was put before the UN, there was discussion and then general agreement within the United Nations that the responsibility to protect doctrine was a valid one, and one that the UN should adhere to.

Subsequent to that agreement — and I believe it was led by Tony Blair, but I could be wrong — a number of countries came together to set guidelines as to what "responsibility to protect" means. They failed in that attempt.

Therefore, there are no principles or guidelines to this date, and so we fall back on the UN to determine, in each specific case, whether it is one that the community of nations wishes to enter. I believe that is what the Libya situation is, short of having principles that we can dust off and use as guidelines. Am I correct in my assessment, or have I missed a point?

Senator LeBreton: Far be it from me to comment, because I do not believe there is anyone in this chamber, on either side, who has a better understanding of international affairs and the operations of the United Nations, as well as many other areas in the world. The honourable senator did an excellent job representing Canada as a member of the diplomatic corps for a number of years before she came to the Senate.

I will take Senator Andreychuk's question as notice; however, I am sure that the honourable senator is correct.

AGRICULTURE AND AGRI-FOOD

AGRICULTURAL RESEARCH AND INNOVATION

Hon. Catherine S. Callbeck: Honourable senators, my question is to the Leader of the Government in the Senate.

In the Main Estimates for the coming fiscal year, the government is cutting funding for Agriculture and Agri-Food Canada by about $150 million in agricultural research and science and innovation. The dollar figures have been cut from $404 million to $252 million.

This research is essential to have a safe and sufficient food system. Yesterday, Ron Bonnett, President of the Canadian Federation of Agriculture, said:

> Given the global environmental and economic challenges and increased market volatility, now is not the time to make cuts in areas needed to stimulate growth and ensure a sustainable competitive agricultural sector.

My question is this: Why did the government cut funding to agricultural research in the Main Estimates?

Hon. Marjory LeBreton (Leader of the Government): I wish to thank the Honourable Senator Callbeck for that question, and I will take it as notice.

• (1440)

Senator Callbeck: I am happy the leader is taking my question as notice. I look forward to the answer, because agriculture is the main industry in my province of Prince Edward Island. There are about 1,700 farms across the Island, and roughly 5 per cent of our population live on farms. We understand how important this research and innovation are to the economy.

The Prince Edward Island Potato Board has noted that we need adequate programs, policies and research in place to assist development of the industry. Bertha Campbell, the President of the Prince Edward Island Federation of Agriculture, noted recently that research is needed to produce the most crops from the world's limited arable land.

The leader has taken my first question as notice. I would ask the leader, when she is inquiring about that, if she would find out what the government's plan is for continuing research and innovation in agriculture.

Senator LeBreton: Honourable senators, obviously the government is putting a lot of effort into the whole area of research and technology advancement. I will take the question as notice.

[*Translation*]

HUMAN RESOURCES AND SKILLS DEVELOPMENT

SERVICE CANADA CENTRES IN ATLANTIC CANADA— OFFICIAL LANGUAGES

Hon. Maria Chaput: Honourable senators, my question for the Leader of the Government in the Senate is the following: on March 8, 2011, the Senior Associate Deputy Minister of Human Resources and Skills Development at Service Canada testified before a committee at the other place that:

> The administrative region of the Atlantic extends to Newfoundland and all of the Maritime Provinces and is designated unilingual.

Yesterday, I learned that, according to the minister responsible for Human Resources and Skills Development:

> The Service Canada Atlantic Region has not been designated unilingual. There has been absolutely no change in bilingual services in the region. Every Service Canada centre and employee position that had been designated bilingual remains bilingual.

Today, we learned from a daily newspaper in New Brunswick that Service Canada's administration will now be concentrated in Halifax, a city where the predominant language is English. Will this city be designated bilingual by Service Canada or will there be a Service Canada office designated bilingual in Halifax? In light of this rather confusing information, I must admit that I am quite perplexed, and I am not the only one.

My first question is the following: since, if I understood correctly, the situation will remain unchanged with regard to service delivery in both official languages, what are the consequences of designating the administrative region of Atlantic Canada unilingual? Could the Leader of the Government in the Senate explain to us what the unilingual designation of the administrative region implies?

[*English*]

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, the truth of the matter is that the Atlantic Canada region has not been designated as a unilingual area. The government and Service Canada are committed to ensuring that Canadians are provided excellent services in the language of their choice.

The honourable senator mentioned the testimony of the government official. I understand that particular individual has corrected that testimony.

[*Translation*]

Senator Chaput: I want to thank the leader for her answer. I have a supplementary question. Could the Leader of the Government in the Senate tell me when and in what context the minister responsible for Human Resources and Skills Development made the statement I quoted earlier, which is very positive and makes me very happy? Will it be possible to get a copy?

[*English*]

Senator LeBreton: I would be happy to try to obtain that for the honourable senator.

[*Translation*]

Senator Chaput: Honourable senators, I have another supplementary question. If the media reports are correct, and if it is true that the Service Canada administration will be concentrated in Halifax, a city where English is clearly the dominant language, what will the consequences be for francophones?

[*English*]

Senator LeBreton: Again, the honourable senator is asking a question that I believe is hypothetical. When the honourable senator says this as a result of a report in the media, I immediately question that. As I have often said, one should believe 95 per cent of what one sees and only 5 per cent of what one reads in the newspapers.

Nevertheless, I will try to determine why a newspaper would write a story that is clearly erroneous.

[*Translation*]

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, with leave of the Senate and after consultation with and agreement from both sides of the chamber, I ask that Bill C-55, an Act to amend the Canadian Forces Members and Veterans Re-establishment and Compensation Act and the Pension Act, which is on the Orders of the Day for Wednesday, March 23, 2011, be brought forward now.

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

Hon. Senators: Agreed.

[*English*]

CANADIAN FORCES MEMBERS AND VETERANS RE-ESTABLISHMENT AND COMPENSATION ACT PENSION ACT

BILL TO AMEND—SECOND READING

Hon. Donald Neil Plett moved second reading of Bill C-55, An Act to amend the Canadian Forces Members and Veterans Re-establishment and Compensation Act and the Pension Act.

He said: Honourable senators, I am happy to have the opportunity to rise in this chamber to speak to Bill C-55, the Enhanced New Veterans Charter Act. This bill offers important changes to the current supports for Canada's modern-day veterans.

In 2006, when the New Veterans Charter first came into effect, it was described as a living document. It was a document designed to be updated when needed. Many of the needed improvements are included in this legislation. I am pleased to see that we are reaching a new, improved chapter with this living document.

With this legislation, we are heading in the right direction. Bill C-55, the Enhanced New Veterans Charter Act, is designed to ensure that Canadian Forces personnel, veterans and their families receive the support they desperately need and richly deserve when they need it.

Honourable senators, they need the support now. As such, this bill needs to be sent to committee now. It contains three key financial benefits that will improve the lives of thousands of new veterans.

First, this legislation will improve access to the Permanent Impairment Allowance under the New Veterans Charter and access to the Exceptional Incapacity Allowance under the Pension Act. This will allow more seriously injured veterans to gain access to an allowance which can be more than $1,600 per month.

Many Canadian Forces veterans who currently do not qualify for the Permanent Impairment Allowance under the criteria established when the New Veterans Charter was implemented in 2006 will benefit with the new eligibility requirements proposed in Bill C-55. As well, by amending the qualifying criteria, more than 3,500 Canadian Forces veterans are expected to gain access to the benefits in the first five years of implementation.

These legislated changes will eliminate the barriers preventing the consideration of disability compensation under the Pension Act and the New Veterans Charter in making eligibility decisions for the Exceptional Incapacity Allowance and the Permanent Impairment Allowance.

• (1450)

Second, it introduces a $1,000 per month supplement for the severely injured veterans who are already receiving the Permanent Impairment Allowance and who cannot be suitably or gainfully employed.

Honourable senators, individual veterans, their organizations and advisory groups serving the department have been clear: Severely and permanently injured veterans and their families require more monthly financial support to meet their needs. The supplement of $1,000 was selected to ensure a sufficient monthly income to any of the three grade levels of Permanent Impairment Allowance.

Those veterans who are in the most need and who cannot be gainfully employed will now receive more than $2,600 per month in addition to any other financial benefits and treatment supports available to them from Veterans Affairs Canada.

Veterans Affairs Canada is proactively compiling a list of those who have applied in the past for the Exceptional Incapacity Allowance of the Permanent Impairment Allowance and were ineligible at the time but now may be eligible once the changes in Bill C-55 take effect.

Finally, it will give Canadian Forces members and veterans a choice of payment options for the Disability Award. Veterans would be able to receive those payments for the number of years that they choose, would be paid interest and would be given the option to opt for a lump sum payout at any time after beginning to receive the annual payments.

Honourable senators, our veterans demanded changes to the lump sum payment, and our government responded by offering the options that they asked for. Each of these improvements is designed to address the concerns raised by veterans and their families and by other stakeholders and advocates.

I know that most in this chamber will remain vigilant when it comes to protecting and promoting the interests of Canada's veterans, and I know many from this chamber have already consulted with veterans and know that they are happy with this bill.

Recently, the Standing Senate Committee on National Security and Defence had the opportunity to travel to Edmonton to meet with members of the Canadian Forces and with veterans. Through our conversations, we heard of some confusion with regard to what Bill C-55 proposed. Once the legislation was properly explained, most were happy with the overall purpose of this bill. The main issue, honourable senators, seems to be in the lines of communication with Canadian Forces members and veterans on what programs and benefits are available to them and their families. Our challenge is to make all Canadian Forces members and veterans aware of the programs and benefits that are available to them through finding the proper lines of communication.

Honourable senators, some of us recently received a letter from Guy Parent, the Veterans Ombudsman. In his letter, he stated:

> Bill C-55 represents an important step in making the New Veterans Charter a living document as envisioned by parliamentarians five years ago. The bill may not be as comprehensive as some would like but, if passed, will immediately affect the lives of the most seriously disabled veterans receiving disability benefits under both acts who could not receive the Permanent Impairment Allowance or the Exceptional Incapacity Allowance because of a technical flaw in the New Veterans Charter. This change, combined with the introduction of a monthly $1,000 supplement for permanently and severely injured veterans represents significant improvements.
>
> Much debate remains about the disability award and whether or not the payment options provided under Bill C-55 go far enough to address the concerns around the lump sum payment, but it is important to remember that Bill C-55 is the first opportunity to make changes to the New Veterans Charter; it is not, nor should it be your last opportunity. Other steps must soon follow.

Honourable senators, through consultation with veterans and their advocates and with good research and study, we now know what can be adapted and adjusted to better fit the evolving needs of modern-day veterans and their families. Our government's approach to caring for ill or injured Canadian Forces members and veterans is to restore, to the fullest extent possible, independence through programs that enable health and wellness.

It is our distinct honour and privilege to serve those who have served Canada through war and peacekeeping operations, men and women who have sacrificed so much for all of us and now deserve to have us stand up for them and not delay the passage of this legislation.

Some Hon. Senators: Hear, hear!

Senator Plett: Honourable senators, with this new financial support that Bill C-55 will put in place, injured Canadian Forces veterans can focus on the most important goal: Getting well.

These proposed amendments to Bill C-55 and to the New Veterans Charter represent an investment of $2 billion to increase financial support to Canadian Forces veterans. The Disability Award was never meant to replace the monthly pension. It is a compensation for the non-financial impacts of an injury or illness such as pain and suffering. The Disability Award is offered in addition to other incomes, such as the Earnings Loss Benefit and the Permanent Impairment Allowance, which are meant to compensate for the financial loss caused by an injury.

Under the New Veterans Charter, seriously injured veterans who can no longer work continue to receive a monthly income. Dominion President Ms. Patricia Varga of the Royal Canadian Legion stated this on Bill C-55:

> This bill, as a first step, makes great strides at improving the New Veterans Charter and encompasses many of the recommendations made by the New Veterans Charter Advisory Group and the Standing Committee on Veterans Affairs. The legion considers that further improvements are needed to the charter on which we look forward to continuing the ongoing dialogue with Minister Blackburn.

Mr. Ray Kokkonen, President of the Canadian Peacekeeping Veterans Association, stated:

> With this bill, we applaud the government for keeping its promise that the New Veterans Charter is truly a living document. Naturally, we are pleased to have had a role in this matter and that our advice and recommendations have been heard. Advocating for significantly increasing the financial support to our severely wounded Veterans, to allow them to live with dignity, is a top priority of our organization. Accordingly, we are very glad to see this challenging issue being addressed. We will continue cooperating closely with Minister Blackburn on other matters related to the Charter to ensure that the ongoing, emerging needs of our Veterans and their families are met.

Honourable senators, the New Veterans Charter was never about cutting costs or saving money. Its objective has always been to provide a holistic approach to treat veterans and their families with respect. Its objective has been to provide services and benefits in acknowledgement of their service and sacrifice to our country. This, honourable senators, is the least that we can do, and we owe each and every veteran and his or her family speedy passage of this vitally important piece of legislation. Now is not the time to make this a political issue.

Honourable senators, our colleagues in the other place saw the great importance of this legislation and passed this bill with unanimous consent. I am proud to sponsor Bill C-55, and I ask honourable senators to support our veterans by ensuring that this bill receives Royal Assent without amendment in the most expedient way possible.

Hon. Joseph A. Day: Would the honourable senator take a question?

Senator Plett: Certainly.

Senator Day: The honourable senator indicated, as one of his selling points, that the other place passed this bill with unanimous consent. Does the honourable senator know how long it took the other place to consider the bill before they arrived at unanimous consent?

Senator Plett: No, but I am sure the honourable senator will fill me in as I am sure he does know.

Senator Day: If I suggested 46 days, would the honourable senator object?

Senator Plett: No, honourable senators, I would not object to Senator Day's suggestion that it may have been 46 days. Of course, we have heard so much in the last few days. Yesterday, Senator Murray was taking wagers on whether we would have an election. There are those who are saying that there is, indeed, a lot more reason to place importance on the speedy passage of this bill, as I am sure the honourable senator would agree.

Senator Day: Thank you.

• (1500)

The Hon. the Speaker: Is there further debate?

[*Translation*]

Hon. Roméo Antonius Dallaire: Honourable senators, Bill C-55 is an improvement to Bill C-45, which I sponsored and which was passed on May 17, 2005.

As was mentioned, it took the department nearly 10 months to act on this bill, which would provide for a better response to the needs of veterans and their families.

[*English*]

I have no desire for a lengthy debate because I look forward to the bill going to committee; however, I would like to bring some objectivity to the issue.

Honourable senators, the implementation of this document in 2006 by the Prime Minister himself indicated that it was to be a living document. Its aim was to respond to the needs of veterans because we were in an era where we were not sure how many veterans we would have, what the injuries might be and what the impacts would be on their families. Therefore, we wanted a bill that would give us the flexibility to respond in the fastest way possible.

We have now our first response to the living document, a document that might be a little out of breath because it has taken five years to get this amendment, but at least we finally have an amendment. In the short title, the amendment is entitled, "Enhanced New Veterans Charter Act." I think that is a misnomer. It enhances the New Veterans Charter, but it is not the "Enhanced New Veterans Charter."

Honourable senators, when you study Bill C-45, the New Veterans Charter do not forget that it was brought in because 15 years of new operational theatres had created a whole new generation of veterans. Do not forget the recent demands made on our Canadian Forces personnel in these operational theatres on the impact that they have had on our forces.

Let me situate this. We had World War II and the charter of 1943. We demobilize, and then we brought in the Pension Act of 1953. Essentially, that carried the members of the Canadian Forces. Whether they were injured in Cyprus or any other operational theatre, they would be covered under the new Pension Act, which was much less generous and much more stringent than the original charter. If you remember, with the original charter, the troops had the opportunity to buy homes and receive a full

education. The number of veterans that came back from World War II and the incredible investment by the country in the veterans permitted many universities to explode. In fact, there was a massive increase in the size of universities to meet the incredible demand that suddenly appeared.

Honourable senators, then we moved to the Pension Act and soon fell out of the Cold War into a new era of conflict. In this new era, we began to experience operational theatre injuries that were not of the same nature as previous peacekeeping missions. These theatres did not continue to be Chapter 6 peacekeeping missions where we stand there in our short pants, a blue beret and a baseball bat, and act as a referee without a red card or penalty box. We are now into operations that are at least Chapter 7, which require the use of force. *Ergo*, we are sustaining casualties due to the use of force, and sometimes they are psychological casualties because the forces are not allowed to use force when they should due to complex mandates.

Honourable senators, in this scenario, we have those 15 years of casualties, and we have an extensive study done by Veterans Canada and by advisory boards that the deputy minister created in 2000. It was called the Neary study, and we involved ourselves in that. In 2004, I participated in tabling the study here in this building at a big press conference. It was to be the launch pad for this new charter because the Pension Act was not meeting the requirements of the more severely injured veterans or soldiers.

The bill was moved through expeditiously, in the same terms as the honourable senator indicated, by all sides wanting to get it through, knowing there was a requirement. Within a period of less than 48 hours, it went through all three readings in the other place, all three readings here, and we ended up before the Standing Senate Committee on National Finance just to show we had done that, and bingo, we have this.

The New Veterans Charter has been tested over the last few years, and it has been found to be deficient. Its deficiencies are in dire need of being rectified because we have not only Canadian Forces members still serving but also their families and significantly injured veterans. They are not receiving the social contract that this nation has established with its veterans.

Honourable senators, after World War I this nation established an atmosphere — a commitment of the nation to its veterans — under which it says, "We will send you out to a theatre to establish our protection and our security, and in that theatre of operations, you may die. Potentially, you could be injured, and it may be for life. Your family will live with those sacrifices so the rest of us can live decently and go on with life as normal because we are safe, because those soldiers and sailors and air persons paid that price." That social contract — that paternalistic contract — was the atmosphere under which the concept of Canadian veterans was established. It was paternalistic, but it was paternalistic as a father is to his children, as the children grow up, go off and do some work, find other jobs, get rehabilitated, but every now and again they fall back down because the injuries have come back to haunt them or have created complications. Therefore, they come back to Veterans Affairs where they are realigned, and benefits and capabilities are given to them. They are sent back out and they continue to live for the rest of their lives knowing that the government — the people, really — recognize that this is a lifelong commitment. Why is that? It is because they committed themselves to the government for a lifelong potential injury and even death. It is the concept of unlimited liability.

Honourable senators, in applying Bill C-45 and then coming to the amendment of Bill C-55, we discovered that it needed more than what was already presented. The honourable senator has indicated that he fully recognizes that it needs more work and that we are reviewing it in committee at this time.

• (1510)

What Bill C-55 does need, however, is recognition that we are looking for a lifelong commitment by the government for an individual who is a veteran and not the creation of an insurance policy or a worker's compensation plan in which benefits are being taxed and other benefits are being limited. Some of the financial benefits are lower than even the public service, should a civil servant be injured. In fact, should a civil servant be injured and lose a leg, they would get more money than a veteran would under the New Veterans Charter.

Not only do we have that sort of disconnect, but the policy ends at age 65. All of a sudden, it drops off. On top of the limited access and some of the significant limitations of benefits that this charter has, at age 65, veterans end up back in the midst of potentially no resources whatsoever coming to them unless they are very severely injured.

Bill C-55 is looking at the most severely injured and cleaning up the legislation to allow for the possibility of these veterans being eligible for some of the specific benefits. That is okay; it is needed. It also is a bridge between the old pension act and the New Veterans Charter in order to permit those who are severely injured to get the maximum possible benefits and support. On that side, I have no problem whatsoever.

However, Bill C-55 is amending the previous Bill C-45, which was framework legislation, meaning it has these great lines of direction and then underneath it says "Governor-in-Council" and we will sort things out by regulations. The regulations are the interpretation by the staff of what the directive and policy should be.

It was interesting that the minister announced in November that the government tabled legislation on November 17, 2010, to increase the benefit to ensure a minimum annual pre-tax income of approximately $40,000. That is very significant to a private who has been in the Canadian Forces for only a year, has no pension and has a salary much below that.

The problem with this earning loss benefit of $40,000 is not that the minister has raised it to a minimum level — which, I would suspect, we can consider reasonable, although it is taxable — but that he did not need legislation to do this. That part of the act is a regulation. He could have implemented that in November. Why wait to put it in as a part of this package?

This is something that the minister perhaps should have implemented on his own without having to go to legislation. That would have responded to the spirit of Bill C-45. When we

talked about it being a "living document," we were looking to give the minister the maximum flexibility without having to come back here or the other place in a panic to try to ram through a whole bunch of things that were not necessarily all well-thought-out.

To me, that is a deficiency that the minister could have responded to and implemented months ago, making many of those families much happier.

The other side of the bill is the different allowances and the costs thereof. When this was published and announced, we were going to bring enhancements and investments into the New Veterans Charter in the order of $2 billion. One has to read the fine print. It is $2 billion over the life of this legislation.

I would be keen to know who computed that $2 billion, but I am really looking forward to seeing who was able to estimate that it is only $2 billion. How many casualties do they think we will have? We are into Libya and God knows where else. How can one estimate something 20, 30 or 40 years down the road when there is no control on how many people are actually going to need it?

In fact, we have estimated the cost, and had people look at, and it is about $40 million a year. That is a big difference from $2 billion. Why come out with a $2-billion statement? Why do they need that hoopla? Why do they try to smoke the troops with that kind of verbiage, when what they were doing was good and needed? They did not need all the bells and whistles in order to sell the product.

I am also anxious to see this bill go to committee and anxious that this bill hopefully will get through committee in a timely fashion. I hope that we can get it approved by Thursday.

My final comment is that this is a starting point. This is not an enhanced New Veterans Charter. This is the first element of enhancing this New Veterans Charter.

If I may return the compliment to my colleagues on the other side, I look forward to the initiatives and a lot of work and effort by the staff and the minister to bring forward faster a lot more of the absolutely essential enhancements that are needed to make this a living document, but living in order to help veterans live decently.

I will end with just one small nuance. The whole of the study pre-2005 leading to the New Veterans Charter argued that in this era, the families lived the missions with the troops. My mother-in-law told me that she would have never survived what my wife had to go through when I was in Rwanda. During the Second World War, she said, the whole country was at war. There were also very limited communications and censorship. Therefore, when my father-in-law was commanding his regiment over there, little was known about what was happening, except for the odd newsreel.

Today, the families are there with the television remote, following every action that is going on. They are changing channels all the time to see if Al Jazeera or CBC will be reporting soldiers getting shot, killed, injured or whatever in these operations. The families are now significantly affected by the stresses and strains of these complex and ambiguous missions that are dangerous, because people are shooting at people.

This charter does not say one word about the family. Having sponsored it, I am prepared to say this is the biggest mistake that I have ever been involved with in presenting anything to anyone.

I do hope that we are going to ultimately produce an enhanced New Veterans Charter and that we can bring in these enhancements in a timely fashion and, in particular, bring the families into this. We must try to give them what they need to survive and to continue to support the troops in the most exemplary way they have been doing so the soldiers can return to missions, be effective and come back home. If soldiers are injured, they should not have to fight against a government department to live decently as injured veterans in this country.

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

Some Hon. Senators: Question.

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

(Motion agreed to and bill read second time.)

REFERRED TO COMMITTEE

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

Hon. Donald Neil Plett: I move that Bill C-55 be sent to the Standing Senate Committee on National Security and Defence.

• (1520)

Hon. Roméo Antonius Dallaire: I want to make sure that it will go to the committee tomorrow.

An Hon. Senator: It is going right now.

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

(Motion agreed to and bill referred to Standing Senate Committee on National Security and Defence.)

[*Translation*]

THE ESTIMATES, 2011-12

ELEVENTH REPORT OF NATIONAL FINANCE COMMITTEE PRESENTED

Leave having been given to revert to Presentation of Reports from Standing or Special Committees:

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

Tuesday, March 22, 2011

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

ELEVENTH REPORT

Your committee, to which were referred the 2011-2012 Estimates, has, in obedience to the order of reference of Wednesday, March 2, 2011, examined the said Estimates and herewith presents its first interim report.

Respectfully submitted,

JOSEPH A. DAY
Chair

(*For text of report, see today's* Journals of the Senate*, Appendix, p. 1362*.)

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

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

[*English*]

FREEZING ASSETS OF CORRUPT FOREIGN OFFICIALS BILL

THIRD READING

Hon. A. Raynell Andreychuk moved third reading of Bill C-61, An Act to provide for the taking of restrictive measures in respect of the property of officials and former officials of foreign states and of their family members.

She said: Honourable senators, I wish to add a few words to my comments at second reading. I want to thank the Standing Senate Committee on Foreign Affairs and International Trade, and in particular the deputy chair, Senator Downe, for effectively facilitating the appropriate hearing of this bill in our committee and for it arriving at its third reading today in the chamber.

As I said at second reading, there are existing pieces of legislation to attempt to seize certain assets when they are ill-gotten gains or misappropriated funds. However, the legislation is directed at trafficking and other situations. I thank the two ministers, Minister Nicholson and Minister Cannon for coming to the committee yesterday. Both of them stated that there was a gap in the law pertaining to countries that are in democratic transition. The government in place at the time of the change of leadership is not the same and, therefore, the new democratic forces are attempting to claim the assets that were destined for the citizens of that country.

This bill does not address forfeiture. It does not address the ability to make claims or to defend assets.

This bill freezes assets to allow these new transformative democratic regimes to be able to gather the evidence. We know that there are many new technologies today and that assets can be moved around the world quickly. This bill facilitates the ability to freeze the assets to make the case. Therefore, it does not deal with forfeiture of assets.

The bill also allows for dealing with the assets in an expeditious way so that there is no loss of income should that occur while this act is in force. The bill will not in any way cripple the operations. What the bill does is freeze certain assets.

Senator Day will be happy to know that his question was put to the ministers and it was confirmed for us that all banks are caught under this act and that the wording both in English and French is the same as has been used in other bills, whether the bills are money laundering bills or anti-terrorism bills. We were given assurance that the language used is the same language applied in the past to cover all banks.

The curiosity comes from the English and the French and it is deemed appropriate in both. Both officials and ministers replied to that issue.

Also, this bill is trying to cover a gap that has been created by certain cases that have arisen recently. We know that these issues are ongoing. Those who wish to hide assets have as many technological means as those who wish to have the assets disposed of properly. Therefore, the House of Commons inserted a clause to have a review by both houses. The assets are frozen for five years and the period can be renewed. However, this amending clause allows for scrutiny by both the House of Commons and the Senate. There was some question as to whether the depositing of articles here to allow that kind of review meant clerks of both houses and we were assured that it meant both clerks and was the routine phraseology.

Honourable senators, with the acknowledgement that the bill is necessary and timely, I express my appreciation to all those who facilitated Bill C-61. It will go one step further in ensuring that assets should not be utilized for the benefit of leaders personally. They are assets of the state and should be used for the citizens of the state. This purpose is what this bill is intended for and this purpose is what we will follow to ensure that the bill delivers.

Hon. Percy E. Downe: Honourable senators, I want to join a brief discussion on this bill as well. I thank Senator Andreychuk for her cooperation in working through this bill on short notice. She was able to arrange for the two ministers to appear before the committee. Given what is going on with the Minister of Foreign Affairs, that appearance was an amazing accomplishment and the members of the committee appreciate it very much.

I want to report back to the chamber that the Standing Senate Committee on Foreign Affairs and International Trade had a meeting on this bill. However, let us not labour under the illusion that this bill was given detailed review. Out of respect for the government's concern that this bill be passed quickly, we acted in more haste than we would have otherwise.

The Standing Senate Committee on Foreign Affairs and International Trade had only one meeting to discuss the bill. Honourable senators, I appreciate the need for this legislation, and I acknowledge the government's desire to pass this bill as

quickly as possible. However, as with all legislation, the devil is in the details. This devil lies at the end of a road paved with good intentions.

This bill is meant to apply to circumstances where systems of government and, by extension, systems of justice are in a state of transition, perhaps even chaos. The prospect of a provisional government or some tribunal using this measure in a way we did not intend is a concern.

It is not hard to imagine a foreign government using this measure against a former official who has fallen out with the new government, or even against the friend or relative of such an official, regardless of whether the official in question is corrupt. If the Government of Canada believes that this request is legitimate, what then? How will this process of "freezing" and "seizing" work?

• (1530)

I hope that any foreign state requesting Canada's assistance in recovering the proceeds of corruption is able to provide detailed information, because the current government's record in finding hidden money is not positive.

The legislation does not state who will do the digging, but given the nature of the issue, one can expect the whole alphabet soup of agencies and programs. The Financial Transactions and Reports Analysis Centre of Canada, FINTRAC, the RCMP, the Canadian Security Intelligence Service, CSIS, and the Superintendent of Financial Institutions will all have an involvement in uncovering foreign assets.

Naturally, the first organization that comes to mind when discussing hidden assets is the Canada Revenue Agency. Uncovering hidden assets would appear to be the CRA's stock and trade. Unfortunately, the agency's record in this area has been horrendous.

For example, in recent years, both the French and German government provided the Canadian government with information about hundreds of secret bank accounts held by Canadians in Liechtenstein and Switzerland.

In the case of Liechtenstein, in the four years since the names of 106 Canadians with secret bank accounts was given to the Canada Revenue Agency, not one Canadian has been charged and not one penny has been assessed in fines.

Given that the accounts held by Canadians contained over $100 million, with $12 million in one account alone, this situation is shocking. It has led many Canadians to lose confidence in the Canada Revenue Agency's ability to track down undisclosed funds. I have had Canadians who follow this issue closely ask me who the Canada Revenue Agency is protecting.

Countries such as the United States and Germany have laid tax fraud charges on individuals for having undeclared bank accounts in tax havens.

In Germany, for example, in the year following the discovery of the accounts, hundreds of German citizens came forward, including many who thought incorrectly they were among those named as foreign account holders. The prospect of heavy fines and prison terms for tax fraud in Germany caused them to err on the side of caution and come forward.

In Canada, on the other hand, not one charge has been laid. In the four years since this list of 106 Canadians was given to the CRA by the German government, not one of these Canadians who have hidden money in tax havens has stood before a judge in Canada or overseas. Indeed, only 26 of the 106 Canadians had their accounts assessed after four years.

In 2009, French authorities received information about 80,000 bank accounts in Switzerland, 8,000 of which were opened by French citizens to avoid paying taxes owed to the French state. Since then, many French citizens have admitted to tax evasion, and their government has recovered millions of dollars in unpaid taxes.

Like their German counterparts, French authorities also advised the Government of Canada that some 1,785 Swiss bank accounts are held by Canadians. Unfortunately, if the Liechtenstein affair is any indication, the fact that only 26 of the 106 cases have been reassessed in four years means that the 1,785 Canadians who hold Swiss bank accounts will consume some 274 years of the Canada Revenue Agency's time to conclude their investigation.

Clearly, if this is an example of how the government goes after money owed to the Government of Canada, further examination of how it would hunt down money owed to other governments would be warranted. While I am not casting doubt on the testimony of our committee witnesses, we need to hear more testimony.

At its essence, Bill C-61 is a bill that was written quickly to respond to a specific problem, and it was expanded to become more general. Its full implementation, and where it fits among similar Canadian and international measures, needs to be examined.

Late last week, the Foreign Affairs Committee members received a letter from the Federation of Law Societies of Canada, which expressed concern about certain aspects of this bill:

> We are very concerned . . . that the broad disclosure requirements in section 9 of the proposed legislation would impose duties on legal professionals that are contrary to the independence of the bar, the duty of loyalty and the protection of solicitor-client privilege.

Honourable senators, I repeat my earlier suggestion that the Standing Senate Committee on Foreign Affairs and International Trade be tasked with a thorough study of this bill. We had not heard of this bill three weeks ago, but we acceded to the government's desire to act quickly. Now we must act with deliberation and give Bill C-61 the consideration it deserves.

Hon. Joseph A. Day: Honourable senators, I want to make a few comments with respect to this bill. First, I wish to thank the Honourable Senator Andreychuk for addressing two of the points that I raised at second reading. I will ask about the third one now, namely, with respect to the short title.

Honourable senators, if we are to continue with the use of short titles that make misleading statements, the proposed title for this legislation is "Freezing Assets of Corrupt Foreign Officials Act." I understand Senator Andreychuk to say this bill is for freezing, not seizing, and, therefore, it gives foreign government officials who were previously in power an opportunity to develop a case.

However, by using the adjective "corrupt," are we not taking away due process in relation to this particular piece of legislation? That is my concern. I hope the honourable senator will now consider the request and suggestion by the Honourable Senator Downe, namely, that the honourable senator provide time to study this legislation properly.

I heard Senator Andreychuk's comments with respect to proposed sections 7 and 8, and I accept those explanations. I know what the two ministers are trying to achieve, but I would prefer a legal interpretation. I am not convinced the ministers can provide us with a legal opinion that the clerk of the house is indeed the Clerk of the Senate.

Those are my comments.

The Hon. the Speaker: Further debate?

Senator Comeau: Question.

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

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

[*Translation*]

THE SENATE

MOTION TO EXTEND WEDNESDAY SITTING ADOPTED AND COMMITTEES AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Gerald J. Comeau (Deputy Leader of the Government), pursuant to notice of March 22, 2011, moved:

> That, notwithstanding the order adopted by the Senate on April 15, 2010, when the Senate sits on Wednesday, March 23, 2011, it continue its proceedings beyond 4 p.m. and follow the normal adjournment procedure according to rule 6(1); and
>
> That committees of the Senate scheduled to meet on Wednesday, March 23, 2011 be authorized to sit even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

(Motion agreed to.)

• (1540)

[*English*]

NATIONAL SECURITY AND DEFENCE

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Pamela Wallin: Honourable senators, I ask leave at this time to seek permission from the chamber that the Standing Senate Committee on National Security and Defence be allowed to meet at 4 p.m. tomorrow, even though the Senate will then be sitting. I should clarify that it would not be the committee's regularly scheduled meeting time.

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

Hon. Senators: Agreed.

(Motion agreed to.)

THE ESTIMATES, 2010-11

SUPPLEMENTARY ESTIMATES (C)—TENTH REPORT OF NATIONAL FINANCE COMMITTEE ADOPTED

The Senate proceeded to consideration of the tenth report of the Standing Senate Committee on National Finance, (*Supplementary estimates (C) 2010-2011*), presented in the Senate on March 10, 2011.

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

He said: Honourable senators, I will be brief in outlining some of the points in this report on Supplementary Estimates (C), the final estimates for this particular year.

Honourable senators will know that Main Estimates come out at this time of year. In fact, I filed earlier today our committee's first interim report on the Main Estimates for the next fiscal year. At this time, we are finishing the fiscal year that comes to an end on March 31, 2011.

There are a number of points in this report, including some that I wanted to bring to honourable senators' attention with respect to Veterans Affairs Canada that will impact on some of the debate that we have heard today. Keep in mind that this is money that the government is seeking that is not provided for in statute; they are funds to be appropriated from the general revenue of the government to complete this particular fiscal year.

Before delving into this brief summary, honourable senators, I want to thank the Deputy Chair, Senator Gerstein, and, with him and through him, all of the members of the Standing Senate Committee on National Finance for their cooperation in handling some of the items that come before us in a quick fashion that gives us less time than we would normally want to take. I want to thank them for agreeing to do a pre-study on those items.

A pre-study is our normal way of handling estimates in anticipation of the supply bill's arrival.

We had anticipated that the supply bill would be here on Monday of this week; however, it will now be here on Friday of this week. With the work done in committee in studying what it contains and in dealing with this report, we now anticipate that we can handle that bill expeditiously when it arrives. If need be, we can shorten the time we would normally take.

Honourable senators, the Supplementary Estimates were filed in both the House of Commons and the Senate at the same time on February 8. As soon as they were referred from the chamber, we immediately started to do our work on those particular matters.

We met with officials from Public Works and Government Services Canada, Atomic Energy of Canada Limited, Veterans Affairs Canada, Canada Border Services Agency, the Office of Infrastructure Canada, and Human Resources and Skills Development Canada. We always start with Treasury Board of Canada Secretariat, and we want to thank them for the fine work that they do not only in presenting the various departmental requests, but also in reacting to our reports and making such changes they feel they can make, so that we can better review and understand the various estimates that are presented to us.

When honourable senators see the supply bill on Friday, they will be requested to vote on an amount of $919.7 million. That is budgetary voted appropriations. We talk about "budgetary" and "non-budgetary." "Non-budgetary" items are funds put out by the government, such as Canada Student Loans and loans to various other entities, that are carried on the books as funds that may potentially be returned to the public purse. They are "non-budgetary."

Voted appropriations and statutory appropriations are the other divisions that honourable senators should keep in mind. Voted appropriations are the ones, as suggested by the adjective, that honourable senators will be voting on. Statutory appropriations are appropriations provided for as a result of statutes that honourable senators, or their predecessors, have voted on in the past. The funding mechanism comes through a particular piece of legislation. Approximately $919 million is what we will be voting on, and we will check on that amount when the bill is forthcoming on Friday.

The various departments I will mention are the departments that are calling for about 90 per cent of the items requested; six different departments use up 90 per cent of the amount in these supplementary estimates. Naturally, they are the departments that we would focus on and go to when we start our work. These include the acquisition of the Nortel Carling Campus by Public Works and Government Services Canada on behalf of National Defence; Atomic Energy of Canada Limited's continued operation requirements; and Veterans Affairs Canada's Disability Awards and Allowances Program. These words are very similar to those spoken earlier today with respect to Bill C-55, honourable senators.

Other departmental items include the write-off of Canada Student Loans debts by Human Resources and Skills Development Canada; the introduction of a pay-direct card for members of the Public Service Health Care Plan; and the administration of the harmonized sales tax in Ontario and British Columbia, as well as the initial costs to the public purse of having those two provinces join the program. Let us briefly look at each of those items.

The first is Public Works and Government Services Canada. They are asking for voted appropriations of $261 million. Included in that amount is the acquisition of the Nortel Carling Campus, which will be the future home to the Department of National Defence. They indicate that about half of their staff will ultimately move to that particular campus. The cost of acquiring that cluster of buildings — the campus — is $208 million.

Honourable senators asked some rather probing questions; namely, what kinds of cost will it take to move, and what renovations are likely to be required? The estimated total cost is $998 million, honourable senators. I will repeat that: It will cost $998 million over several years. It was pointed out to us by the government officials that PWGSC indicated that does not take into account any savings that might take place.

Therefore, the cost of a new building was $800 million. The cost of moving National Defence and renovating the building amounts to $998 million total.

Senator Dallaire: A bargain.

Senator Ringuette: That is $200 million more.

Senator Day: Atomic Energy of Canada Limited was the next entity I wanted to talk about. Honourable senators will know this has been the subject of discussion over the last several supplementary estimates, and it continues. They requested voted appropriations of $175 million. These requested appropriations are not unlike the $300 million in Supplementary Estimates (A) and $294 million in Supplementary Estimates (B).

• (1550)

In response to questions, honourable senators were told there are a number of ongoing projects that require funding, including the life extension project and the difficulties they are encountering, most notably at Point Lepreau in New Brunswick. Their operational costs are $21.4 million. You would think that over time they could figure out their annual operational costs so they would not have to keep coming back to us on supplementary estimates. We keep asking those same questions, honourable senators.

Further, we heard $18 million for the development of new reactor technology; $16 million for isotope production; and $16 million for health, safety and security upgrades at Chalk River.

Honourable senators, because of the continued budget shortfalls at AECL, Natural Resources Canada indicate that they have been actively monitoring AECL's financial difficulties. In fact, we were told by AECL that they are not able to make any decisions or go ahead with any development while they are under this restricted operation mode. Honourable senators will know that particular entity, or at least part of it is up for sale, and that is part of the reason for these delays.

Honourable senators, I am concerned about some of the things we heard today with respect to the proposed legislation regarding Veterans Affairs Canada, in light of what we have learned in the Supplementary Estimates (C).

Veterans Affairs Canada is requesting gross voted appropriations of $192 million, including $156 million to address the current demand and backlog of applicants for the Disability Awards and Allowances Program. We have just heard that the bill will increase the number of veterans who will be entitled to apply for Disability Awards and Allowances, but we already have a backlog and they are requesting $155.6 million to handle the backlog.

Honourable senators should be aware of this statement by Veterans Affairs as we are dealing with this particular piece of legislation, which we are being asked to push through quickly and not look at in detail. According to Treasury Board Secretariat officials, part of the funding for the Disability Awards and Allowances Program would be directed towards administrative costs to hire more people to handle a backlog that they cannot handle now. That is without the new legislation.

Veterans Affairs Canada officials attributed the $155.6 million appropriations request to three principle factors. They indicate why they have a much greater take-up of the veterans who are currently covered under the New Veterans Charter; application by many veterans for a second award, which they were not anticipating; and reassessment of previous awards when the amount of the award is being increased. They indicate that is what is causing the backlog.

The current backlog, on average, is 24 weeks for a veteran. Honourable senators can understand the veteran's frustration when they come before our Subcommittee on Veterans Affairs, when this is the manner in which they are being handled now. Therefore, we must ensure that if we increase the number of veterans who can apply for disability and allowances, that the proper administration is in place and the proper funding is there; otherwise, all we will do is increase the frustration that already exists.

Veterans Affairs requested appropriations of $11.3 million to increase the *ex gratia* payments in respect of Agent Orange. A number of veterans suffered as a result of Agent Orange being tested. To their credit, the government has finally changed the eligibility rules. Previously, it was only those veterans who were living, those who had been sprayed in 1966-67 but who had managed to live until the Conservative government came to power in 2006. The government has changed that now, and I think that was the right thing to do. They have not relaxed this particular set of rules to the extent that many of us would like to have seen, but they no longer have that artificial deadline that previously irritated many veterans, especially those who had been at CFB Gagetown during that time period.

Veterans Affairs has asked for $9.2 million for vocational and medical rehabilitation associated with the New Veterans Charter. They need an additional $9.2 million, as well as $1.6 million for the Legacy of Care initiative, an amount that would finance additional case managers to assist with the delivery of services for seriously injured military personnel and their families.

There was also some discussion with respect to the Veterans Independence Program. There was a desire on the part of many of the senators in our committee to see that the program was changed so that the veteran who had died, and his widow, could access that program, even though that veteran was not on a pension or drawing on the disability program at the time of his death.

Honourable senators, I see that my time is up. Could I ask for five more minutes to conclude my remarks?

Hon. Kelvin Kenneth Ogilvie (The Hon. the Acting Speaker): Is it agreed, honourable senators?

Hon. Senators: Agreed.

Senator Day: Thank you, honourable senators.

That is all I will say about Veterans Affairs, although there is more that I could say. However, there is only enough time to give you the highlights of some of the items. I encourage honourable senators to review the report, which has been developed and unanimously supported by our committee.

Under Canada Border Services Agency, the point I would like to raise is the 500 migrants who came to the West Coast of Canada in August of 2010. Canada Border Services Agency is seeking a huge amount of money in incremental costs associated with the 500 migrants.

Honourable senators, we must keep in mind that there is a cost of $190 per day, per person, to keep these migrants in detention; and unless they can establish their credentials, they are kept in detention. That cost is growing. They are requesting $31.4 million in this particular supplementary estimates.

Honourable senators, Bill C-49, which is the Immigration and Refugee Protection Act, as well as the Balanced Refugee Reform Act and the Marine Transportation Security Act, are all to be amended. The interesting thing is that we are being asked to vote some funds in anticipation that the amendment will follow. Canada Border Services Agency and Treasury Board assure us that they will hold the funds in abeyance until that is passed. Honourable senators, that is a very unusual manner in which to deal with voted appropriations. We have let them know that we were not at all happy — and some senators used the term "critical" — with this particular process of handling matters.

Senator Banks: I guess so.

Senator Day: Honourable senators, the Office of Infrastructure Canada is a department that lives on emergency funding under vote 5 of Treasury Board. They explained to us that is because Infrastructure Canada is not a full-blown department. Infrastructure Canada gets most of its funding through administering specific projects, and they did not know how long it would be in place. It was suggested that perhaps they should have operating funds of their own in a budget, so that we can look at that, rather than go to Treasury Board, get emergency funding, and then come to us after the fact to run Infrastructure Canada. That is another area we will be watching. We have made our suggestions in that regard.

• (1600)

We asked about the extension of the infrastructure program. We talked about the fact that no environmental assessment impacts had been done with respect to projects under the infrastructure program to deliver the funds out there. There is a new set of rules with respect to the extended program, which was to end July 31.

We were interested in talking to Human Resources and Skills Development Canada because they asked for $166 million in these supplementary estimates. The largest appropriation of $149 million is to write off unrecoverable debts from the Canada Student Loans Program. That appropriation is $149 million to write off student loans.

We asked extensive questions in relation to that figure. Approximately 13 per cent of student loan funds are lost for one reason or another, and the department administering this program feels that 13 per cent is reasonable under the circumstances, but we have asked them to keep an eye on that funding, and we will want to keep an eye on it. Total amount of student loans outstanding now is $13.5 billion, and statutorily, the limit is $15 billion. Actuaries feel we will reach that limit in about two years. In two years' time, we will probably be requesting to increase the ceiling with respect to these student loans.

Secretariat officials also noted that Canada's Disability Savings Grant is structured such that the federal government may make matching contributions. This point is in respect to disability. This is a final point that I will make, honourable senators.

This disability allowance was brought in a year ago. Government officials had anticipated it would take three years to use the amount of money forecasted and the take-up has been such that all of those funds were used up in less a year. The government is asking for more money to supplement that particular program. It is a good program and, if it is being administered properly, we are not complaining that there are those with disabilities who are able to live on their own as a result of receiving government assistance.

Honourable senators, there are a few of the highlights of this particular report. I commend it to your reading and look forward to the report being adopted before Friday so that we can proceed with the supply bill.

The Hon. the Acting Speaker: Is there further debate?

Hon. Irving Gerstein: Honourable senators, it is my honour to address the tenth report of the Standing Senate Committee on National Finance on Supplementary Estimates (C), 2010-11, the final instalment of appropriations for the fiscal year that will end next Thursday.

I can assure honourable senators that, as always, the committee worked together in a most effective manner in its examination of these estimates, and I applaud Senator Day, the chair of our committee, for his earnest and non-partisan approach to these deliberations.

Honourable senators, these supplementary estimates describe total appropriations of $1.8 billion. This total includes $886.3 million in statutory appropriations — that is, expenditures already authorized under existing legislation — and $919.7 million in voted appropriations — expenditures that must be authorized by Parliament through an appropriation bill.

Honourable senators, it was the great 18th century poet and hymnodist — apparently that is what we call someone who writes hymns — William Cowper, who wrote:

> Variety's the very spice of life, That gives it all its flavour.

Indeed, it is the truth of these immortal words that makes it such a pleasure to serve on the Standing Senate Committee on National Finance, for each set of estimates that comes before us describes expenditures in a wide, great variety of fields and keeps our work interesting. The supplementary estimates now before us are a case in point, describing expenditures by some 48 different organizations.

However, it is also the variety that makes the work of the National Finance Committee somewhat challenging as we must choose what particular items in the estimates we wish to investigate in depth. Typically, we call witnesses to describe in detail the largest expenditures, although we do not restrict our inquiry solely to those items.

In these Supplementary Estimates (C), the single largest voted appropriation requested was in the amount of the $216.8 million for the Department of Public Works to purchase the former Nortel campus in Ottawa's west end, which will be occupied by the Department of National Defence. This amount includes the purchase price of $208 million, as well as transaction costs and property taxes.

Treasury Board officials assured our committee that this purchase represents the lowest cost per square metre of real estate procured by the federal government in the National Capital Region in recent times. The total cost of the new facility, including acquisition, renovation, security, information technology and the physical move, is expected to be $998 million by the time the move is complete, in five to seven years. However, this cost is expected to be defrayed partly by annual savings associated with consolidating operations in a single facility, as opposed to the dozens of buildings currently occupied by DND throughout the national capital.

I can assure honourable senators, as Senator Day indicated in his comments, that the National Finance Committee has requested further information relating to these potential savings, as well as the cost analysis process and policies used by the Department of Public Works in making such procurement decisions.

The Department of Veterans Affairs is also requesting a significant appropriation in these supplementary estimates, in the amount of $190 million. Honourable senators, Canada's veterans are the champions of our most deeply held convictions, and the saviours of the rights and freedoms we all enjoy. We must honour them, not only in words and ceremonies, but by ensuring

that they can share fully in the quality of life that they have safeguarded for the rest of us through their sacrifices.

To that end, the Conservative government recently announced several measures to improve the lives of our veterans and their families. Some of those measures are reflected in these Supplementary Estimates (C), while others depend on the passage of Bill C-55, which was recently passed by the other place with all-party support, and which is now before this place.

Among the new measures reflected in these estimates is the Legacy of Care initiative that was announced on September 28, 2010, by the Minister of National Defence and the Minister of Veterans Affairs. This initiative includes payments of $100 a day for family members or friends who leave their jobs to help care for ill or injured soldiers; improved access to education upgrades for veterans' spouses; support services such as wheelchair accessible transportation and delivery of medical supplies and groceries; and the hiring of additional case management personnel.

However, the lion's share of the funds requested by the Department of Veterans Affairs in these supplementary estimates is to reduce the backlog of applications for the disability awards and allowances program for injured veterans.

Veterans Affairs Canada officials told our committee that at the start of 2010 the department was having difficulty meeting the 24-week standard for deciding applications for disability awards. Thanks to the efforts of departmental staff, the backlog was virtually eliminated by April 1, 2010.

The minister subsequently announced the new service standard of 16 weeks, effective April 1, 2011. According to witnesses who appeared before us, the department is on track to achieve that new standard: remarkable progress indeed, honourable senators, for which our public servants deserve our appreciation.

The Supplementary Estimates (C) also describe large appropriations for the Department of Human Resources and Skills Development. Most of these appropriations are statutory and included in these estimates for information only. I will comment on these items first.

For instance, net Canada student loans disbursed exceed the amount forecast by $311 million. Officials from human resources suggested that increased demand for student loans was driven by two factors. First, during the recession, some young people may have chosen to continue their schooling rather than enter a troubled workforce; and second, tuition fees have been increasing faster than the general inflation rate, so some students may find that their part-time jobs and their parents' income are less adequate to fund their education.

• (1610)

Demand has also exceeded forecasts for the Canada Disability Savings Bond, which is up to $1,000 per year and which is deposited into the Registered Disability Savings Plans of low- and modest-income Canadians, as well as the Canada Disability Savings Grant, a grant that the government deposits into Registered Disability Saving Plans based on the amount contributed by the beneficiary's family. To be precise, these estimates contain $67 million in additional funding for Canada Disability Savings Grants and $32 million for Canada Disability Savings Bonds. This represents a roughly seven-fold increase in the funding of these programs. The reason for this is that the program proved to be far more popular far more quickly than anticipated, in part because it has been effectively promoted by the financial institutions that offer Registered Disability Savings Plans. This is a good-news story.

These Supplementary Estimates (C) also show an increase of $60 million for the Canada Education Savings Grant. Our committee was informed that the improvements in the Canadian economy have put Canadian families in a better position to contribute to RESPs for their children. Increased contributions by Canadians have in turn triggered greater contributions by the government, again a good-news story.

On the other hand, other statutory expenditures are being reduced in these supplementary estimates. For example, there is a reduction of $356 million in the forecasted amount of Old Age Security payments and a $211-million decline in forecasted Guaranteed Income Supplement payments, both due to changes to the number of beneficiaries and the forecasted average monthly benefits rates. I emphasize, honourable senators, that there has been no change in the eligibility criteria or the way the benefits are calculated for any recipient.

It is also worth noting that Old Age Security benefits are fully indexed on a quarterly basis to any rise in the cost of living. In 2010-11, it is estimated that the federal government will pay over $36 billion in OAS and GIS benefits to eligible seniors.

Aside from these statutory items, HRSD is asking for an additional $88.6 million for the write-off of unrecoverable Canada Student Loans. This amount covers a three-year period and represents just 1 per cent of the Canada Student Loans portfolio.

The final area I will touch on is the new funding being sought by the Canada Border Services Agency. The CBSA requires $22 million to defray costs related to the arrival of nearly 500 migrants aboard the *MV Sun Sea* last August. In response to the arrival of the *Sun Sea*, the CBSA deployed staff to British Columbia and processed each arrival, determining admissibility, obtaining fingerprints and photographs, and performing security and criminal checks. A temporary processing facility was set up on the dock, and arrangements were made with B.C. Corrections for the transportation and detention of the new arrivals.

At a press conference in Geneva on August 17, 2010, four days after the *Sun Sea* arrived in Canada, the United Nations High Commission for Refugees praised the manner in which the Canada Border Services Agency dealt with the arrival of migrants in general and its handling of the *Sun Sea* passengers in particular. It is the price of this effective response that is reflected in Supplementary Estimates (C).

The CBSA is also seeking $1.5 million for the investigation of human-smuggling networks and operations to prevent similar vessels from setting sail for Canada. Officials told the Standing Senate Committee on National Finance that this $1.5 million investment has already paid for itself.

I have highlighted just a few of the salient items described in Supplementary Estimates (C) for the fiscal year ending 2011. They do not represent an increase in spending plans. The amount presented is within the spending levels specified in Budget 2010.

In closing, honourable senators, I want to thank the officials who appeared before the committee for their insight and professionalism. I can assure you that the appropriations requested in Supplementary Estimates (C) 2010-11 are indeed appropriate.

The Hon. the Acting Speaker: Further debate?

Hon. Tommy Banks: Would Senator Gerstein entertain a question?

Senator Gerstein: Yes.

Senator Banks: It is a question arising from ignorance. I would have asked Senator Day, but his time ran out and Senator Gerstein's has not. It is under the rubric of the old saying "It ain't over 'til the fat lady sings."

Senator Day mentioned the fact that, with respect to actually spending some of the money that CBSA is requesting under these estimates, some sort of amendment to legislation or to statutes will be required so it can be spent legally.

Long before I came to this place, I was involved in a situation in which the then government asked a government agency with which I was connected to undertake certain things on the assurance that legislation enabling it would be passed. At the time, there was a large government majority in the Commons and a large government majority in the Senate. The legislation, however, failed and the resulting foofaraw was costly all around.

I am wondering if Senator Gerstein is confident, and if the government is confident, in the event that legislative action fails — however unlikely that might be — that the money is fully recuperable and that it would not be spent until there is, in fact, statute authorization for it.

Senator Gerstein: I thank the honourable senator for the question. It is a very pertinent question, and I might add to what Senator Day said earlier.

I can assure the honourable senator that all members of the committee were concerned about the process we were going through. We were assured — that is the one thing I can say — that not one dollar of the monies allocated for what requires a subsequent vote will be spent until that vote has been approved. It is not a question of getting money back; the money will not be spent. It has been approved, but it will not be spent until that approval is received.

Senator Banks: I must observe, as part of the question, does the honourable senator agree that the idea of authorizing expenditures in estimates prior to legality in spending it, however careful the assurances are, is a new and unique idea?

Senator Gerstein: Again, I agree with the statement of the honourable senator. I express the view of the entire committee: It is not good, but it was necessary and we are certainly very much aware of it on the committee. We are not looking for it to happen.

The Hon. the Acting Speaker: Will Senator Gerstein accept an additional question?

Senator Gerstein: Yes.

Hon. Percy E. Downe: Honourable senators, I just want a clarification that maybe the deputy chair could provide and, if not now, he could send a response to me.

The chair of the committee in his comments mentioned additional funding for Agent Orange payments. My understanding was the government had originally budgeted $96 million for the very limited compensation affecting those who served at Canadian Forces Base Gagetown.

The Hon. the Acting Speaker: Senator Gerstein's time has expired. Is he seeking additional time?

Senator Gerstein: I would like to respond to the senator, if I may.

Senator Comeau: Five minutes.

The Hon. the Acting Speaker: Is that agreeable?

Hon. Senators: Agreed.

Senator Downe: The question is on the original allocation of $96 million, which was for the narrow time frame of 1966 to 1967 for the members who served at Canadian Forces Base Gagetown. Of that $96 million, $33 million was not actually spent because of the lack of applications from those who actually qualified. As honourable senators know, there was an original promise for a period of 1956 to 1984, but the final decision was for just those two years, 1966 and 1967.

Why does the government require additional money if $33 million of the original $96 million was never spent? Obviously, if the honourable senator cannot answer that, he could send me his response and that would be appreciated.

Senator Gerstein: I would be pleased to return that information in writing to Senator Downe.

The Hon. the Acting Speaker: Further debate? Are honourable senators ready for the question?

An Hon. Senator: Question.

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

(Motion agreed to and report adopted.)

• (1620)

[*Translation*]

CANADIAN FORCES MEMBERS AND VETERANS RE-ESTABLISHMENT AND COMPENSATION ACT PENSION ACT

BILL TO AMEND—
DECLARATION OF PRIVATE INTEREST

Hon. Roméo Antonius Dallaire: Honourable senators, pursuant to section 12 of the Conflict of Interest Code concerning declarations of private interest before the Senate or at committee, I must recuse myself from all debates, votes and other activities relating to Bill C-55 in the interest of transparency, since that bill could affect me personally as a veteran of the Canadian Armed Forces.

[*English*]

The Hon. the Acting Speaker: Honourable Senator Dallaire, your observation has been noted, and that will stand during the time this bill is under consideration.

PATENT ACT

BILL TO AMEND—SECOND READING—
DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Carstairs, P.C., seconded by the Honourable Senator Fairbairn, P.C., for the second reading of Bill C-393, An Act to amend the Patent Act (drugs for international humanitarian purposes) and to make a consequential amendment to another Act.

Hon. Nancy Ruth: Honourable senators, I know this item is adjourned in Senator Greene's name, but I have spoken with him, and he would be agreeable to my speaking now. I wish to be clear, though, that the 45 minutes for the critic should be his, and after my speech, we can re-adjourn the item in Senator Greene's name.

Honourable senators, I rise to speak on Bill C-393, An Act to amend the Patent Act (drugs for international humanitarian purposes) and to make a consequential amendment to another Act. Bill C-393 will make it easier to get affordable medicines to developing countries, and as the previous senators have said, I urge my Senate colleagues to pass Bill C-393 as soon as possible.

As many senators are aware, Bill C-393 is similar to the bill the Senate previously studied, Bill S-232. At that time, the Standing Senate Committee on Banking, Trade and Commerce heard from experts about how the current Access to Medicines Regime is so complex that it has become unworkable. In fact, only one order of one medicine was ever shipped by one Canadian generic drug company, to one country, and that was Rwanda.

Honourable senators, Bill C-393 will streamline CAMR by permitting generic drug companies to obtain a single licence, which will allow them to supply a given drug to any of the qualifying developing countries that are already covered by the current law and in the quantities required by these countries as their needs evolve.

The infrastructure is in place for disbursement of these drugs within Africa. The American President's budget has now flatlined, so help is needed. The African market constitutes only 2 per cent of the sales of pharmaceutical companies like Pfizer, GlaxoSmithKline, Merck, et cetera. The generic drug companies that make the generic drugs have to pay royalties to the patent holder, and the World Trade Organization permits this.

You can see how generic drug companies will facilitate economies of scale and reduce costs, making it both more viable as a business proposition and achieving the desired goal of more affordable medicines for patients in developing countries.

Honourable senators, under this new legislation, Canadian generic drugs sold to African and other developing countries can more easily be competitive with those produced by generic manufacturers elsewhere. That will mean that the international aid we give to NGOs and to such crucial initiatives as the Global Fund to Fight AIDS, Tuberculosis and Malaria will stretch much further. This is aid effectiveness and value for money in very real and concrete terms. All of this is achieved at no extra cost to the Canadian taxpayer.

This bill seeks to make functional a mechanism already unanimously endorsed by this chamber and the House of Commons when we first created Canada's Access to Medicines Regime. This is a mechanism to enable private industry to respond to an important global health need, to the credit of a country that cares about international development, as we do.

Honourable senators will remember, as well, that this regime, created pursuant to an agreement at the World Trade Organization, already requires that generic manufacturers pay royalties to the brand name drug companies on any such exports and contains safeguards to minimize the risk of exported medicines being diverted away from the intended recipients. Bill C-393 does not in any way change those requirements, and international legal experts have confirmed, including in testimony before our Banking Committee, that this bill is consistent with Canada's obligations regarding intellectual property as a member of the World Trade Organization.

In the House of Commons, a majority, 172 to 111, including 26 members of my party, the Conservative Party passed this bill. Members in the House of Commons wanted to be at the forefront of the global struggle to prevent deaths from diseases that are treatable with the right medicines.

Finally, I want you to know why this bill is so dear to my heart. Honourable senators know that I am always looking for ways to empower women and to ease the burdens carried by most of our sisters in the developing world. Honourable senators are aware that treatable diseases are undermining the health, education and well-being of girls and women in every developing country, most especially mothers and their babies. I ache for these grannies, watching their children die and then labouring to feed their grandchildren, without the drugs that would protect them.

I applaud Prime Minister Harper's initiative at the G8 summit on maternal health and child health, and the government's contribution to a new foundation focusing on the first 72 hours after birth. I welcome this bill because it complements this critically important maternal health strategy to improve the lives and health of women.

We must seize opportunities such as this legislation and not find excuses to avoid it. I urge honourable senators to join me in supporting this humanitarian legislation. It makes good business sense. It makes good public health sense. It makes good sense.

Hon. Roméo Antonius Dallaire: Honourable senators, I wish to speak to Bill C-393, an Act to amend the Patent Act (drugs for international humanitarian purposes) and to make a consequential amendment to another act.

I wish to introduce my comments by describing a personal experience on the African continent, 17 years ago. During the period of one year, I was a witness to the inhumanity of humans to each other and a witness to the transformation of a country with respect to its children and their parents. In that country, the concept of orphans simply did not exist. There was always an uncle or an aunt who would take the children should the parents, for one reason or another, pass away. However, with the impact of HIV/AIDS, I saw a generation being totally wiped out. There were no grandparents left to take care of the children — which is too often the case — and these children became orphans in a country where orphanages are not even a concept, let alone a capability.

• (1630)

HIV/AIDS destroyed massive numbers of people in that country, even before human hands started to destroy it. The proliferation of that disease in that conflict through the bloodletting expanded the exposure and the number of infected people.

When we deploy in those countries where there are significant amounts of HIV/AIDS and where there is bloodletting, as there so often seems to be in the extreme scenarios that we find with these civil wars, the risk to our own troops is very high. They must operate within the context of the exceptional circumstances of so much human destruction and blood, and soldiers do not run around with rubber gloves. They are very hands-on in their operations and can cut themselves. As a result, they are often at risk in accomplishing their mission because of the risk of contracting HIV/AIDS. In fact, that is one of the injuries on the list of risk factors for our soldiers coming back from those conflicts now, particularly in those developing countries where civil war is running rampant.

[*Translation*]

In 2004, Parliament passed the bill known as the Jean Chrétien Pledge to Africa Act. That name may not please everyone, but that was the name given to this initiative, which created the CAMR, Canada's Access to Medicines Regime.

The stated purpose of this federal law is to help get medicines to patients in developing countries for public health purposes, including care for HIV/AIDS, tuberculosis, malaria and other epidemic diseases that become pandemics.

Canada's Access to Medicines Regime was passed by Parliament with unanimous support from all political parties in May 2004 and came into force in May 2005. The regulations that also form part of CAMR came into force in June 2005.

Why does CAMR need to be amended? At the moment, developing countries that want to obtain less expensive, generic versions of patented brand-name drugs from Canada must wait until a Canadian generic manufacturer, under CAMR, can get a compulsory licence for a specific quantity of medicines for a limited period.

The compulsory licence is a legal document authorizing a generic manufacturer to produce, sell or export a generic — not a brand name — version of a medicine, which is less expensive than a patented medicine, without the consent of the company that holds the patent on the original product.

Since it was established almost six years ago, CAMR has only been used once. Therefore, it has not been a great success. NGOs have been working on this for years. NGOs are the eyes and ears of humanity. Because of their presence before, during and after conflicts, they are the voice of humanity.

In my opinion, if non-governmental organizations work together, they can significantly influence public opinion and a country's policies. We will see the result once this bill is adopted. At present, there has been only a single delivery of a single AIDS drug to just one developing country. Access to medicines is thus severely limited.

In its current form, CAMR is unlikely to be used again due to the procedural requirements it places on developing countries and generic pharmaceutical manufacturers. The process is cumbersome and does not fit well with how countries purchase medicines or the business considerations facing manufacturers.

This means that patients must go without affordable and available medicines. That is why reforms to streamline CAMR are being proposed, including a "one-licence solution" described more in section 12.

If CAMR is reformed, Canada's largest generic pharmaceutical manufacturer, Apotex Inc., has committed publicly that it will make a desperately needed three-in-one AIDS drug, known as a "fixed-dose combination," for children in developing countries. Currently, only a very small percentage of children with HIV have access to pediatric formulations of medicines. This makes the need for reforms even more urgent.

[*English*]

Of all the arguments against reforming Canada's access to medicines regime, the most threadbare is the pharmaceutical industry's claim that the current regime is working just fine. On what planet is it working? Clearly, it is not.

Since Parliament approved the regime in 2004, I must repeat that only one drug has been shipped to only one country on one occasion — Rwanda. That was after the catastrophic humanitarian disasters that we know of in that country and the exponential post-genocide pandemic.

It is possible that no legislation will be able to create the ideal conditions for a fair, competitive global market that gets Canadian drugs into the hands of poor Africans. However, at the very least, Parliament has a responsibility to make its legislation the best it can possibly be.

The idea behind the current regime was to allow generic companies to sell life-saving medicines, especially HIV/AIDS drugs, to Africa. It just did not work as intended. All parties say they support the principle that the developing world should have access to affordable medicine, but they disagree about how Canada's law should reflect that principle.

Under the current regime, a generic company must apply for a licence every time it gets a specific order from a specific country. The new bill would assure that once a company gets a licence to export a particular drug, it can export it to any eligible poor developing country. This would, at least in theory, allow generic manufacturers to take advantage of economies of scale and compete with suppliers from other countries.

Sick people in poor countries could only benefit from increased competition, lower supply costs and lower prices. I guess that is even good business.

[*Translation*]

In developing countries, 50 per cent of infants with HIV will not reach the age of two.

[*English*]

Are all humans human, or are some more human than others? Are our children more human than theirs? Are there two standards, or even more, in the levels of humanity out there, or are we all equal? Are we not all human?

[*Translation*]

Because they do not have access to the medications they need to prolong their lives, these children will die before reaching the age of two.

In its review of CAMR, the government said that it was not ruling out future amendments should circumstances change. Circumstances have indeed changed — for the worse. How many more people will have to face the pain of seeing their children or grandchildren die before our government decides it is the right time to amend Canada's Access to Medicines Regime?

• (1640)

As Canadians, we cannot sit quietly as we observe the situation and wait for enough data to be collected before we take action. Access to medicines is not a luxury; it is a human right. We have the technological expertise and we have a responsibility towards humanity to make it available — not necessarily for free, but certainly in a humanitarian spirit.

Fixing CAMR is something that Canada can do to make this right a reality for sick people in developing countries, including children and adults living with HIV. We must pass this bill as quickly as possible.

[*English*]

Hon. James S. Cowan (Leader of the Opposition): Honourable senators, I wish to say a few words in support of this bill. I appeal to my honourable friends opposite, in particular to my friend and fellow Nova Scotian, Senator Greene, to join with us. I speak of "us" not only on this side but for many on the other side as well. Let us allow this bill to proceed to committee without further delay.

This bill is essentially the same bill introduced by our former colleague, Senator Goldstein, which proceeded to committee. At the last session, it received six days of hearings before our Standing Senate Committee on Banking, Trade and Commerce. Many witnesses were heard and the bill was thoroughly canvassed at that time. We understand as well that a similar bill was introduced in the house. Senator Carstairs, who took up the cudgels from Senator Goldstein when he retired, decided to let her bill stand aside in favour of the bill that we now have before us.

The bill that Senator Goldstein introduced had been considered in our committee and died last year in prorogation.

This bill has received strong support from a majority of members of the other place, including a number of members of the government caucus. With respect to bills that pass the House of Commons and come here, it is not for us to decide what combination of members of the House of Commons made up the majority that passed the bill. We have an obligation as senators to receive bills from the House of Commons, to give them due consideration and to put them through the processes that we have in this place. We have no obligation to pass bills without looking, to fast-track them, to hold our noses and refuse amendments or to pass them if we feel it is inappropriate. However, we do have an obligation to consider bills in a timely fashion. If we decide that an amendment needs to be made to improve the bill, then we have the constitutional right to make those amendments and to provide that advice by way of amendment to our colleagues in the other place.

I urge honourable senators to recognize our obligation to give due and timely consideration to important bills that have received the approval of a majority of members in the other place.

Yesterday, we heard eloquent pleas from Senator Carstairs and Senator Murray that outlined the importance of this legislation to people around the world and our obligation to do what we can to help. No one is pretending that the passage of this bill will solve this or any problem overnight. However, honourable senators, the bill will go a long way to fulfilling our obligation as legislators and Canadians to do what we can to help. Today, we heard Senator Nancy Ruth and Senator Dallaire add their support and urge us to proceed as quickly as we can with this bill.

The honourable Senator Carstairs dealt effectively and persuasively with objections that had been raised in committee to various points. Some points were legitimate questions that

required careful answers; others seemed to be more by way of myth. In any event, Senator Carstairs dealt effectively with all those objections that were raised in the other place and with reference to Senator Goldstein's bill in committee.

All honourable senators have received hundreds of emails and letters in support of this legislation, urging us to pass this bill. I cannot remember having received a single message of any type registering opposition, suggesting that we should amend the bill; suggesting that we should slow it down; or suggesting that we should defeat it. There may have been some. However, if there were, I missed them. I read carefully the emails and messages that have come to me. In my recollection, every single one urged us to take quick action in support of this bill.

We understand this bill stands in Senator Greene's name. I urge him to speak tomorrow on this bill. He is the critic for the government. I look forward to hearing his views. However, with all the talk in the air that the life of this Parliament may be short-lived, we have an obligation to ensure that this bill does not die on the Order Paper. We must take advantage of the time that remains to us this week.

Senator Greene might speak tomorrow and we would have an opportunity then to send the bill to committee. If the committee feels it needs to have further study after already having had six days of study of the previous iteration of this bill, they will have time to have those hearings, hear those witnesses and allow the bill to come back. Here, we can vote on it, pass it and it can receive Royal Assent before the end of the week.

(On motion of Senator Greene, debate adjourned.)

[*Translation*]

NATIONAL HOLOCAUST MONUMENT BILL

SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Martin, seconded by the Honourable Senator Boisvenu, for the second reading of Bill C-442, An Act to establish a National Holocaust Monument.

Hon. Joan Fraser: Honourable senators, first of all, I would like to say that I strongly support this bill. This bill, or one of its predecessors, should have been passed years ago. But here we are. Even though it is overdue, it is better late than never.

I support this bill for three main reasons.

[*English*]

The first reason is that the Holocaust is unique. The Holocaust is far from being the only example of man's mass inhumanity. We need think only of Ukraine, Cambodia or Rwanda. There are too many examples of our capacity for inhumanity. The new Canadian Museum for Human Rights in Winnipeg will help to teach all Canadians what we need to know.

The uniqueness of the Holocaust, therefore, lies not so much in its savagery as in the degree to which, over long years, the apparatus of one of the world's most civilized countries was devoted to the extermination of an entire people, the Jews, as well as a stunning range of other people such as gypsies, the handicapped and homosexuals. The murder was committed on such a vast and systematic scale that it almost defies belief. The Nazis ran scientific experiments to devise and use what Winston Churchill called perverted science to perfect an industrial system of mass murder. Those who wish to learn can do well by consulting, for example, the magisterial books by Richard J. Evans on the history of the Third Reich. In reading those or other books, you will learn where the unique horror of the Holocaust lies.

• (1650)

John Donne said, "Every man's death diminishes me . . ."

These millions of deaths diminished the world, including Canada.

We know that after the war, and in the ensuing decades, many thousands of the survivors came to Canada. Many of them came to my own city. Canada took in more of the refugees after the war, I believe, than any other country, except the United States and Israel.

We owe it to all those who came here with renewed hope, as well as to the millions who died, to acknowledge, in Canada's capital, in a public and permanent way, the unimaginable atrocities that we have come to call the Holocaust.

The second reason, honourable senators, I support this bill is because in any murder there are two parties. There is the victim, but there is also the murderer, and, in this case, the many murderers. We need this monument not only to honour the victims but also to remember the fact that horrors of this kind can be perpetrated even in the most civilized societies. No country is immune. The dark corners of the human soul exist everywhere. That is why we must be vigilant to ensure that they do not come out of the shadows and triumph again.

The third reason for my support of this bill is that Canada has its own inglorious chapter in the Holocaust. Not the worst, but it is our own and it is a stain on our history.

Many of you will have read the devastating book by Irving Abella and Harold Troper about the way that Canada behaved when Jewish refugees from Germany and the other countries the Nazis took over were trying desperately to come here. The book begins:

> To the condemned Jews of Auschwitz, Canada had a special meaning. It was the name given to the camp barracks where the food, clothes, gold, diamonds, jewellery and other goods taken from prisoners were stored. It represented life, luxury and salvation; it was a Garden of Eden in Hell; it was also unreachable.

The fact is that all through the Hitler years, Canada systematically refused entry to Jewish refugees. Everybody knows the story of the ship *St. Louis*, with its 900-odd Jewish

refugees who were turned away from this country in 1939 to go back to face the horrors that awaited them in Europe. There were many others who tried to get here. The powers that be in this country did everything imaginable to resist taking them in, even turning away as small a group as 20 teenagers.

This policy was not an oversight. It was decided at the highest levels of the bureaucracy and confirmed in repeated cabinet meetings. These decisions were taken here in Ottawa, many of them here on Parliament Hill.

No Western country was particularly welcoming to the Jews in those years, but we were among the worst. From 1933 to 1945, we took in fewer than 5,000 Jewish refugees.

Our leaders knew what they were doing. In 1938, the senior bureaucrat in charge of immigration acknowledged in writing that the Jews of Europe faced "virtual extinction," but he did not think that was any reason to change our policy. Oh, no.

After the war, Georges Vanier, the distinguished diplomat who later became our Governor General, visited the camps. He said, in a broadcast on the CBC, "How deaf we were then to cruelty and the cries of pain which came to our ears . . ."

Honourable senators, it was actually in 1945, close to the end of the war, when we knew what had been happening to the Jews of Europe, that someone asked a senior bureaucrat how many Jews should be admitted to Canada after the war —how many of these desperate survivors should be admitted. The bureaucrat said, "None is too many."

That was where Irving Abella got the devastating title for his book. We opened our doors, grudgingly at first, only in 1947 or 1948.

Since then, many thousands have come to this country to build new lives and new hope. We now pride ourselves on being an open society. We have welcomed Hungarian refugees and the boat people and so many others. Our Charter of Rights and Freedoms has become part of our bedrock, part of our identity. Still, memory matters. History matters.

In her speech on this bill, Senator Martin reminded us that the word "monument" comes from the Latin *monere*, to remind or warn. That is why we need a Holocaust memorial here, in the capital of this country, to remind us of what happened and to warn us against ever letting it happen again.

Honourable senators, I urge you to support this bill and to give it rapid passage.

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

Hon. Senators: Question.

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

(Motion agreed to and bill read second time.)

REFERRED TO COMMITTEE

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

(On motion of Senator Martin, bill referred to the Standing Senate Committee on Social Affairs, Science and Technology.)

SUPREME COURT ACT

BILL TO AMEND—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Tardif, seconded by the Honourable Senator Rivest, for the second reading of Bill C-232, An Act to amend the Supreme Court Act (understanding the official languages).

Hon. Michael A. Meighen: Honourable senators, I rise to add my name to the long list of those who, while unreservedly supporting the intent of Bill C-232, nonetheless have profound reservations with its consequences, even if unintended.

[*Translation*]

Before I go on, I want to thank Senator Carignan in particular for giving us a wise and thorough critique of the bill from a legal and technical perspective. I also want to pay tribute to all my colleagues — around 20 so far, if I am not mistaken — who have contributed to this debate in the purest tradition of this chamber.

My intention, this afternoon, is to focus on the practical aspects of the proposed measures and on possible unfortunate and unintentional consequences such as decreasing the legal resources available to the Supreme Court of Canada.

Honourable senators, I look at Bill C-232 from the point of view of someone who has practised law in both of Canada's official languages, who received his degree in civil law from Laval University in Quebec City, became a member of the Barreau du Québec and the Law Society of Upper Canada, and practised both common law and civil law before the courts of Quebec and Ontario.

• (1700)

Moreover, I have always been a strong defender of the bilingual ideal, one of the cornerstones of the Canadian identity. I am also convinced of the need to promote the bilingual character of our federal government institutions, including the Supreme Court.

[*English*]

Nevertheless, as we examine the bill before us and consider the measures that should be deployed to secure institutional bilingualism, it seems to me it would be deeply problematic if we were to be insensitive to a very practical reality: The drastically varying levels of bilingual capacity that continue to exist in Canada's legal and judicial community, not to mention across the country as a whole.

Honourable senators, in terms of Bill C-232, this speaks not only to the tightening of the entry point requirements for those who have the potential to serve on the Supreme Court, thereby skewing the depth of the talent pool of potential candidates for this institution along regional lines, but also to the introduction of a new impairment in terms of the day-to-day functioning of the Supreme Court because of this amendment's all-or-nothing approach to interpretation.

The Canadian Bar Association, which initially adopted a neutral position on Bill C-232, has now come out in opposition to the bill. Even in its initial neutral position, which was expressed prior to the passage of a resolution in August of last year calling on Parliament to abandon Bill C-232 in favour of a different option, it stated:

> Appointments to the Supreme Court of Canada are more complex than supporting or opposing Bill C-232. The CBA advocates appointments to the Supreme Court of Canada based solely on merit, and ultimately representative of the diversity of society as a whole. The CBA adds that bilingualism is one significant aspect of merit in selecting candidates for appointment to the Supreme Court. Other qualities include high moral character, human qualities such as sympathy, generosity, charity and patience, experience in the law, intellectual and judgmental ability, good health and good work habits.
>
> The CBA recommends that an adequate number of bilingual judges be in place at all levels of court to ensure access to justice to all the people of Canada. The CBA also urges governments to reflect better the recognition of Indigenous legal systems in judicial appointments.

As to the subsequent resolution passed at the annual general meeting of the CBA last August, it confirmed the Canadian Bar Association's support for the institutional bilingualism at the Supreme Court of Canada. At the same time, however, it rejected Bill C-232 on the basis that it would effectively bar otherwise qualified unilingual judges at the time of their appointment, and I stress at the time of their appointment.

In rejecting the notion that perfect bilingualism should be used as an essential entry point criterion, the resolution nonetheless articulated the view that a Supreme Court composed of judges who understand both official languages is "an ultimate ideal." It stated:

> . . . that bilingualism is an important element of merit for judicial appointment, and that governments must appoint an adequate number of bilingual judges in all courts to ensure equal access to justice for litigants in the official language of their choice.

Further, the CBA resolution stressed:

> . . . the importance of the principle of institutional bilingualism pursuant to which the Supreme Court of Canada must provide for the right of each litigant to be heard by judges who can understand the litigant in the official language of the litigant's choice, without the aid of an interpreter and in accordance with subsection 19(1) of the *Charter;*

The CBA resolution then proposed amending section 16(1) of the Official Languages Act so that Supreme Court justices who are not perfectly bilingual or who have need of an interpreter in either language would not be able to hear cases in the language with which they are not perfectly proficient.

Honourable senators, it seems to me that the compromise that the CBA has proposed for tweaking the Supreme Court's current institutional bilingual character needs some thorough examination and study, especially since it would effectively mean that some cases before the Supreme Court would be heard by fewer judges than is presently the case. This is indeed a suggestion that the committee to which this bill is referred should study very carefully.

Honourable senators, it also has to be said that the CBA's thoughtful acknowledgement of both the complexity and necessity of choosing Supreme Court justices from all parts of the country — while at the same time ensuring the Supreme Court's institutional bilingual character — forcefully poses questions about the rigidity and practicality of Bill C-232.

Clearly, the regime contemplated by Bill C-232 whereby potential Supreme Court judges would have to demonstrate that they could understand court proceedings without recourse to interpreters would entail language testing of some sort for these nominees. As The Advocates' Society, an organization that has promoted independent and professional legal advocacy within Canada's legal and judicial community since 1965, has pointed out that Bill C-232:

> . . . fails to provide any basis on which a candidate may be considered to be "bilingual without the use of an interpreter". How that linguistic ability will be determined, and by whom, is not clear. Testing of some kind would be required. Such testing could seriously undermine both the selection process and the independence of the judiciary.

Senator Segal summed up this point very well when he discussed the problems associated with the testing of potential Supreme Court nominees for linguistic competence. He did so in his very excellent speech on May 13, 2010.

Honourable senators, we must be clear about what we are considering. Bill C-232 calls for the understanding of both official languages without the need and aid of an interpreter. Obviously, it goes farther than what Mr. Ignatieff said when he defended his party's support for this bill by saying that Canadians who aspire to serve on the Supreme Court might want to learn "a little French."

[*Translation*]

But learning a little French means, and this is not obvious from the Liberal leader's comments, that if this bill were passed, Supreme Court justices would understand — each at a different level — the deliberations being held in their second language, compared to the current situation in which they

understand perfectly, thanks to the interpretation provided by recognized experts, who know legal terminology — which is often very mysterious — in both official languages, both in common law and in civil law.

Look at what Lysiane Gagnon, a respected columnist at *The Globe and Mail* wrote:

[*English*]

> The Supreme Court has fine legal translators, and its decisions can be read in both languages. As for the so-called right of citizens to be directly understood in their native language by all the members of a Supreme Court panel, this is bogus. There is not a high-level tribunal in the world that goes by such a rule, neither at the UN nor at The Hague or the European Union. That's what interpreters are for. Lower courts should accommodate, when possible, the desire of the accused to be tried in his native language, but the Supreme Court is an appellate court that studies written material and where most representations are made by lawyers. In any case, the matters that land in front of the Supreme Court are so complex that the level of bilingualism required would have to be extraordinarily high — to a degree that a large majority of functionally bilingual people can never reach.

Honourable senators, I consider myself to be functionally bilingual. Nonetheless, if I were a Supreme Court judge, I would certainly want the option of simultaneous interpretation. Access to experts and simultaneous interpretation, where the interpreters are well-versed in the legal terminology of both languages, very much serve as safety nets in assisting judges during their deliberations.

To quote again from The Advocates' Society's letter on Bill C-232:

> A blanket requirement of bilingualism as proposed by the Amendment ignores the complexity of the legal terminology used in both common law and civil law; although one may be considered to be fluently bilingual in the Official Languages, unless one has practiced law in the language and in the system of law in question, the terms of art used will be foreign to that jurist. It is for this reason that today, although the majority of the Supreme Court of Canada is considered to be bilingual, the judges nevertheless from time to time use the resources of a translator when hearing oral submissions. The use of a translator familiar with the legal terms of art ensures that the nuances associated with such terms are picked up in translation. The only way to address this issue would be to insist that all candidates for appointment be fully conversant in the legal diction in both Official Languages, which would further reduce the pool of eligible candidates.

• (1710)

Considering the stature, abilities and contributions of some of the judges, both past and present, who would have been eliminated from consideration for the Supreme Court if the all-or-nothing rigidity of Bill C-232's approach to justices operating in their second language were in place, I personally am not comfortable with the inevitable narrowing or flattening of legal expertise available to Canada's top court that would result. I am also not comfortable with the effect that Bill C-232 could have on the pluralism of the Supreme Court.

Many of these and associated questions were addressed eloquently by former justice minister and Governor General, the late Ramon Hnatyshyn, back in 1998, when he spoke to official languages legislation brought in by the then Progressive Conservative government of Prime Minister Mulroney.

First, the 1988 amendments to the Official Languages Act made a distinction between legislating "institutional" bilingualism — which the 1988 amendments supported — and requiring "individual" bilingualism. Minister Hnatyshyn elaborated on the requirement of federal institutions and, indeed, his government's underlying philosophy toward ensuring and promoting institutional bilingualism, when he stated in testimony before a committee of the House of Commons:

> These institutional duties ensure that the Act's focus continues to remain on institutional bilingualism in fulfilling the requirements which flow from, or correspond to, the constitutional rights. The duties are not borne directly by individual officers and by employees, but rather by the institution itself.

As it applies to federal courts and tribunals, Minister Hnatyshyn specified that this did not require all judges to be bilingual, only that federal courts and tribunals, other, of course, than the Supreme Court, "arrange the assignment of their cases to ensure that Canadians are being heard by a judge that will understand without interpretation."

Second, alluding to the need not to limit or exclude candidates to the Supreme Court based on what province or region they come from — and he singled out the province of Quebec when he made his argument — the former justice minister and Governor General stated:

> To impose the requirement that judges of the Supreme Court of Canada be bilingual may in fact infringe on their individual constitutional rights to be a member of the court, even though they speak one of the official languages.

He went on to cite the *Blaikie* case, referencing the fact that "individual judges enjoy the right to choose their preferred language under section 133 of the Constitution Act."

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

Senator Meighen: May I have five minutes?

The Hon. the Speaker: Is it agreed?

Hon. Senators: Agreed.

Senator Meighen: Minister Hnatyshyn further stated:

> . . . while I do not think we can fetter the right of individual judges, but we can impose an administrative duty upon a court to provide for the hearing of litigants in their own language.

Finally, as alluded to by Senator McCoy in her speech, the former justice minister asserted that the Supreme Court is "the court that deals with questions of law, almost entirely with respect to interpretation of law; it is not a question where the accused comes forward at a trial level . . ."

[*Translation*]

Honourable senators, from the late Minister Hnatyshyn's testimony — and I would invite all senators to reread it — I gained a more nuanced understanding of the need to balance judges' individual rights with the institutional responsibilities of the courts and tribunals in a country where two mother tongues are spoken and understood to extremely varying degrees across the country.

In addition, I would go so far as to say that the government at the time paid particular attention to the fact that the Supreme Court of Canada is a qualitatively unique institution in our country. This does not mean that Supreme Court judges or those who want to be Supreme Court judges should not develop the ability to work in a bilingual or bijural environment. On the contrary, they should and they do but, as the Canadian Bar Association and others have said, we cannot let these qualifications take precedence over other qualifications sought for judges of the Supreme Court — former, current and future judges.

Honourable senators, we must not lose sight of the fact that Canada is making enormous progress in promoting bilingualism in federal institutions, despite the fact that the public's level of bilingualism has not risen as rapidly as we would have liked.

For example, today, those aspiring to the top positions in federal politics must be bilingual. This was clearly not always the case in the past and this is not a result of legislative measures but of gradual changes to our political conventions.

We must also keep in mind that the underlying public policy principle of Bill C-232 is not simply that we need bilingual Supreme Court judges — an objective that I, like many other opponents of Bill C-232, believe is highly desirable and that we are close to achieving — but also that we have to legislate this requirement and ensure that it is enforced.

Clearly, obeying such a rigorous legislative requirement to the letter would eliminate all flexibility. And I would like to remind the honourable senators that flexibility is a typically Canadian trait that has served our country well in the past in the establishment and development of our public and private institutions.

[*English*]

Honourable senators, we have to keep in mind some very real facts about Canada's linguistic makeup and geographic complexity as we consider the matter before us. As the *National Post* editorialized on April 20, 2010:

> According to the last census, 42% of francophones claim fluency in both official languages, while just under 10% of anglophones do. But only tiny fractions of both bilingual populations would ever be fluent enough to make it to the court.

In view of the reality represented by such statistics, I feel it has to be put on the record that the conventions and legislative requirements that currently govern the Supreme Court's functioning and appointment process are remarkably successful and effective. In fact, considering the high level of bilingualism, both of the institutional and individual variety, which currently exists within the Supreme Court, not to mention its reputation for excellence and independence, these conventions and legislative requirements are in the finest and most pragmatic of Canadian traditions. Set against the backdrop of these tried and tested approaches, Bill C-232 appears to be a solution in search of a problem; or, viewed another way, if Bill C-232 were to become the law of the land, I have no doubt that it would create new and more serious problems.

Honourable senators, reading the speeches that have been delivered here in the Senate and in the other place, I firmly believe that the proponents of Bill C-232 have not made the case that a grave injustice is being promoted by leaving things the way they are. In fact, by potentially eroding the safety net provided by interpreters and interpretation, and by imposing a rigid one-size-fits-all requirement, this bill would introduce complications for the effectiveness, independence, and representativeness of such a unique and revered institution.

Honourable senators, this has not been an easy decision for me. My instincts are totally aligned with the goals of Bill C-232. I personally feel that all members of the Supreme Court should be, ideally, fully competent both bilingually and bi-juridically. That is the objective. That is the goal. However, I am also leery of the unforgiving scenario that Bill C-232 would create in pursuit of this goal. Our laws should never serve as talismans of inflexibility.

The Hon. the Speaker: Continuing debate?

Senator Jaffer: May I ask a question?

The Hon. the Speaker: I am afraid the honourable senator's time has expired, including the extra five minutes.

Hon. Bob Runciman: Honourable senators, at the outset, I must tell you that I share the sentiments expressed earlier in this debate by my colleague Senator MacDonald. I take no pleasure in participating in the debate over Bill C-232.

Language is a sensitive matter in Canada, and it is a dangerous game to use it as a wedge to pit region against region. It is unfortunate that the opposition coalition is apparently so willing to use language to divide Canadians in this way.

It is a sad day when that once great party, the Liberal Party, would support such an obviously flawed piece of legislation and tamper with one of the great institutions of Canada, the Supreme Court.

• (1720)

The independence of the judiciary is a cornerstone of all mature democracies. An equally fundamental convention is that the judiciary should not be put into disrepute, particularly by the

legislative branch of government. It is essential that citizens have confidence in their judiciary, but Bill C-232 comes close to calling into disrepute the highest court in the land. This bill, by implication, says that justice is not delivered if our Supreme Court justices cannot understand arguments without the assistance of an interpreter.

Do not take my word for it. Instead, remember the words of the bill's sponsor in this chamber, Senator Tardif, who, on April 20, 2010, said of Bill C-232:

> Its purpose is to correct an injustice faced by parties whose cases are heard by the highest court in the land.

"An injustice" were her words, not mine.

The bill's sponsor in the other place, Yvon Godin, said in his speech at second reading:

> Each party must be able to be heard in conditions that do not put him or her at a disadvantage compared to the opposing party. That is the purpose of my bill.

"At a disadvantage," are his words, not mine.

Senator Tardif and Mr. Godin are calling into question all the decisions made by that great institution where one or more justices relied on interpretation. The court's past decisions are, at best, suspect, and, at worst, unjust, if we adopt such an argument. The Supreme Court is not fair, they say. One party is at a disadvantage.

Parliament's passage of Bill C-232 would be an acceptance of this argument and a confirmation that unilingual judges are not competent, which of course calls into question not only decisions of the Supreme Court of Canada, but of lower courts as well.

If Parliament passes this bill, what happens to the current members of the Supreme Court? Will they have to take a fluency test to assess their competency in both official languages? After all, the reason for supporting this bill is that Parliament accepts the proposition that only fluently bilingual judges can render competent judgments.

Should it not follow that the court cease all hearings until a language competency test is administered? What happens to an existing judge who fails or refuses to take the test? What is the status, not to mention the perception, of all past rulings of the Supreme Court?

If we accept that professional interpretation is not adequate, do we not discredit all rulings where such interpretation was used?

None of this argument is far-fetched. This bill does, in fact, question the competence of unilingual judges to render fair judgment. It does assert that professional interpretation is unacceptable. If senators opposite argue that the bill does not go this far, then why are we even considering it?

Supporters of this bill tell us that interpretation has the potential to miss the subtleties and nuance of an argument. Senator Tardif referred to the "limits and gaps" and "greater margin of error" created by interpretation, with the result that, in her words, "a counsel's case could be significantly damaged."

In other words, Senator Tardif has little faith in interpretation. I suggest, honourable senators, that there is a far greater chance that the subtleties and nuance of an argument will be missed by judges who will not have language skills to match those of some of the best trained and most competent interpreters in the world.

The possibility of error, and damage to a counsel's case, is likely to increase if this bill is passed, to say nothing of the inevitable weakening of the court — as Senator Meighen referenced — through the drastic reduction of the talent pool from which justices can be drawn. Only a small proportion of Canadians outside Quebec and New Brunswick are fluent in both official languages.

In my province of Ontario, according to the 2006 Census, only 11 per cent of residents are bilingual. I suspect this statistic overstates the numbers substantially.

The census asks:

> Can this person speak English or French well enough to conduct a conversation?

That might make one bilingual in some eyes, but it is by no means the degree of fluency required to consider arguments in the Supreme Court of Canada. Otherwise, one might miss the subtleties and nuance of the arguments.

This legislation tells all but a minority of jurists outside of Quebec and New Brunswick they have no hope of rising to the top of their profession. We do not want them, no matter how great their legal expertise. They are not qualified.

This message would have been delivered to Chief Justice Beverley McLachlin if this legislation had been in place prior to her appointment to the Supreme Court in 1989. It would have been the same message to two thirds of the current sitting justices, according to former Supreme Court Justice John Major. The court would have been the weaker for it, just as it will be a weaker court if this bill is allowed to pass.

That is why the Canadian Bar Association passed a resolution last summer opposing the bill. The bill reduces the talent pool by allowing linguistic ability to trump legal expertise.

I will return to the political dimension of this bill. I noted at the outset that debates such as this one tend to inflame and divide Canadians rather than unite them.

Honourable senators, there are times when legislators need to act for the greater good, despite the risk of reopening old wounds. This is not one of those times. This bill is a bad bill. It is not worth it. It will weaken the Supreme Court. It will foster regional grievances, in particular sending a signal to our friends in Western Canada that the national political establishment is out of touch with much of the country.

Why pass this bill? I can understand the hypocrisy of the Bloc Québécois. I know why they supported this bill. The separatists will seize on any opportunity to create chaos in Canadian

society. They want to provoke intolerance to further their project of breaking up this great country. The politics of division is their stock in trade. This bill, whether well-intentioned or not, is like manna from heaven for the Bloc.

What of the Liberals? I have to question whether it is naïveté or cynicism that has driven Michael Ignatieff into the arms of the separatists to pass this bill through the other place. It is difficult to conceive why Mr. Ignatieff would whip his caucus to support an NDP private member's bill that damages one of the country's great institutions. What crass calculation drove the Liberals to back a bill that panders to our worst fears by telling us that we will not receive a fair break from someone who does not speak our language?

I have been around politics long enough to know that preparing traps and employing wedge issues is part of the game, but we have to be somewhat responsible. We owe it to our country not to tear down our institutions in our quest for power.

Hon. Gerald J. Comeau (Deputy Leader of the Government): Will Senator Runciman accept a question?

Senator Runciman: I will do my best.

Senator Comeau: We have judges who sit on the Supreme Court at the present time. If this bill were to become law, would these judges have to undergo testing? This bill says, henceforth judges of the Supreme Court of Canada will have to have a certain level of competence. It does not say what level, so someone will have to do some testing.

What happens if a number of the judges currently sitting at the Supreme Court do not measure up to the competency test that will be administered to them? Will we need some kind of other bill at that point because judges will not measure up to this competency test? This bill will be the law of the land, if it passes. How will these judges be removed? I have not given any test to these judges, but it has been said that a number of these judges would not measure up to the level of competency that is being demanded by this bill. What would happen then? How would they be kicked out of the Supreme Court?

Senator Runciman: That is a tough question for me to answer. I am not a constitutional lawyer, but I assume any judge being removed from office at the federal level would require an act of Parliament. I assume that this competency test would be structured something like the federal civil service, where they require a certain level of fluency. They give an individual a number of opportunities to reach the level required in whatever role they are serving in. I think it would create a constitutional crisis if that situation were ever to arise.

• (1730)

Senator Comeau: In response, the honourable senator states that the civil service has a number of competency tests they offer to civil servants. However, this bill does not provide for those tests. Those competency tests to which the honourable senator refers are administered under the Official Languages Act, which has provisions for protection and training, and provisions respecting the language rights of these individuals. This bill in no way provides for any of the measures that are covered now under institutional bilingualism, which is what Canada adopted years ago. What this bill proposes is individual bilingualism so there is no provision whatsoever providing any kind of these tests or such protections.

Senator Banks: Is this a speech?

Hon. Claudette Tardif (Deputy Leader of the Opposition): Would the honourable senator entertain a question?

Senator Runciman: Yes.

Senator Tardif: The honourable senator's strong views opposing bilingualism and French language services are well-known and well-documented. However, I know that my honourable colleague is also a fair and equitable person.

Would the honourable senator then not agree that the law is there to serve citizens and not those who aspire to the Supreme Court bench?

Senator Runciman: At the outset, I must express concern with the honourable senator's introduction with respect to my opposition to French language services being well known. Certain things occurred in my hometown many years ago that stained the community. My connection to those things and whatever rationale the honourable senator feels she has to raise that kind of issue in this place, I think, is unfortunate at best. On that basis, I do not think I will pursue the remainder of that question any further. I think it is quite offensive.

Senator Mockler: Absolutely.

Some Hon. Senators: Hear, hear.

Hon. Joan Fraser: Would the Honourable Senator Runciman take another question?

Senator Runciman: Yes.

Senator Fraser: I have the privilege of working with Senator Runciman on the Standing Senate Committee on Legal and Constitutional Affairs, so I am interested, of course, in what he has to say, particularly given his long experience in government, at Queen's Park as well as here.

I was particularly struck, as I have been with a number of his colleagues, by their remarks indicating absolute faith — I think I have even gone so far as to call it touching faith — in interpreters. Let me say again, as I say every time I raise this point, that I have greater respect than I can describe for the work that interpreters do. I could not do it, and I do not know how they do. However, they are human.

I think Senator Runciman was present at the Standing Senate Committee on Legal and Constitutional Affairs yesterday when we had an example of the kind of difficulty that can arise. We were having a discussion involving "retroactive" legislation versus "retrospective" legislation versus neither of those. All the lawyers here will know that there is a significant difference between retroactive and retrospective legislation. We discovered, thanks to Senator Carignan, that the interpreters, in all good faith, were

translating, from English into French in this case, the word "retrospective" as "rétroactive," which means "retroactive," not "retrospective," thereby distorting the whole argument.

Now, if something like that error had occurred in the Supreme Court of Canada without a Senator Carignan to catch it, would that not have raised the possibility, particularly in a closely reasoned decision, that a decision of that court might be based on less than full understanding of the arguments that have been presented to it?

Senator Runciman: There is no question, in that case, that error would always be possible. The bottom line was that it was caught. The reality is that we had a number of fluently bilingual francophone members on the committee who did not catch it. I think that is not a valid argument. I think we have, as I had mentioned in my comments, probably the best interpreters in the Supreme Court, and I think we can have confidence in them occasionally. There is no question that an error can be made, but an error can be made by someone who is as fluently bilingual as the honourable senator herself or as fluently bilingual as other members of the committee.

Senator Meighen: Even more than that.

Senator Fraser: Easily.

Senator Runciman: That happens and we know it happens, so I do not think that is justification for this kind of legislation at all.

Senator Jaffer: Honourable senators, may I ask a question?

The Hon. the Speaker: I am afraid that Honourable Senator Runciman's time has expired. The Honourable Senator Wallace, on debate.

Hon. John D. Wallace: Honourable senators, I am pleased to have the opportunity to provide you with my thoughts and comments regarding Bill C-232. Being from New Brunswick, the bill has a particular focus for me and I know other members from our province, being the only official bilingual province in the country.

As I read the bill and thought about its implications, I know we all feel that tug that we are supportive — certainly I am supportive — of bilingualism and the fact that official bilingualism should and must be recognized in our federal institutions but on the other hand, there are the individual rights that citizens have, the equality of rights, privileges and freedoms as they relate to the two official languages of our country. It is that push-pull between those two issues that I struggled with somewhat in considering Bill C-232.

My conclusion is that I cannot support the bill. There are a number of reasons why, and I will present those reasons to honourable senators, but I do not believe the bill represents that appropriate balance between the institutional issues as they relate to bilingualism and individual rights and freedoms.

As I say, in New Brunswick we have had a long history, longer than most, in dealing with bilingualism. It has not always been a smooth experience, but today it is a source of great pride for us and for all New Brunswickers. To a large extent, it has come as a result of the leadership we have had in our province going back to the days of Premier Robichaud, Premier Hatfield, Premier McKenna, Premier Lord and so on. It is an issue that we are familiar with in my province.

In New Brunswick, the consequence of Bill C-232 is something that we do not see in our courts. We do not have the equivalent of Bill C-232 in the courts of New Brunswick, again the only officially bilingual province in Canada.

The first specific point I want to address is Bill C-232 itself, the wording of it as to what it purports to do and what seems to be its objective.

The bill is short, as I am sure honourable senators are all aware. It reads:

> In addition, any person referred to in subsection (1) may be appointed a judge who understands French and English without the assistance of an interpreter.

I will get to that provision in a moment.

I have concerns with the language used in the bill. Beyond that, as to what it means, what its objective is, what it would result in, to a large extent I am guided by the views that I have heard from the sponsor, the Honourable Senator Tardif, and other proponents of the bill.

I think I am stating the obvious, but it is important to do so. The consequence of Bill C-232 is that unilingual French and English Canadians no longer would be eligible for consideration for appointment to the Supreme Court; that is, Canadians who are able to understand only one of the two official languages. Obviously, that consequence is serious and one that is unprecedented in the 144 years of our history. This bill would be the first time that has been proposed to happen.

As I mentioned, there is this issue of the balance between the institutional requirement in Canada for our federal institutions to provide bilingual services and also the right to protect individual rights, freedoms and privileges of all Canadians as they relate to these linguistic rights and the equality of our two official languages.

I want to speak to both those issues now, if honourable senators will bear with me, which are, on the one hand, the institutional requirement to provide bilingual services and, on the other, the individual rights requirement.

• (1740)

Some of this is tedious honourable senators, but it is important to get it on the record. These are not just thoughts off the top of our heads, and we must look at what our laws, Charter and Constitution say about these two important issues with respect to balance.

Of course, these issues are relevant to not only the Supreme Court and other federal courts as institutions but also, equally, to Parliament. These same issues are equally applicable to the proceedings in this chamber, in the House of Commons and in the Supreme Court. We must keep that in mind.

I will paraphrase some of the acts that relate to institutional bilingualism. First is section 133 of the Constitution Act, 1867, which provides that either the French or the English language may be used by any person in Parliament, and then continues that either of those languages may be used by any person in any pleading or issue before any court of Canada. That is either language, and any court of Canada would include the Supreme Court.

The other issue is protected linguistic rights, namely, the equality of rights for French- and English-speaking Canadians and the need to maintain that balance. I say this to you in the context of the application of Bill C-232. The individuals that I am thinking of are the judges of the Supreme Court and individuals who would otherwise be eligible for consideration for appointment as the requirements now exist.

The statutory authority that provides for the protection of individual rights, freedoms and privileges, and linguistic rights, freedoms and privileges is again the Constitution Act, 1867, section 133, to which I just referred. It is also included within the Charter of Rights and Freedoms, section 16(1), 17(1) and 19(1).

In the Official Languages Act, those references appear in the fifth and sixth recitals, in section 34 of the act. I will paraphrase section 39(1) of the Official Languages Act, which states that the Government of Canada is committed to ensuring that English-speaking Canadians and French-speaking Canadians, without regard to their first language learned, have equal opportunities to employment and advancement in federal institutions. Again, think of that in the circumstance of Supreme Court judges and those who would be considered for that position. I would suggest to honourable senators "persons" certainly includes judges.

Similarly, section 39(2) of the Official Languages Act, in the context of the Supreme Court issue, states that the Government of Canada, with respect to federal institutions, shall ensure open to both English- and French-speaking Canadians for the purposes of appointment and advancement of employees in those institutions. The intent in the Official Languages Act is clear.

I would like to provide you with background information. Most honourable senators may be aware of it, but it is important to understand the basis that I am proceeding from in presenting this to you. This is background information about the Supreme Court itself and the appointment criteria used for those elevated to that position.

Obviously, the Supreme Court is a vitally important institution in this country. It is the highest court in the land. It is the court of last resort. It is the final institution in which matters will be litigated and determined. Obviously, it is critically important.

The reference to the Supreme Court is enshrined in our Constitution. It is found, for example, in sections 41(*d*) and 42(1)(*d*) of the 1982 Constitution. It is enshrined in the Constitution.

Appeals to the Supreme Court are not automatic. As honourable senators may be aware, it takes leave to appeal. Most applications for leave are not approved. It is the rare cases that make it to the Supreme Court. Generally, witnesses do not appear before the Supreme Court, except in the rarest of cases. Evidence is presented by way of written factums presented in advance of the actual hearing. The issues determined by the Supreme Court are of the highest of importance. They are, in many cases, issues of national importance. Generally, the Supreme Court will not hear matters that would be limited in scope only to the issues of the parties before them; they look for cases that would have broader application.

Because of that, it is obvious that having the absolute best of the best — the highest calibre persons available — to sit in the Supreme Court is absolutely essential. I do not think any of us would doubt that. It must be the best of the best in terms of legal expertise and qualification.

There is also the fact that the Supreme Court is representative of regional considerations, and each of the provinces and regions want continued assurance that the best of their best will be considered for appointment.

Honourable senators, the appointment criteria present is included in the Supreme Court Act. There are currently nine judges of the Supreme Court, and those that may be considered for appointment are either judges of a Superior Court of a province or barristers of 10 years standing. The requirement is for three justices from Quebec. The issue of regional representation is extremely important in the Supreme Court and it is assured through constitutional convention or practice. You will not find that requirement written in the Supreme Court Act. The result of that constitutional convention means that, today, there are three justices from Western Canada, three from Ontario, one from the Atlantic region and three from Quebec. There is a good representation across the country. As we know, in this country, there are different perspectives from region to region. The Supreme Court must reflect those perspectives.

Honourable senators, aside from the requirements of the Supreme Court Act that have been referred to by many others, the issue of merit is paramount in the appointment of a Supreme Court justice. By "merit," I am referring to individuals with the highest legal expertise and competence, highest distinction, highest quality — the best of the very best. As Senator Meighen pointed out, other issues are to be considered, considering the characteristics of individuals. Certainly, the bilingual capability of those who would be considered is a highly relevant and important consideration. However, it is not the ultimate determining factor. Legal competence is paramount.

Honourable senators, when I consider that and examine Bill C-232, I cannot conclude that we can have the best assurance that the best of the best would be appointed to the Supreme Court as a result of Bill C-232. As has been pointed out by others, the pool from which legal talent could be drawn will be drastically reduced. There is a wide disparity in bilingual capability across the country and, as we know, the provinces are a feeder system to the Supreme Court. Those that are considered originate from the bench and from the bar of those provinces.

Honourable senators, I would like to refer to a comment that Senator Tardif made on April 20, 2010, in her presentation to this chamber regarding Bill C-232. At page 344, Senator Tardif said the following:

> Bill C-232 does not exclude potential candidates for appointment to the Supreme Court of Canada. The concern that there is an insufficient number of qualified candidates is unfounded. In fact, more and more qualified bilingual lawyers aspire to be appointed to the bench.
>
> Given the already large and growing number of highly skilled and capable bilingual lawyers across the country, regional representation will continue to be respected and considered in the selection of Supreme Court judges.

• (1750)

Honourable senators, Bill C-232 clearly would exclude potential candidates. It would exclude unilingual English- and French-speaking candidates, so nothing has been presented to support that exclusion.

I suggest, with all due respect, that the onus is clearly on the sponsor and the proponents to support that position.

The Hon. the Speaker: Is the honourable senator asking for an extension?

Senator Wallace: Yes, thank you.

Senator Comeau: Yes, 10 minutes.

Some Hon. Senators: Agreed.

Senator Wallace: The only information we have in that regard is provided by Senator Carignan, who gave us information that 17 per cent of the population of Canada is bilingual — 34 per cent in New Brunswick and 12 per cent in all other provinces. This statistic clearly contradicts Senator Tardif's statement.

Without a doubt, Bill C-232 would, in significant numbers, exclude unilingual candidates and, therefore, many candidates that would be of the highest legal distinction and quality.

Moreover, under the Constitution Act, 1867, and the Constitution Act, 1982, the Charter of Rights and Freedoms, the Official Languages Act and the Supreme Court Act, they do not, nor have they ever, excluded unilingual candidates — quite the contrary. Always, the objective has been to maintain the balance I spoke of earlier between institutional bilingualism and the protection of individual rights.

To maintain that balance, how have previous legislators approached that objective? How do our statutes reflect that balance? Obviously, that has been accomplished through the use of language translation services, both in Parliament and in federal courts. Language translation is the tool used to maintain the balance.

I will not pursue this point because of limited time, but in the Charter of Rights and Freedoms and in the Official Languages Act, there are numerous references to the need for simultaneous translation services — as well as in the rules of the Supreme Court. Translation is the method that legislators have used to determine the appropriate balance.

Despite that method, the sponsors and proponents have suggested that we cannot rely on translation — at least that is the impression I take from it; the translation services that we have are not reliable or dependable and we should not rely on them. Senator Tardif — and I will not read it because of limited time — made reference to that point again back on July 20.

That allegation is serious and significant, namely, that we cannot rely upon the accuracy of interpretation. Think of the implications not only for here, but also for Parliament. We have had, however, no specific examples presented by way of cases or specific examples where that translation resulted in a miscarriage of justice — innuendo, yes; specific examples, no.

I made inquiries of the Registrar of the Supreme Court. I asked: Have there ever been complaints filed with the registrar relating to the quality or reliability of translation services? None have been filed.

Similarly, Marie-Claude Bélanger-Richard, Vice-President of the New Brunswick Law Society, appeared before the House of Commons committee on this bill and was asked by Member of Parliament Rick Norlock on September 30 if she knew of any specific examples, any cases of injustice because of the inaccuracy or unreliability of interpretation that was relied upon. Her answer was, no, she knew of none.

To reject the use of simultaneous translation on that basis without any of that proof, I suggest to you, is not proper.

As time is limited, I will move quickly through this point. I believe that Bill C-232 would necessitate amendments to the Constitution Act, 1982. Those references appear; the Supreme Court is referred to in section 42. If there are issues that relate to a change in composition of the Supreme Court or any other changes — there are the two sections — a constitutional amendment would be required. As we know, that constitutional amendment requires resolutions from the House of Commons, the Senate and, depending on which section honourable senators fall under, either all the provinces or 70 per cent of them. Obviously, that matter is serious.

I suggest as well that the Official Languages Act makes specific reference to the Supreme Court. What is proposed here with regard to Bill C-232 would necessitate amendments to the Official Languages Act as well.

In conclusion, the implications and the consequences of Bill C-232 would exclude unilingual English- and French-speaking Canadians.

Second, I believe the bill contravenes —

The Hon. the Speaker: I must advise the honourable senator that the extended time has been exhausted.

Senator Wallace: Thank you.

Senator Comeau: Question.

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

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

(Motion agreed to and bill read the second time, on division.)

REFERRED TO COMMITTEE

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

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

BUSINESS OF THE SENATE

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, I note that we are nearing six o'clock and I am almost convinced that if I were to ask honourable senators on my side, they would not mind postponing whatever speeches, inquires and so on that they wished to speak to this afternoon.

I made a quick count and I know that there are still about 10 items to be dealt with this afternoon. If we perform a quick addition, it would amount to something like three more hours this evening.

Would it be possible for both sides to say, let us wrap it up today? In that case, I would move the adjournment.

The Hon. the Speaker: Is there agreement in the house, which requires unanimous consent, that all items stand in their place without losing their priority?

Hon. Claudette Tardif (Deputy Leader of the Opposition): I was listening to the honourable senators opposite speaking on Bill C-232, but I had an honourable senator check on our side. I understand that the honourable senators on our side want to make their presentations this evening.

Senator Comeau: Fine. We will be back at 8 p.m. then.

Senator Tardif: We can continue.

Senator De Bané: Go for 7 p.m.

[*Translation*]

STUDY ON APPLICATION OF OFFICIAL LANGUAGES ACT AND RELEVANT REGULATIONS, DIRECTIVES AND REPORTS

FOURTH REPORT OF OFFICIAL LANGUAGES COMMITTEE AND REQUEST FOR GOVERNMENT RESPONSE ADOPTED

On the Order:

> Resuming debate on the motion of the Honourable Senator Champagne, P.C., seconded by the Honourable Senator Greene, that the fourth report of the Standing Senate Committee on Official Languages entitled *The Vitality of Quebec's English-speaking Communities: From Myth to Reality*, tabled in the Senate on March 9, 2011, be adopted and that, pursuant to rule 131(2), the Senate request a complete and detailed response from the government, with the Minister of Canadian Heritage and Official Languages being identified as the minister responsible for responding to the report.

Hon. Maria Chaput: Honourable senators, as chair of the Standing Senate Committee on Official Languages, I am pleased to speak to you about the committee's report entitled *The Vitality of Quebec's English-speaking Communities: From Myth to Reality*.

As you are all aware, I have dedicated my life to the protection and promotion of our official language minority communities. This is a driving force in all aspects of my life, both here in Parliament and in my community in Manitoba. Until now, I have focused my attention on francophone communities outside Quebec, like my own. These communities are vulnerable to assimilation, which threatens them from all sides, but they still manage to maintain their vitality, mainly due to their educational, social and cultural institutions and support from the federal government.

That said, in Canada there are two main official language communities that live in minority situations: francophones and Acadians outside Quebec and anglophones in Quebec. As you all know, our two official languages have equal status, rights and privileges.

During our study of anglophone communities in Quebec, the committee heard from more than 60 witnesses, represented by more than 200 spokespeople, during public hearings held in Ottawa and in three regions of Quebec.

• (1800)

I can, in all sincerity, say that I learned many things about these official language minority communities.

Nearly one million people . . .

[*English*]

The Hon. the Speaker: Honourable senators, it being 6 p.m., pursuant to the *Rules of the Senate*, I must leave the chair, to return at 8 p.m.

(The sitting of the Senate was suspended.)

• (2000)

[*Translation*]

(The sitting was resumed.)

Senator Chaput: Honourable senators, close to 1 million people in Quebec have English as their first official language.

Quebec's English-speaking population is largely bilingual and it is educated. For Quebec's Anglophones, mastering both official languages is a requirement that they must accept. They want to live and thrive in their own language, while fully participating in Quebec society.

It is important to point out that, contrary to an enduring myth, that population is not privileged from a socio-economic point of view. While these communities have a special place in Canada's history, as reflected in the Constitution, their development and vitality require the federal government's support, as provided under the Official Languages Act.

Through the recent work of the Standing Senate Committee on Official Languages, I became aware of the situation and the distinct features of Quebec's English-speaking communities. I have discovered their needs and the challenges that they must face.

While their language is obviously not threatened, since it is the language of the majority in Canada, the fact remains that the vitality of Quebec's English-speaking communities remains fragile in some respect and that the sustainability of that vitality is not guaranteed.

The report, entitled *The Vitality of Quebec's English-speaking Communities: From Myth to Reality*, describes the current situation of Quebec's English-speaking communities by looking at, among other things, community life, economic development, the media in a minority environment, the aging population and the challenges facing Quebec's English-speaking youth.

After its study, the committee made 16 recommendations to the federal government to promote the vitality of the anglophone minority and to support its development.

This committee review consistently showed the importance of consulting on a regular basis with Quebec's English-speaking communities. Consultation is at the core of the trust that must develop between federal institutions and official language minority communities.

In conclusion, I wish to thank all the permanent members of the committee and the other senators who took part in this study. Their dedication, their cooperation and their availability allowed the committee to produce a high-quality report whose recommendations are both useful and realistic. I also want to thank the committee staff, and particularly the analyst from the Library of Parliament, for their extraordinary work.

Since I learned a lot by participating in this study, I invite all honourable senators to read the most recent report of the Standing Senate Committee on Official Languages, which deals with Quebec's English-speaking communities. The time has come to switch from myth to reality.

The report and a summary are posted on the committee's website, where they can be consulted at all times.

[*English*]

The Hon. the Acting Speaker: Is there further debate?

Honourable senators, are you ready for the question?

An Hon. Senator: Question.

[Senator Chaput]

[*Translation*]

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

Hon. Senators: Agreed.

(Motion agreed to and report adopted.)

[*English*]

STUDY ON COSTS AND BENEFITS OF ONE-CENT COIN

EIGHTH REPORT OF NATIONAL FINANCE COMMITTEE—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Gerstein, seconded by the Honourable Senator Eaton, for the adoption of the eighth report of the Standing Senate Committee on National Finance, entitled: *The Costs and Benefits of Canada's One-Cent Coin to Canadian Tax Payers and the Overall Economy*, tabled in the Senate on December 14, 2010.

Hon. Richard Neufeld: Honourable senators, I rise today to add a few words with regard to the Standing Senate Committee on National Finance report on the removal of the 1-cent coin from circulation. The Deputy Chair, my colleague Senator Gerstein, suggested this study after the government indicated that it would be receptive to the committee's advice on the matter. Senator Gerstein has spoken eloquently on this issue and my words will support what he has said.

This particular study brought forward some rather complex issues which, in turn, became more interesting as we progressed. The committee made a total of eight recommendations to the government. I will not deal with each one individually, but rather I will deal with them in groups.

The first recommendation is straightforward and that is:

> That Canada's one-cent coin be removed from circulation.

The second and third recommendations are complementary to one another. They state:

> Recommendation 2: That the Government of Canada, in cooperation with the provinces and with the retail and service sectors, issue clear voluntary guidelines for rounding after-tax total purchase prices symmetrically to the nearest five cents.
>
> Recommendation 3: That price rounding be applied in cash transactions only.

There was considerable debate about whether removal of the penny would eliminate the 99-cent sale. What happens at the gas pump where prices are set to a tenth of a penny? In no way would the removal of the penny hinder pricing to the penny or to the tenth of a penny. The recommendation states that voluntary

rounding to the nearest 5 cents would take place only on the total price of all items purchased after tax and would apply only to cash transactions. Card transactions would be charged at the exact amount. This generated a fair amount of debate, however, no one suggested in testimony that we do anything different than what is recommended.

New Zealand's approach was exactly the same. In fact, they found that merchants almost always rounded down as a matter of competition.

Our recommendation that the federal government work closely with the provinces and territories so that a uniform system could be implemented recognizes the fact that consumer legislation may differ between provinces and territories.

Recommendations 4 to 6 also complement each other. They state:

> Recommendation 4: That production of the one-cent coin for circulation cease as soon as practicable, that the one-cent coin be removed from circulation starting 12 months thereafter, and that the calling-in period last an additional 12 months.
>
> Recommendation 5: That one-cent coins continue to be legal tender until the end of the 12-month calling-in period, so that Canadians may continue to use them in commercial transactions during that time.
>
> Recommendation 6: That the Bank of Canada continue to redeem one-cent coins indefinitely, and that financial institutions be allowed to choose whether, and for how long, they will continue to facilitate the return of one-cent coins to the Bank of Canada after the calling-in period ends.

I believe these are fairly straightforward, but let me summarize the sequence of steps that are recommended. First, production would cease as soon as possible. Next, 12 months hence, the coin would be removed from circulation. This process, known as the calling-in period, would last 12 more months, with the coin continuing to be legal tender throughout that period. Therefore, in total, the penny would be legal tender for two more years.

Finally, we suggest that the Bank of Canada continue to redeem 1-cent coins indefinitely to allow those who may find an abundance of pennies to receive proper value for them, even after pennies are no longer accepted by retailers.

The New Zealand experience was that most of the 1- and 2-cent coins they called in were removed from circulation within three to four months. Therefore, the 12-month calling-in period we are recommending is quite generous.

Finally, recommendations 7 and 8 state:

> Recommendation 7: That the Government encourage charitable organizations to implement fundraising campaigns that would assist in the collection of one-cent coins for removal from circulation.
>
> Recommendation 8: That the Royal Canadian Mint be allowed to decide on the basis of profitability whether to continue limited production of the one-cent coin for direct sale to collectors.

• (2010)

These final two recommendations are self-explanatory.

In summary, this is a great study. As usual, things that seemed simple and straightforward at the beginning of the study became a bit more complicated during the process. All in all, I believe we arrived at a strong set of recommendations that everyone on the committee supported.

In closing, I would like to take this opportunity to thank the Deputy Chair, Senator Gerstein; the Chair, Senator Day; and all my colleagues who sit on this committee for their diligent work on this study.

(On motion of Senator Tardif, for Senator Day, debate adjourned.)

STUDY ON STATUTORY REVIEW OF THE BUSINESS DEVELOPMENT BANK OF CANADA

SEVENTH REPORT OF BANKING, TRADE AND COMMERCE COMMITTEE ADOPTED

The Senate proceeded to consideration of 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*, tabled in the Senate on December 15, 2010.

Hon. Michael A. Meighen moved the adoption of the report.

He said: Honourable senators, it is my pleasure to speak to this report.

On October 5, 2010, this chamber granted the Standing Senate Committee on Banking, Trade and Commerce the authority to undertake a study of the Business Development Bank of Canada Act.

The impetus for the study dates back to June 25, 2010, when we received a letter from the Minister of Industry, the Honourable Tony Clement, informing us that the Business Development Bank of Canada would be undergoing its 10-year review in 2011, pursuant to the statutory review requirement contained in the BDC Act.

The minister's letter stated:

> I am writing to ask the Standing Senate Committee on Banking, Trade and Commerce to undertake a study of the positions and operations of the BDC Act, to look at how the BDC's mandate has evolved and might continue to evolve over the next 10 years, and how it might be best positioned to address emerging challenges for Canadian small and medium-sized businesses.

He went on to state:

> The findings of such a study would be instrumental in highlighting key legislative issues for policy makers, helping them ensure that Canada's small businesses have an environment in which they can grow and create jobs. Your work would be a key input to the final report on this review.
>
> As required by the Act, I will launch the review by July 2010 and will report the findings to Parliament by July 2011. Therefore, should the Committee decide to conduct this legislative study, I would welcome its findings by December 2010.

[*Translation*]

Honourable senators, I would like to thank all the committee members who agreed to carry out this comprehensive and detailed study. We produced the report in time to meet a relatively tight deadline, while still dealing with other issues that were before us, namely, the key report on RRSPs and TFSAs, several private member's bills introduced by senators and the study on Industry Canada's proposed user fees.

I would be remiss if I did not recognize the parliamentary employees who support the deliberations of our committee, including staff of the Library of Parliament, the Senate Committees Directorate and the Senate Communications Directorate. With their help, in order to meet this tight deadline, the Standing Senate Committee on Banking, Trade and Commerce met six times in October and November 2010 to review the Business Development Bank of Canada Act. During that time, the committee heard from a representative sample of individuals and groups with an interest or expertise in this area.

[*English*]

In addition to the 15 recommendations presented in our 45-page report, the committee provided an overview of the current mandate and review requirements in relation to the BDC, as well as potential changes to the act proposed by the BDC and others. It also compiles the views received on various related issues, including the status of financing and venture capital lending to Canada's small- and medium-sized businesses, as well as the role of other federal Crown corporations, such as Export Development Canada and Farm Credit Canada, in domestic and international lending.

It is my hope that the committee's report will be a constructive contribution to the ten-year review of the BDC Act in which the government is currently engaged.

Honourable senators, now that the report has been tabled, I would like to share a few observations about a couple of its key themes and/or recommendations, since they form the foundation upon which most of the report's recommendations are based.

One key theme evident throughout much of our report is that the activities of the Business Development Bank of Canada should be guided by the principle of ensuring that its support for business development in Canada is complementary to that supplied by Canada's private sector financial institutions; that is to say, that its role should be limited to filling in market gaps or insufficiencies.

In taking this position, the committee was guided by a request from the BDC that the government confirm the concept of complementarity in the current legislative review. The BDC informed our committee that this complementarity involves assessing the needs of the entrepreneur and offering financing with terms and conditions that cannot be considered to be competitive with commercial financial lenders. As well, we were told by BDC that, in assuming a higher level of risk than other financial institutions do, the BDC sets its terms and conditions to account for this risk, obviously higher than those of other financial institutions.

Generally, most of the witnesses who appeared, as well as those who made written submissions, supported the idea of a complementary role for the BDC in the financial services sector.

In considering our recommendations on this issue, the committee recognized that the BDC provides another option for those companies that are unable to access financing from their primary financial institutions; that is, as indicated by the Conference Board of Canada, that the BDC acts "as a partner or as a gap-filler" for small business.

Some of our witnesses expressed the sentiment — in no uncertain terms, I might say — that the BDC's role should not be one where it competes head to head with the private sector.

Honourable senators, our committee was very cognizant of this latter point when developing our recommendation about complementarity between the BDC's role and that of private sector financial institutions.

I would like to say a few further words about another major recommendation: that the BDC, when it conducts its activities, focus primarily on support for Canada's small- and medium-sized enterprises, or SMEs.

As we all know, SMEs are the key driver of our economy. Recognizing the enhanced role the BDC played during the recent financial and economic crisis, the committee received testimony which indicated that Canada, on occasion, has structural and cyclical gaps that occur in small business financing. Although the submissions to our committee were not unanimous in this regard, we did receive testimony indicating that, in the words of the Canadian Manufacturers & Exporters, the BDC is often "an invaluable business partner for SMEs."

In view of this ongoing need, and to respond to the perceived gap, the BDC proposed amendments to the BDC Act so that the purpose of the company is more closely tied to the needs of Canada's entrepreneurs.

• (2020)

In endorsing this modification to the BDC's mandate, and in supporting the request by the BDC, members of the Banking Committee were highly sympathetic to the view that gaps do indeed continue to exist in Canada's financial market for the SME

sector. The committee also agreed that the BDC should be given the mandate to fill these gaps more readily, especially in light of its strong track record as a lender to SMEs.

Supporting entrepreneurs who have not been able to access credit from other financial institutions has in the past yielded long-term positive benefits to this country. In that context, the BDC should be given the mandate to support SMEs more effectively, in full recognition of how critically important they are for our economic growth. Everyone is a winner in this endeavour: Jobs are created, economic development occurs, and Canada's entrepreneurs are better able to navigate their way through the inevitable ups and downs of our economic cycle.

As an aside, honourable senators, I would be remiss if I did not mention the cautionary sentiments the committee heard and discussed with respect to how the BDC conducts business. Senators were of the view that the BDC should strive to maintain a balance between its perceived need to generate a profit and, on the other hand, doing its job as lending to small businesses. Many of our members felt that year-over-year profit maximization of the BDC as an institution should not rank ahead of its responsibilities in support of SMEs.

Honourable senators, a second cautionary note was that the BDC should never place itself in the position where it could be perceived as using its "pricing power" to compete with the private sector on a deal-by-deal basis, and that the principle of complementarity vis-à-vis the private sector, about which I spoke earlier, must always be upheld in fact and not just in theory.

Honourable senators, in closing, while I have refrained from giving an exhaustive and technical overview of every area touched upon in the Banking Committee's review, I have elaborated on two of its key recommendations. Especially in relation to our report's advocacy of enhanced financial and non-financial tools to achieve its purpose, our recommendation about an increased role for the BDC in venture capital activities — and even our report's cautious endorsement of a limited international mandate for the BDC — the underlining objectives of maximizing support for the nation's SMEs and ensuring the complementary nature of the BDC's activities in relation to private sector lenders is ever present and overriding.

The Standing Senate Committee on Banking, Trade and Commerce believes that the Business Development Bank of Canada has played and will continue to play an important role in supporting Canada's entrepreneurs and small- and medium-sized businesses. The committee believes that with the implementation of its recommendations, a modernized and financially stable BDC will be better able to move forward to meet the needs of Canada's SMEs in a more comprehensive manner with benefits for Canada and for all Canadians.

Honourable senators, as we have observed through the recent financial and economic crisis, and during relatively more normal economic times, this support can be good for job creation and for maintaining a resilient and dynamic Canadian economy. As in all things, there is always room for improvement. As Chair of the Banking Committee, I eagerly anticipate the government's forthcoming statutory review of the Business Development Bank of Canada Act and wholeheartedly encourage the inclusion of our committee's recommendations in any proposals for legislative change that may eventually emerge.

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

Hon. Senators: Agreed.

(Motion agreed to and report adopted.)

STUDY ON RISE OF CHINA, INDIA AND RUSSIA IN THE GLOBAL ECONOMY AND THE IMPLICATIONS FOR CANADIAN POLICY

EIGHTH REPORT OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE COMMITTEE— DEBATE ADJOURNED

The Senate proceeded to consideration eighth report of the Standing Senate Committee on Foreign Affairs and International Trade, entitled: *Seizing Opportunities for Canadians: India's Growth and Canada's Future Prosperity*, tabled in the Senate on December 14, 2010.

Hon. A. Raynell Andreychuk moved the adoption of the report.

She said: Honourable senators, I expect to be able to give a full account of our report, which I would like to do at a later date. Therefore, I ask for adjournment for the remainder of my time.

(On motion of Senator Andreychuk, debate adjourned.)

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

FOURTH REPORT OF COMMITTEE— DEBATE ADJOURNED

The Senate proceeded to consideration of the fourth report of the Standing Committee on Rules, Procedures and the Rights of Parliament (*Restructuring of Senate Standing Committees*), presented in the Senate on March 9, 2011.

Hon. David P. Smith moved adoption of the report.

He said: Honourable senators, I rise to speak on the fourth report of the Standing Committee on Rules, Procedures and the Rights of Parliament, entitled: *Restructuring of Senate Standing Committees*.

The structure of Senate committees and their mandates were issues that had not been reviewed in a significant way since 1968, which was 43 years ago. The time had come to undertake a study on the way we organize committees and to consider their mandates and their size.

The Standing Committee on Rules, Procedures and the Rights of Parliament has considered these issues since March 2009; in other words, we have been working on this for two years.

Honourable senators, our primary objective was to consider ways to streamline and improve the efficiencies of all committees. We wanted to create a system that continues to look critically at the key issues that face the country while at the same time ensuring relevance, fairness and effectiveness. We wanted to strengthen the role of the Senate as a reviewing chamber.

Over the last two sessions, the Rules Committee looked at these matters in depth. We reviewed the reform of the committee system in other selected upper chambers. We sent each senator a survey seeking opinions on issues such as size, number and membership options, and over one half of the members of the Senate replied. We solicited the views of as many senators as possible and held hearings on the issue, providing senators with the opportunity to appear before the committee.

During this session, the Rules Committee looked carefully at 10 years of committee statistics. We calculated how many times each committee met, how many reports each committee produced, and how many bills had been referred to each committee. We also invited all committee chairs to provide their views on some of our ideas and proposals. A number of them accepted the invitation and appeared before the committee, graciously offering their comments on the study. We consider them valuable.

Honourable senators, we took this task very seriously. We believe that the proposed revised committee structure is balanced and will provide greater efficiency and flexibility. We also believe the revised structure is thematically sound.

Senate committees conduct important work. They are a key asset to the work of the Senate. The Rules Committee wanted to ensure that the committee structure continues to optimize committee contribution to the legislative process and Parliament.

We are asking the Senate to agree in principle to this restructuring. The report may not be perfect and not everyone will be totally happy, but what we have now is less than perfect. There are some problems. Senators are spread too thin, and it is clear that the current structure lacks a balance in the allocation of work and resources.

These current proposals seek to provide a solution and are just the first step. The next phase will be to develop specific mandates for the new committee structure, as well as to establish the form and number of senators to be appointed to these committees. These current proposals will take effect in the next session of Parliament and not this one, although that may not be that far off. The committee recommends a review every three years.

Honourable senators, in closing, I might say that we reached a consensus on these recommendations. I think that is important. There really was no partisanship on some of these tricky issues, and it is nice when Parliament functions that way. It does not always happen, but it is nice when it does.

Hon. Terry Stratton: I would like to make a few comments about this report. I first want to thank the members of the Standing Committee on Rules, Procedures and the Rights of Parliament because it is a 15-member committee.

• (2030)

It was interesting, two weeks ago today, in the committee — we had a draft report and it was tabled — how virtually everyone in the room, including the two independents on the committee, Senator Cools and Senator McCoy, provided valued input into this report. One is always worried about how this discussion will go, but it was striking in that there was a virtual consensus. Everyone had their own problems with the report: they did not like this or that. However, we realized that if we were to accomplish anything, we had to move ahead on this report; that we could not sit back and say, no, I do not like this, and therefore the whole thing should not carry forward.

That was my sense of this whole report, namely, that while not perfect, it was indeed a positive step forward, no matter how imperfect. If we start looking at a report, and we do not like this or that, my analogy is the Charlottetown Accord. That is exactly what happened. They took the bits that they did not like and decided to say no. However, in this case that did not happen. I thought it was remarkable, in the sense that everyone in the committee worked together and realized that this report should happen.

We adopted the report in committee on principle because we realized that there is a fair bit of work left to do. We did not want to take the report or the recommendations too far. We felt that if we could have the Senate itself accept the report in principle, we could then go to the next step in the committee by going back and developing mandates for each of the committees that are so restructured, and even review those mandates if the committee so decided; and that for the existing committees that are to remain, we would take a look at their mandates as well. We wanted input on the mandates from everyone in the chamber.

We would go back to the committee to look at the mandates and draft something, for example, for a mandate and then elicit comments from everyone so that this exercise would not be top-down. Hopefully, for the first time, mandates would be developed by the people who are most interested, namely, the senators themselves. We could then come together and have those mandates evolve so that we had a good working mandate that would work for all committees, with the consensus of the senators involved.

If honourable senators are interested in culture, for example, or if they are interested in whatever, they could have input into that area. It was critical that input be our next step. After those mandates were drafted, we would then review them with the senators and bring them back to the chamber for debate and approval at that second stage.

That is where we are at with respect to the report. Again, I want to thank Senator Smith, who chaired that meeting. It was remarkable to watch and listen as the consensus for this report evolved, and I, too, support its passage. As Senator Smith said, the report is subject to review in three years and will not take effect until the next Parliament, whenever that may occur.

The Hon. the Acting Speaker: Is there further debate?

Hon. Pierre De Bané: Honourable senators, I first want to say how much I appreciate that finally, in that configuration, one topic will not be avoided, which is culture. Culture deals with what we are — our values, our hopes, our fears — and who we are for each other. That topic — the identity of Canadians and what is at the core of our values — is something that will finally be considered.

Part of the reason for fostering the preservation, growth and deepening of culture is that it is inextricably linked to languages. We state in our Constitution that the official languages are a fundamental dimension of our country. Through language and culture, we communicate with each other about our history and our artifacts; we culminate our hopes, our fears and our aspirations; we assert our rights; and we find common ground to live together.

Honourable senators, language is the essence of culture, and culture is the essence of language. No one in this country would understand putting language in one committee and culture in another committee, as this report purports to propose. No one would understand that separation.

Culture is the essence of language, and language is the essence of culture. Most of what we create culturally is expressed, explained or debated through language. For example, theatre, literature, poetry, television, film, radio, news media, magazines — all these areas are language based. If one looks at how our government is structured, in one department we have the preservation and enhancement of the languages. All the federal programs related to culture, whether it is the CBC, Telefilm Canada, the Canadian Radio-television and Telecommunications Commission, the National Film Board or the National Arts Council, we need to have both the programs and the values in one department. In my opinion, no one who is interested in those issues will understand the logic of separating them into different committees in our house.

I now move the adjournment of the debate. At a later stage, I will continue, and propose an amendment that I hope will be considered by my colleagues.

Senator Moore: Bravo.

(On motion of Senator De Bané, debate adjourned.)

• (2040)

[*Translation*]

GOVERNMENT PROMISES

INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Cowan calling the attention of the Senate to the litany of broken promises by the Harper administration, beginning with the broken promise on income trusts, which devastated the retirement savings of so many Canadian seniors.

Hon. Céline Hervieux-Payette: Honourable senators, I have reflected on the comments my colleagues have made about this issue, which I think is very important. I would like to speak to you about a subject that is particularly important to me, since I was a member in the other place when we adopted section 15 of the Canadian Constitution to establish equality between men and women in our country. I must say, many years later — that was in the 1980s — that I am disappointed to see where we have ended up with the current government.

As you know, Stephen Harper's Conservative government has become an expert on empty promises, to the point that we have now counted over 100 promises that have not been kept. I know that my colleagues have kept track of them all, but I would like to speak about one in particular. It is not surprising to note that the government's promises to women are almost never kept.

We need only think about the minor role that women play in Harper's cabinet, not to mention the fate of Minister Helena Guergis, who had to pay the price for her husband's mistakes. Where are the women in prominent departments like Finance, Foreign Affairs, Justice and Industry? Not a single key job in the government is held by a woman. What do we make of the saga of Minister Oda, who had to follow her boss's orders — obviously he kept his job — at the expense of her own reputation? What do we make of the integrity commissioner, Ms. Ouimet, who appeared before us here and failed to maintain the trust of the employees of the Public Service of Canada and was forced to resign because of a report by an officer of Parliament, the Auditor General of Canada, Sheila Fraser, who revealed some flaws with the organization?

What about the way Linda Keen, the head of the Canadian Nuclear Safety Commission, was treated? Given the situation in Japan today, perhaps we should take a closer look at the comments made by Ms. Keen. Perhaps she made comments on nuclear safety and operations that could be of interest to all Canadians.

I remind honourable senators that, in 1967, the Royal Commission on the Status of Women — in which some colleagues here took part — stated in its report that Canadian women then accounted for only 6 per cent of appointees to federal organizations, Crown corporations and task forces. By 2005, under a Liberal government, women accounted for 37 per cent of all appointees. However, based on Privy Council documents, instead of going up — particularly considering the number of competent women on the market — the percentage of women appointed to federal organizations dropped from 37 per cent to 32.5 per cent in February 2006. In May 2010, it stood at 26.7 per cent on Crown corporation boards. I remind my colleagues that the Quebec government has passed a parity measure for Quebec's Crown corporation boards, and I can tell you that, to this day, our Crown corporations are doing just fine.

When asked by Radio-Canada Nouvelles about this drop, the Leader of the Government, Senator LeBreton — and someone will tell her about my comments — made a joke. She said this had nothing to do with a lack of commitment towards the promotion of women — perhaps that is a hollow statement like those we hear from the Prime Minister — when in fact the government lacks leadership when it comes to appointing women to key positions. Meanwhile, thousands of qualified women in Canada still do not have access to certain positions in federal organizations, Crown corporations and task forces.

Over the past five years, the Conservatives have made significant cuts in the regional offices of Status of Women Canada. I did not see anything in today's budget to provide sizeable amounts of money to support the women who work for little money in organizations that help our communities, and particularly other women who are experiencing difficulties.

The Conservatives abolished the long-form census for a good reason. Indeed, this form was used to collect important data on women and minorities. Moreover, they introduced bills that will discriminate even more against women in prison, not to mention the cuts made to maternal health programs in developing countries.

Under the Harper government, the important role women play in our society has diminished. Instead of working transparently and acting as a role model for the private sector in promoting the status of women, the Conservatives have decided to play petty politics and proceed with their backwards ideology, rather than creating public policies that would benefit Canadian women.

Furthermore, the government appears incapable of rationally justifying why it refuses to defend the cause of women's equality in Canada under section 15 of the Charter of Rights. It is a basic right that has been recognized in our Constitution since the 1980s. While women understand that full equality cannot be achieved overnight, we would have thought that after more than 30 years, we should be able to expect equality in terms of salary and access to positions of responsibility, especially in the leading organization in a society like ours. The reduced number of women appointed to positions in federal agencies and Crown corporations and on task forces is just one example of the Harper government's lack of commitment when it comes to promoting and achieving gender equality in Canada.

This year marks the one hundredth anniversary of International Women's Day. This unique event should have served as an opportunity for the government to make gender equality a concrete reality in all Canadian legislation.

I firmly believe that the time for broken promises to women must come to an end, and now more than ever, it is important to take action.

(On motion of Senator Comeau, debate adjourned.)

[*English*]

CONTRABAND TOBACCO

INQUIRY—DEBATE CONCLUDED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Segal calling the attention of the Senate to the seriousness of the problem posed by contraband tobacco in Canada, its connection with organized crime, international crime and terrorist financing, including the grave ramifications of the illegal sale of these products to young people, the detrimental effects on legitimate small business, the threat on the livelihoods of hardworking convenience store owners across Canada, and the ability of law enforcement agencies to combat those who are responsible for this illegal trade throughout Canada, and the advisability of a full-blown Senate committee inquiry into these matters.

Hon. Tommy Banks: Honourable senators, the first duty of a state is to protect its citizens. That is why there are states. States resulted from groups of people coming together to protect themselves from harm. Pretty much included in that duty is the duty to uphold the law.

Senator Segal has called to our attention a problem that he described as now worse than ever, and it has to do with the law. I was speaking briefly with Senator Brazeau earlier in the day and I mentioned the mortal fact that successive governments — this government and previous governments — have had their head in the sand in this regard. He said that was right, but that sometimes, though, one must draw a line in the sand. It is in that sense that Senator Segal called our attention to this problem.

It is the problem of lawlessness, and that is the principle that is at the root of the problem that occurs along our central border with the United States, particularly where that border is intersected by territories of First Nations. It has to do with, but is not limited to, the business of contraband tobacco. Nor is it limited, as I have sadly found, to Central Canada, to Ontario and Quebec.

Last month, the RCMP made a seizure of contraband cigarettes in the Montana First Nation in Alberta of 14 million illegal cigarettes — 75,000 cartons — that came from illegal manufacturers, through illegal importing, into Canada via Central Canada, costing millions of dollars in lost revenue to Alberta and to Canada. Sadly, this seems to have involved some of the leadership of that First Nation.

• (2050)

Senator Segal, in his excellent speech on November 18 on this point, provided us with numbers and figures that describe the extent of this lawlessness. I hope that honourable senators have read, will read or do recall his speech. Those numbers and figures are shocking. The circumstances and actions described by Senator Segal in his speech are shocking. They indicate a flouting of Canada's laws on a level and to an extent that is shocking.

Senator Segal talked about the extent of the cost to Canada of this flagrant illegality in terms of dollars. The amounts are in the billions — not millions, but billions — but also in terms of the principles involved and about the flagrancy of illegal activity by everyone involved: by criminal gangs; by ordinary Canadians out to make a fast, easy and relatively safe buck because no one prosecutes them; and by members of First Nations. I should not say that no one prosecutes them because the efforts of our law enforcement agencies are Herculean in that respect but, as usual, they do not have the resources or the political will behind them to deal properly with the question.

The geographical situation of the Akwesasne First Nation, which is where many of these cigarettes come from — that First Nation is a proud and ancient member of the Seven Nations confederacy in Canada. It has a population of about 24,000 people. The geographical and political situation of the

Akwesasne lands is unique. These lands lie mostly in the United States, in New York State, and they include some islands on the St. Lawrence River that are Canadian.

The Akwesasne lands of the United States are not federal lands because the State of New York never ceded those lands to the union. The Akwesasne hold those lands by virtue of a grant from the State of New York. The lands are New York State lands.

As Senator Segal pointed out to us, it is this unique geographical and political situation that in many respects is pivotal to the illegal activity that goes on in and around this area. It is illegal activity that is not circumscribed merely by the revenue losses or by the increased danger of cigarette smoking because kids can buy cigarettes at $15 a carton rather than $70 a carton. It includes other, and in some ways more serious, criminal activity. It funds the smuggling of guns, drugs and people, and it is the view of law enforcement officers on both sides of the border that it now funds terrorism. With billions of dollars, one can provide a lot of funding.

The Senate has long been a place where Aboriginal rights are defended and protected. The Senate has often had salutary effects on public policy in those regards, and I hope that will never change.

In the case of the Akwesasne, by way of example, those rights include the right to travel freely between Canada and the United States across a border that is within the Akwesasne lands. That right was not created by, but is recognized by, the Jay Treaty, as it is called. It is actually the Treaty of London of 1749. Jay was the name of the American negotiator on the treaty, which provided, as it was put, that Native American Indians born in Canada have the right to travel freely across the United States border for all intents and purposes. That treaty, by the way — the formal title of which is the Treaty of Amity, Commerce and Navigation — managed to force all hostilities between His Britannic Majesty and the United States until 1812.

That treaty recognized that those American Indians, as they were called, could travel freely across that international border. The United States has codified this obligation in the Immigration and Nationality Act, which provides that Native Indians born in Canada are entitled to enter into the United States for the purpose of employment, study, retirement, investing and immigration. However, nowhere in the treaty or anywhere else does it say that anyone is entitled to conduct criminal activity in either the United States or Canada. Nowhere in the treaty does it say that there is a licence to break the laws of either country. Nowhere does it permit tobacco smuggling, drug smuggling and people smuggling by Aboriginal people or by anyone else, by criminal gangs or by ordinary Canadians. These things are all taking place. The difficulties faced by both Canada and the United States in enforcing their respective laws are exacerbated by that unique geographical and political circumstance of the area's First Nations, including the Akwesasne.

There are perfectly good and legitimate businesses owned and operated by Aboriginal people in the Akwesasne Nation, for example. One is called Grand River Enterprises. It is a large and respected corporation.

The Mackenzie Institute reports they are a major employer in the Niagara Peninsula. They co-operate fully with all Canadian and United States laws. They are a large and well-established corporation. They not only provide quality cigarettes for First Nations communities, which they are perfectly entitled to do legally, but they also have contracts to supply our Armed Forces with cigarettes and some of the Armed Forces of our allies with cigarettes. The corporation is a major First Nation business success story, but the contraband industry is now victimizing even them. Their products are now among those that are being counterfeited or mimicked by unlicensed producers and hawked in a variety of places as illegal cigarettes. A legitimate Aboriginal-owned business is being victimized by the illegitimate manufacturing, distribution and sale of illegal tobacco products, and the proceeds are in the billions.

That report, the Mackenzie Institute report, indicates that a variety of actors appear to be taking profit wherever they can out of the situation, such as individuals who live in that area working to benefit themselves and organized criminal societies. Worse yet, there is a clear linkage between criminality and terrorism groups. They are close working cousins and they scratch each other's backs.

In the United States, there have been three cases so far where individuals associated with Hezbollah or al Qaeda have been moving contraband cigarettes and enjoying the proceeds of this criminal activity, which is taking place under our noses. Behind this, the Mackenzie Institute report points out, is an old truth, that so long as someone has a demand for something, someone will supply it at a reasonable cost. If the legal product is too expensive or too highly regulated, contraband product inevitably will appear.

My information is that there are at least ten large cigarette manufacturing facilities on the New York State part of the Akwesasne lands. At least one of them is legal, licensed and observing the law, but the others are not. The cigarettes they make are illegal; the transport of them from the First Nations lands into Canada proper is illegal; the huge profits that result are illegal; and the other criminal activities that are funded by those proceeds are illegal.

Despite increased budgets, attention, surveillance and larger and more frequent interdictions and seizures, the problem, the lawlessness, seems always to increase. We seem unable or unwilling to tackle the problem head-on because, as Senator Brazeau points out, no one wants another Oka. As Senator Brazeau also points out, we have to draw a line in the sand some place, and the duty of the state is to enforce the law, unless it cannot be tackled head-on.

Maybe the social factors, the political difficulties, the constitutional impediments, the inconvenience and the danger are too great. Maybe we have to accept that criminals will operate there, as they always have, and there is nothing that anyone can or will do about it. If that is so, it is a pretty sad state of affairs.

Let us characterize, for the sake of the argument, and perhaps odious comparison, the Akwesasne lands as a state within a state along the lines of Andorra, San Marino or Monaco. It is preposterous to think that unbridled lawlessness on the part of

Andorrans would be countenanced by France and Spain. To think that Italian authorities would look the other way if San Marinans were manufacturing and smuggling contraband into Italy is absurd. The suggestion that France would have her head in the sand in the face of flagrant violations of French law by Monegasques is silly. Everyone knows that that would not be allowed to happen.

• (2100)

It happens only in our country. No self-respecting nation can possibly do such a thing. No self-respecting nation whose first responsibility is to the safety and security of its citizens can stand idly by, watching while criminals operate openly and with impunity, driving trucks during the winter off the ice and up onto the streets of Cornwall with loads of cigarettes. Everyone knows they are doing it; everyone is selling the cigarettes and everyone is smoking them. In those relatively few instances when they are stopped and charged, they receive insignificant penalties, which they regard as a minor inconvenience and a cost of doing business; miniscule in comparison to the proceeds they are receiving.

That is what we do. We sit idly by watching this activity because we do not have the political will to do anything about it. We have the means; we have the people; we have the intelligence; and we have the information. We decide not to do it, and it is not that the enforcers of our laws are not working assiduously to maintain the right. They are, but, and here we go again, the resources with which they are supplied — the money, the people, the time and the political will — are insufficient to the task by a significant factor.

The cost to us of this rampant criminal activity is in the billions. To make more effective inroads against it would cost in the hundreds of millions. The benefits are exponential if it comes down to simple arithmetic, but, of course, it does not come down to simple arithmetic. It is more difficult, complicated and exasperating than that.

Suggestions have been made from many quarters as to how to deal with this problem. Some of them may be right. Many of them are certainly wrong. I would not presume to have an opinion on what courses to follow.

However, I know how to arrive at the recommendations that would have facts, truth, common sense and consideration behind them. It is to follow Senator Segal's proposal, which is exactly the right one, to move forward on this issue. He says, rightly, that the Senate is uniquely qualified and mandated to address that next step. He proposes that we should do so by means of a formal Senate inquiry.

May I have five minutes to finish?

The Hon. the Acting Speaker: Is that agreed, honourable senators?

Hon. Senators: Agreed.

[Senator Banks]

Senator Banks: It should be dealt with by a special committee of the Senate. The matters that need to be addressed in this dilemma have some aspects that fall into the bailiwick of national security and defence; others that are clearly matters of national finance; others that have to do with legal and constitutional affairs; and still more that concern foreign affairs and international trade. This matter concerns all of the above.

The best way to address the problem is by the creation of a special committee of the Senate, along the lines of the Special Senate Committee on Illegal Drugs that was chaired so effectively and efficiently by Senator Nolin. It should be a special committee with a clearly defined and circumscribed mandate, and a fixed time line in which to recommend to Parliament the next step and direction in public policy. That committee is precisely the kind of thing that the other place will not do. It is precisely the kind of thing that the Senate does best.

Something needs to be done urgently.

The Hon. the Acting Speaker: Is there further debate? If no other senator wishes to speak, this matter is considered debated.

(Debate concluded.)

IMPORTANCE OF CANADA'S OIL SANDS

INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Eaton calling the attention of the Senate to the benefits of Canada's oil sands.

Hon. Patrick Brazeau: Honourable senators, I am pleased to rise today to speak to Senator Eaton's inquiry into Canada's oil sands; ethical oil and a fountain of opportunity for Canada's Aboriginal peoples.

In so doing, I add to the fulsome debate shared thus far by my honourable colleagues, Senator Eaton, Senator Frum, Senator Greene, Senator Segal and Senator Lang. To date, these honourable senators have made a persuasive case about the advantage of Canadian oil sands oil. I wish to share with honourable senators today my belief about the strong relationship between Aboriginal peoples and the oil sands.

Aboriginal peoples have been making use of the oil sands since long before European settlers arrived. Thick seams of bitumen, a thick, sticky form of crude oil that touches the surface of the land in Northern Alberta, have been used to waterproof canoes for generations.

[*Translation*]

Today, the oil sands play a much more important role in the lives of Canada's Aboriginal peoples. In fact, the oil sands industry is their main employer in the country. Although our people continue to experience inequality in many sectors of human activity, the opportunities for employment and economic development connected to the oil sands are considerable and quite remarkable.

[*English*]

There are five First Nations in the oil sands region, and seven locals of Region 1 of the Metis Nation in Alberta are in Wood Buffalo. Ten per cent of Fort McMurray residents identify themselves as Aboriginal, and that number rises to 50 per cent of residents in rural areas.

Historically, the Aboriginal population in Northern Alberta has faced the same challenges that bedevil Aboriginal peoples elsewhere in this country, including the sad reality of high unemployment.

Honourable senators, as the whole country knows, the oil sands project needs, wants and regularly seeks hard-working men and women. In the face of this need and the opportunity that flows from it, people from across the country, and even from overseas, have flown in to meet the pressing labour demand.

[*Translation*]

Naturally and fortunately, it makes more sense to employ the local Aboriginal community, a hard-working and productive labour force. Consequently, more than 1,600 Aboriginal people have permanent, full-time, well-paid employment in the oil sands industry. There are even jobs for unskilled and low-skilled workers.

Truck and bus drivers, support positions, usually have salaries of more than $100,000 a year. The importance of this type of prosperity and the opportunities the oil sands represent for Aboriginal people with a strong desire to have a well-paid and productive job is undeniable.

[*English*]

Far more exciting are the enormous business contracts that oil sands companies offer to Aboriginal-owned and operated firms. First Nations and Metis in Alberta do not only work for companies; they own and run those companies.

Last year alone, Aboriginal companies earned more than $700 million in contracts from the oil sands. The two oldest oil sands firms, Suncor and Syncrude, have spent more than $2 billion in Aboriginal sourcing in the past 15 years.

While some Aboriginal firms are owned privately, others are owned by First Nations collectively. The Fort McKay Group of Companies itself brings in $100 million a year and is owned by the Fort McKay First Nation. There is even an Aboriginal oil sands Chamber of Commerce.

These are good news stories for Aboriginal peoples and Aboriginal entrepreneurs. Canadians need to hear more of these types of stories, and the oil sands are a shining example of how Canada can tap into the realities of our demography in which the Aboriginal population is growing as rapidly as the opportunities arising from the oil sands.

It is the kind of Aboriginal development, both in the economic and labour market senses, that I have believed in and promoted my whole life. Individual Aboriginal people, be they First Nations, Inuit, Metis or non-status Indians, taking personal responsibility for their destiny and becoming national-class entrepreneurs — can there be any better definition of success?

[*Translation*]

This is the vision that inspires me for the future, a vision where the notion of dependence is rejected, opportunities that present themselves are seized, and a labour force and an economy that fosters the socio-economic health of our nation are forged through hard work. With few exceptions, the Aboriginal community of Northern Alberta sees in the oil sands the best they have to offer: a permanent way to enrich the life of its people and build an industrial and self-sufficient culture.

And it is not just about money. The oil sands industry plays a leading role in Canada with respect to the involvement of Aboriginal peoples in social and territorial issues. For example, every First Nation has its own industrial relations firm funded by the industry to deal with various issues, including the environment and treaties.

• (2110)

[*English*]

Add to this the culture of volunteerism and charity that animates Fort McMurray. Year after year, the United Way declares Fort McMurray to be Canada's most generous city.

Aboriginal peoples are not only recipients of this benevolence, through everything from literacy training, to vocational skills, and to elders' programs. Aboriginal businesses are generous donors, too. How encouraging, how heartening it is for me, as a First Nations person, to see our communities contributing to local benevolent campaigns rather than having to be served by them as victims of missed opportunity and unmitigated suffering.

Measured against any other Canadian industry, the oil sands are clearly a leader in the productive, respectful integration of Aboriginal peoples into the mainstream of Canadian life and into the heartland of Canadian opportunity. Aboriginal involvement is not just an afterthought or some type of affirmative action undertaking. It is meaningful, critical and central to every step in the life cycle of an oil sands project, from conception and planning through operations and land reclamation. Even the buffalo ranching that now takes place on reclaimed oil sands mines is in keeping with the culture of the region.

Of course, as with any community, there are challenges and problems. I cannot think of anywhere, especially a boom town, where there are not social and economic problems, be they Aboriginal or not.

The Aboriginal involvement in the oil sands is a benchmark for other Canadian industries and communities. Canadian business and, indeed, our society at large must learn from it. Governments of all levels must acknowledge it and be determined to continue meaningful engagement in continued consultation and accommodation of Aboriginal peoples.

It is unwise and almost absurd to compare the treatment of Aboriginal peoples in Canada to the treatment of those in OPEC countries. It would be as lopsided as comparing the treatment of women in Canada with the treatment of women in regimes in Saudi Arabia and Iran.

Yet, regardless, we must go through that intellectual exercise because that is the nature of our oil competitors and that is where the anti-oil sands activists — and they are numerous — would have our customers buy their oil from instead.

Honourable senators, consider Venezuela's treatment of their Aboriginal peoples, called the Yukpa. When human rights groups pressed for the Yukpas' land claims in Machiques, Hugo Chavez sent police to harass and detain Aboriginal activists. A Yukpa elder, who was the father of one of their political leaders, was beaten to death by armed men.

I wish I could say that horrific treatment was rare in Venezuela, or indeed the world, but the fact is Canada's oil sands are unique in the manner in which they deal with the interests and aspirations of Aboriginal peoples.

Human rights are just not a priority for other OPEC countries.

The plight of the Yukpa is not well known to Canadians, but every one of us has heard of the genocide committed against the people of Darfur, where the United Nations estimates 300,000 people were murdered by the Sudanese government. In his book, *Ethical Oil*, author Ezra Levant makes a gruesome calculation. The Darfur death toll works out to 6.5 millilitres of blood for every barrel of oil exported over the same period of time. Sudanese oil is truly blood oil.

Of course, we should never judge ourselves by the low standards of OPEC countries — and make no mistake, we are not. That is the point. The oil sands are truly setting new standards every year for the productive, meaningful and collaborative inclusion of Aboriginal peoples.

[*Translation*]

And instead of staying silent as they tend to do, I believe that Canadians need to shout it from the rooftops. As the former head of a national Aboriginal organization, as a status Indian and activist who has always valued effort, I have had enough of upper-class European lobbyists coming here to tell us to shut down industries that are so crucial to the life of our people.

[*English*]

Honourable senators, for years, Greenpeace International, a multi-national, multi-billion-dollar corporation headquartered in Amsterdam, has used the seal hunt as a major fundraising effort. They do not care if they throw Aboriginal Canadians out of work. They have their fundraising quota to meet. Now Greenpeace International is back targeting the oil sands, the largest employer of Aboriginal peoples in Canada.

Is it just a coincidence that Greenpeace targets industries that are disproportionately Aboriginal? Whether it is deliberate profiling on their part or merely their obliviousness to the consequences of their demands, it is unacceptable. Unlike Greenpeace and others who would victimize Northern Alberta's Aboriginal community, I believe that the oil sands should highlight its progressive approach to the engagement of Aboriginal peoples.

[*Translation*]

I think that most Canadians have no idea how remarkable this is, and that is not even taking into account how hungry our American customers are for our oil. I believe that if more Canadians knew about and understood the benefits of a cooperative and respectful approach to working with the Aboriginal peoples, they would be proud of the industry and the economic benefits it offers.

Many Canadians are worried about how Aboriginal people around the world are being treated. That is why fair-trade coffee, for example, is so popular in Canada, particularly in the big cities.

[*English*]

If those same sensitive Canadians were aware that oil sands oil took a fair-trade approach with our own Aboriginal communities, it could be a source of great national pride and recognition of a purposeful shift in the fortunes of Canada's Aboriginal communities. It is a success story, and sometimes we Canadians just are not good at boasting about our accomplishments. Honourable senators, we need to recognize and embrace this as the success that it is.

It is not just a great success that Canadians should know about. I have worked enough at the United Nations and with other international agencies to know the story of the Aboriginal involvement with the oil sands should be a role model to show the entire world. Far from being defensive about this industry, we should teach others how we do things in this regard.

As the honourable senators who have spoken on this subject before me have confirmed, there is no difference between gasoline made from oil sands oil and OPEC oil. They both burn the same in your gas tank and they both cost the same at the pump. However, if we care about more than just that, if we care about the ethical manner in which oil is produced, I believe we Canadians can take special pride in how our national oil sands operate.

[*Translation*]

Honourable senators, I am no scientist, climatologist or civil engineer. I come to you as a person who passionately seeks to defend and gain recognition for access to prosperity for the Aboriginal community. I want that community to share in Canada's vast potential for success in this sector.

As an Aboriginal activist who has long called for accountability, responsibility and transparency on behalf of my community, I am filled with pride and gratitude when I see the leadership role these members play within this vital industry.

The same responsible, realistic and ethical development must continue during the entire time the oil sands are exploited, and I hope and believe this will be the case.

[*English*]

Honourable senators, in the final analysis, I cite the successful engagement of Aboriginal peoples in the oil sands development as an excellent example of tapping the energy of Canada's Aboriginal community and refining dependency into opportunity — an opportunity of which Canada's Aboriginal peoples are entirely deserving.

(On motion of Senator Comeau, debate adjourned.)

THE SENATE

MOTION TO CONDEMN ATTACKS ON WORSHIPPERS IN MOSQUES IN PAKISTAN AND TO URGE EQUAL RIGHTS FOR MINORITY COMMUNITIES— DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Finley, seconded by the Honourable Senator Greene:
>
> That the Senate condemns last Friday's barbaric attacks on worshippers at two Ahmadiyya Mosques in Lahore, Pakistan;
>
> That it expresses its condolences to the families of those injured and killed; and
>
> That it urges the Pakistani authorities to ensure equal rights for members of minority communities, while ensuring that the perpetrators of these horrendous attacks are brought to justice.

Hon. Mobina S. B. Jaffer: Honourable senators, I rise today to speak on the motion to condemn attacks on worshipers in mosques in Pakistan and to urge equal rights for minority communities, which was presented by the Honourable Senator Finley.

The events that took place in Lahore, Pakistan, on May 28, 2010, were truly horrific. The coordinated bombings of not one, but two places of worship that left more than 80 dead and hundreds injured was a clear act of terrorism and is unacceptable.

Those in attendance at the mosques were a part of the Ahmadiyya sect of Islam, a smaller religious group that has existed in the country for a number of decades now. It was due to their divergent religious views that they were attacked in one of the holiest places for a Muslim, a mosque. As Senator Finley stated, and I completely agree:

> To kill in a place of worship is the ultimate insult to faith and religion.

Unfortunately, this is not the first time that the Ahmadiyya sect has been a victim of religious violence. Just a few weeks ago, 1,500 people stormed a mosque in Indonesia to stop 20 Ahmadiyya followers from worshiping. The mob killed three men and severely wounded six others.

It is important to highlight that these acts, which were committed by a group that justifies their ways in the name of Islam, can in fact not logically be associated with the faith itself. The killing of innocent individuals, regardless of their religious beliefs, is unacceptable in Islam. The aggressive nature and approach of the small minority of extremists in dealing with people of other beliefs is incorrect and un-Islamic.

• (2120)

The Holy Quran states:

> Whosoever killeth a human being, it shall be as if he had killed all mankind, and whoso saveth the life of one, it shall be as if he had saved the life of all mankind.

Honourable senators, in spite of what ideology was promoted by the fundamentalists who committed the bombings of the mosques in Lahore, true Islam promotes the value of all human life. Every person in the world, regardless of faith, should be treated with full respect and human dignity. The Ahmadiyya minority deserves no less.

I ask these fundamentalists and extremists not to use my faith of Islam to carry out these murderous acts.

Honourable senators, as Canadians, we are fortunate enough to have our basic rights and freedoms, which in turn allow us to speak up against injustices in the world without fear of repercussions. As such, we should stand up against both of these events and do what we can to ensure that such tragedies do not occur again.

We Canadians need to encourage foreign states and police forces to protect not only the rights but the lives of Ahmadiyyans. We need to help ensure that governments remain tough on Islamic extremists and no longer fear the backlash that might be perpetuated by doing so. We can no longer sit back and watch ignorance and bigotry prevail.

I want to take this opportunity to thank Senator Ataullahjan and Minister Kenney for attending the funeral of Minister Bhatti, the minorities minister of Pakistan. By attending this funeral, they pointed out what Canada stands for. As Canadians, we must act to protect the rights of religious minorities.

I give my full support to Senator Finley's motion, and in doing so I urge:

> That the Senate condemns last Friday's —

— that is, May 28, 2010 —

> — barbaric attacks on worshippers at two Ahmadiyya Mosques in Lahore, Pakistan;
>
> That it expresses its condolences to the families of those injured and killed; and
>
> That it urges the Pakistani authorities to ensure equal rights for members of minority communities, while ensuring that the perpetrators of these horrendous attacks are brought to justice.

Honourable senators, I believe that we live in a country that lets all its citizens practice their faith. This is a value we are proud of, and we should use our government's good offices internationally to state that we as Canadians stand for all people practising their faith and that we will support people all over the world in practising their faith. That is our Canadian value, and we are proud of it.

[*Translation*]

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, I see that the bill, as currently worded, indicates that the Senate condemns last Friday's barbaric attacks.

I would like to speak with Senator Finley to see if there is a possibility of proposing an amicable amendment to make this motion receivable. That is why I am moving adjournment of the debate until I have a chance to speak with Senator Finley.

(On motion of Senator Comeau, debate adjourned.)

[*English*]

SUSTAINABLE DEVELOPMENT TECHNOLOGY

INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Mitchell calling the attention of the Senate to the importance of Sustainable Development Technology Canada.

Hon. Claudette Tardif (Deputy Leader of the Opposition): Honourable senators, Senator Day has indicated his desire to speak to this inquiry, but he has not yet completed his research. Therefore, I would like to take the adjournment in his name, at his request.

(On motion of Senator Tardif, for Senator Day, debate adjourned.)

[*Translation*]

NEED FOR GENDER-BASED APPROACH TO BUDGETARY AND FISCAL PROCESSES OF FEDERAL GOVERNMENT

INQUIRY—DEBATE ADJOURNED

Hon. Rose-Marie Losier-Cool rose pursuant to notice of March 9, 2010:

> That she will call the attention of the Senate to the need for the Canadian federal government to adopt a gender-based approach to its budgetary and fiscal processes.

She said: Honourable senators, at a time when I am usually in bed, I am rising to bring your attention to an innovative concept, which, although not really that new, is one of the best weapons against sexism. I would like to speak about gender-based analysis and how it applies to the budgetary process.

Let us start with a definition given by an expert in the field, Socé Sene, an international gender analysis and development consultant from Senegal. He stated:

> Gender-based analysis is a systematic effort to identify and understand the roles and needs of women and men in a given social context. The purpose of gender-based analysis is to understand the mechanisms responsible for the main problems and to determine possible solutions at a policy, program or project level.
>
> Gender-based analysis examines the differences between men and women, as well as the differences among men and among women. It analyzes the relationships between men and women. The objective of this type of analysis is to identify gender differences and inequalities in relationships between men and women.

Mr. Sene is of the opinion that gender budgeting takes into account the differences between men and women and their relationships at the family level, particularly in terms of budget preparation, presentation and implementation.

Gender-based analysis examines the impact of allocating revenue and expenses on the life cycles of men and women, not only now but also in the medium and long terms.

It assesses the implications for employment, income, producer goods, access to credit and factors that have an influence on the different obstacles and opportunities faced by men and women.

What are the disparities between women and men? Just look at access to employment, income, health care needs, division of family responsibilities and duties, education, abuse, and the needs for access to justice, power, democratic representation and economic independence. These are all areas in which the reality of men differs from that of women.

I have three examples to illustrate that point. First, women depend more on free health services because they use health services more often both for themselves and for their children. Second, women take a different career path that can influence their retirement income, because their presence in the workforce is much more sporadic than that of men due to childbearing, availability of employment and so forth. And third, generally speaking, women live longer than men do, with all that means in terms of income and health care.

Now that we know what gender-based analysis is, let us look at why it is necessary in the budgeting and taxation process of any good government, including the Government of Canada. Budgeting, which is the government's spending, and taxation, which is the government's income, are what give effect to the government's policies.

At the very least, in order not to widen the gap between men and women, but ideally, to reduce or eliminate these disparities and help achieve real equality between women and men, budgets must be gender-based. In fact, gender-based budgeting is a tool that not only helps women. It can also help men by correcting the inequalities that negatively affect men, for example when applying for post-secondary education, which is increasingly being dominated by women.

What are the more specific aspects targeted by gender-based budgeting?

• (2130)

Policies become a reality through the budget and the resources allocated in the budget. Are these resources enough to create equality between women and men? Are the activities funded equally adaptable to women and men? Are the anticipated results of the funded activities or policies distributed equitably between women and men? Are the performance indicators associated with these activities or results different based on gender?

More practically, this is where we can apply a gender-based approach to the budget in the area of tax policy: at the level of personal income tax and corporate taxes, consumer taxes, deductions and tax credits. We must not forget that current policies affect whether a person decides to marry, to stay with a partner, to work — full-time or part-time — to have a child, and so on.

Here are other particular areas in which gender-based budgets should be used: access to justice, a right that should not be reserved for the rich; pay equity, because women still earn less than men for equal work; law and order, to reduce and further criminalize violence against women, but also to take into account, for example, the special circumstances of women in prison, including mothers who must see their children.

As I was saying earlier, honourable senators, the concept of gender-based budgets is not a new one. This approach was introduced at the United Nations Third World Conference on Women in Nairobi, in 1985, and was solidly established after the United Nations Fourth World Conference on Women in Beijing, in 1995.

[*English*]

Honourable senators, Australia was the first country to implement a gender-based budget in 1984. Until 1996, all levels of government in that country had to look at how their budgets affected women. In 1995, South Africa launched its Women's Budget Initiative with the collaboration of NGOs, parliamentarians and many researchers.

Since 1995, more than 60 countries around the world have tabled gender-based budgets. In Europe, this has been the case in Belgium, Ireland, the United Kingdom, Norway, Sweden and the Spanish Basque Region. In Africa, one can look to Kenya, Nigeria, South Africa, Morocco, Tanzania, Uganda and Zimbabwe. In Asia, this is the case in India and the Philippines, whereas Israel is a good example in the Middle East. As far as the Americas are concerned, think Chile, the United States and Mexico. Furthermore, budget tabling in Australia, the United States and the United Kingdom go hand in hand with the tabling of supporting budgetary documents.

However, honourable senators, please know that not all gender-based budget initiatives come from government. Indeed, some NGOs do come up with them, usually in the guise of parallel budgets. Examples include Uganda's Forum for Women in Democracy, the Tanzania Gender Networking Programme, Mozambique's Gender Institute for Democracy, Leadership and Development, the American Institute for Women's Policy Research in the U.S., and the United Kingdom's Women's Budget Group.

In addition to governments and NGOS, some international organizations also deal with gender-based budgets. I am thinking here of the United Nations' UNIFEM, the International Association for Feminist Economics, the Commonwealth Secretariat, the European Women's Lobby, the Nordic Council and the World Bank.

Now, what about Canada?

[*Translation*]

Although gender equality is recognized in Canada under sections 15 and 28 of the Canadian Charter of Rights and Freedoms, under section 3 of the Canadian Human Rights Act and under subsection 35(4) of the Constitution Act, 1982 (for Aboriginal women), these rights have not been given sufficient concrete expression in federal activities. Indeed, I would like to remind honourable senators of two things: first of all, that equality on paper does not always translate into equality in fact; and second, that the concept of gender equality does not always mean doing exactly the same thing for women and men.

I would draw your attention to the fact that article 2 of the United Nations Convention on the Elimination of All Forms of Discrimination against Women prohibits all forms of direct and indirect discrimination against women.

Article 3 of the CEDAW, which Canada ratified in 1981, stipulates that women's right to equality shall be both formal and substantive. Article 7 of the CEDAW calls on states parties to take all appropriate measures to eliminate discrimination against women in the political and public life and guarantee women equal right to participate in the formulation and the implementation of government policy, such as taking part in the budget decision-making process.

In 1993, the Women's International League for Peace and Freedom published its *Canadian Women's Budget*, which compared federal, social and military expenditures and recommended better priorities for the federal government. Prime Minister Jean Chrétien's Liberal government, which had just come to power, heeded those recommendations. In 1995, with the prospect of the Fourth United Nations Conference on Women in Beijing, the Chrétien government prepared a policy document entitled *Setting the Stage for the Next Century: The Federal Plan for Gender Equality*.

That document called for the implementation of gender-based analyses in all federal departments and agencies. In 1999, Status of Women Canada created the Gender-Based Analysis Directorate, which disproves the statement made by the Leader

of the Government in the Senate on March 8, 2011, to the effect that gender-based analysis was created by the current Conservative government. Furthermore, in February 2000, Status of Women Canada published a guide entitled *Gender Budgets: An Overview*, proving once again that gender-based analysis existed long before the current government was first elected.

However, these initial efforts must not have been enough because, in April 2005, the Standing Committee on the Status of Women in the other chamber released a report entitled *Gender-based Analysis: Building Blocks for Success*, in which it recommended implementing gender budgeting. Have greater efforts been made since the arrival of the Conservative government in 2006?

It is quite natural to be doubtful because, in the spring of 2009, the Auditor General of Canada tabled a report on gender-based analysis in which she concluded that "there is no government-wide policy requiring that departments and agencies perform it." The Auditor General had examined the practices of seven departments and found that gender-based analyses were rarely carried out and that they were given little consideration when departmental policies were developed.

Are we to believe that a simple policy is not enough and that Canada, like Belgium, needs a law for an integrated approach to gender equality?

Would this law — which would be more binding than a simple policy that currently seems to be lacking in Canada — be enough in and of itself to impose the practice of gender-based analysis on the federal administration, to integrate the principle of equality at the national level, and to integrate measures to achieve this equality in departmental or sectoral programs, including budget and tax processes? For in fact, as I was saying a few minutes ago, equal rights do not necessarily translate into true equality.

• (2140)

Fortunately, some NGOs have been paying attention as well and, since 1995, every year before the federal budget is brought down, the Canadian Centre for Policy Alternatives publishes its own *Alternative Federal Budget*. This alternative budget proposes strategies to control the deficit, stimulate growth and foster greater equality and social justice. In addition, some NGOs appearing before the Standing Committee on Finance in connection with the federal budget use gender-based analyses in preparing their presentations.

[*English*]

The Hon. the Acting Speaker: Honourable senators, are you prepared to grant another five minutes?

Hon. Senators: Agreed.

[*Translation*]

Senator Losier-Cool: The Leader of the Government was telling us the other day that the federal government was conducting gender-based analyses in preparing the budget. What is the federal government doing precisely? And how is it doing it?

In a gender-based budget one basic ingredient is essential: reliable, differentiated data on men and women. These data come from analysis of public service delivery, the positive impact of public spending, public spending per sector, budget estimates, and the impact of the budget on scheduling.

There must be constant questioning of programs, cuts and current policies. Do these programs, cuts and policies encourage full participation and equality between men and women? Do their consequences discriminate against men or women? These questions have to be asked, not by equality specialists, but by the very people preparing the policies and budgets, who will have been trained and made aware of the challenges.

These questions must be asked with the support of civil society, unions, media, researchers and parliamentarians, who will also have been trained and informed. As parliamentarians, we can participate in pre-budget consultations in relevant committees and committee studies of the estimates, budgetary items and performance reports.

I would like to summarize the steps involved in gender-based budgeting: understanding the factors that affect women and men differently; taking inventory of current and proposed policies and programs; establishing specific objectives based on comprehensive, reliable data; identifying current or potential gender-based issues; and taking corrective action, avoiding or eliminating negative impacts, including with additional financial resources, or offsetting such impacts with a related program or activity.

At least one of these aspects is already at work here in Canada, namely, training and awareness.

Since the early 2000s, Status of Women Canada has offered training modules on gender-based analysis. These modules include preliminary assessment of impacts, desired results, needs in terms of supplementary research, logistics of required consultations, development and presentation of policy options, communications strategies, program design based on the available options, program delivery and program evaluation.

So neither information nor training seem to be lacking. But are they useful? Not really, according to the Auditor General of Canada. That needs to change, and quickly. Gender-based budgeting can only be to the federal government's economical and political advantage, especially if it wishes to be effective.

In fact, requiring that every federal policy or program undergo a gender impact study would mean that its impact would be better understood and that policies or programs would be targeted better and would perform better. And that is a good thing, especially given the major budget deficit we are facing.

[*English*]

Hon. Pamela Wallin: I would like to adjourn the debate on this inquiry in my name, please.

Hon. Roméo Antonius Dallaire: Honourable senators, might I ask a question?

Some Hon. Senators: No.

Senator Wallin: The time is up.

The Hon. the Acting Speaker: We have 50 seconds. Yes, we have time for part of the question.

[*Translation*]

Senator Dallaire: Honourable senators, I worked for four years with the minister responsible for CIDA. Can you confirm that the programs we provide at the international level, in developing countries, must meet gender-based criteria?

Senator Losier-Cool: I thank the honourable senator for his question. Most countries already have gender-based analysis programs. However, I do not think that CIDA requires such analysis. Perhaps it can, but if we included gender-based analyses in our legislation in Canada, all our programs and development assistance would have to reflect that.

Senator Dallaire: Honourable senators, we require it in developing countries, but do not do it here at home.

(On motion of Senator Wallin, debate adjourned.)

[*English*]

CANADA BORDER SERVICES AGENCY

INQUIRY—DEBATE ADJOURNED

Hon. Wilfred P. Moore rose pursuant to notice of March 10, 2011:

> That he will call the attention of the Senate to the Canada Border Services Agency, its operation and oversight.

He said: Honourable senators, I rise today to commence an inquiry into the operation of the Canada Border Services Agency, CBSA, and whether it requires an independent civilian oversight body.

The Canada Border Services Agency came into being on December 12, 2003 under Bill C-26, An Act to establish the Canada Border Services Agency. It was the product of changing times. The attention of the world was focused and remains focused today on security of nations and their citizens in the wake of the September 11, 2001 attacks on the United States of America and other attacks in the world. CBSA took over some of the responsibilities of Citizenship and Immigration Canada, the Canadian Food Inspection Agency and the Customs Revenue Agency.

The new agency assumed responsibility for 90 laws governing trade, travel and a major shift towards coordinating security at the border. In addition, the Minister of Public Safety was created in 2003, taking over some of the responsibilities of the Solicitor General in order to oversee the new domestic security department, Public Safety Canada.

CBSA today is composed of a president, seven vice-presidents and eight regional directors. CBSA currently employs more than 12,000 people. Physically, the CBSA operates some 1,200 service locations, 119 border crossings, 3 sea ports, 3 mail centres and 4 detention centres. The agency has become truly a massive undertaking.

Operating under the purview of Canada's Department of Public Safety, CBSA is an important member of Canada's security intelligence infrastructure.

Currently in Canada, three of these security agencies are subject to independent oversight: the Royal Canadian Mounted Police, the Canadian Security Intelligence Service and the Communications Securities Establishment.

The RCMP has the Commission for Public Complaints Against the RCMP, which was created in 1988. The commission is an independent civilian body that investigates complaints and reports to Parliament through the Minister of Public Safety. We are currently awaiting changes to the commission to better enable civilian oversight of the force. We wait to see what shape or form the change in the commission will take.

CSIS activities are monitored by the Inspector General of the Canadian Security Intelligence Service who is appointed by cabinet and reports to the deputy minister of the Department of Public Safety. The Inspector General is:

> . . . charged with monitoring compliance and operational policies, reviewing operational activities and evaluating reports provided by the Director of CSIS to the Minister of Public Safety and Preparedness.

In addition, there exists the Security Intelligence Review Committee, which is independent and reports to Parliament through the Minister of Public Safety annually. It can investigate individual claims against CSIS.

• (2150)

The Communication Security Establishment was created in 1946 to:

> . . . provide the Government of Canada with two key services: foreign signals intelligence in support of defence and foreign policy, and the protection of electronic information and communication.

In 1996, the Office of the Security Establishment Commissioner came into being with the mandate of investigating the complaints against the CSE, and monitoring compliance of the CSE with Canadian law. An annual report is submitted to Parliament through the Minister of Public Safety.

I would argue that the CBSA, as a full-fledged member of the Canadian security establishment, should be subjected to the same independent oversight as those security agencies mentioned above.

Another very important reason to create an oversight body for CBSA is the ongoing "security perimeter" talks between Canada and the United States. Information as to exactly what Canadians are entering into with the United States is not easily obtained. The

Minister of Public Safety continues to claim cabinet confidence regarding the perimeter, which, of course, means Canadians have no right to know anything about a deal which could potentially affect our sovereignty vis-à-vis the United States of America.

We are told by the government that consultation with Canadians has been initiated, but how can Canadians be expected to provide their opinions when there is no information about the security perimeter on which one could base his or her comments?

What Canadians can be sure of is that, like Bill C-42, which we recently debated in this chamber, it will require further exchange of information between our two countries in an effort to facilitate the cross-border movement of people and goods.

All of these developments are troubling to the extent that CBSA will presumably be the lead agency dealing with the security perimeter. CBSA will likely be gathering data on our citizens and sharing it to some extent with the American authorities.

The recourse that Canadians would have to complain about treatment received at the hands of CBSA staff would rest, as it stands, internally with CBSA. That is not an acceptable situation in light of a broader security perimeter between Canada and the United States.

Canadians deserve a more accountable, independent avenue for redress, which currently does not exist.

The international situation provides a number of good examples which Canada can look to for inspiration in creating a watchdog for the CBSA.

The United Kingdom, for example, has created an oversight body to monitor its equivalent of the CBSA, the United Kingdom Border Agency. Termed the Chief Inspector of the U.K. Border Agency, the position was created in 2008. According to the U.K. Border Agency:

> The role of the Chief Inspector was created to provide an independent, external assessment of the agency . . . the Chief Inspector is independent of both the agency and the Home Office, and reports directly to the Home Secretary.

The chief inspector does not actually deal directly with individual complaints, but he does review the process in such areas as monitoring the ways citizens might lodge complaints with the border agency, making sure that the response to these complaints by the border agency meets set standards, and making sure that any changes to the border agency constitute improvements.

The chief inspector makes inspections of the border agency's operations, files, sites, et cetera, and reports are issued identifying perceived problems. The agency, in turn, provides regular updates to the chief inspector, as well as updates on how it is dealing with suggested improvements provided by the office of the chief inspector.

All of these reports issued by the chief inspector are published online, as are the responses from the border agency.

The Australians have the Commonwealth Ombudsman with the responsibility for monitoring:

> . . . administrative actions of the Australian government agencies and officers.

The Australian Customs and Border Protection Service falls under the oversight of this office. The ombudsman has the ability to launch investigations in response to civilian complaints, and reports can be issued with the ombudsman's findings which are forwarded to the agency or office in question and the relevant minister of the Crown. If the recommendations are rejected by the agency in question, the ombudsman is empowered to present the report to the Prime Minister and to Parliament.

The Commonwealth Ombudsman presented a report on the Australian Border Agency in 2010, in response to many complaints made by citizens, which resulted in 10 recommendations being made to improve service by the agency, seven of which were adopted. The ombudsman does a follow-up report on implementation within six months of his recommendations.

I present these two examples of independent oversight because of their context in being members of the Commonwealth and the further similarity of their Westminster-style parliaments. I think these two countries provide excellent examples of what we should be considering in creating an independent oversight of the CBSA.

While complaints against government departments are by no means rare in a democracy such as ours, the CBSA could learn a lot from the experiences of the RCMP.

As national security issues have assumed a major role in government policy since the West's response to the events of 9/11, Canada has had its fair share of heartache and triumph. The fine work of all of our security agencies has not gone unappreciated by Canadians, although we are in the dark as to a great deal of their labour.

Unfortunately, as is usually the case, we hear of the mistakes which have been made. In our case, that would be the case of Maher Arar, who, in 2002, was arrested in the United States and deported to Syria where he was tortured. It was then established that the RCMP had shared information about Mr. Arar with the Americans which led to his arrest.

In 2004, the Government of Canada was forced to strike a public inquiry into these events, which took the form of the O'Connor Commission, which was tasked with:

> Making any recommendations that he considers advisable on an independent, arm's length review mechanism for the activities of the Royal Canadian Mounted Police with respect to national security.

Indeed, in 2006, the commission of inquiry into the actions of Canadian officials in relation to Maher Arar reported its findings that the RCMP had:

> . . . breached its own policies on information sharing, provided American authorities with inaccurate information about Mr. Arar, given unclear and misleading direction to its own investigators, failed to properly oversee its own

> investigation of Mr. Arar, refused to support efforts of the Government of Canada to secure Mr. Arar's release from jail in Syria and had omitted facts when briefing our Privy Council Office and senior government officials.

I mention this to highlight my concern that the CBSA needs to protect itself in the form of an independent oversight body because, as the experiences of the RCMP demonstrate, these security agencies must be accountable to the people of Canada. The Canadian government itself stated, in response to the O'Connor Inquiry:

> Effective and efficient review is critical to ensuring that national security activities remain appropriate, respect the law and inspire public confidence.

What better way to do so than to provide independent oversight for the CBSA? We have seen the slippery slope of self-monitoring. I would argue that independent oversight would contribute to preventing unfortunate events like those which the RCMP experienced.

This is not an unfounded belief by any means. Access to information requests by *The Toronto Star* showed that 1,428 complaints were filed against the CBSA in 2008-09, and 1,600 the year before. When dealing with Canadian and American citizens at the border, as well as other nationalities at points of entry, the CBSA must be seen to fulfil the government's own objectives to:

> . . . ensure that national security activities remain appropriate, respect the law and inspire public confidence.

That public confidence can only stem from an independent oversight body which can provide the monitoring of the CBSA and which will protect the agency and the people it serves.

It may be instructive for me to mention some instances involving innocent visitors and/or returnees to Canada, which, I suggest, clearly demonstrate the need for civilian oversight of CBSA.

Let me begin in detail with the case of an elderly American yachtsman who singlehandedly sailed into Canso, Nova Scotia on July 1, 2010. Upon learning that this historic port had no customs or immigration office, he contacted the RCMP. I should note that Canso does not have a CBSA office. If you arrive there from the sea, you can call CBSA for an inspection during civil service work hours, Monday to Friday, 8 a.m. to 4 p.m.

• (2200)

Despite all the hype about border security, this is the case at pretty much every port and cove in sea bound Nova Scotia. A member of the RCMP came and checked out the visitor's papers and yacht. Following his inspection and finding everything to be in order, the Mountie told him to report to the Canada Border Services Agency when he got to Halifax. He was headed on passage to Lunenburg, where his daughter and family planned to visit. On arriving at Halifax a few days later, the yachtsman officially reported to CBSA, and that is when his nightmare began.

Honourable senators, since he had arrived at a wrong port, armed border guards turned his world upside down. Searching for contraband, they confiscated his boat and tore it apart, throwing his food, stores, spare parts and gear all over the place and destroying an expensive refrigeration unit. "It was like vandals had got in and trashed the place," the skipper told Dan Leger, Director of News Content for *The Chronicle Herald* newspaper in Halifax.

Most upsetting was the unprofessional bullying behaviour towards, yelling at and intimidating the man whenever he protested their actions. They accused him of consorting with criminals in Vancouver, a port he had he never visited. They repeatedly called him a liar and threatened him with jail. He was told he had no civil rights and they could do with him what they pleased.

The agents did not find any contraband but demanded he pay a $1,000 penalty for landing at a wrong port. They gave him 24 hours to pay or he would a face a $30,000 fine. They said they had entered his name into a database so that wherever he goes, he will be under suspicion.

Honourable senators, Mr. Leger met the old sailor the following morning, after all this happened. The yachtsman was still deeply shaken and cast off his lines and got out of Canada as fast as the wind could take him. He had already cancelled his family visit to Lunenburg. "I will never come back here as long as I live," he said. "I had no idea Canada had become like this."

The sailor is a veteran of many border crossings around the world and felt his treatment by the CBSA was thuggish and illegal. Therefore, he pursued his case, appealing the fine and alleging harassment. Most important, he protested the border agents' threats to list him as a suspicion person.

It is reported in a letter dated December 14, 2010, the Recourse Directorate of the CBSA acknowledged the skipper's appeal but suggested it was not going far. It confirmed he is on their lookout list. I venture to say that few people in this chamber and elsewhere know of the Recourse Directorate or its operations. The letter says:

> When there is a contravention of the *Customs Act*, it is the agency's policy to retain the record for a period of six years from the date of seizure. You may be referred for routine secondary examinations upon entering Canada.

That statement might sound bland and bureaucratic, but with the current atmosphere of paranoia at our borders, it could be much more ominous.

The Hon. the Acting Speaker: I regret to inform the honourable senator that his time has expired. Is he requesting additional time?

Senator Moore: I would like five more minutes, please.

The Hon. the Acting Speaker: Is it your pleasure, honourable senators, to allow an additional five minutes?

Senator Plett: Yes.

Senator Moore: Thank you, Senator Plett.

Honourable senators, who is to say what other uses are made of those top secret databases? What distinction is made between a wayward yachtsman and a terrorist suspect?

The CBSA admits that "no prohibited goods were located." Therefore, you would think there would be no reason to place the man under suspicion, either for criminal or security reasons. Yes, he should have followed the rules to the letter. However, he did contact RCMP upon arriving in Canso and he did contact the Canada Border Services Agency as directed when he arrived in Halifax. In so doing, I would suggest he acted in a straightforward, respectful manner, as would be reasonably expected of a visitor to Canada.

Yet was he treated fairly, and is it just to have the same government agency act as police, investigator, prosecutor, judge and appeal court?

I commend Mr. Leger for his consummate reporting of this distasteful incident.

Again, unlike federal police and security agencies, there is no civilian oversight of the CBSA. This is simply wrong. No agency should have the power to search, detain, arrest, charge and punish without some kind of oversight. People should not be labelled suspicious on the whims of individual border guards.

There are numerous other incidents involving complainants who wrote to the CBSA regarding their complaints. These incidents are set out in documents released by the CBSA under the Access to Information Act. Time does not allow me to speak to them in detail, but I can assure honourable senators that they are as unsavoury as those experienced by our friendly American yachtsman.

I acknowledge there are thousands of border entries at Halifax and across Canada every day that occur without incident. That said, even one of these such bullying, discourteous incidents is one too many. I therefore repeat what I said earlier: No agency should have the power to search, detain, arrest, charge and punish without some kind of oversight. People should not be labelled as suspicious on the whims of border guards.

There is a very fine balance to be struck. After all, safety and security at the expense of civil rights of our society was not the conclusion anyone sought. We are supposed to be defending our rights and freedoms against terrorists. Suspending those rights and freedoms to the point where citizens can be abused without due process is not a victory against terrorism.

I think we can do both. We can protect our citizens and their rights while fighting terrorism at the same time. The ability to do so is what separates us from the terrorists.

Appeals should be heard by an independent open body with the power to order recourse. This is a simple democratic principle that applies to every inch of Canadian soil, including borders. It is time to put in place an independent civilian body to provide oversight of the Canada Border Services Agency.

I hope that my fellow honourable senators will provide their opinions and insights on this issue to make this a better, safer Canada.

Hon. Donald Neil Plett: Honourable senators, I would like to offer my opinions at some future date, so I will adjourn the debate in my name.

(On motion of Senator Plett, debate adjourned.)

(The Senate adjourned until Wednesday, March 23, 2011, at 1:30 p.m.)

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