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The Honourable NOËL A. KINSELLA
Speaker

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THE SENATE

Wednesday, March 14, 2012

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

SENATORS' STATEMENTS

ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE

PARLIAMENTARY ASSEMBLY MEETING

Hon. Francis William Mahovlich: Honourable senators, I want to share with you the discussions that took place at the eleventh winter meeting of the Parliamentary Assembly of the Organization for Security and Co-operation in Europe, or OSCE. The meeting took place over two days in February and involved the participation of nearly 250 parliamentarians from the 56 countries of the OSCE and even a few of its Mediterranean partners.

The winter meeting impressed me with the level of scrutiny and the range of issues discussed. I participated in the discussions on terrorism and crime in the region and emphasized the important role that the parliamentarians of the OSCE play regarding these issues, which, because they are not constrained by borders, can only be addressed in concert and in a coordinated manner.

At the meeting on democracy and human rights, individuals spoke on behalf of immediate family members or business associates about the ill treatment — in some cases even fatal — that they have faced in the justice systems of their respective countries, reinforcing for me the value of the Parliamentary Assembly in raising awareness about the violations of human rights in the region.

Otherwise indicating the value of the Parliamentary Assembly, the meeting on economic and environmental issues held a timely debate on the economic crisis in Europe. A plenary session was devoted to a special debate held on the future of conventional arms control in Europe.

Finally, the Parliamentary Assembly adopted a statement on the situation in Syria, calling for all parties in that conflict to fully respect human rights and fundamental freedoms.

Honourable senators, the winter meeting was informative and gave Canadian parliamentarians an opportunity to exchange views with other parliamentarians about issues of common concern. I encourage you to participate in the meetings of the Parliamentary Assembly of the OSCE should you have the opportunity to do so.

In conclusion, I want to thank the staff of the Canadian delegation to the OSCE, in particular Ambassador Fredericka Gregory, for the support and assistance they provided during the meeting.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Dr. David Chapman, his wife Robin, and his sons Levi and Asher from White Rock, B.C. They are the guests of Senator St. Germain, P.C.

Honourable senators, I also wish to draw your attention to the presence in the gallery of Her Excellency Sheila Sealy Monteith, High Commissioner for Jamaica. Her Excellency is accompanied by Mr. Ewart Walters, the Jamaica 50 Ottawa Chair, and by Mrs. Michelle Meredith, the wife of Senator Meredith. Also accompanying Her Excellency are Mrs. Norma Dadd McNamee, who is the former attaché for Jamaica to Canada; and Ms. Laura McNeil, Consular Deputy High Commissioner for Jamaica in Canada.

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

Hon. Senators: Hear, hear.

JAMAICA

CONGRATULATIONS ON FIFTIETH ANNIVERSARY OF INDEPENDENCE

Hon. Don Meredith: Honourable senators, later this year Jamaica will celebrate an important milestone anniversary. Fifty years ago, on August 6, 1962, Jamaica became the first British colony in the Caribbean to gain full independence. This significant achievement became an inspiration to other island colonies of the region.

Today, Jamaica is the third most populous anglophone country in the Americas after the United States and Canada. An island blessed by lush tropical beauty and a resourceful population, in the years since independence, Jamaica has produced many world-class athletes and more than its share of fabulous musicians. As a tourist destination, particularly for many Canadians seeking to escape the deep cold of winter, Jamaica's natural charms and the warmth of its people provide welcome relief that is second to none.

The island of Jamaica shares many characteristics and ties with Canada. Jamaica is a member of the Commonwealth. Its government is headed by the queen, with a bicameral Parliament consisting of an elected house and an appointed senate. Economically, Jamaica benefits from close relations with Canada. Branches of the bank of Nova Scotia and the Royal Bank have been established on the island for many years. Even before that, the commerce by sea between Newfoundland and Jamaica led to the introduction of salt fish into the diet of Jamaicans, while Jamaican rum became the popular beverage of Newfoundland.

The ties between our two countries continue to develop and grow deeper through the immigration of many islanders to this country. This Jamaican diaspora, of which I am a proud member,

has added to the rich texture of Canada's multicultural mix. Jamaican Canadians have made significant contributions to their adopted homeland in the areas of education, media, finance, drama, and sports. They have added more than a little sugar and spice to the Canadian cultural diet through music, dance, and art.

• (1340)

Later this month, honourable senators, cities across Canada, including Ottawa, Toronto and Montreal, will be hosting Jamaica50 festivities led by members of the Jamaican community. These celebrations will not only reinforce the Jamaican diaspora's pride in its heritage but also provide a timely opportunity for Jamaican people to renew their commitment to their Canadian home.

Honourable senators, as the first Jamaican-born member of this body, I will have the great privilege of launching the cross-Canada celebrations marking the fiftieth anniversary of Jamaica's independence here in Ottawa. As a Patron of Honour, I will be joined by Her Excellency Sheila Sealy Monteith, High Commissioner for Jamaica to Canada, on Thursday, March 22, at the Government Conference Centre to begin the festivities that celebrate all that Jamaica has achieved over the last half century.

In celebration of this great accomplishment in the coming months, I will also put forward a motion to allow my colleagues in this place to play an important role in recognizing this momentous occasion in Jamaica's history and sending a clear message of friendship to the people of Jamaica.

Please join me, honourable senators, as we mark this important milestone and celebrate the goodwill and warm ties that bind Jamaica and Canada.

THE R. JAMES TRAVERS FOREIGN CORRESPONDING FELLOWSHIP

Hon. Jim Munson: Honourable senators, it has been a year since Jim Travers died suddenly, leaving countless readers and viewers, who turned to him for his thorough and wise coverage of the news, reeling from shock. Praise for this intelligent and extremely likeable man came from everywhere — from the Prime Minister and opposition leaders, to journalists and others who worked with him during his long, exemplary career.

Some of the quotes about him were that he was “a journalist's journalist; a first-rate friend of many years; . . . someone who loved journalism for all the right reasons.”

Jim always brought tremendous skill to his work as a reporter, as a foreign correspondent and Bureau Chief for Southam News, as Editor of the *Ottawa Citizen* and as Managing Editor of the *Toronto Star*. “A clever and reassuring presence in print and on television” is how Don Newman described him. I could not agree more.

The knowledge and insight Jim garnered from each job he held and every event he covered continually enriched his ability to tell a story. He was committed to his craft. As focused as he was on honing his own skills, he was just as much a trustworthy source of encouragement and guidance for other journalists.

To commemorate Jim's ideals and ensure that journalists will continue to benefit from his contribution to the field, his friends and family have established the R. James Travers Foreign Corresponding Fellowship. Jim particularly cherished the experience of bringing Canadian stories of important events taking place outside our borders — in Africa, the Middle East and elsewhere. Each year, the fellowship in his name will award a Canadian journalist or a journalism student a \$25,000 grant to support a significant foreign reporting project.

Honourable senators, it is my pleasure to tell you that the first recipient of this fellowship has been selected and will be announced this afternoon, at 4 p.m., at a reception right here on Parliament Hill, in the Commonwealth Room. That is room 238-S, Centre Block. Of course, to entice my former journalistic friends, I said that refreshments will be served. I hope to have a big attendance and I also hope to have a few senators from both sides there because I think it is important for Jim, for his family, for journalism, for Senator Wallin, for Senator Duffy, for Senator Fraser, for Senator Fairbairn, for me, and for all of us who have worked in that special field.

Honourable senators, Jim Travers for me was a wonderful person. We worked on the road together. What happened on the road will stay on the road. What happens here, stays here. I hope my honourable friends will be able to attend this event, which will be memorable, moving and fitting to Jim himself.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, before calling on the next honourable senator for a statement, I wish to draw the attention of all honourable senators to the presence in the South Gallery of a distinguished group of fine cadets from Oakville, Ontario, who showed their wisdom by arriving in the Senate on March 14, thus to avoid the ides of March where the Senate does not have a perfect reputation.

I wonder if the cadets will stand to be recognized by honourable senators.

Hon. Senators: Here, here!

[Translation]

MRS. FLORA THIBODEAU

CONGRATULATIONS ON ONE HUNDRED AND ELEVENTH BIRTHDAY

Hon. Rose-May Poirier: Honourable senators, on March 20, 1901, during the worst storm of the year, Flora Thibodeau was born in Rogersville, New Brunswick. Next week, she will celebrate her 111th birthday.

Last year, on the occasion of her birthday, I had the honour of telling you about this remarkable individual and highlighting her many accomplishments. Today I would like to share more information about the life and times of the oldest person born in New Brunswick: Flora Thibodeau.

[English]

I had the honour of visiting Ms. Thibodeau again a few weeks ago. What remains amazing is that she still lives in her own home and only receives about five hours a day of home care. She walks with the help of a walker and listens to the radio to keep up to date on all the news of the day.

Honourable senators, speaking with her is like hearing a living history book. She remembers the first of many things becoming a part of our lives, as well as many important events that occurred in the past 100 years. To name a few, she remembers the first automobile rumbling down the streets in Rogersville; the first toilet, bathtub, refrigerator, telephone and TV, let alone computer, microwave and video games. She also remembers the First World War and the Second World War, the sinking of the *Titanic* in the Atlantic, and she talks to me about the fear the local people had when the First World War was declared. People did not have TVs or radios very much and could not understand what was happening. The only newspaper available was *L'Evangeline*, which at that time did not have a lot of news beyond New Brunswick, and many did not even have access to the newspapers.

[Translation]

Ms. Thibodeau is the eldest of a family of six children. She had one sister, four brothers and three half-sisters. Ms. Thibodeau has seven children, six of whom are still with us. Her children are spread out across Canada and the United States. She has 17 grandchildren, 27 great-grandchildren and five great-great-grandchildren. About a month ago, a baby girl became the first member of the sixth generation of Ms. Thibodeau's family.

[English]

As a young child she remembers that Christmas was different than today. They had no Christmas trees but would all hang stockings on their bedroom doors. In the morning, it was a great joy to wake up and receive an orange in their stocking as a gift, as this was the only one that they would eat during the whole year. She remembers that her mother would also make them a special treat of toffee made from molasses.

As a young girl, she went to school in Rogersville until the ninth grade, which was the highest level offered at that time. From there, she went to Fredericton to train for six months to get her Class III licence so that she was able to teach up to the level of grade 8. She was a teacher from the age of 18 to 24.

In 1927, she stopped teaching when she got married. Her husband was a provincial police officer and they lived in Caraquet for a while. Once her husband lost a job for reasons unknown, they moved back to Rogersville and opened a grocery store in their own home. A few years later, at the age of 41, her husband passed away. Her seven children at the time were between the ages of 1 and 13.

Upon her husband's death she closed the grocery store and replaced it later with a second-hand clothing store. At first she supported her family with a small farm consisting of one cow, one horse and some chickens. She sold butter that she made and

received a pension of \$5 per month per child to support her family, which she says was a lot of money back then.

Later, she became the first woman manager of the local Caisse populaire branch. During those days, it cost 25 cents to become a member and the most that they would lend to a person was \$100. She was also a telephone operator and worked at the local co-op store —

[Translation]

The Hon. the Speaker: Order. I regret to inform the honourable senator that her time is up.

[English]

Senator Poirier: To be continued tomorrow, please.

• (1350)

THE LATE MR. LANIER PHILLIPS

Hon. Norman E. Doyle: Honourable senators, about three weeks ago I had the honour of representing the Government of Canada at a ceremony in a little community on the Burin Peninsula of Newfoundland and Labrador.

It was a ceremony to mark the sinking of the American destroyer *Truxtun* and supply ship *Pollux* on February 18, 1942, just off the shores of St. Lawrence, Newfoundland and Labrador. Two hundred and three officers and crew lost their lives. Residents of the little towns managed to rescue 186 sailors.

When I went to those little communities of St. Lawrence and Lawn a few weeks ago it was indeed to mark the occasion, but I also wanted the opportunity to meet one of the survivors, Mr. Lanier Phillips. Mr. Phillips spoke eloquently of his experience on that terrible evening, so it was indeed a great shock to the people of Newfoundland and especially to the community of St. Lawrence to learn of his passing two days ago. Today Lanier Phillips would have been 89 years old.

In 1942, when his ship went down, the U.S. Navy was segregated. Of the 46 survivors from the destroyer *Truxtun*, one was Black. Mr. Phillips would often relate the story that when he was rescued by the townspeople of St. Lawrence and Lawn they treated him with the same respect and kindness as the White survivors. He said he woke up in a room, surrounded by a group of White women who were bathing him. Many of the rescued sailors had jumped into the cold ocean waters, which were covered with a layer of heavy bunker crude oil that coated every man. He said all were in dire need of cleaning.

Phillips noted that the women in St. Lawrence who were helping with the rescue had never seen an African American before and were puzzled that the crude oil seemed to have soaked his skin to the point of colouring it. One woman was determined, said Phillips, to scrub it off, and he had to tell her, "No ma'am, that's the colour of my skin."

This is indeed a humorous story, but not unusual considering the lack of communications in Newfoundland and Labrador 70 years ago in 1942.

[Senator Poirier]

What is really important of course is that this event in St. Lawrence galvanized Lanier Phillips to fight racial discrimination within the U.S. Navy. He later became the navy's first Black sonar technician, and after completing 20 years in the U.S. Navy he joined the exploration team of Jacques Cousteau. He helped find and uncover a sunken atomic bomb, became active in the civil rights movement and started to travel in order to speak to young men and women in the U.S. military about the destructiveness of bigotry and racism. He would often say, "The people of St. Lawrence changed my way of thinking, and it erased all the hatred within me."

Phillips told the CBC last month that because of the tragedy he joined up with Dr. Martin Luther King. "I just had to join up," he said, "because of the change they made in me in St. Lawrence."

Phillips was given honorary membership in the Order of Newfoundland and Labrador and an honorary Doctor of Laws from Memorial University. The story of Lanier Phillips has been told many times in plays and television documentaries. The comedian, Bill Cosby, who was stationed in Newfoundland for a period in the 1950s, said it best when he heard the story:

But trying to scrub it off and clean it . . . turns out to be not a novelty story as much as a story about a change that comes to a human being because of a difference in the way the human being is treated, and how it opens up very positive feelings in a human being.

Our deep condolences go out to the family of Lanier Phillips.

WOMEN WHO LIVE IN CONFLICT REGIONS

Hon. Mobina S.B. Jaffer: Honourable senators, last week the international community celebrated International Women's Day. Today I would like to pay tribute to all senators, past and present, who work hard to improve the lives of people living in Canada and abroad. I would like to take this opportunity to recognize all your hard work and salute you for your service to our country and to the international community.

Although we have made great strides towards bettering the lives of women both in Canada and abroad, I am sure you will agree there is a lot that still needs to be done. I think it is important that we remain mindful of the challenges women are forced to face and the unfortunate realities that confront them in their day-to-day lives.

Yesterday evening we all received a poem from a woman named Miriam Katawazi. Today I would like to take a moment to share this poem and pay tribute to women, not like ourselves, who live in conflict-ridden areas and must endure the loss of their child, which is undoubtedly the worst pain a mother can suffer — a pain that can never, ever heal. The poem is titled *The Boy in the Red Pyjamas*.

It's getting late and the kids are hungry
She already sold all her valuables and was left with
no money
So she asked her little prince to go to his bed

Hoping sleep would allow him to escape the hunger
in his head
She watches as his little legs carry him
And she thinks to himself how she loves his every limb
Once he is fast asleep on his homely bed like thing
She cries herself to sleep and stares at her wedding ring
She felt joy in the fact that she still had something to sell
To allow her child to escape at least tomorrow's hell
The next morning . . .
A piercing blood shot cry wakes up all of Afghanistan
That shakes the heart of even the most pitiless man
A little boy in red pyjamas lies in the arms of his mother
Who's nothing but a clump of blue burka shivering
like no other
Locals gather around her silent because their words
hold no meaning
It's what they've been hold told and it's what they
have been seeing
The boy in the red pyjamas is just a number
One of the many who were shot in their slumber
And if you listen closely,
By muting out all the nonsense the media sings
You will hear the mother's piercing blood shot
cry across the ocean
You will feel the earth shake when they lower the boy
in the red pyjamas into his grave
Because even the earth's soul breaks when it sees
his little bloody hand

Touch his mother's blistered fingers for the last time . . .

CANADA-UNITED STATES AIR QUALITY AGREEMENT

Hon. David Tkachuk: Honourable senators, in the history of diplomatic negotiations between two countries, rarely does the resolution of a vexing issue prove to be equally rewarding to both sides. I want to draw your attention to such a success story.

Yesterday, March 13, marked the twenty-first anniversary of the signing of the Canada-U.S. Air Quality Agreement, otherwise known as the acid rain treaty. In discussions of Canada's international achievements in the late 1980s and early 1990s, the acid rain treaty — the culmination of years of persistent diplomatic interventions by the government of the Right Honourable Brian Mulroney — often takes a back seat to the signing of the Canada-U.S. Free Trade Agreement and Brian Mulroney's influential role in ending apartheid in South Africa. For many, though, it is on par with those accomplishments and lined up against the achievements of any other Prime Minister since 1867.

Honourable senators, in an April 7, 1987, entry in the former prime minister's personal journal, a meeting in Ottawa with President Reagan and other U.S. officials is mentioned. This entry speaks to Prime Minister Mulroney's dogged approach to advancing Canada's interests against the equally dogged stances of our friends to the south. The former prime minister stated, as recounted in his published memoirs:

I hit hard — very hard — on Arctic sovereignty, acid rain, and trade. Perrin Beatty, who was attending his first such meeting . . . said to Masse, Joe, and Gotlieb etc., afterward: "I had no idea the PM was so direct and tough in these meetings."

In the same entry, the former Prime Minister gave the following assessment:

Trudeau, of course, used to snipe away in public but was always ineffective in private with the Americans. But Canadians got the impression he was tough with them when the reverse was true. I suffer from the problem of friendship. Because I favour civilized relations and do not go in for knee-capping friends, the Canadian press assume I am no less cordial in private. They would be astonished at what I actually say and do. My only interest is the advancement of Canada's interests.

Honourable senators, I also wish to note that on this anniversary of the acid rain treaty, it was also revealed that the Right Honourable Brian Mulroney will become an international recipient of the Horatio Alger Award for 2012. This is an award bestowed annually by the U.S.-based Horatio Alger Association that recognizes "individuals in our society whose courage and determination allowed them to overcome the challenges they faced early in their lives and achieve success in their fields."

The Horatio Alger Association notes that Mr. Mulroney, 72, grew up as an electrician's son on Quebec's remote north shore, went on to become Canada's eighteenth prime minister, overseeing the adoption of the Canada-U.S. Free Trade Agreement, amongst other accomplishments, and what accomplishments they were.

• (1400)

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, just before calling for tabling of documents, I wish to draw your attention to the presence in the gallery of guests of the Honourable Senator Mahovlich, in the persons of the Per Matthews family. On behalf of all honourable senators, welcome to the Senate of Canada.

Hon. Senators: Hear, hear.

ROUTINE PROCEEDINGS

PROTECTING AIR SERVICE BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-33, An Act to provide for the continuation and resumption of air service operations.

(Bill read first time.)

[Senator Tkachuk]

[Translation]

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

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 57(1)(f), I move that the bill be placed on the Orders of the Day for second reading later this day.

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

Hon. Senators: Agreed.

(On motion of Senator Carignan, bill placed on Orders of the Day for second reading later this day.)

CANADIAN NATO PARLIAMENTARY ASSOCIATION

ROSE-ROTH SEMINAR, JUNE 21-24, 2011—
REPORT TABLED

Hon. Pierre Claude Nolin: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Parliamentary Delegation of the Canadian NATO Parliamentary Association respecting its participation at the 77th Rose-Roth Seminar, held June 21 to 24, 2011, in Tromsø, Norway.

[English]

CANADA-UNITED STATES INTER-PARLIAMENTARY GROUP

ANNUAL MEETING OF THE NATIONAL GOVERNORS'
ASSOCIATION, JULY 15-17, 2011—REPORT TABLED

Hon. Janis G. Johnson: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canada-United States Inter-Parliamentary Group to the 2011 Annual Meeting of the National Governors' Association, held in Salt Lake City, Utah, United States of America, from July 15 to 17, 2011.

ANNUAL MEETING OF THE SOUTHERN
GOVERNORS' ASSOCIATION,
AUGUST 19-21, 2011—REPORT TABLED

Hon. Janis G. Johnson: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canada-United States Inter-Parliamentary Group to the Seventy-Seventh Annual Meeting of the Southern Governors' Association, held in Asheville, North Carolina, United States of America, from August 19 to 21, 2011.

[Translation]

TRANSPORT AND COMMUNICATIONS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY OF EMERGING ISSUES RELATED TO CANADIAN AIRLINE INDUSTRY

Hon. Dennis Dawson: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That, notwithstanding the Order of the Senate adopted on June 15, 2011, the date for the presentation of the final report by the Standing Senate Committee on Transport and Communications on emerging issues related to the Canadian airline industry be extended from June 28, 2012 to November 30, 2012.

[English]

QUESTION PERIOD

NATIONAL DEFENCE

F-35 AIRCRAFT PURCHASE

Hon. Wilfred P. Moore: Honourable senators, my question is for the Leader of the Government in the Senate. Honourable senators, yesterday Julian Fantino, the assistant defence minister for procurement, surprisingly announced that Canada might back out of the F-35 fighter airplane program, this after five years of tough talk and attacks on the opposition for not supporting our troops. The price for the last batch of F-35s came to over \$200 million per unit. A large part of the minister's nervous admission that the government could back out of the program has to be the spiraling cost of aircraft.

What is the price per unit that this government has concluded will be the highest price we are willing to pay per airplane?

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, the media reports that we are abandoning the F-35 program are erroneous. Canada has been a partner in the F-35 program now for 15 years. We have set a budget to replace Canada's aging CF-18s and we will operate within that budget. However — and I think this is the source of some of the misinformation in the media — a contract has not been signed, but we will ensure that the air force has the aircraft necessary to do the job that we ask of them, especially when the CF-18s' life has come to an end.

With regard to the honourable senator's specific question of cost per unit, I will take that question as notice.

Senator Moore: I have a supplementary question. How many planes do we now plan to purchase, given this ballooned purchase price? What would be the number of aircraft that we will need to meet our commitments at home and abroad?

Senator LeBreton: Honourable senators, the Department of National Defence and the Associate Minister of National Defence, Mr. Fantino, have always said that we have a budget set aside for the procurement of aircraft. Therefore, I cannot definitively answer the honourable senator's question as to the number of aircraft. I just cannot answer that, honourable senators. I do not know whether that information is available, but I would be happy to try to find out.

Senator Moore: I have another supplementary question. Maybe the leader could take that under advisement and come back with an answer.

I understood that the amount of funds set aside for this procurement was \$9 billion. In view of the fact that the minister has indicated that the government is looking at the possibility of backing out — he did not say they were backing out, but he said it is something they have to consider — does the government have a backup plan? The F-18s are scheduled to retire in 2018. Could the leader tell us what the backup plan would be?

Senator LeBreton: I think it is clear, honourable senators, that we do know one thing: In another five years or so, the CF-18s will be at the end of their life cycle. The government is still part of the program for the F-35s.

The honourable senator has asked similar questions before and I believe I have submitted some written answers on these. I will take the question as notice and try to provide the honourable senator with more information.

[Translation]

Hon. Roméo Antonius Dallaire: Honourable senators, can the Leader of the Government tell us if, considering the scenario presented yesterday and all the concerns surrounding this aircraft, the procurement plan could simply be postponed? In other words, could we take the money earmarked for that purchase and set it aside for a few years, instead of making a decision right away? Is that the decision you plan to make?

[English]

Senator LeBreton: Honourable senators, I think it has been clear all along that we will make sure that the air force has the aircraft necessary to do the job that we ask of them. At the moment there is much speculation around the F-35s. I just answered to Senator Moore that we have been part of this program for 15 years. We do have a budget and we will operate within that budget.

• (1410)

Contracts have not been signed, but we have been part of the program now for 15 years, and Canadian companies are involved in the work and construction of this aircraft.

Senator Dallaire: As I understand that answer, the leader is not aware that the project is actually being shifted to the right to delay the delivery of those systems when we know that a number of the F-18s can go beyond the year 2020.

Senator LeBreton: I think I answered the question already.

The government will make sure that the air force has the equipment required. In the six years we have been in government we have certainly lived up to our commitment to the Armed Forces. We have absolutely no intention of doing otherwise, and we will make absolutely certain that the air force has the equipment and the proper fighters to do the job that we ask of them and that they do so well.

Hon. James S. Cowan (Leader of the Opposition): I have a supplementary arising out of the questions of my colleagues Senator Moore and Senator Dallaire. The leader has repeatedly said that by 2020 the government will ensure that the air force has the equipment they need. The minister himself is speculating now that the F-35s may not be the ones that will be used.

Can the leader assure us that there is a backup plan to ensure that the Armed Forces will have this equipment, and will she give us details as to what that backup plan might be?

Senator LeBreton: I do not believe the minister speculated any such thing. I believe that is media speculation, and my answer stands. We have been in this program for 15 years, which was started by the previous government. Of course contracts have not been signed, and we will ensure that when the CF-18s have lived their full life cycle, the air force has the proper equipment. That is all I can say for the moment.

Senator Cowan: The leader has repeatedly said that we will have the equipment in place by 2020, when the CF-18s reach the end of their useful life. She has said that the contracts have not been signed for the replacement aircraft.

I think any fair reading or hearing of what the minister said was that he is not as sure as he professed to be in the months previous to this point that they would be signed. All we are asking for is an assurance that, yes, this contract will be signed and that is the aircraft we will go with. If that is not the case, what is the backup plan? Will the honourable senator undertake to find out what the backup plan is and report back to us?

Senator LeBreton: All I can say is we have responsible people in our military and in the Department of National Defence. The only thing I can say at this point in time, honourable senators, is that the government, working with our partners, will make sure that the air force has the necessary aircraft to do the job asked of them.

This is the year 2012. I am quite sure that when the Minister of National Defence and the Associate Minister of National Defence have further information on this that they can share with the public, they will do so.

Senator Cowan: Perhaps we could approach it this way: Leaving aside the identity of the aircraft, could the leader provide us with a timeline from the date of a contract signing to the delivery of a prototype aircraft, to operational aircraft, to the delivery of the replacement aircraft, working back from the 2020 deadline? Would she provide us with that schedule so we will know, leaving

aside the identity of the aircraft, how long in advance is it necessary to sign a contract with a supplier for an aircraft?

Senator LeBreton: We have seen contracts signed and broken in the past, and I am quite certain that that will not happen this time.

I can only tell honourable senators what I have already said, that we are part of this program, which has been going on for 15 years. We will ensure that our air force has the proper equipment, and when the Minister of National Defence and the Associate Minister of National Defence have some further information to share on this, I am quite confident that we will be the first to know.

Senator Moore: On February 27 I was in Washington, D.C., and I had a conversation with Mr. Bill Dalsen, who is the president for the Americas region of Lockheed Martin, the sole provider of this F-35 aircraft. The leader might recall I asked questions a couple of weeks ago with regard to the cyber theft in China discovered by Lockheed Martin three years ago, which caused a substantial increase in the price of this aircraft. I asked him — as I asked the leader — whether, when Lockheed Martin discovered that cyber theft, they advised Canada. He would not say that they did.

Does the leader have any information on that, and can she tell the chamber whether or not Lockheed Martin advised Canada, whether it was a minister or somebody appropriate in government, of this cyber theft?

Senator LeBreton: I thank the honourable senator for the question. Senator Moore did ask me that question a month or two ago and I took the question as notice.

I believe I will have a response to his specific question within the next day or so. I cannot add more than that. I think we will have to wait for a response to the question that we have already posed to the Department of National Defence. Perhaps, after Senator Moore has received that answer, he will see whether the question needs further clarification.

HEALTH

DRUG SHORTAGES

Hon. Jane Cordy: There is great concern among Canadians about the increasing number of drug shortages in Canada. Sandoz, the Canadian drug manufacturing company, was told by the U.S. FDA in July of 2009 that it had breached manufacturing standards regarding aseptic and contamination processes regarding crystallization in intravenous products. However, the minister who stated that the department inspects plants did not bother to follow up on this at the time. The fact that the minister says that she found out about the concerns and the possible shortage of drugs only in November of 2011 is frightening.

In 2010, the Canadian Pharmacists Association wrote a report warning of drug shortages. At that time, over 90 per cent of pharmacists said they were having trouble with drug shortages. More than a year ago, about 74 per cent of Canadian doctors said they were encountering shortages of generic drugs.

What did the minister do? She set up a voluntary system. Why? Why is this minister not showing any leadership? Why is this minister not standing up for Canadians?

Hon. Marjory LeBreton (Leader of the Government): Minister Aglukkaq does show great leadership and does stand up for Canadians. She and her department have been working 24-7 to support the provinces and territories, which, of course, are directly responsible to the patients and their families. Obviously the provinces and territories are in the best position to deal with this.

Let us be very clear here: This shortage is a direct result of the decision of the provinces and territories to sole source many drug contracts. This is a provincial responsibility through Sandoz Canada.

We have been very clear. We have been doing everything we can to assist the provinces. We have been very clear that we will work with all stakeholders to find short- and long-term solutions to this serious situation.

The fact of the matter is, honourable senators, the Minister of Health has been working very hard with her provincial and territorial partners to assist them in addressing these shortages.

Senator Cordy: We will definitely have to agree to disagree about whether the minister is showing leadership. I find that she is not. She is not standing up for Canadians.

An Hon. Senator: Right on.

Senator Cordy: What this minister seems to do continuously is when something happens she immediately blames someone else. For her first few years as minister she blamed the Liberal majority in the Senate, but she cannot do that anymore. She is blaming the provinces and the territories for the drug shortages.

Yesterday I asked a question about mental health. At that time I said the Government of Canada is the fifth largest provider of health care in this country. It provides health care for the military, the RCMP, Aboriginals, and inmates.

• (1420)

It is not just the provinces and the territories that have a responsibility. It is the federal government. The federal government is responsible for the implementation of the Canada Health Act with respect to accessibility and universality. Regardless of your ability to pay or where you live, you should have access to the Canadian health care system.

Canadians do not have access to drugs. It is becoming a problem, and it is not an isolated incident. We had issue of isotopes not that long ago. The pharmacists of Canada recognized this red flag. The doctors have red flagged it.

Currently, the minister has put in place a voluntary reporting of shortages of pharmaceuticals. There is no formal mechanism in place to let Canadians know about possible shortages unless companies voluntarily report it.

How are Canadians getting their information? It is certainly not from Minister Aglukkaq, the Minister of Health. In fact, we are getting our information from television, radio and newspapers. I listened to the head of the Canadian Medical Association this morning talk about how he was getting his information. He said he is not getting it from the minister or the Department of Health. He is getting it from reading newspapers, watching television and listening to radios.

Senator Eaton: Question?

Senator Cordy: That is pretty pathetic.

An Hon. Senator: Question?

Senator Cordy: When will the minister bring in a more formal mechanism for Canadians to know about the shortages of drugs? More importantly, when will she examine the issue of drug shortages and put a plan in place to reduce such incidents?

Senator LeBreton: First of all, I absolutely disagree with the honourable senator's assessment of Minister Aglukkaq. She has taken great leadership on a number of issues, starting with H1N1. Obviously, the situation with Sandoz is because of the decision to buy from one supplier.

The honourable senator asked what Minister Aglukkaq has been doing. She has been working on the issue of drug shortages since last summer. In the Department of Health, a group has been working with industry and stakeholders to ensure that Canadians are informed of potential shortages. That is always a concern to anyone involved in the health care field. I would not put a lot of stake in everything one hears on the radio. The fact of the matter is the Minister of Health zeroed in on this problem months ago. They have been working on it in Health Canada.

With regard to Sandoz, the minister has received a letter from the company stating that they will meet her demand for more accountability and post information about the drug shortages. They said they would also give 90 days' notice of any other drug shortage that may arise in the future.

It is quite unfair and incorrect to say that this is something the minister has only seized on as of this latest event occurring. That is absolutely flat out wrong.

Senator Cordy: Will the minister put something in place so that it is not voluntary but mandatory that drug companies give notification of shortages?

Senator LeBreton: Honourable senators, as I said earlier, the mistake was the decision to sole source. We have seen that before. We saw the same situation with H1N1 and the decision of the provinces, and the Minister of Health is not blaming the provinces. This is not blaming; it is just stating a simple fact. The minister recognized the potential problem months ago and has been working on various solutions to the problem since last summer.

ENVIRONMENT

CLIMATE CHANGE

Hon. Grant Mitchell: Honourable senators, oh, my gosh. In what can only be described as an absolutely breathtaking tour de force, unparalleled in the annals of parliamentary debate, yesterday, in the space of less than an hour, the Conservatives denied science, smeared any number of perfectly legitimate Canadian charities and, ultimately, suggested that Canadian environmental groups would be accepting money from al Qaeda and the Martians.

Speaking of outer space — Earth to Conservatives — Earth to Conservatives — could the Leader of the Government in the Senate please tell us if anybody actually read those speeches before they delivered them?

Some Hon. Senators: Hear, hear!

Hon. Marjory LeBreton (Leader of the Government): The small mindedness of the honourable senator's rhetoric is only outsized by his own size.

Senator Mitchell: Whoever wrote those speeches, could you put them on our payroll because they are doing us a lot of good.

Is Senator Greene Raine's speech denying the science of climate change — perhaps more articulately than I have ever heard it denied before — confirmation of the government's real feelings about climate change, or is it a confirmation of a fundamental shift in the government's position on climate change, or is it just the musings of a lost senator disagreeing fundamentally with her Prime Minister, her Minister of the Environment and with her own government's stated position on climate change?

Senator LeBreton: The one thing I like about Senator Mitchell is you can see his questions coming from a mile away.

The fact of the matter is we have a debate in this Senate, and the senators on this side are very strong individuals. They get up and speak their views freely, and I think they should be applauded for it.

An Hon. Senator: Oh, right!

Senator Mitchell: They do speak their views freely, and sometimes the government contradicts them. Sometimes the Prime Minister's Office clearly contradicts them and puts them off, puts them back and disagrees with them, like they did in the case of capital punishment and the statements by Senator Boisvenu.

That is not the case here. In fact, the Prime Minister's Office said, "We're not going to comment." Does that mean that the Prime Minister's Office is actually accepting this idle rhetoric of climate change denial and science denial by Senator Greene Raine?

Senator LeBreton: I do not know what the honourable senator was reading, but anything I saw coming out of the Prime Minister's Office with regard to Senator Boisvenu was complete admiration and support for the great courage he has shown in fighting for victims.

Senator Mitchell: What kind of government would suggest that absolutely legitimate charitable groups like the Suzuki Foundation, like the Sierra Club Foundation, are muddling —

An Hon. Senator: Shame!

Senator Mitchell: — are muddling or meddling in public policy debate in this country, when they exclude groups like the Fraser Institute, which clearly takes international money, which clearly is a charity and which clearly meddles and muddles in public policy debate in this country every waking moment of their existence?

Senator LeBreton: What kind of a senator comes here week after week after week and works against the interests of his own province?

An Hon. Senator: Oh, oh!

Senator LeBreton: Furthermore, the honourable senator obviously has strong views on that. I invite him to participate in the debate.

An Hon. Senator: He did.

Senator Mitchell: Is the leader not aware that, fundamentally, many, if not most — if not practically all — Albertans have a fundamental belief that the environment needs to be protected and that it is not inconsistent with support for the oil sands and their impact on economic development all across this country? Can you not get that you can walk and chew gum at the same time on these important issues?

Senator LeBreton: The fact of the matter is that this government has a far superior record on the environment than the honourable senator's government ever did.

Some Hon. Senators: Hear, hear.

GOVERNOR GENERAL

DIAMOND JUBILEE MEDAL NOMINATIONS

Hon. Terry M. Mercer: Honourable senators, I hate to change the channel; we were doing so well there.

Honourable senators, Diamond Jubilee medals will be awarded to over 60,000 deserving Canadians over the next year. While we and the members of the other place can nominate anyone, there are also almost 200 organizations in several different categories across Canada that can nominate.

In the social and volunteer sector, there are organizations such as Big Brothers Big Sisters, Volunteer Canada, and my old employer, the YMCA.

• (1430)

Then there is also REAL Women. REAL Women is a well-known, socially conservative organization that has made very interesting comments on such things as abortion, contraception, gay marriage and gay rights. Can the leader kindly tell us why a group known for its biased views of one group of people in society over another would be asked to nominate for such a prestigious award?

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, I have no idea. All I know is that all of us have been invited to participate in the awarding of the Diamond Jubilee Medal. Many Canadians from many organizations will obviously be chosen by many of us to receive the medal.

This is an award given out on behalf of Her Majesty the Queen. I cannot respond to something over which the government has no control.

Senator Mercer: Honourable senators, if you go to their website, there is an interesting section called “Carol’s Corner.” Carol is a composite REAL Woman. Her column has been written by a number of contributors. This is them speaking:

“She” will continue to weigh in on all kinds of matters of interest to both our members and those who visit our site.

I viewed this column and in one section from December 2011, Carol comments on the columns in the *National Post* that were written about bullying, a very timely subject. I quote:

... the school boards are so gay-friendly that gays, like other, favoured, usually “multicultural” groups, can get away with practically any kind of behaviour. People walk on eggshells to be as politically correct as possible so as not to offend students, teachers, or administrators in these groups.

This is still quoting from “Carol’s Column”:

Could it be that some bullying is a result of sheer frustration on the part of the “ordinary” student, who sees that certain students are favoured?

Unbelievable. This group, REAL Women, seems to be saying that bullying could in fact be a justified response from some people.

Does the leader agree that those statements are pretty outrageous?

Senator LeBreton: Honourable senators, if I had to get up and respond, which I cannot do and am in no position to do on behalf of the government, to every column that has been written with people’s points of view, I would never be able to sit down.

This has nothing to do with the government. This has nothing to do with anything in which I am involved. Whether we agree or disagree — in this case, I have not read the article, but I am personally inclined to disagree — is not the issue. The issue is that people are free to speak their minds, and whether we agree or disagree with them is our prerogative.

I cannot get up as Leader of the Government in the Senate and answer for every column that every person on behalf of whatever group in the country has written. Honourable senators would not expect me to be able to, nor would I want to.

Senator Mercer: When the Governor General was asked about the list of groups to nominate people, he said it was not his list; it was a list put together by the government. REAL Women being on that list comes from the government.

Could the Leader of the Government in the Senate tell us, then, why no groups responsible for promoting gay rights are on the list of those who are able to nominate Canadians for Diamond Jubilee Medals?

Senator LeBreton: First, honourable senators, this does not fall within my responsibility as Leader of the Government in the Senate. I do not know who is on the list. I do not know which organizations are on the list. I have personal friends who belong to Egale. I will probably nominate a couple of them myself when I submit my list, but that is my own personal decision. I cannot answer for something I know nothing about.

Hon. Grant Mitchell: By way of supplementary question, in the new definition of accepted charities that the government is working on, will groups like REAL Women who put down young gay people still be able to maintain their charitable status and meddle in the public policy debate on that important issue?

Senator LeBreton: That question is out of order because I am in no position to answer on behalf of any organization, whether it is Egale, REAL Women or whomever.

[Translation]

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, pursuant to rule 27(1), I would like to inform the Senate that when we proceed with government business, the Senate will address the items in the following order: second reading of Bill C-33, followed by all other items according to the order in which they appear on the Order Paper.

PROTECTING AIR SERVICE BILL

DECLARATIONS OF PRIVATE INTEREST

Hon. Marie-P. Poulin: I wish to inform honourable senators that I will not take part in the debate on Bill C-33, An Act to provide for the continuation and resumption of air service operations, in order to avoid any possible perceived conflict of interest.

The Hon. the Speaker: Honourable senators, Senator Poulin has made a declaration of private interest regarding Bill C-33 and, in accordance with rule 32.1, the declaration shall be recorded in the *Journals of the Senate*.

[English]

Hon. Pana Merchant: Honourable senators, I believe my husband, E.F. Anthony Merchant, has a private interest through litigation that might be affected by the matter currently before the Senate, and I therefore make a declaration of private interest.

The Hon. the Speaker: Honourable senators, the Honourable Senator Merchant has made a declaration of private interest regarding Bill C-33 and, in accordance with rule 32.1, the declaration shall be reported in the *Journals of the Senate*.

Hon. Pamela Wallin: Honourable senators, I, too, would like to make a declaration of private interest on this matter as I serve on the board of Porter Airlines.

The Hon. the Speaker: Honourable senators, the Honourable Senator Wallin has made a declaration of private interest regarding Bill C-33. In accordance with rule 32.1, the declaration shall be recorded in the *Journals of the Senate*.

[Translation]

SECOND READING

Hon. Claude Carignan (Deputy Leader of the Government) moved the second reading of Bill C-33, An Act to provide for the continuation and resumption of air service operations.

He said: Honourable senators, since March 6, Canadians have been living in uncertainty, worried about the consequences of the labour dispute between Air Canada and its pilots and its technical, maintenance and operational support employees.

I would like to give some background information about the two disputes in question in order to convince my colleagues of the merits of this bill, which provides for the continuation of Air Canada's air service operations.

One dispute involves Air Canada and its 3,000 pilots, who are represented by the Air Canada Pilots Association, and the other involves Air Canada and its 8,200 technical, maintenance and operational support employees, who are represented by the International Association of Machinists and Aerospace Workers.

[English]

Honourable senators, first let me talk about Air Canada's pilots, and then I will address the case for machinists and baggage handlers.

• (1440)

Air Canada's collective bargaining agreement for pilots ended almost one year ago, on March 31, 2011. A few weeks before that date, the parties had concluded an agreement in principle, subject to a ratification vote by union members.

[Translation]

A few months later, in May 2011, the Air Canada Pilots Association informed the employer that its members voted against the agreement that was presented to them. Negotiations resumed but did not go anywhere. That is when Air Canada brought in the Federal Mediation and Conciliation Service.

The Federal Mediation and Conciliation Service was established to provide dispute resolution and prevention assistance to employers and unions under the jurisdiction of the Canada Labour Code. It offers employers and unionized employees tools for resolving disputes through the services of conciliation and mediation officers. The mandate of these third parties is to assist both parties in reaching a mutual agreement.

In the case of the dispute between Air Canada and its pilots, the Service first appointed a conciliator who provided support to the parties until January 2012. A mediator was then appointed who worked with both parties for two weeks, from late January to early February, but still no agreement was reached.

I would like to point out, honourable senators, that we have reached mid-February in the timeline of this dispute. It was around that time that members of the pilots' union voted 97 per cent in favour of a strike.

[English]

At that time, the Minister of Labour met with the employer and union representatives and offered the services of two new co-mediators for a six-month period to help the parties resolve their differences. The parties accepted this offer.

Finally, on March 8, the Minister of Labour received a lockout notice from the employer.

[Translation]

Let us now go through the background of the dispute between Air Canada and the 8,200 technical, maintenance and operational support employees, represented by the International Association of Machinists and Aerospace Workers. They are responsible for equipment maintenance and operational services, including maintaining the cabins, cleaning the planes, handling baggage and purchasing and distributing parts and supplies. They play a key role in the airline's operations.

Their collective agreement expired on March 31, 2011. Negotiating a collective agreement for this group is just as demanding as for the pilots. Last December, Air Canada sent a notice of dispute to the Federal Mediation and Conciliation Service. Before the end of 2011, a conciliation commissioner was appointed to help the parties in their negotiations. Six weeks later, on February 10, 2012, the parties reached an agreement in principle with help from the conciliation commissioner, subject to a ratification vote by the union members.

[English]

At the end of February, the union announced that its members had rejected the agreement in principle by 65.6 per cent and voted in favour of a strike mandate by 78 per cent.

On March 6, the union sent out a strike notice indicating its intention to launch a legal strike on March 12, at 12:01 a.m.

[Translation]

In both cases, negotiations have been under way for nearly a year and have received support from resources at the Federal Mediation and Conciliation Service, but with no results.

On March 8, the Minister of Labour decided to refer the matter of the continuation of air service operations at Air Canada to the Canada Industrial Relations Board. She asked the board to review the situation at Air Canada to ensure that a work stoppage would not threaten public health and safety. The board is a quasi-judicial, independent, representational tribunal that is charged with interpreting and administering the provisions of the Canada Labour Code, Part I, on collective bargaining and unfair labour practices.

Under the Canada Labour Code, upon referral by the Minister of Labour during a labour dispute, the Canada Industrial Relations Board may issue binding orders with respect to the continuation of activities to ensure that a work stoppage does not threaten public safety or health. Both the unions and the employer must continue their normal work activities until the board makes a decision about the continuation of activities. This review by the board is continuing as we in the Senate and our colleagues in the House are reviewing this bill.

My goal today was to explain the background of the two disputes in question, so that honourable senators understand the context in which the federal government drafted the bill for the continuation of air service operations at Air Canada.

[English]

Honourable senators, it would be completely irresponsible for members of Parliament and senators to sit back and do nothing, to let the differences I mentioned earlier get worse, and to risk an economic slowdown just when our economy is showing signs of recovery.

Yes, honourable senators, it would have been better for the parties to resolve their own differences.

[Translation]

Every effort has been made to help the parties resolve their differences. There is no sign of resolution. Honourable senators, let us support this bill, which will ensure the continuation of air service operations and maintain the viability of the Canadian economy.

[English]

Hon. James S. Cowan (Leader of the Opposition): Honourable senators, we on this side have grave concerns about the approach this government has taken, not only this time but on several other

occasions with respect to back-to-work legislation. Each time, they seem to be jumping sooner and sooner. We have concerns about the effect that this has on the collective bargaining process and on the well-established relationship between labour and management in this country.

We have an opportunity this afternoon to hear from the minister with respect to the timing, and we have an opportunity to discuss with representatives of labour and management the issues that are at stake here, why they have reached this impasse, whether this is or is not an appropriate method to force a settlement, and whether it is an appropriate time to force a settlement.

I listened to what my friend Senator Carignan has said this afternoon, and I think he has done an admirable job in tracing the chronology of events that have taken place. However, it does not really address the underlying issue of whether this is the right method at the right time to deal with this matter.

I want to have the opportunity to explore this issue with senators on both sides of the chamber, with the witnesses who will be here this afternoon, and I will speak to it during debate tomorrow afternoon.

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

On debate.

Hon. Terry M. Mercer: Honourable senators, I am dismayed by this blatant, continued attack by the Conservative government on the trade union movement in this country. Time and time again, good people who are members of trade unions across this country are being attacked by this government. Particularly if they are in something close to a public service union, they are on a bit of a Conservative “hit list.” We will see more of this as time goes on. I predict that when the budget comes down later this month, they will be attacking some good people in public service unions all across the country.

I am a bit miffed. Did I miss something? Is Air Canada on strike; has Air Canada been locked out? I am not aware of this happening.

• (1450)

We are saying to any union or any company that we think is important — or whose service is important — that we will abort the collective bargaining rights of the thousands of employees of Air Canada who have fought long and hard. This is not a union that has been getting great increases over the past number of years. This is a union who has gone to the wall for the company. They have made the sacrifice — a sacrifice that many other people have never been willing to make — of cutting their salaries so the company could stay afloat and of doing things within the company to make sure that Air Canada is the viable operation that it is today.

As well, honourable senators, just this past Monday, as I got on a plane in Halifax to come here to participate in this debate, I got a note from the pilots, as everyone on the plane did. There was a little note in our seats telling us exactly their opinion. They said they wanted to stay at the table, they did not want to strike, and

they did not want to be locked out. They wanted to sit down and they wanted to negotiate an honest agreement with their employer.

What is the problem here? The union says it wants to negotiate and they are willing to sit down and negotiate today.

Senator Duffy: Which union?

Senator Mercer: All of the unions, Senator Duffy. We are talking specifically about the pilots' union. The pilots' union has said they would sit down and negotiate today, and sit down they should. The issue is that these people have total disregard for the trade unions.

I will admit there is a tendency — actually an addiction on that side — to appeal only to their base. They will continue to appeal to the right wingers, to the anti-gun control people and all of those people. Letters will come flying out of the fundraising arm of the Conservative Party for the anti-union people. We will see all of that.

You know what, honourable senators? Most of the people who are trade unionists do not vote for them.

Senator LeBreton: Yes, they do.

Senator Mercer: They vote for my colleagues in the other place and for the New Democrats. It is another case of "If you are not with us, then we are throwing you under the first bus coming down the road." This is what they are doing. They will throw the trade unions under the bus at the very first opportunity. They have ignored the collective bargaining process that has been in place for years.

I do not remember a lot of work stoppages, honourable senators. One work stoppage at Air Canada lasted three hours. That is because they wanted to get back to work and to negotiate.

Strikes and lockouts are the last thing that the employees or employers want, but it is a tool they both must have in their arsenal. This government continues to take the ultimate tool away from trade unions and, indeed, from companies. I have spent a lot of time with trade unions, but the company has some rights that have also been aborted.

Honourable senators, I am very concerned about what will happen. This bill is being introduced without a strike. Canada Post was out for a couple of days before the government introduced that legislation. Pretty soon someone will hear a rumour at a Tim Horton's in Brandon, Manitoba, saying, "You know, they're going to go on strike down at the post office," and we will be here the following week to pass legislation based on that rumour. We should not be doing that. This should be based on facts and events that are happening today and not on some pipe dream.

Honourable senators, back to the principle, we have a process of labour negotiations in this country. It is a system that has worked for years. It is a system that should be allowed to

proceed. I look forward to the guests we will have here and to asking what I hope will be some tough questions. I would like to see some tough answers.

I, of course, will be voting against this legislation at this point.

The Hon. the Speaker: Honourable senators, are you ready for the question?

Hon. Senators: Question!

The Hon. the Speaker: It was moved by the Honourable Senator Carignan, seconded by the Honourable Senator Poirier, that this bill be read a second time.

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

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

Some Hon. Senators: On division.

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

[Translation]

COMMITTEE OF THE WHOLE

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

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, I move that this bill be referred to Committee of the Whole immediately.

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

Hon. Senators: Agreed.

Senator Carignan: Honourable senators, I request leave to suspend the application of rule 13 today in order for the Committee of the Whole to continue sitting during the supper hour if our business is not concluded by 6:00 p.m.

(The Senate was accordingly adjourned during pleasure and put into Committee of the Whole, the Honourable Donald H. Oliver in the chair.)

The Chair: Honourable senators, the Senate is now in Committee of the Whole to consider Bill C-33, An Act to provide for the continuation and resumption of air service operations.

Honourable senators, rule 83 states that:

When the Senate is put into Committee of the Whole every Senator shall sit in the place assigned to that Senator. A Senator who desires to speak shall rise and address the Chair.

Is it agreed, honourable senators, that rule 83 be waived?

Hon. Senators: Agreed.

The Chair: Honourable senators, I ask that, pursuant to rule 81, the Honourable Lisa Raitt, Minister of Labour, be invited to participate in the proceedings of the Committee of the Whole and that government officials be authorized to accompany her.

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

Hon. Senators: Agreed.

• (1500)

[English]

(Pursuant to rule 21 of the *Rules of the Senate*, the Honourable Lisa Raitt, Minister of Labour, and officials were escorted to seats in the Senate Chamber.)

The Chair: Minister Raitt, welcome to the Senate. I would ask you to introduce your officials and make your opening remarks. Following that, honourable senators will have questions they wish to pose to you.

The Honourable Lisa Raitt, Minister of Labour: Thank you very much, Mr. Chair. I apologize to honourable senators because I seem to have picked up a cold, so my voice will be in and out. I am happy to have the microphone to at least amplify what voice I have left.

I have with me today Hélène Gosselin, Deputy Minister of Labour; Marie-Geneviève Mounier, Assistant Deputy Minister; and Christian Beaulieu, Senior Counsel and Group Head. Thank you very much; I appreciate your time today.

Mr. Chair, whenever the government has to bring in legislation to avert a work stoppage, there are certain predictable objections that you will hear. The first is that we are misusing our powers and imposing on the right to collective bargaining. The second is that we are moving too quickly and that we should wait for matters to happen. The third is that the problem we are trying to solve is not really all that serious. I would like to point out to honourable senators today that these arguments, in our view, just do not stand up.

Since 1984 there have been 35 work stoppages in the air transportation industry, and six of them have involved Air Canada. We already have a pretty good idea of the damage that a work stoppage can do. Some of these stoppages took a heavy toll on the economy and severely disrupted the lives of Canadians. Today once again we are faced with the likelihood of a work stoppage at Air Canada; and once again it will take a toll on Canadians if it happens.

Throughout these debates, our government has provided statistics on the possible economic damage and the disruption to our fragile economic recovery. Our government's mandate is to maintain our economic recovery and act in the best interests of Canadians because we believe that is what we are here for. As I have already explained in some detail in the house, our government has followed all the rules and taken all the steps set out in the Canada Labour Code while assisting the parties in these two Air Canada disputes.

We have been assisting the parties and encouraging a deal at every step of the way. As the history of these disputes clearly shows, the parties in each case have had plenty of time to reach an agreement, and help from expert mediators and conciliators has been provided. Negotiators for the two unions, the Air Canada Pilots Association and the International Association of Machinists and Aerospace Workers, shook hands on tentative agreements at that bargaining table; but in both cases, the terms and conditions agreed to by the union representatives were rejected by their members.

Mr. Chair, I will not pretend that we are not frustrated here in our labour program to see all the hard work of negotiations lead to no deal. However, unions are democracies, and union members have a right to vote for their interests and against agreements reached by their leaders. If these two disputes were occurring in another sector of the economy, perhaps the work stoppage could play itself out without impacting the economy. However, in this case, we just cannot afford to do that. The federal government has to take action in these two disputes at Air Canada.

The first step we took, once we had received notice of strike and notice of lockout, was to send the matter of the maintenance of activities to the Canada Industrial Relations Board and ask them to determine if a work stoppage would pose a risk to the health and safety of the public. While the CIRB is considering the cases, the two parties will have to maintain full operations at Air Canada. That gives everyone a little time to cool off and reconsider the issues at hand. I had hoped that the parties would use that time to get back to the bargaining table and find better solutions.

In case they are unable to break their impasses — and over the weekend they were unable — we must proceed with Bill C-33. We are doing this in part to help Air Canada, but this is not favouritism on our part because I am not passing judgment on the merits of the airline's cases vis-à-vis the pilots' and machinists' unions. We do not pick sides at the bargaining table. That is for the arbitrator to decide, and I am not an arbitrator in this matter.

The global airline industry has been under strain, and Air Canada has been affected by many factors beyond its control. It has come close to bankruptcy on more than one occasion. Like our economy, Air Canada is in a fragile state. Like our economy, Air Canada is trying to get back on a firm footing. Mr. Chair, having disputes dragging on for almost a year does not help the matter; that is a long time. The uncertainty about these agreements has had a negative effect on Air Canada already. On the other side, I am sure that it has been very stressful for the members of the unions as well.

Pulling back from the particular disputes we are talking about today, in terms of labour relations, it has been a difficult year for Air Canada in general. In June 2011, our government tabled back-to-work legislation after there was a three-day labour disruption by Air Canada's customer service agents. The parties subsequently arrived at a process and concluded a new four-year collective agreement. They submitted to final-offer selection binding arbitration with an arbitrator of their choice.

However, our government would much rather see employers and unions arrive at an agreement themselves prior to the tabling of legislation. In September 2011, Air Canada reached an

agreement at the table with the flight attendants only to have the union membership reject it. I called the parties together, and another tentative agreement was reached at the bargaining table. I asked the head of the union, Paul Moist, if he was sure that the membership would ratify the terms of the agreement, and he confirmed they would. Unfortunately, that did not happen, and instead we received a strike notice. At that point, we referred the matter to the Canadian Industrial Relations Board. It was at that board meeting that the parties agreed to submit to arbitration and conclude their deal.

Again, the agreement was reached the hard way, but it does not have to be that way. In February, Air Canada ratified agreements with two CAW-Canada units and a Canadian Airline Dispatchers Association bargaining unit. For awhile, it looked as if there were going to be agreements between Air Canada and the pilots' and machinists' unions. Once again, the deals Air Canada reached at the table were rejected by the union membership. For anyone who is counting, that means eight tentative agreements were concluded and four of them were rejected through the six bargaining units.

Mr. Chair, the Canada Labour Code recognizes the principles of freedom of association and free collective bargaining. The CLC gives the parties in labour disputes many ways and opportunities to reach a settlement, with or without help from the federal government. At the end of the day, the Government of Canada respects the rights of the unions to strike and the rights of employers to lock out their workers.

Indeed, we prefer not to interfere in these matters unless it is absolutely necessary; and this is a special case today. When a work stoppage has the potential of impacting the national economy, the government must respond to protect the public interest. Consider the impact on jobs: Air Canada is a major employer, Mr. Chair. As of November 2011, Air Canada had 26,000 employees across the country, and 23,000 of those employees are full-time workers. To give you some context, General Motors Canada employees 9,000 full-time workers, and Chrysler employees 11,000 full-time workers. That is the sheer size of Air Canada.

• (1510)

If the airline loses too much money, the jobs could be in jeopardy. There also could be jobs lost, as a result of Air Canada's work stoppage, by their partners and suppliers. Our information is that Air Canada indirectly has 250,000 staff. That is a large number of hardworking Canadians and Canadian families who would be affected immediately by that work stoppage.

According to Transport Canada, any reduced operation at Air Canada also trickles on to Canada's airports, as well as to Air Canada's third-party suppliers. At the end of the day, the elements of the air service system are interdependent. If one element is weakened, all are vulnerable.

Up to now, the news about employment in Canada has been encouraging. We have recovered all the jobs we lost in the recession, and we have created some new ones. The question the government asks is, "Do we really want to gamble with our economy and possibly put those gains at risk?"

[Ms. Raitt]

Of course, Mr. Chair, no company will feel the impact of a work stoppage more than Air Canada itself. The last time the pilots walked off the job, in 1998, it was reported that the airline lost \$300 million. The economy was reported to have lost \$133 million. That was 1998, and today the stakes are higher.

Every day of lost business will have a dramatic impact on the bottom line of a company that has been struggling to stay solvent for most of the past decade.

In the event of a work stoppage, Air Canada services also may not easily be replaced. Many Air Canada customers do not have easy access to an alternative carrier. The second largest carrier in Canada is WestJet, and Air Canada is 3.7 times the size of WestJet.

In some places, Air Canada is the only airline. In some places, Air Canada is the only efficient means of transportation in general, and the lives of thousands of frustrated travellers could be disrupted. Some could be merely inconvenienced, but others could face some real hardship.

Mr. Chair, our government is not indifferent to the concerns of the Air Canada employees in this dispute either. Throughout the process of collective bargaining, we assisted the parties, and we encouraged them to find their own deal. We have suggested process, and we have appointed mediators and conciliators. We were hoping that they would come to agreements that would be acceptable to everyone. Unfortunately, it has not worked out that way.

Mr. Chair, I have always said, as Minister of Labour, that the best solution in any dispute is the one that the parties reach themselves, but the parties in these disputes have failed to reach their own agreements. I have used all the tools at my disposal under the Canada Labour Code. I have no other recourse but to ask the members to support the legislation.

At the end of the day, I would ask honourable senators to remember this: The rights and the interests of the employers and the unions are very important, but, in this specific work stoppage, they simply cannot outweigh the needs of 33 million Canadians. Our economy needs labour peace, and we need it in vital industries like air service.

I thank you for your consideration of this bill, and I am happy to answer any questions honourable senators may have.

[Translation]

Senator Carignan: You talked about the repercussions concerning the number of Air Canada employees in terms of direct and indirect jobs. Could you tell us about the broader economic repercussions that could result from a work stoppage at Air Canada in terms of its impact or, for example, the potential weekly loss of revenue?

Most senators have used Air Canada's services and are aware of the various service points in many small, medium and large communities in Canada, the United States and around the world. Can you talk to us about that, so that we can get the clearest, most accurate picture possible of the economic repercussions of a work stoppage at Air Canada?

[English]

Ms. Raitt: I will. Thank you very much, senator. I appreciate it. At the top-line analysis, what we understand, based upon Transport Canada information, is that it could cost the economy up to \$22.4 million for each work stoppage. Of course, it would have an effect on the gross domestic product as well. Over this March break time, approximately a million passengers — about 100,000 a day — would be affected.

I think it is also important to note, as I indicated in my remarks, that some communities out there are served solely by Air Canada. They would be completely cut off. If I may, some of these communities that are of significance are: Castlegar, Nanaimo and Penticton, in B.C.; Kingston and Sarnia, in Ontario; Lethbridge and Medicine Hat, in Alberta; Gander, Newfoundland and Labrador; Sydney, Nova Scotia, where I was brought up; St. John, Bathurst and Fredericton, in New Brunswick; and Gaspé and Îles-de-la-Madeleine, in Quebec.

The other aspect that is important to remember is that it is not just Air Canada. Honourable senators may say, “Jazz flies to my community.” Well, the reality is that Air Canada Express will also be affected in any work stoppage because it is the mechanics who service the Air Canada Express planes. It is not just one single aspect that we are thinking about. Up to 1,100 flights a day that the entire package serves could be affected by a work stoppage. That has an enormous effect on business people, on leisure travel and on families.

Quite frankly, the passengers cannot be absorbed. Although WestJet, Porter and other airlines are fantastic — and I do not want to take away from their business plans — the reality is that there are just not enough planes out there in Canada to make up for what would happen in the event of an Air Canada work stoppage.

I thank you for the question.

[Translation]

Senator Carignan: You talked about the various mediation and conciliation services that have been used. From what I understand, both collective agreements expired on March 31, 2011, so almost a year ago, in both cases. There were some negotiations with mediators in both cases and some agreements in principle that were not ratified or accepted by the unions, despite the fact that the union representatives had accepted the agreements at the bargaining table. It seems that several mediators and conciliators have been involved and that you have been very active in this matter, in order to try to avoid getting to the point of needing special back-to-work legislation.

Can you explain the role you have personally played in the unfolding events of both conflicts, in order to try to bring the parties to an agreement?

[English]

Ms. Raitt: As Minister of Labour, I can tell you that in our program, our job is to help the parties reach a deal. Unfortunately, when they do not reach a deal, it is not looked

on as favourably as if we help them. Over 300 collective agreements are negotiated every year in the federal jurisdiction. When you funnel them down, only a handful end up having this impasse. The Federal Mediation and Conciliation Service has a 94 per cent success rate in actually settling these matters. When you take it beyond that, in those last 6 per cent of cases, I have to say, senator, that it is quite remarkable that a work stoppage does not always have an impact on the national economy. In fact, there are a number of strikes and lockouts happening right now in Canada that will not see the attention of the federal Parliament as a result of concerns about the public interest or the national economy.

Since I became minister in January of 2010, we have known Air Canada was going to be a difficult file. We know that because the bargaining history shows us that since 2003 the units have had a very difficult time being able to freely collectively bargain because of the financial situation of Air Canada. Indeed, they went through CCAA, and they had SARS and terrible external hits in terms of the recession and 9/11. Therefore, it has been difficult for the airline. I have to say to the credit of the employees, they understood the importance of the concessions they made to the company and they did so.

• (1520)

Coming into these negotiations in 2011, there was a lot of expectation of making up lost ground. We saw that at the table and that is why we paid so much close attention to try to help the parties open up dialogue and have extra conciliators from the outside brought in. Madam Louise Otis, who is a retired jurist in Quebec with a fantastic mind and who is a great mediator, came in as a conciliator on both the machinists and on the pilots. In the case of the pilots, she actually did reach a conclusion and she wrote a report to us. She was able to write the report after the ratification had failed, but she had indicated in her report to me that she felt the process had been exhausted. What she said was this:

Taking into consideration the situation of the parties, the tentative agreement is reasonable and fair. The negotiation process was carried out diligently and competently. . . . has been exhausted. I do not recommend that negotiations be resumed or that a mediator be appointed. Under the full circumstances I consider that a reasonable agreement had been reached.

We spent a lot of time and money in terms of bringing those parties together. In the case of the pilots, we as well came to the conclusion, when we met with both parties in early February, that while the parties had both expressed a desire to reach a concluded settlement, they were so far apart with the cooling off period of negotiations concluding and both parties being in a legal position to strike or lockout, that we would have a difficulty and possibly face an impasse that would result in a work stoppage.

We offered both parties interest-based arbitration. Air Canada accepted it at the table and the pilots rejected it, which was unfortunate at the time. We offered mediation and the mediation for six months was accepted. We appointed Madam Otis again because she had such great success, and the parties met for the first time. Unfortunately, after that first meeting, Madam Otis

resigned and the reason she resigned was because she indicated her displeasure and concern that the pilots' union had disclosed the confidential nature of what had happened at the bargaining table to the press and she said she felt that she could not continue in her role and it would make it very difficult for neutrality. She wrote that to us.

At that point, it was expressed to us by the pilots' union that unless we appointed somebody else that they would go and talk to Air Canada by themselves, and I hope they did. I hope they went off and started having negotiations again.

It culminated with a lockout notice, of course, by Air Canada management. I have told these stories over and over again, and I tell them in sadness more than I do in anger because we have put so much Canadian taxpayer effort, time, money and resources into trying to help parties reach a deal because getting to this impasse and utilizing this place and utilizing the other place in order to deal with matters that should be settled between the parties, quite frankly, is an extraordinary use of resources. However, that is balanced by the absolute need to protect the public interests, so I know that we were doing the right thing.

Senator Carignan: Thank you.

The Chair: Honourable senators, I have 14 other senators on the list to pose questions to the minister. Next is Honourable Senator Tardif.

[Translation]

Senator Tardif: Madam Minister, yesterday in the other place, you said that:

The federal government only intervenes in situations where the public interest is seriously threatened. This is true, for example, when the national economy could be adversely affected by the threat of a work stoppage. Unfortunately, that means we need to pass this bill to avert a work stoppage at Air Canada.

Madam Minister, if you believe that the public interest is seriously threatened, why, after so many attempts on your part to resolve the labour disputes at Air Canada, did you refuse to amend the law and designate Air Canada as an essential service so that these disputes would automatically be subject to binding arbitration?

Your comments suggest that you consider Air Canada to be an essential service. Would you please clarify?

[English]

Ms. Raitt: Thank you for the question, senator.

The Canada Labour Code is drafted in such a way that it allows for work stoppages to be prevented in the case where we can show there will be a significant impact on the health and safety of Canadians, and it does not speak to economic conditions. As a result, that is why we have seen, since 1950, specific acts of

Parliament at certain times determine whether or not the national public interest outweighs the balance of the rights of the workers and the rights of the employers that are given to them under the Canada Labour Code.

I can tell you that I would not be in favour of deeming any air carrier service an essential service and the reason is this: In 1998 there was a 13-day strike by pilots and there was no return to work. The reality is that that happened because there was a second national carrier. The airline policy of the day was that we had a duopoly, two carriers that served coast to coast to coast, all points, and competed head to head. That of course was Canadian Airlines and Air Canada.

At the time, in terms of whether or not passengers would be stranded and business could continue, that simply was not the case. There was a loss to the economy of course, as I noted; however, it was deemed at that point in time that the public interest could be served by the fact that we had that kind of airline policy.

I believe that these matters should be looked at on a case-by-case basis. I also believe that the market conditions can change. With the way that our competitiveness is structured in this country, you may see WestJet in a number of years increase their market share and, indeed, they announced in December that they would be seeking to set up a regional carrier. If the numbers in the market make sense for another carrier to be able to absorb a work stoppage at Air Canada, then it is not going to be in the national public interest to intervene. That is a simple equation one can calculate. That is why I do not believe it makes sense to deem it necessarily an essential service.

Also, I would say one last thing: Under the Canada Labour Code, the CIRB can determine if there are services that need to be maintained for health and safety, and that is the key reference that we made in this case because we wanted to see whether or not there are certain routes that need to be protected and whether or not certain aspects of the carrier needed to be maintained for the health and safety of Canadians.

Senator Tardif: If I understand you correctly, minister, you do not believe your approach to Air Canada over the years to have been one characterized by some degree of both improvisation and imposition. Perhaps you can provide some clarity as to why you have chosen to address the situation in this way.

On the one hand, we know that Air Canada is a private corporation. It conducts itself in a manner befitting a private corporation, for example, in the generous bonuses that it gives to its executives. There is nothing wrong with that in and of itself. However, a private corporation does not get to avail itself of the services of the Minister of Labour and the Government of Canada for help when it finds itself in a dispute with its employees.

Is Air Canada a private corporation or is it an organization deemed to be an essential service by the government?

Ms. Raitt: I thank the honourable senator for the question.

[Ms. Raitt]

The Canada Labour Code and the federal jurisdiction for the Minister of Labour actually only speaks to private industries. It only talks about the federal private jurisdiction, so it is only the CNs and the Air Canadas of the world. The actual public sector is covered under a different act and that falls in the purview of the President of the Treasury Board, Minister Clement. Therefore I focus solely on private interests and, indeed, that is where the services of Labour Canada are found in helping to prevent these kinds of work stoppages from happening.

When we propose back-to-work legislation, I do so in my role as a member of cabinet and a member of the government, and it is my recommendation that we have brought as many tools as we could through the code. I guess if I were to characterize our approach, our approach on the Air Canada matter has been more careful and more calculated in terms of understanding exactly what the impact on the public interest is and always looking out for the public interest in the economy, because that is what we ran on and that is what we were elected on. That is the mandate I have, as well: to help the parties at the table to appoint, but to not pick sides at the table, to pull back and be on the side of the Canadian public.

Senator Tardif: All I can say, minister, is it seems like you are having it both ways. It is the first time that a government has taken this level of pre-emptive action on a labour dispute. Air Canada workers say they are being denied their right to participate in a free, true bargaining process.

• (1530)

It appears as if you are taking sides. No matter what you say, minister, it would appear that Air Canada has been given a privileged position here because it does avail itself of the services of the Minister of Labour and the Government of Canada on this back-to-work legislation.

Ms. Raitt: Honourable senator, I believe the way that Bill C-33 is drafted is balanced and it is one that serves to give a process to both parties in order to find their way to a collective bargaining and final offer selection.

Indeed, if you look at the history in this file, CAW customer service agents and Air Canada, in June of last year, agreed to submit to final offer selection binding arbitration and, indeed, the union's proposal was chosen, not Air Canada management's proposal. There is no tipping of the balance in this matter.

I give the point to the honourable senator that it is pre-emptive legislation and that is because of the fact that negotiations have been going on for well over a year — in the case of the pilots, 18 months — and we do need to have certainty. In the case of the machinists, we have an outstanding jurist indicating to us that, in her view, the process has been exhausted and that they have concluded negotiations. I take that advice quite to heart in terms of making decisions with respect to my recommendations to cabinet and to government on how to proceed in the matter.

As I have said before, the legislation we have put together and that we present here today aims to put in place the process to resolve a long-standing dispute wherein a work stoppage arising from this dispute would have a negative effect on our economy and also on the public interest.

Senator Tkachuk: Minister, since there have been a number of agreements — I believe six — that have been reached and then turned down, I think by the employees, in your view or your department's view, what are the major stumbling blocks that have caused this impasse and the 12- and 18-months to negotiate an agreement?

Ms. Raitt: Honourable senators, I understand that you have the ability to hear from other witnesses today, and I will stick around to hear what their point of view is on that question as well.

From what we can see at the table, the issues that matter are about wages, hours of work and pension matters. Indeed, in the case of the machinists, I believe what it comes down to is what I prefaced in an earlier question, which is the fact that this is the first time that these parties have had an ability for free collective bargaining at the table, at a time that has not been under the cloud of either CCAA or some kind of external force that was difficult for Air Canada.

What is also important to remember is that the parties at the table, in concluding their deal, had the best information available to them about the ability of the company and the members to agree to something. Unfortunately, when they went out to communicate it to their membership, it was rejected.

I was very concerned about the fact that it was twice rejected in the case of the flight attendants and we actually asked the Canadian Industrial Relations Board to investigate the matter. If the union leadership is having a difficult time getting ratification, then the situation needs to be further looked into in order to understand, because the parties should be able to do a deal at the table that can be ratified.

Senator Tkachuk: Do you think they will come to an agreement after this bill?

Ms. Raitt: There is nothing like showing your hand in order to focus the minds of the parties. I certainly hope that, much like CAW and Air Canada, they will take upon themselves the ability to utilize part of our bill in order to set out the guiding principles or the method of arbitration and find their own way to a settled agreement without the need for the government. However, I cannot speculate as to whether or not it will happen. I certainly have hopes. Indeed, the parties could even conclude a deal with this bill in place and not have to worry about final offer selection from the government. I really do hope they can, especially in the case of the machinists, because they did conclude a deal and they exhausted the process.

Senator Cowan: Welcome, minister. It does not seem so long ago that we saw you here before.

You have a responsibility, as Minister of Labour, to look out for the interests of both sides in these disputes, and you have a responsibility to look out for and protect the interests of workers as well. Here we are talking about the willingness or the intention of the government to intervene when there is an upward pressure on wages. You have explained the reasons why, in your view, that intervention is legitimate.

Yet, in other instances — and I use the example of Caterpillar — there was a downward pressure on wages, but you did not see the necessity to intervene in that case. Do those downward pressures in various sectors of the economy concern you, minister? They obviously impact on the economy. You speak about the impacts of these disputes and the lack of settlements on the economy and the concerns that you have with respect to the recovery that we are in the process of going through now.

Could you give us your views, as minister, as to how you view intervention in the case of upward pressure and lack of intervention in the event of downward pressure?

Ms. Raitt: Thank you very much, senator, for the question. As you are aware, Caterpillar and the terrible situation that unfolded there was within the provincial jurisdiction, not within the federal jurisdiction. However, I will tell you that we spoke with Ken Lewenza, President and CEO of CAW, and we also spoke with the Mayor of London on the matter, just to keep tabs, but more or less in support of what was happening at the table and not as a result of being able to do anything per se.

I can tell you that, in terms of the conciliator's report in the case of the machinists before you today, there were wage increases on the table and, in fact, there were benefits. This was not a case of seeking concessions. This was simply a case of whether or not the adjustments in the increases were enough for the members. That is my understanding of the matter. As I said, it would be helpful to hear from the union specifically as to what they have heard back from their membership on the matter.

Intervention by the federal government is not a matter of what is happening at the table. We are actually blind to the issue and the parties at the table. What we are concerned about is the effect of the work stoppage on the Canadian economy and on the Canadian public. That is our metric.

For example, there is a lockout right now in Bathurst and Fredericton, New Brunswick, regarding Acadian Lines. This has been going on for a long period of time. We are not involved in that because it does not have a national significance on the economy. The same applies with respect to Rocky Mountaineer, a rail carrier service in B.C. Again, this is a lockout and we are not involved in it, either. Indeed, there are other strikes that we simply do not involve ourselves in because the bright-line test is not there with regard to the national economy. In this case it is and that is why I am here.

It does seem I am here with respect to these matters on I would not say a frequent basis, but I had the honour and pleasure of being here in June and I was grateful for the opportunity. However, it really is a function of when collective agreements expire.

If one looks at the history of back-to-work legislation back to 1950, there seems to be a clumping around specific dates. Although it seems I am a recurring visitor, I can tell you that there was a period in 1991 when there was certainly a lot more back-to-work legislation than what we have had. We have introduced back-to-work legislation four times since 2006. Once

was with CN, which passed in 2007. I introduced back-to-work legislation with CAW in June of this past year and we did not proceed with it. We introduced back-to-work legislation with Canada Post and we did proceed, and in this case as well.

Going into the future, as much as I like appearing before honourable senators, I do not want to be back.

Senator Cowan: I have one further question, as one Nova Scotian to another. I do not have the privilege of coming from Cape Breton, as the minister does, but she knows that she is not the first Cape Bretoner who has been Minister of Labour.

Ms. Raitt: That is correct.

Senator Cowan: A previous minister of labour, Mr. MacEachen, was the author of the Canada Labour Code.

• (1540)

Ms. Raitt: Yes.

Senator Cowan: Certainly that is a great legacy for him.

Are you at all concerned that your legacy as the second Cape Breton Minister of Labour will be that you have brought in a number of bills that have threatened the proud tradition of collective bargaining in this country? Are you concerned about that, and are you struck by the irony of that?

Ms. Raitt: I do not think there is anything ironic in that. I am very proud of my Cape Breton roots. I am a daughter of a union family and I can tell you, senator, that Christmas is very interesting at my house as a result of that. We have spirited dialogue with respect to these matters at hand.

That being said, I am the representative of Halton, and I can tell you that the families of Halton are pleased when we stand up and look after the public interest. I know I am on the right side. My legacy is listening to the Canadian public and doing what they would like us to do: look after the economy and ensure we have a better place for my kids and their kids.

Senator Andreychuk: Thank you, minister. You have covered many of the points that concern me. However, I wanted to put on the record that the national economy is vital in assessing this. For one who resides in Regina but works in Ottawa and elsewhere in Canada, I tell people I live on Air Canada. There is no way that I can make my commitments in Canada, from my province, without Air Canada. It is extremely vital.

When I am on the airlines, which are sometimes delayed, I am not the only one; it is not just parliamentarians. Virtually all the businesses in Saskatchewan depend upon it. We do not have a way to get in or out. It is extremely important that this continue.

As we know in Saskatchewan, having been a have-not province for so long, success does not come easily, and it is a tenuous thread. If there is a public interest, it is certainly well known in Saskatchewan.

Pardon me, I have allergies, so it is hard to talk at the moment.

Another issue I would like to put on the record is that, despite the long time these negotiations have been going on, there has never been in my eyes nor in the eyes of anyone I travel with a feeling of loss of safety. That is to the credit of the machinists, the pilots, the flight attendants, and the company. There has been frustration, though, that I have seen in this phase that I have not seen before. I can honestly say that I think my first flight was Trans-Canada Air Lines. I do not admit that too often, but it is true.

Senator Mercer: It is on the record now.

Senator Andreychuk: It is on the public record now.

We have gone through many phases with Air Canada, and one of the problems is that Air Canada has been in competition. Some of that competition is gone. I understand the stresses on the company, the ubiquity of both the national issues and the international issues. I understand the survival issues for Air Canada.

However, the pilots I have spoken to — and many have taken the time to talk to me over the past few weeks — do not jeopardize my safety because of these negotiations. There certainly is a frustration, however, and I am not sure whether this frustration is with their union, with Air Canada, or with the whole airline industry.

You have said that you have to look at the economy. However, do you feel that it is really about wages and hours of work? Is that the frustration that has led to the systems breaking down, or is there more to it because of the backdrop of the airline industry?

Ms. Raitt: I thank the senator for the question and her comments on it. We have definitely heard from many individuals who work at Air Canada about their frustrations with the process, how long it has gone on, and that they feel their voices have not been heard.

As I indicated in terms of the matters that are at the table with respect to the pilots, it does come down to wages and scheduling. One other specific issue for the pilots is the removal of the mandatory retirement age of 60. There is a whole discussion about forming new companies at Air Canada, and I am sure you will hear from the pilots on the matter.

I will echo what you have said: The professionalism of the employees at Air Canada, no matter where they are in the bargaining unit, always shines through in how they manage passengers, cargo and their day-to-day activities. These are difficult and trying times, not just for the Canadian public but for the employees and management. That is why, at the end of the day, we decided to put a process in place for them to find their way to stability, certainty, and a collective agreement.

As I pointed out, in the case of the service agents, the union's proposal was chosen in final offer selection. Therefore, it is not necessarily a fait accompli that management will win the day. Both parties have to come in and indicate their best proposal as to

what they think is fair and reasonable, what they think is best for the short- and long-term viability, and the viability of the pension plan, which is one of the major concerns of the employees at Air Canada.

The Chair: Honourable senators, I have been instructed that the minister can stay for only another 16 or 17 minutes, and I have nine honourable senators' names on my list.

Senator Finley: Welcome, minister, and thank you for your briefing and for answering these questions.

I have a unique look at this because, first, I am from the aviation industry; and, second, I was a member of the International Association of Machinists and Aerospace Workers. I negotiated contracts on their behalf. As a manager, I also experienced the results and consequences of an extended strike by the IAMAW. I do not really have any animosity toward any of the parties involved or what the process has been, a subject I will talk to at a future point.

I am interested in the considerable consequence of problems in the Canadian airline industry. I think of Western Airlines, Eastern Air Lines, Pan American World Airways, National Airlines, all of whom were emblematic flag carriers in the past. They all went bankrupt and out of business rapidly.

Minister, what do you think the worldwide effect would be on Air Canada's reputation as an international airline? So far no one has mentioned Air Canada's considerable reputation worldwide as an international airline. We have much international business, in terms of both passengers and freight. What do you think the impact there would be of Air Canada going to the wall?

Ms. Raitt: I am grateful for the opportunity to talk about the international aspect. We tend to focus domestically because of the million passengers in Canada who would be affected by this stoppage. Indeed, Air Canada has a comprehensive range of services. Not only do they serve 59 Canadian large and small communities themselves, but with ACE — Air Canada Express — it is up to over 80 destinations, and 60 other international destinations are also served. Those include cities in Europe, the Middle East, Asia, Australia, the Caribbean, Mexico, and South America. Indeed, Air Canada is an intrinsic part of the North American network, so it has a great effect on North America.

One aspect we did not talk about was the market shares that Air Canada has with respect to cargo that travels by air. Air Canada is Canada's main air cargo carrier; it has 22 per cent of domestic capacity and 49 per cent of international capacity. This now gets into trade matters. I will give you an idea of the kinds of things that we export and import. We export manufactured goods, aviation-related equipment, machinery, plastics, chemical products, and food products. Fish is a great example of an export product that travels solely through Air Canada in the belly hold. We also import the same kinds of things: metal and steel products, as well as plastics and chemicals.

• (1550)

It is an important part not only of passenger travel, but an important part of our logistics chain in general. The impact on the economy would be felt in those two ways. We would feel it in

terms of the number of people that would not be working, which is upward of 275,000. We would also feel it in terms of the goods and products that would not be making their way to their destinations and businesses. We would definitely see key components in global supply chains affected, specifically in perishables and pharmaceutical products.

At the end of the day, the cargo service has over 150 destinations that Canadian companies are dealing with as part of their everyday business. That would be immediately and effectively stopped as a result of an Air Canada work stoppage.

In terms of quantifying it, we have an understanding of about \$22.4 million. However, that is before taking into account the effects it would have on the quality of life of people who operate in small towns, who depend upon the air carrier coming in with the goods they need in order to manufacture and export their products. I thank the honourable senator for his question.

One last piece is that when you look at Canada's largest cargo hub, Air Canada has 60 per cent of the total share of Pearson itself. It is a very important part of the global supply chain in and around the GTA, utilized extensively by those involved in high tech and manufacturing.

Senator Finley: Thank you very much. I understand there are other questioners and although I could ask more, I will not.

Senator Mercer: As a Nova Scotian, I am always happy to see another Nova Scotian here, but, minister, I hope we do not see you back here for a long time. Unless, of course, the Prime Minister sees fit to appoint you to this place, in which case I would be happy to see you.

I have several questions. First, over the past 10 years, the unions and Air Canada have taken a big hit, estimated to be about \$2 billion. The company sold off about \$2 billion worth of assets, but still the pension plan is underfunded by \$3 billion. It seems to me it would have been an opportune time for that to be addressed in this legislation that you have put forward, but I do not see any reference to it. If I am wrong, I am sure you will correct me. It seems to be an opportune time to fix that, if the government will be sticking its nose into this agreement.

Ms. Raitt: In our guiding principles we have included a commentary on the importance of taking the pension into consideration. We believe that is not just important for the company, but also in terms of the sustainability of the pension plan for its employees, noting there are short-term funding pressures on the employer. Our government did help in terms of the funding pressures of the payments that needed to be made by Air Canada because it was in underfunded status. Indeed, we have focused our attention on the collective agreements and the collective bargaining process for that reason because we knew they had commitments that had to be made.

The senator is exactly correct when he indicates that concessions made by the employees were significant and necessary, as well. They chose to work with the company and support the company. They did that in the last round of negotiations with the help of Mr. Justice James Farley, who

was appointed by the Minister of Finance in order to mediate between the unions and the associations to help find a sustainable path for the company's pension plan. Part of the process of negotiating these collective agreements was dealing with that matter. Indeed, that was the singular point in the CAW dispute this past summer, which was settled by them volunteering to submit themselves to final offer selection arbitration. That decision sided with the union, as I indicated before.

We understood that collective bargaining would be difficult in these matters, and that is why we put so much effort into helping them at the beginning.

Senator Mercer: I will try to combine my two questions so we can move on to other colleagues.

Minister, you have made reference to the fact that there have been 35 work stoppages in the air sector and 6 of them have been at Air Canada. I think we need to be fair here; one of them was three hours long. It was a stoppage, but three hours a strike does not make.

You stated correctly at the beginning of your comments that unions are democracies, and we have seen that exercise throughout this process. Why are you interfering in a democratic process with the unions? After a couple of bumps in the road, the flight attendants went to arbitration and were able to settle the issue. Why was this not the route you went, with arbitration for the pilots and the mechanics, as opposed to this very cumbersome and also very disruptive process of introducing legislation? I think it brings hard feelings to all sides, whether they are on the labour side or the company side or the government side or the opposition side. It brings up a lot of bad feelings.

Ms. Raitt: I do not disagree with you in that we would be better off if we were not dealing with the matter here today. It is an intrusion upon our time, as well as others. However, it is necessary to intervene because of the fact that we were heading for work stoppages either through a strike or a lockout.

I will point out, as I said in my remarks, that the Air Canada Pilots Association was offered interest-based arbitration and they turned it down. In the case of the machinists, I can tell you that, at the table, our mediators, negotiators and conciliators always offer that as an option. We encourage them to find their way to their own process and submit themselves to arbitration, interest-based final offer selection or whatever it is. We ask them to draw their own memorandum of understanding and submit their outstanding matters to the appropriate arbitrator of their choosing. Unfortunately in this case it did not happen.

I will point out one other thing, if I may. In the case of the flight attendants, they actually found their way to arbitration only as a result of the fact that we sent them there by a request to the CIRB.

Senator Mercer: Why not do it again?

Ms. Raitt: I sent them there as a result of two failed ratifications under an extraordinary part of the Canada Labour Code, and those facts were not there with respect to the matter.

It was a specific case with respect to the failed ratification two times that caused us to send it to the CIRB. I am glad the parties voluntarily submitted to arbitration at that point. At any point in time, even today — I know the parties are here appearing before you — if they can have a conversation outside and agree to some form of arbitration process on their own, that would be a perfect resolution to the matter. We would be very pleased to see that happen in that way. Any time we can get them together is a positive aspect.

We used every tool we had at our disposal within the Canada Labour Code. Unfortunately it did not work, and that is why we are here today.

[Translation]

Senator Chaput: Madam Minister, I would like to talk more about essential services. Having carefully read the bill, I see that Air Canada's services are not recognized as essential services.

Recognizing certain services as essential has always enabled us to balance worker's rights and the public's rights. If you interfere with workers' rights to protect the delivery of services that are important, but not essential, where do you draw the line?

Will the government have to legislate every time there is a labour dispute? Is it setting a precedent that will become unmanageable down the line?

[English]

Ms. Raitt: There is careful consideration taken into every discussion we have with respect to what is happening at the bargaining table. As I mentioned, there are over 300 collective agreements negotiated every year in the federal jurisdiction. Indeed, a handful of those, possibly 15, end up in a situation of a strike or a lockout. This year, we have acted on three occasions, one having to do with Canada Post and two having to do with Air Canada.

• (1600)

The analysis that we undertake is to determine whether there is a national public interest. In this case, it is twofold: The first aspect is the national economy and issues of trade, commerce and business that we pointed out; and the second aspect is the Canadian public in reference to the million passengers flying over the next 10 days. It is a bright-line test, senator. It is something that we take a look at carefully and that we analyze and manage because, as has been pointed out by Senator Mercer, an incredible amount of time goes into back-to-work legislation in this place and in the other place that takes us from the normal carriage of business we had planned. It is necessary and in the best interest of the Canadian public in this case.

[Translation]

Senator Rivest: I have a quick question. Did you discuss Bill C-33 with Air Canada management before introducing it in the House?

[English]

Ms. Raitt: Absolutely not.

[Translation]

Senator Rivest: Neither you, nor your officials or deputy ministers?

[English]

Ms. Raitt: I am looking to my officials and they are saying no.

[Translation]

Senator Rivest: In the bill, you mention, for example, in clause 14, that the arbitrator has to take into account the report of the conciliation commissioner, et cetera, the final offers, and you mention that he has to base his decision on the need for conditions of employment that are consistent with those in other airlines. We see two requirements from the employer's side, in other words Air Canada's ability to be competitive. Would it not have been appropriate to indicate in the bill that the arbitrator must take into account not only the needs of Air Canada, but also the workers' completely legitimate demand for improved working conditions for Air Canada employees? That is not mentioned anywhere in this clause. If you are telling the arbitrator that he has to take into account the needs and concerns of the company, why not balance out the arbitrator's mandate by telling him he has to take into account the legitimate concerns of the workers who want better working conditions?

[English]

Ms. Raitt: The purpose of the guiding principles is to have the arbitrator understand what the key issues were at the table. As I indicated in questions earlier, the key issues at the table in both cases had to do with issues around the viability of the employer, over both the short and the long term; the competitiveness of the employer; and, on the other side, the pensions. Those questions actually arose fundamentally from the employees rather than the employer. The employees are very concerned. You will hear from the pilots how concerned they are about the economic viability of Air Canada. They will speak openly and freely about what they think were injustices from the past. We have heard a little bit of that today already. They are concerned about the short-term and long-term viability. As well, there is a lot of concern about the pension plan, which, as I pointed out, is a major issue.

The arbitrator will take these things into account. They will see that there were matters at the table, but, at the end of the day, the arbitrator is their own decider. They are their own decision maker, and they will receive from the parties their final offers and make a decision upon both of them. However, it is important to remember that these were the key challenges at the table. It is reflected in the bill to help guide the arbitrator and at least give the arbitrator, whoever he or she may be, an understanding of the matters in contention.

[Translation]

Senator Rivest: You have complete discretion to appoint the arbitrator, and I know that you are going to choose a highly skilled person, but in order to lend credibility to the arbitrator's

report, why, before giving yourself the discretion to appoint the arbitrator, did not you not include a clause in the bill requiring that you consult the employer and the union about the appointment?

[English]

Ms. Raitt: As a matter of course, we consult with the unions and the management before we choose an arbitrator. We have done that in the past with Canada Post. We have done that as well in other matters of appointments. I will point out that it is drafted in this way to give it certainty and finality because it is a consultation process that we undertake. The decision and discretion are mine, as minister. In that way, we can know that a process will be followed, will be put in place and will continue on in a timely fashion.

The Chair: Minister, on behalf of all senators, thank you for joining us today to assist with our work on the bill. I would also like to thank your officials.

Honourable senators, as the minister and her officials are leaving, I am advised that there are officials from Air Canada available to appear. Is it your wish, honourable senators, to hear from them at this time?

Hon. Senators: Agreed.

[Translation]

Senator Ringuette: Certainly, Mr. Chair. I would like to raise a point of order. As a member of the Standing Senate Committee on Banking, Trade and Commerce, which has a meeting at 4:15 p.m., I believe that it is a breach of my privilege to participate in this discussion in Committee of the Whole. I believe that the issue of Senate committees sitting while an urgent debate that requires the participation of all senators is being held here in this chamber is grounds for a point of order and constitutes a breach of my privilege with regard to the debate.

Mr. Chair, if the Committee of the Whole is going to sit at the same time as Senate standing committees, I believe that you must deliberate on this point of order and decide whether committees of the whole or standing committees take precedence or whether both committees should be allowed to sit at the same time.

Senator Carignan: Earlier, the Senate unanimously decided to proceed in Committee of the Whole, notwithstanding the rule to suspend the sitting at 6 p.m., and to work all afternoon in accordance with the usual rules. Obviously, as usual, the rules allow committees to sit at 4 p.m. Some committees have decided not to sit. Others seem to have decided to go ahead with their meetings.

However, I do not see how the Senate's decision to proceed in Committee of the Whole is a breach of the senator's privilege. She can choose to attend the committee meeting or to send someone in her place.

[English]

Senator Ringuette: Under the *Rules of the Senate*, standing committees have specific time slots to meet and the Senate is not allowed to sit at the same time as a standing committee in order to

allow the full participation of senators. Having this Committee of the Whole at the same time the Standing Senate Committee on Banking, Trade and Commerce meets is a breach of my privilege. I personally consider it my responsibility, as a senator from New Brunswick, to be heard here and also to fulfill my duty on the standing committee. It is certainly a question of privilege.

[Translation]

Senator Carignan: Mr. Chair, you are currently the Chair of the Committee of the Whole. If there has been a breach of a senator's privilege, I do not believe that you have the authority to rule on a point of order at this time, since that is a duty of the Speaker of the Senate.

• (1610)

I suggest we continue. If Senator Ringuette wants to raise a point of order, she can do so in due form when the Senate resumes.

[English]

The Chair: Is there further debate on the point of privilege? If not, honourable senators, we are not in the Senate now; we are in the Committee of the Whole. The Committee of the Whole had an order of the Senate to proceed. We have witnesses waiting, and honourable senators have said that they would like to hear from the witnesses from Air Canada. I would now ask that those witnesses come in. With respect to the questions raised by Honourable Senator Ringuette, I will refer them to the speaker when the Senate resumes after this Committee of the Whole.

Honourable senators, we now have before us Louise-Hélène Séneal, Assistant General Counsel, Air Canada; Kevin Howlett, Senior Vice-President of Employee Relations; Captain Dave Legge, Senior Vice-President, Operations; and Joseph Galimberti, Director of Government Relations.

Is one of you or all of you going to make an opening statement? Could you tell me which of you it will be?

Louise-Hélène Séneal, Assistant General Counsel, Air Canada: I will be doing so, Mr. Chair.

The Chair: On behalf of the Senate of Canada, I would like to welcome you to our Committee of the Whole in these deliberations on Bill C-33. After you make your opening statement, the floor will be open for questions from honourable senators. You now have the floor.

Ms. Séneal: Thank you.

[Translation]

Ms. Séneal: I would like to thank the honourable senators for giving me the opportunity to speak to you today as you debate Bill C-33, An Act to provide for the continuation and resumption of air service operations. I am here in my capacity as Assistant General Counsel at Air Canada, and I am accompanied by my colleagues,

Kevin Howlett, Senior Vice-President of Employee Relations; Dave Legge, Senior Vice-President, Operations; and Joseph Galimberti, Director of Government Relations.

After our opening statement, we will be pleased to answer questions from the honourable senators.

Air Canada is pleased to have the opportunity today to appear before you and to contribute to the debate about this legislation. It is important to first state that the corporation began the collective bargaining process with the International Association of Machinists and Aerospace Workers, the IAMAW, and the Air Canada Pilots Association, ACPA, with the firm and sincere intention of arriving at a negotiated settlement.

Only after undertaking a process of complex and prolonged bargaining with both unions during which agreements in principle were reached at the bargaining table in both cases and then rejected by the members did we reach the situation we are in today.

Air Canada received a notice to bargain from the IAMAW on March 21, 2011, and had an initial meeting to start the bargaining process on April 7, 2011. It then held intensive bargaining sessions in Ottawa from April 27 to 29 and from May 9 to 12, 2011. The bargaining process was suspended between June 1 and October 3, 2011, while the IAMAW was setting up a new bargaining committee to represent Air Canada employees only.

Bargaining sessions resumed in Gatineau from October 4 to 7 and October 17 to 21 and from November 1 to 8 and November 28 to December 9, 2011. On December 2, Air Canada filed a notice of dispute and a request for conciliation assistance.

On December 21, 2011, Justice Louise Otis was appointed as conciliation commissioner and bargaining resumed in Montreal, with her assistance, from January 9 to 21 and then from January 30 to February 10, when an agreement in principle was reached.

[English]

Unfortunately, Air Canada was informed of the rejection of the tentative agreement by the IAMAW membership on February 22. Air Canada met again with the IAMAW, on March 5 to discuss the reasons for the failed ratification and to develop a plan to move the process forward. On March 6, the IAMAW served notice to Air Canada of their intention to strike, effective at one minute after midnight on March 12, 2012.

In the case of ACPA, the pilots' union, Air Canada invited the union to the bargaining table on August 27, 2010. ACPA accepted the invitation on September 15, and bargaining commenced in Toronto on October 4, 2010.

On March 17, 2011, ACPA and Air Canada reached a tentative agreement. Unfortunately, Air Canada was informed, on May 19, 2011, that the ratification of the tentative agreement by the members had failed.

[Translation]

On October 26, 2011, Air Canada requested conciliation after repeated attempts to bring ACPA back to the bargaining table failed. On November 10, Paul MacDonald was appointed conciliator. On November 23, the parties resumed negotiations. ACPA sent a new negotiating committee with a new mandate. The conciliation period was extended by seven days on January 9, 2012, by another day on January 16, and by another six days on January 17. It ended on January 23 and was followed by a period of reflection from January 24 to February 13, during which Paul MacDonald was appointed mediator.

On February 14, Air Canada and ACPA wrote to the Minister of Labour to confirm that they accepted the mediation proposed under section 105 by the Honourable Lisa Raitt. On February 17, Madam Justice Louise Otis and Jacques Lessard spoke on behalf of Air Canada and ACPA representatives to discuss logistics and the mediation timeline. On February 27, Justice Otis resigned from her position as co-mediator after ACPA expressed concern about her availability due to prior professional commitments.

[English]

On March 7, Air Canada presented ACPA with our best and final offer, with a deadline for acceptance of March 8 at 12 noon. The same day, a letter was received from the Minister of Labour advising that Madam Justice Louise Otis would not be replaced and that Mr. Jacques Lessard would remain as sole mediator. On March 8, Air Canada issued notice of intent to lockout at one minute after midnight on Monday, March 12, at which time Air Canada had still not received ACPA's full proposal to the company.

[Translation]

Air Canada is convinced that the tentative agreement reached with the IAMAW and rejected by its members, as well as the final offer presented to ACPA, included significant improvements to both wages and working conditions. We believe that the agreements absolutely did not force concessions from the employees' point of view. For example, the tentative agreement with the IAMAW, which was rejected, proposed a 7 per cent wage increase over the four years of the contract for ground crews and baggage handlers. It included shift premiums for evening and night shifts, a paid 30-minute meal break as of September 30, 2012, five days off after 10 years of service, greater job security thanks to the maintenance of ground services for Air Canada's partner Jazz Air at stops where the work is now being done for the duration of the contract, and the participation of existing employees in the defined benefit pension plan.

• (1620)

[English]

For the technical services group of IAMAW employees, the rejected tentative agreement notably made provisions for a 9 per cent wage increase over the four-year course of the contract. It included: the introduction of a skills premium for certain categories of employees; enunciated increases in endorsement pay for certain categories of employees; the introduction a shift premium for overnight shift workers;

improvement to the shift-bidding process; implemented a pay bonus for certain categories of employees; and secured a defined benefit pension plan for existing employees.

In the case of the final offer presented to ACPA, the pilots' union, the Air Canada proposal notably contained an across-the-board pay increase of 14 per cent over a five-year period from the date of ratification, secured a defined benefit pension plan for existing employees, and made a commitment on behalf of Air Canada that the company will negotiate appropriate changes with ACPA if amendments are required to the collective agreement in order to participate in the low-cost market. The contract also allowed for the creation of wage pool pay groupings to allow pilots to maximize their earnings earlier in their career. It increased by 14 per cent the domestic meal allowance. It made increases to uniform allowances and gratuity allowances. It made a provision for annual, recurrent training to be paid at four hours a day, allowed pilots to make themselves available for increased overtime on a voluntary basis to improve earnings, introduced a multi-month blocking system for pilots on certain long-haul aircraft, and introduced an extra set of monthly guaranteed days off for reserve pilots on certain short-haul aircraft. Air Canada firmly believes these improvements being made to current working conditions and pay scales for our pilots to be fair and, if not industry leading, then certainly industry competitive.

For the groups represented by the IAMAW, the average salary for full-time licensed aircraft technicians at Air Canada for 2011 was \$68,640, excluding incentive rewards, health and pension benefits; for mechanics, \$60,341; cargo agents, \$51,734; and baggage handlers, \$41,048. In addition to base salaries, these employees also received an average of \$2,125 in incentive rewards in 2010. These same employees received 5 per cent in wage increases from 2006 to 2008 and have received incentive payouts of between 2.9 per cent and 1.9 per cent every year from 2005 to 2010. Over and above these pay increases and profit-sharing, approximately 25 per cent of our employees received annual wage increases of 11 per cent to their base wages as the result of progression through established wage scales.

Air Canada additionally provides comprehensive health care and dental care benefits, and employees participate in the company's defined benefit pension plan, benefits which are valued at approximately 28.5 per cent of annual salary.

[Translation]

With regard to ACPA, compensation and benefits for pilots rank in the top 25 per cent in North America. Air Canada pilots on active service earn an average of \$143,000 a year, not counting medical and pension benefits.

Of the 500 highest-paid Air Canada employees, 479 are in fact pilots. Of the 20 employees who earn the most at Air Canada, 10 are pilots. Depending on the month and the type of plane they fly, pilots must put in between 64 and 85 hours of flying a month, and they have an average of 12 to 18 days a month off. Air Canada pilots also benefit from a comprehensive medical and dental plan, one of the most generous in Canada, which covers employees' medical costs, and they contribute to the defined benefit pension plan.

At present, most pilots retire at age 60 after 32 years of service, and they receive an average annual income of \$116,000 from the defined benefit pension plan.

[Ms. Sénécal]

Management feels very strongly that Air Canada, as an employer, offers good working conditions, fair compensation packages and exceptional benefits to these groups of employees. The agreements in principle reached with the IAMAW and ACPA and the final offer subsequently made to ACPA represented, from management's perspective, a reasonable and fairly negotiated improvement in working conditions and compensation and benefits packages. We sincerely hoped to reach negotiated agreements that would be ratified by the groups in question, but that was unfortunately not the case.

That said, our priority was to put an end to the constant uncertainty that reigned within the unions, as it was affecting clients and destabilizing the company. In the meantime, we are always available and willing to communicate with both unions. Thank you for taking the time to listen. We would be happy to answer any questions you may have.

[English]

The Chair: Thank you for that very excellent introduction. It was a great overview. We deeply appreciate it.

I have a list of honourable senators who wish to pose questions once again, and I will start with Honourable Senator Cowan.

Senator Cowan: Thank you, chair. Welcome, folks. I should explain that normally our committees do not sit when the Senate is sitting but, because this is a Committee of the Whole, there are a number of Senate committees sitting. The absence of many of our colleagues is not due to a lack of interest, but they have other work to do and they are at those committees.

Does Air Canada support the final offer selection process that is set forth in section 11 of the act?

Kevin Howlett, Senior Vice President, Employee Relations, Air Canada: In answer to your question, honourable senator, for us, it is about bringing finality to the process, a process that has been ongoing for a substantial amount of time. If final offer selection is a route to go, for us, it is about bringing conclusion to the process.

Senator Cowan: You support the mechanism that is described in section 11 of the act?

Mr. Howlett: Ideally, for us, we would have far preferred to come to a bargained settlement but, given that that was not possible, final offer selection it is.

Senator Cowan: This mechanism as it is set out here, in the absence of a negotiated settlement, which would be your preference, is supported by you as a way of dealing with this situation?

Mr. Howlett: Correct, yes.

Senator Cowan: Could you summarize for us, quickly, because there are a number of senators who want to speak to you, the essential roadblocks? What are the two or three top issues that

prevent you from your preferred resolution, which is a negotiated settlement? Without getting into the detail, what is the high-level view of the essential roadblocks?

Mr. Howlett: In the case of the IAMAW, it would come down to issues with respect to pension, provisions around how shifts are developed and rostering. In the case of the pilots, and this is very high level, there is a substantial number of issues outstanding, all the way from work rule changes to changes with respect to scope, the jurisdiction of the collective agreement. Pension remains outstanding as well with that group.

Senator Cowan: Thank you.

• (1630)

Senator Segal: I want to thank the representatives of Air Canada for making time to be here today.

I want to talk about breaking the cycle. This cannot be good for the morale inside your management; it cannot be good for the morale inside the bargaining groups. There are aspects to the cycle that I think are recurring; every time a negotiation of substance begins, someone mentions the risk of bankruptcy. There is always the question of the repatriation of profits up to ACE and its distribution of those profits, which is what you would hear from the bargaining groups as a normal course process.

When the government intervenes for the purpose of protecting the public interest — not choosing sides as between management and the bargaining groups, but for the public interest — that intervention becomes, unwittingly perhaps, a part of the cycle. People will therefore believe on one end that negotiations cannot possibly ever proceed to a normative sort-out, because Her Majesty will intervene through the government at some point. That becomes problematic on both sides.

As professionals with a huge skill set and a tremendous breadth and scope, you see the cycle, its implications and its costs. I would be interested in knowing what advice you would give us with respect to how the cycle can be broken, but in a positive way — in a way that allows the airline to sort through its labour relationships constructively. It may be, perhaps, that the cycle gets broken because there is some core economic restructuring of the parent company, or the company itself, that suggests itself based on overall economic conditions.

Legacy airlines have had their problems. Air Canada has managed extremely well based on some of those burdens, but those burdens remain.

I think I speak for a few honourable senators here in trying to get the best advice we can from you as to how that cycle might best be broken, assuming the best of faith on the part of management — which is certainly my assumption — so that the vision of a privatized Air Canada, managing well and maintaining its superb standards of service and global connectivity for Canada, both on the passenger and cargo side, is maintained and advanced, and not always with the intervention of this chamber or the other chamber as a regular quarterly part of your own business cycle.

Mr. Howlett: In response to your question, there is something that sets the issue apart today here at Air Canada, vis-à-vis its past. If you go back over the history of Air Canada, it has a very enviable track record of being able to conclude labour agreements with its employees, and it has done so with the minimum of “labour interruption,” let us put it that way. The competitiveness of our collective agreements and the place our employees find themselves vis-à-vis their colleagues and the industry is, quite frankly, enviable.

However, I think what separates this circumstance from the past is the fact that we have concluded collective agreements with our employees during this round of bargaining. Excluding the three-day strike with the CAW, we came to agreements eight times with six of our unions. You know the history of the rejections that have taken place.

I think what we are looking at here and the challenge that we as a company and the leadership of the trade unions face is that there is a disconnect between that leadership and the membership at large. I think a number of negative consequences flow from that. We are witnessing that today as we speak, through having a freely-negotiated, recommended-for-settlement collective agreement by its leadership with the IAMAW, as well as this same set of facts with our pilots, and we have both of those agreements rejected.

Gone are the days, in my view, where labour leadership has had the capacity to be able to craft and manage the message to its constituency. Facebook, Twitter, and all social media vehicles have taken that right out of their hands. It is the world we live in. One of the challenges we all have going forward is to be able to craft legislation that recognizes and deals with that reality as policy-makers here.

We as a company still have significant restrictions — let us put it that way — with respect to what we can and cannot communicate to our employees during the collective bargaining process.

[Translation]

Senator Dallaire: With respect to pilots, does the friction caused by the merger of Air Canada and Canadian Pacific still exist or is it gone?

[English]

Captain Dave Legge, Senior Vice President, Operations, Air Canada: I am Captain Dave Legge, Senior Vice President, Operations. I would like to confirm the question you are asking. Are you asking if friction still exists at this time due to the merger that occurred 12 years ago?

Senator Dallaire: Between the pilots, in particular, and the flight crew.

Mr. Legge: Truthfully, I do not believe any friction exists on the flight decks. I do not think it impacts safe flying operations at all. That is not to say that our current group of pilots are totally satisfied with how the seniority merger turned out 12 years ago. Is that impacting safe flying operations? The answer is definitely “no.”

Senator Dallaire: Has this continued friction shown itself in negotiations in any way, or has there been solidarity amongst all the pilots in that regard?

Mr. Legge: To my knowledge, that is not impacting the current negotiations. If it were, it would not be of material impact.

[Translation]

Senator Dallaire: Senator Segal was very generous when he described Air Canada's reputation. You are world-class. You fly to many countries around the world, no doubt about that.

Given that you raised the issue, can you tell me that our pilots' benefits are very good, if not generous, and that you believe that they are more than sufficient to meet their needs and reflect their responsibilities?

In the past 10 years, how many accidents have been caused by pilot error?

Ms. Sénécal: In aviation in general?

Senator Dallaire: No, at Air Canada.

Ms. Sénécal: That depends on the definition of accident. Air Canada's last major accident was in Fredericton in 1997. It did not take place in the past 10 years.

Senator Dallaire: I am referring to accidents that could affect your operations and where an aircraft became inoperable.

Ms. Sénécal: At Air Canada, to my knowledge . . .

[English]

The last accident that rendered an aircraft inoperable at Air Canada was in 1997 at Fredericton. Maybe Captain Legge can correct me.

Mr. Legge: That is correct. Our last accident was in 1997. There was no loss of life. It was not due to "unserviceability" associated with the aircraft.

• (1640)

Senator Dallaire: What I am getting at is that although you have given us a feeling that what is proposed to the pilots is ample to meet the requirement, we have nothing to compare that with. For example, compare it with the American airlines and how many pilot and error accidents they have been having, or companies that have gone under, like Swissair, and what they have done to rectify their pilot problems, or compare it to KLM and what they are getting.

Can you tell us whether we are within the scope of the others and whether our pilots are of better or equal caliber? I would argue that whatever numbers you come up with, unless there is a comparative reference, we can say it is good, not good or whatever. You cannot just say because they have a great health plan — they better have a good health plan — or other privileges

or benefits they have. I am speaking from an environment where pilots have always been treated as a little special, to say the least.

Mr. Legge: I understand. I am from the military as well.

Senator Dallaire: Compared to the artillery who have tried to shoot them down.

Mr. Legge: Our pilots are compensated in the top quartile. At Air Canada, we enjoy the ability to select the best. We have thousands of applications, and lots of pilots want to fly for Air Canada. For every three candidates who apply, only one is selected. They go through our training process, and besides a rigorous selection process we have one of the most advanced training programs in the world. I am very confident of the capabilities of our pilots. They are well-trained professionals.

Senator Dallaire: What is squeezing them to be unsatisfied with what you are offering?

Mr. Legge: If we go back to the first tentative agreement, there were a number of changes in that agreement. For lack of a better word, it was a transformational change to the way we were going to conduct business in flight operations and manage the pilot group. There were a number of productivity improvements, but there was also an agreement that would enable us to do less training in the airline. Right now, for every pilot who retires at Air Canada, it generates about seven courses. Pilots are paid according to type of aircraft and seat positions.

We worked with the first negotiating team because of all that training that is conducted and came up with what was called a pay grouping. In that pay grouping, all wide-body captains would be paid the same, all wide-body first officers and so on. I believe there were going to be five pay groupings. That was going to reduce our training requirements, and for every pilot who retired off the top at age 60, it would generate about four and a half courses.

We certainly saw that as a benefit for the company, as well as for the pilots. It would enable them not to have to go on to another course to earn more money. It would also enable the wide-body captains to achieve maximum pensionable earnings before they retired than they would otherwise do.

The other element of the first tentative agreement was with a low-cost carrier. It is our position that that part of the tentative agreement was a determining factor in why the tentative agreement was turned down.

Senator Dallaire: Seniority is not a factor anymore?

Mr. Legge: It is always a factor. With a status pay system, it would be less of a factor. You would have pilots bidding for better working conditions rather than bidding up to higher paying aircraft and having not as good working conditions.

Senator Dallaire: My last point is that a number of concerns are being expressed, particularly in the United States, that the level of experience is being reduced — numbers of years, flight hours and so on — which can have an impact. Has that been raised by your pilots in any way? Is that affecting in any way, shape or form their position in negotiation?

Mr. Legge: I think the level of experience in the United States has probably been reduced in the second- and third-tier carriers. At Air Canada, that is not the case. Our flying requirements, our minimum hours, are 2,000 hours, and a minimum of a high school education. We typically hire pilots with more than 2,000 hours and more than high school. We have not had to reduce our required hours or experience levels in order to hire pilots.

Senator Dallaire: Thank you.

Senator Finley: We are not here to negotiate a contract on behalf of the parties. I am sure if we asked both parties, they would say they have negotiated in good faith, and I assume both have. I was always taught as a negotiator to avoid a strike wherever possible because it does not do anyone any good.

I am looking at the consequences of a work stoppage. We have talked and heard about \$22 million per week, which strikes me as quite small, and I imagine the ripple effect would be larger than that.

If there was a full-scale work stoppage at Air Canada, do you have a model that projects the rate at which you have to shed people and jobs? Do you have a model that says if we are stopped for a week, two weeks or three weeks, how long it takes to rebuild the airline, the carrier and its operations, back up to 100 per cent operating capacity? I would imagine the longer a work stoppage lasts, you have all kinds of things that happen in the airline industry: pilots spread all over the world, aircraft stranded all over the world, maintenance bulletins that are not getting carried out, parts stoppages and a tremendous jam-up with your subcontractors. I wonder if you could comment on how time sensitive the stoppage would be, if one was to occur.

Mr. Howlett: I will answer first and let my colleague follow up. To give you a sense of the issue, to shut Air Canada down for a day would cost approximately \$33 million per day, and that includes our shutdown costs and our start-up costs after the fact.

Second, if you shut Air Canada down, effectively all employees are placed on off-duty status, and that is some 26,000 employees, plus or minus. Then you obviously get into the logistics that the fleet is all over the world, as you said. There are the logistics of taking people off payroll and bringing people back on payroll. There is the whole issue around the fixed-cost component that will continue even though you do not have an operation.

Shutting down Air Canada is probably the easiest part of it. I will let Mr. Legge give you a sense of how much it would take from a maintenance and operational point of view to bring Air Canada back up to full service afterwards, depending on the length of the strike. Of course, what is overriding all of this is the financial capacity of the business to withstand that economic hit in the first place.

Mr. Legge: The most effective way to shut down Air Canada, or any airline, would be to start two to three days beforehand. In other words, begin an orderly shutdown of the airline so that we would not have many of our aircraft at the international stations and our crews as well. We would begin the shutdown two to three days before, shutting down our international flights. The flights at

the beginning of the shutdown would be largely domestic flights returning that night. We would want to have most of our airplanes back in our Canadian hubs, which would certainly be a challenge for us. That kind of shutdown would be the most effective. To start up the airline again would probably take three to four days to be fully up and running again as a fully operational airline.

• (1650)

Senator Finley: My understanding is that most of the aircraft and the turbines are leased. During a shutdown, given an aircraft at around \$200 million apiece, these lease requirements must be fairly extensive. Would these lease agreements still be required to be serviced by Air Canada?

Ms. Sénécal: Most certainly. All leases would have to be paid. All obligations of maintenance under the lease would continue to be performed.

Senator Finley: Without giving away the secret sauce recipe or any airline secrets, can you give me a frame of reference for how much money we are talking about?

Ms. Sénécal: It is included in the \$30 million.

Senator Finley: Of your 26,000 employees, how many are unionized and how many are non-unionized? How many separate unions would you deal with among the unionized employees?

Mr. Howlett: Our total employee population has about 87 per cent represented by trade unions. Our trade unions are obviously dominated here in Canada. Our U.S.-based employees are represented by a trade union as well, as are our employees in the U.K. We have five major unions here in Canada. We have the IAMAW, who represent our technical workers and airport workers; ACPA for our pilots; CUPE for our flight attendants; the CAW for our customer service staff and scheduling staff; and CALDA for our dispatchers.

Senator Finley: Is the IAMAW the largest union representation?

Mr. Howlett: Yes, they are the largest union in our business and they have an employee population of approximately 8,100.

Senator Finley: Are the non-pilot and non-machinist unions aware, and I am sure they must be, of the fact that if worst came to worst and the airline was closed down then they would lose their jobs as well? Has there been any reaction from those other unions?

Mr. Howlett: I would expect the other bargaining units are aware that if either of those two units goes out, given their size and the jobs they do, we would be shutting the airline down.

Each one of our collective agreements contains provisions of what we call "off-duty status," which basically takes people off the payroll on an expedited basis. In other words, it takes them off in sort of one block and returns them as the business ramps back up. Generally speaking, they would be aware of it.

Senator Finley: On the planning horizon for Air Canada in terms of routes and employees — generally speaking, your business plan — what sort of horizon do you look at? I know you look at one very closely, but how far out does Air Canada see, plan and work on expanding its business? Are we talking 10 years or 15 years?

Mr. Howlett: Obviously, we have an annual plan that we work to. Then, we have long-range planning, which takes snapshots over a period of five years, seven years, et cetera, and that deals with issues such as fleet replacement, market expansion, and things of that nature.

Senator Finley: Anyone who breathes knows how razor thin the airline business is at the moment, having seen United Airlines, American Airlines and many others either go to the wall or be in a state of chapter 13. Do you measure, for example, a return on assets? Do you have some measurement that would compare readily to other very capital-intensive businesses? How low is the return on the shareholders' investment?

Mr. Howlett: The standard industry measure, in response to your question, is EBITDA, Earnings Before Interest, Taxes, Depreciation and Amortization. That is the generally accepted principle across this industry that measures performance across a number of metrics of the business.

Ms. Sénécal: As well, another unit is used: CASM, Cost per Available Seat Mile. This universal measure allows one to compare airlines.

Senator Finley: You fly at roughly 81 per cent capacity. Is that right?

Ms. Sénécal: The overall load, yes.

Mr. Howlett: What we call “traffic,” yes, you are right.

Senator Finley: It is about 81 per cent. How does your cost per available seat mile compare to other airlines within Canada? Let us compare roughly with WestJet or one of the other low-price carriers, like Porter, for example. What is the biggest component of your cost per available seat mile? I know it will be different if you are flying to Moscow or to Toronto from Ottawa.

Senator LeBreton: This is your last question.

Senator Finley: What is the biggest component of your cost per available seat mile?

Ms. Sénécal: The advantage of that unit is that it is able to compare different types of airlines with each other. Our cost per available seat mile compared to WestJet, for example, is roughly 30 per cent higher.

Senator Finley: Why is that?

Ms. Sénécal: It is because of wages, benefits, pension plans, leases, airport rents at some airports we fly to, operations and maintenance requirements for our aircraft.

Senator Finley: Thank you.

Senator Meredith: Thank you so much for your presentation this afternoon. Going back to a question that Senator Cowan asked with respect to the final selection offer, walk me through the arbitration process. You presented an offer to the pilots, and apparently this was rejected. Will you be presenting the same offer again through the arbitration process? Can you walk us through how that would work?

Mr. Howlett: Yes. First, we had a tentative agreement with our pilots, which was subsequently turned down by the membership. Second, we reconvened bargaining in November last year.

• (1700)

From November to the present, there have been two or three exchanges of proposals between the parties, with the bulk — if not 95 per cent — of the issues remaining outstanding. The way a final offer selection arbitration process would work is that the parties would independently prepare a comprehensive proposal to cover all standard issues that would be outlined in the collective agreement, from term to the financial issues to the working conditions to the retirement conditions, et cetera, and that would be put to an arbitrator. The arbitrator would be tasked, after hearing the respective submissions of each party, to select one or the other.

Senator Meredith: Clause 13 also mentions matters of dispute that remain outstanding. How are those disputes resolved once the arbitrator has made a decision as to protecting both parties? How does that move forward?

Mr. Howlett: The process would most likely unfold with the arbitrator attempting to establish what is in agreement between the parties. Then they have a list of outstanding issues, and that would form the basis of what would be the final offer selection.

Senator Meredith: You talked about 26,000 employees. The government, as a whole, is looking at restraint and cutbacks. How is Air Canada's financial viability? Can you let us know how you sit right now as a company?

Mr. Howlett: I think, as one of your colleagues mentioned, this is a tough business. It has a razor thin margin. I think the financial issues associated with this industry, as a whole, and with Air Canada, here in Canada, are fairly well documented. It is a very, very tough business.

In terms of Air Canada's financial performance for 2011, we recorded a loss of \$240 million.

Senator Mercer: Thank you, ladies and gentlemen, for being here. I think we need to acknowledge the sacrifice that the unions of Air Canada have made over the past 10 years. One estimate is that the workers have taken \$2 billion in concessions over those 10 years. As well, they refined their pension fund. Their pension fund is underfunded. I would hope that, in the whole process, the company would acknowledge that the unions have been very good in this pretty tough time in the airline sector.

You have made reference a couple of times to the different salary levels for pilots of different types of aircraft. Perhaps it would help to put that in context for us. What would the lowest-paid pilot earn

and what would the highest-paid pilot earn? I recognize that there is a difference of skill set from flying a small plane to flying a 747 wide-body.

Mr. Howlett: Let me try to answer that for you, honourable senator. The top-paid pilot at Air Canada, based on T4 earnings for the fiscal year 2010, earned exactly \$268,781.32. The average pilot salary is \$143,000 annually, and that excludes a pension, benefits, and health care costs.

If you want to contrast that, for comparative purposes, against your average management salary, again, it is —

Senator Mercer: I did not ask about that.

Mr. Howlett: It is \$69,000.

If you want to know who the lowest paid pilot would be, it would be a new entrant. They would come in at around \$40,000 to \$42,000 annually.

Senator Mercer: That is quite a range, from \$40,000 to \$268,000.

We want to talk about management salaries and so on. We might want to get into how much money certain former executives took with them as they left a company that was in trouble, but that is not why we are here today. The public is well aware of that, as are people here.

I think it was Senator Segal who talked about the lack of morale that must be in the management offices and, certainly, among the rank and file of the various unions. I understand that. However, I would think it would be pretty comfortable in the management offices because every time we get to a dispute where there is a hint of trouble and where we have had a union reject a tentative agreement negotiated by their team, we end up here. This is pretty easy for management. You do not have to, I would think, be sincere and sit down and bargain in good faith with a union that is trying to do a good job on behalf of its members. You have the fallback position that the government will always come along and legislate an avoidance of a work stoppage — not legislate you back to work — as we are doing in this case.

[Translation]

Ms. Sénécal: We would like to point out that we have negotiated six agreements with the representatives duly chosen by each union. We negotiated in good faith and reached an agreement that they recommended. That is why we are in this situation. In the case of flight attendants, it has happened twice.

[English]

Senator Mercer: The training of pilots is an expensive operation, as we know. I heard about this testimony before the Standing Senate Committee on Transport and Communications. They are in the middle of a study of your industry, and it is not all roses, by any means. We have heard that the cost of training pilots is extremely high. Who bears that training cost? When you hire a new pilot at \$40,000 or \$42,000, he or she comes to you as a trained pilot with, I think you said, 2,000 hours flying time.

Mr. Howlett: Minimum.

Senator Mercer: They probably have a minimum qualification on a certain aircraft. Who paid for that training, and who pays for the training after they come to work for you?

Mr. Legge: When a pilot is hired, honourable senator, the first course is called a Pilot Indoctrination Course. That is a two-week course, and Air Canada pays for that training. At the end of that course, they are selected to either go into a first officer's position or on to a cruise relief pilot position on one of the wide-body aircraft. In all cases, from the time that the pilot is hired until he retires, Air Canada pays for training, whether it is training on a new aircraft type, which we refer to as transition training, or recurrent training that we conduct on pilots every year.

Senator Mercer: I am making an assumption, and I hope you will correct me if I am wrong. A pilot who comes in making \$40,000, does he or she fly a small aircraft on a short haul route somewhere in Canada? They have not moved into a wide-body international flight.

Mr. Legge: The bigger the aircraft, the higher the pay. Generally, on any aircraft, the captain is paid more than the first officer. The first officer is paid more than the cruise relief pilot.

• (1710)

Typically the smaller aircraft, and certainly for a first officer's position, is where the pilot is going to go, and that would more than likely be the Embraer aircraft, which flies throughout North America. If they were to go as a cruise relief pilot onto either a 767 or a 777, then they would be flying internationally where those aircrafts fly. From that point on, where they move to is strictly determined by seniority number.

The Chair: Honourable senators, that concludes the questions for these witnesses. On behalf of all senators, I thank the witnesses for joining us today to assist us with our work on this bill. You are now free to go.

Honourable senators, I have been informed that there are outside witnesses from certain associations and unions who would be available to be heard. Is it your wish, honourable senators, that we hear from them this afternoon?

Hon. Senators: Agreed.

The Chair: Agreed.

Honourable senators, while the witnesses are changing seats, I have had an opportunity to give some further thought to the question raised by Honourable Senator Ringuette with respect to privilege. It was brought to my attention that this chamber, on October 18, 2011, adopted a motion respecting Wednesdays, and paragraph (c) provides as follows:

when the Senate sits past 4 p.m. on a Wednesday, committees scheduled to meet be authorized to do so, even if the Senate is then sitting, with the application of rule 95(4) being suspended in relation thereto;

I think this information will be of great assistance to Honourable Senator Ringette in relation to her issue. Thank you very much, honourable senators. We are now awaiting the arrival of officials and representatives of the Air Canada Pilots' Association and others.

Honourable senators, I am pleased to now advise you that we have with us, from the International Association of Machinists and Aerospace Workers, Mr. Chuck Atkinson, the President and Directing General Chairman of District Lodge 140; and Mr. Dave Ritchie, the Canadian General Vice President; and from the Air Canada Pilots Association, we have Captain Paul Strachan and Captain Jean-Marc Bélanger.

I am pleased to welcome representatives of Air Canada's Pilots Association and separately the International Association of Machinists and Aerospace Workers. I would ask each union's representative to make their opening presentations and, after the two presentations are made, I will then open questions for honourable senators. I know that the unions may have different views on some issues on the bill, so I would invite honourable senators, when posing their questions, to indicate, if appropriate, the union to which their questions are directed.

I do not know which of the groups would like to go first. Have you decided among yourselves? It is the pilots. You now have the floor.

Captain Paul Strachan, President, Air Canada Pilots' Association: Thank you, Mr. Chair and honourable senators. My name is Captain Paul Strachan. I am the president of the Air Canada Pilots' Association. I am joined by my colleague, Captain Jean-Marc Bélanger, who is the chair of our Master Executive Council.

We greatly appreciate the opportunity to address the Senate today to give our perspective and that of over 3,000 professional men and women who operate Canada's mainline fleet.

We would like to outline for you why we are aggrieved by the process taken by the Government of Canada to prevent us from negotiating the terms and conditions of our employment with Air Canada.

Our men and women have waited a decade to be able to address both the sacrifices that they made in the restructuring of the airline in 2003 and 2004 and also many of the issues, of course, that have arisen within the collective agreement in addressing the operations of the airline over that period of time.

We are caught up now in a process not of our making, and that opportunity has been taken from us. We were not on strike. We had not given any notice that we would strike. In fact, we had made numerous statements, both in the public and to the government, prior to the Christmas period and again at the spring break period, that we would not strike during these high traffic periods, and we did not.

We have made it clear that we want to continue to reach a negotiated settlement, which is the best settlement for both of the parties, given the complexity of the collective agreement, which

you can imagine is substantial by the very nature of our work. In this vein, we believe that this legislation is uncalled for.

The government's referral of the Air Canada dispute to the Canada Industrial Relations Board under section 87.4 of the code was just about to start — in fact, tomorrow. Of course, that prohibited either party from any strike or lockout during that period of adjudication by the board, so we question why it is necessary at this point to introduce Bill C-33. We feel it is complete overkill, and its passage now makes this CIRB process announced late last week entirely moot.

Air Canada pilots have every reason to be angry at what Air Canada management and shareholders have done to this proud corporation over the course of the last decade. On the heels of the most heinous act of terrorism in the history of mankind, which impacted this industry like no other, followed very shortly thereafter by the largest health pandemic in this country since polio, you can imagine the revenue strain that this airline was under at the time, and the pilots stepped up to the plate. They provided incremental improvements both in working conditions and in wages to the tune of 15 to 30 per cent, depending on who you were specifically, which have provided literally billions of dollars in savings back to their corporation over that period of time.

Despite these major sacrifices, and entirely in the interests of this contributing to the long-term viability of Air Canada, in which no one has more at stake than the 3,000 men and women I represent, they watched the quantum of their sacrifices accrue to foreign investment banks and foreign vulture capital.

• (1720)

To that tune, ACE Aviation Holdings, the holding company created for the purpose of spinning out the former wholly-owned subsidiaries of Air Canada and tearing their asset value out — the full beneficial ownership resident in the shareholders of ACE Holdings — has announced just this week that they plan their final distribution to their shareholders of some \$300 million, which represents the last vestiges of what Air Canada once was. That is in addition to the over \$4.5 billion that has already been distributed from the former asset value of Air Canada.

Despite all of this, our men and women have continued to operate professionally and competently, as they always do, in a very challenging environment. Canada is not the nicest place on earth to be flying planes. They are very, very good at what they do.

Just as we were getting our heads back up above the waterline, we were faced with the largest asset meltdown since the Great Depression. Once again they stepped to the plate, instrumental in engineering a special funding protocol in respect of pension solvency deficits that has provided, again, billions of dollars in liquidity to Air Canada. In fact, it has saved this airline more than \$1 billion in interest it would have otherwise incurred had it had to actually borrow the money and meet the obligations.

Here we are again, Air Canada showing empty pockets. Air Canada says one thing to the street; it says entirely another thing to its employees and to the Government of Canada. It has been noted that very few collective bargaining situations in Canada

ever lead to a strike or lockout position; only a handful do. However, in this case, the entire handful is owned by Air Canada. That should instruct this house.

Yes, Air Canada is in difficulty. However, in spite of all that has gone on in the last decade, where we have rewarded private equity and foreign investment banks for decapitalizing our industry and our national airline, it is still salvageable. There is nothing more than that that the pilots are interested in.

Yes, we want to protect our livelihoods, our standards of living and our pensions, but Bill C-33 is not the way to do it. We have made detailed suggestions on how to improve the sustainability of the pension plan, both to the Department of Finance and our employer. This includes examining issues like the discount rate and the amortization periods. The Canadian annuities market is not large enough to absorb the assets of one of these trusts. Yes, they are in trouble but they are not basket cases. Why, then, do we attempt to emulate fictional annuities that we could not possibly invest the trusts in? Clearly there needs to be some more accurate measure of expected performance. These are simple issues that have not been addressed by the Government of Canada.

It takes time to negotiate. I mentioned the complexity of our collective agreement. In fact, it is 346 pages long. It is an incredibly complex document, and it covers every aspect of our relationship with the employer. It is the result of 60 years of constructive and cooperative collective bargaining, as contemplated under the laws of Canada.

This time, we are being denied. Over the years we have negotiated progressive improvements to pilot fatigue regulations and flight time and duty time regulations. Canada's prescriptive regulation regime is among the most onerous on the planet. The Air Canada pilots have expended bargaining capital through the collective bargaining process to improve upon that to achieve a regime that bears reasonable resemblance, if not entire parity, with other international jurisdictions. We have also advocated strenuously for the improvement of Canadian regulations; in fact, we have been in front of most of the safety improvements that you have seen in this industry, both as the Air Canada Pilots Association and as its predecessor, the Canadian Airline Pilots Association.

The most important point that you need to consider in respect of this bill is that safety and security — public safety — is the number one priority of Air Canada's pilots. We take it very seriously, as well you would expect, and we should. We are the last line of defence on both of these issues. When the plane leaves the gate and the cockpit door is closed, we are responsible.

I mentioned that we did not strike. In fact, our employer announced its intention to lock us out as of midnight last Sunday. I just heard a representative from the corporation tell this house how expensive that would have been in terms of lost revenue to Air Canada. His estimate, not surprisingly, was the same estimate that I have been using as we have gone along here — about \$30 million a day. Is there any honourable senator in this chamber that believes that Air Canada was prepared to lock its pilots out and suffer that degree of lost revenue? That would be \$200 million in lost revenue in a week. If there is anybody who believes that is the case, then

you must also agree that the shareholders of Air Canada and the board of directors of Air Canada ought to be looking very skewed at the executive of this corporation if it was prepared to endure that. I submit to you that it was not.

While we strenuously disagree with the process and many of the provisions of Bill C-33, to mitigate the damage that this bill might do, we would ask honourable senators to consider four amendments that would make it reasonably fair.

The first is that this arbitration is to be a final offer selection — very draconian; no compromise possible; no introduction or application of the expertise of an arbitrator brought to bear. Make it a regular-interest arbitration.

Second, the arbitrator is to be appointed by the minister. This should be agreed to by the parties. That is a basic principle of labour relations in this country.

Third, in clause 29(1), the arbitrator must decide within 90 days of appointment. This is a 346-page collective agreement, and 90 days is not enough. We say make it 180 days.

Four, clause 29(2) directs the arbitrator in the substance of any award in making his or her choice of final offers to those issues still under dispute to focus on the viability and competitiveness of the employer and sustainability of the employer's pension plan. This is highly unusual and highly one-sided.

Regarding point 2, I heard last night and was told that the minister was prepared to consider consultation on the appointment of an arbitrator, and this is a welcome start from our perspective. Nonetheless, the effect of these provisions makes the bill in the process totally one-sided.

Mr. Chair, honourable senators, thank you for your attention and the opportunity to provide my perspective. I would like to provide my colleague a few minutes to do the same in the other official language, after which we would be happy to take your questions.

[Translation]

Captain Jean-Marc Bélanger, Chair, Master Executive Council, Air Canada Pilots Association: My presentation will not be a repeat of what my colleague just said. I am going to continue our presentation in French.

My name is Jean-Marc Bélanger. I was just elected Chair of the Master Executive Council of the Air Canada Pilots Association. I have worked for Air Canada for 32 years and logged over 18,000 flight hours.

As pilots, we follow the rules, and we have a lot of respect for this country's democratic and parliamentary process. We have to assume that, when bills are introduced by our parliamentarians, they are in the public interest. Yesterday's vote was not unanimous. I must say that the Air Canada Pilots Association considers the bill that is in the process of being passed to be unconstitutional. We have asked our legal advisors to challenge the constitutionality of this legislation, and we are also going to request that an interlocutory injunction be filed as soon as possible, as soon as the legislation comes into force.

We have a problem with a number of aspects of this legislation. One of them, which has been mentioned, is air safety. The Minister of Labour must not have spoken very much with the Minister of Transport, because there are specific provisions of the Aeronautics Act and the Air Regulations whereby only pilots can decide whether they are capable of working.

• (1730)

Our colleagues who were here were just pressuring us and saying that if we think we are incapable of working, they will consider that an illegal strike action. This decision and this attack on our fundamental rights are so serious that I asked for the support of pilots from other airlines in the country. I received the unequivocal support of pilots from WestJet, Air Transat, Jazz and Canadian North. We are all in agreement, and you can contact them. We have to fight this attack on our key fundamental rights.

For 60 years, we have successfully improved this country's air safety measures so that the accident rate per thousand hours of flight time is very low. This is due in part to our pilots' professionalism, experience and expertise. I am not just talking about Air Canada pilots. Canadian pilots in general, along with Australian pilots, are very popular throughout the world. We have the most experience for all sorts of reasons, including the fact that our countries are big and we make a lot of flights.

I have to tell you that we are going to fight this provision. I am sure you agree that you do not want a stressed-out pilot flying a plane. The Aeronautics Act and the Air Regulations do not just allow us to do so, but order us to do so. If I were unable to do my work for medical or other reasons and I continued to fly planes and someone reported me, my pilot's licence would be revoked immediately, and that is good. Pilots have to be accountable in that regard, but so do the airlines.

I have with me an interesting speech by a senator from Australia's upper chamber, Senator Xenophon. I have copies of his speech for you. This speech sheds light on what happened at Qantas airlines in Australia, the complete dismantling of that airline, which was once the pride of the industry, the lowering of air safety standards and the development of discount airlines based outside Australia that are picking up all the traffic Qantas formerly handled.

Our CEO said he wanted to emulate Jet Star. Unfortunately, here in Canada, that would be the end of our aviation industry from the point of view of aircraft operation. With all due respect, Air Canada pilots would not agree to take that direction. The best pilots for piloting planes and all of Air Canada's planes, whether planes to vacation destinations, cargo planes or discount aircraft, are still Air Canada pilots. People might want discount airlines, but you will never have discount piloting in Canada.

The problem we have with senior management is with Air Canada's lockout notice. The bond of trust has been broken. I wrote to senior management to try to restore that trust. In our daily operations, we have to have that bond of trust. There are a number of provisions in our collective agreements and in our operations outside the collective agreement, for example, safety measures having to do with our responsibilities in the event of an accident or incident, having to do with the confidentiality of the

air safety reports we prepare in order to improve that safety, and all the provisions that require a mutual agreement between the two parties in order for this to continue to work. All of this was compromised when senior management decided to lock us out. This raises serious air safety issues, and Transport Canada inspectors have been notified with regard to pilots of Canadian airlines.

That is the end of my presentation. Thank you for your attention, and I will answer your questions in French later. For those wishing to ask the Pilots Association questions in English, Mr. Strachan will answer.

The Acting Chair (Senator Fortin-Duplessis): Thank you, Mr. Bélanger. I will now call on Chuck Atkinson, President and Directing General Chairman of Transportation District 140.

[English]

Dave Ritchie, Canadian General Vice President, International Association of Machinists and Aerospace Workers: Mr. Atkinson is with me, and he is the President and Directing General Chairman of District 140.

I would like to thank everyone for the opportunity of being able to bring our concerns to you. On behalf of the International Association of Machinists and Aerospace Workers and the 8,600 people we represent, we would like to take this opportunity to thank you all.

We are deeply disappointed in this misconceived legislation that takes away our members' right to strike and fundamentally undermines collective bargaining in the federal jurisdiction across Canada.

We have been bargaining in good faith with Air Canada for several months. After failing to reach a settlement, our members voted a strike mandate. We gave notice of our intention to legally strike under the terms of the Canada Labour Code as of 12:01 a.m., March 12. Even though we had served strike notice, we were prepared to bargain right up to the deadline to reach an acceptable agreement. While our strike action likely would have stopped Air Canada's operations and caused inconvenience to some Canadians, there is no evidence — contrary to the labour minister's claim — that an Air Canada strike would have had a significant negative impact on the Canadian economy.

Unfortunately, the minister has intervened in this dispute, first by the referral of the Canadian Industrial Relations Board under section 87.4 of the code, and now through legislation. Clearly, the CIRB referral was simply a delaying tactic as an Air Canada work stoppage posed no risk to the health and safety of Canadians, a fact acknowledged by Air Canada who has never sought an essential service designation under the code.

Bill C-33 is a direct attack on workers and collective bargaining rights in the federal jurisdiction. Since virtually any strike would have some economic impact, this government is basically eliminating the right to strike for federal workers. This takes away a fundamental right, the right of workers to cooperate and withhold their labour; the main offset workers have to the overwhelming power of the employer.

[Mr. Bélanger]

While outlawing strikes may seem like a way to enforce labour relations harmony, it has the opposite effect. The elimination of the right to strike undermines labour relations and collective bargaining. Without the consequence of a potential work stoppage, there is little pressure on the negotiating parties to make trade-offs that are necessary for effective bargaining. Without the possibility of a stoppage and the clear air, workplace problems fester and the labour relations climate deteriorates. It does the employer no favour to create an unhappy workforce for the duration of the imposed agreement.

Beyond the fact that it undermines free collective bargaining, Bill C-33 is deeply flawed. As a piece of legislation, it is heavy-handed and tilted in favour of the employer, Air Canada. The bill's use of final offer selection is totally inappropriate. While interest arbitration based on final offer selection may be appropriate where there is a single item or issue to be decided, it is a terrible method for dealing with a complex collective bargaining in which there are many issues and items to be considered and weighed.

The final offer process ties the hands of the arbitrator in crafting a balanced deal that may force him or her to select an unworkable proposal as the lesser of two evils. If the objective is ongoing labour peace, giving an interest arbitration broader leeway to produce a fair settlement is a more sensible approach.

• (1740)

We also have concerns that clause 14(2) of the bill seems to direct the arbitrator to set the tentative agreement of February 10, which was rejected by our membership, as the upper limits of the terms of settlement. This is deeply unfair, as we are working with Air Canada on an improvement to the deal, as the minister intervened.

We have some concerns about clause 34(1)(a) of the bill, which would levy a fine of up to \$50,000 a day on individuals acting in the capacity of an officer or a representative of the employer or the union in addition to a fine of up to \$1,000 a day for individuals or up to \$100,000 a day for the employer or the union itself. While we have no intentions of violating the law or counselling any of our members to disobey this or any other legislation, we are concerned about a clear definition of what it would mean to act in the capacity of an officer representing the union. We are concerned that a member who is a steward or a member of a local committee found to be in breach of this proposed legislation might be considered to be acting as an officer or representative and be subject to a \$50,000-a-day fine. This goes beyond any reasonable penalty.

The right to strike is arguably protected under the Charter of Rights and Freedoms and cannot be arbitrarily withheld by a government at its whim. Canada ratified the ILO Convention No. 87, protecting the right to strike. Over many years in back-to-work legislation, prior governments have almost always used ordinary arbitration or mediation arbitration, not final offer selection.

In 2010, the Canadian Labour Relations Board rejected a final offer selection and offered traditional mediation arbitration for Marine Atlantic CAW workers where essential service provisions were invoked. As we speak today, Air Canada and its parent,

ACE Aviation, will distribute some \$300 million to shareholders. You heard Air Canada say that to shut the airline down for one day would cost them \$33 million. Our last offer on the table was worth \$25 million to Air Canada in additional costs — less than one day's shutdown. I cannot believe in my heart of hearts that an agreement could not have been reached had the minister not intervened. The pressure was off, and we are sitting here with a very bad piece of proposed legislation. I appeal to everyone here: Send us back to the table and let us get a collective agreement the only way it should be done — bargained.

The Chair: We are ready for questions from honourable senators. As I said before, honourable senators, there are two separate groups. If you have a specific question, perhaps you could indicate which of the two groups you would like to have your question answered by.

[Translation]

Senator Carignan: My question is for both groups. I will quote Mr. Strachan. In October 2011, you appeared before the Standing Senate Committee on Transport and Communications, and you said:

I think it is essential for this country. As we sit here today, it is absolutely essential. It is a cornerstone of our entire economy.

The collective agreements expired on March 31, 2011. You had an opportunity to negotiate before they expired because notice to bargain is often served before the collective agreement expires. You have had close to a year to negotiate since the collective agreement expired. You have had help from mediators and conciliators. You have signed tentative agreements. When you sign a tentative agreement as a union representative, I imagine that is because you think the agreement is good enough to submit and recommend to the members. The members rejected it, but you did have tentative agreements.

As legislators or parliamentarians, when passing this kind of legislation, we must look at the kind of economic impact it will have on Canadians. Second, we must assess the chances of success in regular negotiations, which worked for nearly a year.

How can you assure us that by continuing to negotiate and by using your right to strike, you will achieve the goal of reaching a better collective agreement than the agreement in principle? Furthermore, would this not be done at the expense of the economy and the interests of all Canadians?

Mr. Bélanger: With your permission, I would like to respond for Captain Strachan. Thank you for your question. Indeed, there was an agreement in principle that was rejected. One of the reasons was partially our fault, or the fault of all members of the Air Canada Pilots Association. The process that led up to that agreement violated the terms of the association's internal constitution. The agreement in principle was not ratified by the executive council. It was voted on by the members without any recommendation. The agreement came with the bargaining committee, but when the members saw that it violated our constitution, the agreement in principle was rejected, the members of the bargaining team were dismissed and the executive council was recalled by the members, which is not an easy process, but that is what happened.

It is a blessing that we did not accept the agreement in principle. Why? Because the language of that collective agreement was vague. With regard to the dismantling of Air Canada into five separate airlines, we would have had to continue negotiating in good faith to establish the terms and conditions of salaries for the pilots who would work in those subsidiaries and the number of aircraft that would be assigned to each airline. No plan was submitted by senior management, and now we see that.

It is fortunate that we did not accept that proposal. It would be like Jetstar, only twice as bad. We would lose a fleet of about 75 aircraft and half our pilots — who would have to renegotiate their collective agreements — and air safety standards would be lowered.

I submit to you that it was a good thing when 75 per cent of our members voted to reject the agreement in principle.

Now, we are ready to negotiate. It will just take a bit of good faith. We have gotten along with Air Canada management for 65 years. Together, we have created working conditions and air safety standards that are the envy of every other airline in the world. At one time Qantas was considered to be the safest airline in the world. Which airline is the safest today? Air Canada.

• (1750)

We win technical awards of excellence, our flight attendants win awards. The quality of our product is not just based on senior management. This product and the airline's operations are generated by people.

The total cost of the pilots' benefits and salaries is 4 per cent of Air Canada's total operating budget. When I take 200 people to Paris, the unit cost per passenger, for my salary and that of my co-pilot, is \$10. Honourable senators, if I did my work for free, you would not really see any difference in the cost of your ticket.

As with the rising cost of fuel, the ability to conduct air operations without accidents and the ability to negotiate in good faith comes at a cost. Having good pilots at an airline is paramount and there is a cost attached to that. We are not being unreasonable. We are not asking for the moon. We are not even asking to go back to the working conditions we had in 2000. We just want to be able to negotiate, to continue moving forward and to help our airline grow.

Call it Air Canada Vacations, Air Canada Cargo, paint the planes pink, load 400 passengers into a plane that holds 200; you name it and we will fly it, and we will fly it safely, but senior management does not understand that.

I hope my answer was not too long. I simply wanted to describe the situation to you.

[English]

Mr. Ritchie: Mine will be a lot shorter. The only things assured in life are death and taxes. I can assure you that we will come up with an agreement, but not under this term. This is a final selection term, and it does not allow us to put down anything better than we already turned down. I want you to think about that.

[Mr. Bélanger]

What we are faced with is having Air Canada come to the table and give something less. Under this term, he has to consider the offer that we turned down as the upper limit, meaning we cannot move ahead. If that is not legislation that protects Air Canada, I do not know what is. This is against working men and women. This is unfair.

Some Hon. Senators: Hear, hear.

[Translation]

Senator Carignan: You refer to clause 14(2) as a limit on which an arbitrator would have to base his decision; however, this clause states:

In making the selection of a final offer, the arbitrator is to take into account the tentative agreement. . .

That does not mean that the final offer is a limit. It is one of the things that the arbitrator must take into account in making his decision. He must also take into account the report of the conciliation commissioner, who is a third party; the conditions of employment that are consistent with those in other airlines; the short- and long-term economic viability and competitiveness of the company; and the sustainability of the pension plan.

The bill covers wages, the company's competitiveness, the sustainability of the pension plan and, in my opinion, all of the relevant information. It seems to me that there are enough elements or parameters for the arbitrator to consider that would justify his going above and beyond the tentative agreement you were talking about earlier.

My question is simple. You are convincing and you seem convinced. With all these parameters, why are you so afraid to go before an arbitrator to get a better offer? Given how convincing you seem to be, surely you will succeed in convincing the arbitrator and getting a better collective agreement.

[English]

Mr. Ritchie: First, I do not read the bill the same way you do. When it says that they are to expect that as the upper limit, "upper limit" means, in my view, that you cannot go any further. That is very important. That is what the bill says. It does not say anything in between. They are to take into account that as the upper limit.

Second, Madam Justice Otis said it was a good agreement. They all said it was a good agreement. Our people went out and said it was a good agreement, but the people we represented said no. They said no. Theirs is the final word, so we went back. We tried to bargain; we tried to get an understanding, and the pressure was on. We did not put it to the point that this was going to be our strike mandate; that is the way it fell this week. We gave notice — pressure on, pressure on. The minister intervened — pressure off. We are still at the table. I waited one week. One week! I had my whole committee ready to go back to the table. We never met once after the minister intervened. That is not how you get an agreement. When the pressure is on, people have got to come to reality and deal with whatever, as the time is ticking.

I can assure you that not one of my members wanted to strike, but, at that point, they had no choice. After all, free collective bargaining is about free collective bargaining. It is not about intervention at all.

It is extremely important that it is preserved. It is not just not preserved because it is an inconvenience to the public or because it may have some economic impact. That is how we preserve our democracy, our dignity as Canadians. That is how we do it.

The Chair: Thank you very much for that answer. The next questions will come from Senator Poy.

Senator Poy: I want to first remark on what Captain Bélanger was saying. I do believe Air Canada pilots are the best. I fly with you not only across Canada very frequently but also overseas.

My question is to Captain Strachan and perhaps to Mr. Ritchie as well. I believe you were saying, if I understood it correctly, that the Air Canada board has been able to spin off their profits to ACE and then declare a deficit. Yet, at the same time, I just heard that ACE is declaring a \$300-million profit to shareholders this year. I do not understand how they can get away with that. Can you explain that?

Mr. Strachan: It is a long story. In short, you have to realize that Air Canada used to comprise all of these entities that were spun out of it. I am talking about Aeroplan, which was, at the time, probably the most successful loyalty rewards program on the planet. You had the regional airlines, an amalgamation of the former Air B.C., Air Ontario, Air Nova, and Air Alliance, which had been amalgamated in a wholly owned subsidiary called Jazz or, around that time, Air Canada Regional. You also had the Air Canada maintenance facility — now called AVIOS — which was spun out. As each of these wholly owned subsidiaries went out the door, Air Canada was paid a freeze value, which was paid before exit from the CCAA court. They established a freeze value on each of these assets when they moved to become new separate entities.

That freeze value, when compared to the actual market value when the initial public offerings of these various entities occurred, was widely different. Air Canada was not paid fair market value, or the true value, of each of these subsidiaries. The difference quite simply flowed to ACE, the holding company that had been set up for that purpose, which owned Air Canada entirely but also owned each of these new entities until initial public offering.

• (1800)

That delta, then, between the value paid to Air Canada versus the value paid by the street was the aggregate that flowed to ACE and ultimately was distributed to shareholders of ACE. At this point in time, and I believe the first disbursement was made in about 2005-, \$4.6 billion is the aggregate to date.

Senator Poy: At the same time, can Air Canada declare a deficit on its own?

Mr. Strachan: There is more to it than that. At the same time, while they were selling the farm, they decided they would still like to get the milk. They attached Air Canada to commercial

agreements with these new entities, which were wildly favourable to the new entity, not to Air Canada, and that has continued to bleed revenue out of Air Canada. It is almost like a distributor cap. It is not meant for storing energy. It is meant for taking it and dispersing it somewhere else.

This is the core issue of why Air Canada has not been successful, and we knew, ex-CCAA in 2004, that it was undercapitalized based on its own business plan.

Mr. Ritchie: When you are talking this kind of money, you can understand why the membership believed that their day should come too. They gave up all this money to keep this airline flying and they deserve fair compensation, not to go back to where they were, but to get fair compensation. I mean, when you think that the President of ACE, Robert Milton, walked away with \$100 million —

Senator Poy: I know, I know.

Mr. Ritchie: We have another chief executive officer with \$17 million, and this gentleman today is making millions. Our guys are saying, “You know what? I would like to be able to send my kid back to hockey, or maybe my daughter to ballet lessons, but I cannot.” Fairness is fairness, and that is what we are faced with out there. The anger of the people is, “When is it my turn?” That is why these agreements have been turned down. People only want their fair share.

Senator Poy: I understand that. Are these points brought up during negotiations and are they made public so that all Canadians know about them?

Mr. Strachan: We try our best, certainly.

To characterize bargaining that has occurred since the rejection by our membership of the first collective agreement — they were so upset with that agreement that they found it necessary to recall about 30 per cent of the executive from office, including our former chair, the position that Mr. Bélanger now occupies. This took us a long time to rebuild. We had to verify recall petitions and we had to conduct recall votes, and they were not all at the same time. They were staggered. Then we called for nominations for new positions and we had to have elections for those. We had to reconstitute our organization and examine what went wrong in the first case so that we did not make the same mistakes again, and then prepare for a return to the table with Air Canada. We did it in pretty quick time.

By the end of early fall, we were getting close to back to speed, and we suggested to Air Canada at the time that we should return to bargaining on November 23. Its response to that suggestion was to file a notice of dispute. We went to a conciliation process then, which ironically began on November 23. In fact, in excess of 60 days — about 70 days — because we had a couple of extensions to that 60-day period — was spent with our committee presenting our opening position to Air Canada. They poked, prodded, asked questions and gave every appearance that they were serious about bargaining a settlement, after which, in the final week of the conciliation, as it turned out, it tabled its first

position, which was a massively concessionary proposal, more so than the agreement that had originally failed so dismally. They gave our folks about a week to examine it, at which point they refused extension to conciliation. We began the cooling-off period and ended up, of course, ultimately in a strike or lockout position.

How many times have we actually been together with Air Canada to deal with material proposals? I would submit to you that you could probably count them on one hand, two at the most. Air Canada has shown absolutely no compunction whatsoever to achieve a bargained settlement — none.

Senator Poy: I am glad we have all the numbers you mentioned on the record.

I have one short question for Mr. Ritchie. When you talk about Air Canada employees, you refer to them as federal workers, but do I understand correctly that Air Canada is a private company?

Mr. Ritchie: Yes, it is a private company, but it is federally regulated. That is why the Minister of Labour has come in with this legislation. Any federally regulated employee in this country comes under that act. That is why I say I think that any federally regulated employee should have concerns about this legislation and clearly about the way this government has acted when people want to get into free collective bargaining and intervention.

I cannot stress enough that I do believe in the free enterprise system, which says that the fittest survive and all the rest. Well, you have to get there. Yes, there is going to be an inconvenience to the public if we strike, but democracy is not built on inconveniences. It is built on principle, and that is what it is about.

Senator Poy: Thank you, Mr. Ritchie.

Senator St. Germain: I have a question to Captain Strachan.

First of all, none of you have to state your qualifications. I have flown over 3 million miles with you people in the last 29 years. I have most likely flown more than that, and there is no question of your high degree of professionalism on the ground and in the air.

I am speaking to you too, Mr. Ritchie, and your people, because obviously we could not do it without your people.

There is no question as to the quality of performance that Air Canada employees provide to the public. It is so huge.

Captain, you pointed out that Air Canada is in difficulty. You spoke of the viability of the employer and you spoke of pension liability. We are living in very tenuous and fragile economic times in the world. If Greece goes down tomorrow, I can tell you that there will be havoc all over the place. I say it is the cheerleaders that are keeping the stock market going right now because there are huge problems out there.

I have sat in the position as the president of a union, so I understand your feelings in regard to being legislated back to work. However, do you not agree, after having said what you have said about your corporation and the tenuous position it is in, that it would be irresponsible of the government of the day,

whoever it would be, and I do not care who it is, not to take some steps? I agree that forced arbitration is not always the best. Actually, as a union president, I have to say it is bad, but there are so many extenuating circumstances. Do you not think it would be irresponsible of a government to not take corrective action that is necessary to protect all Canadians?

Mr. Strachan: Thank you, honourable senator. It is funny that you say we talked about being legislated back to work. I have to make the point again that we never left.

Senator St. Germain: No, no.

Mr. Strachan: You say that our men and women are very good at what they do, and you are quite right. I agree with you. My question to you is, what is the value placed on that? They currently comprise less than 4 per cent of Air Canada's total operating expense — less than 4 per cent. My colleague used the example of how much each passenger might pay you for seven hours of the services of two professional pilots to get you from Toronto to Paris and came up with a total of about \$10 per passenger. That is seven hours, both pilots, and includes all pilot compensation, benefits and pensions — all grossed up, all in. It is less than you would pay for a chicken sandwich, honourable senator.

• (1810)

For argument's sake, if it cost you \$11, would that make a terrible difference in the grand scheme of things? Our position is that it would not. If it cost only \$9, would that save the corporation from the situation? No.

The situation that Air Canada has found itself in, largely as a result of its own design — perhaps not its design but ACE's design, certainly — is such that the pilots could work for nothing and that would not fix the situation.

This asset is so important for you, for the Canadian public and obviously for us. If you really think about it, everybody's interests lie on the same side of this issue. The only party over the course of the last decade that is conspicuous by the uniqueness of their interest or their difference from everybody else's interests — including employees, creditors, the customers, the travelling public, and all levels of government — the only party that is different and repeatedly finds itself nearly worthless is the shareholder.

Senator St. Germain: I appreciate the method and the way you put the situation forward. I guess you have answered this question to Senator Poy and Senator Carignan, but where is the money going? It is going into a corporation. However, to me, we are still looking at the entire country. That is how important you are as an entity in our economy.

I just hope that you can find it within yourselves to work through this dilemma because it is important to all of us. I will leave it at that. Thank you very much for your response.

Senator Mercer: Thank you, chair, and thank you, gentlemen, for being here. I am sorry you are here; I think this is a terrible piece of legislation. It seems to me that someone made the

[Mr. Strachan]

reference to the Charter of Rights and Freedoms; to a certain extent, this removes your freedom of association and your freedom to negotiate.

I can only imagine the costs that would be involved, but have you thought to challenge the legislation in the courts? Unfortunately, the burden is on you and other unions to do this, but it would be nice, quite frankly, if someone would challenge this government in the courts and we would get a ruling that would stop this foolishness once and for all, so that a bill does not appear every time there is a hiccup in negotiations between Air Canada and its unions, Canada Post and its unions, or any other industry that they deem to be a necessity and for which they introduce legislation. They are introducing legislation now when there is no work stoppage. I find that amazing.

Have you thought about coming together and challenging the constitutionality of this legislation?

Mr. Ritchie: This particular legislation is already being challenged, senator. It is being challenged by the postal workers, and they are back to work, which is a similar thing. It is being handled with it. There is a constitutional challenge on whether the government of the day had the ability to do what they did.

This is only a compound of that legislation. The Canadian Labour Congress has acted as an intervenor. We are a member of the congress and thereby will be paying into that mould in order to get this done.

I can tell you that is there; we intend to do that. Again, that is for all of labour — not just for us but for the principle of pre-collective bargaining and what this government or any other government meant, when we ratified Convention 87 of the ILO, which allowed our right to legally strike.

Senator Mercer: Does that mean you will rely on your collective grouping for standing before the court, or will you ask on behalf of, say, the pilots union and the machinists union to have separate standing before the Supreme Court to add some weight to the presentation before the high court?

Mr. Ritchie: We will intervene.

Mr. Strachan: I would answer that, honourable senator. Our organization will definitely be challenging this, and we are in kind of a unique position here, as you can imagine.

It is funny that everybody notes the importance of Air Canada and how important it is to the national economy, but I wonder where everybody's concern was while it was being torn apart.

Senator Moore: That is right.

Mr. Strachan: This act is incongruous with the Aeronautics Act. That is the essence of our point in respect of the pilots. It may be incongruous with the Charter of Rights and Freedoms and the Canadian Human Rights Act. It is certainly beyond any reasonable measure of fairness or common sense.

Therefore, yes, we will be challenging this legislation.

Senator Mercer: It seems to me that we have had some skullduggery going on here for some time, from the time that Mr. Milton came. If we wanted to find a starting point, we could begin with Mr. Milton's arrival to restructure the airline and his departure with his handsome payout of \$100 million.

The issue is with respect to the pilots, in particular. I asked a question about salary range, and according to the company, which was here before you, it is \$40,000 to \$268,000. That is a pretty broad range; I am sure the range is not the same in the machinists union. In my experience in dealing with unions and with labour negotiations over the years, I have not seen that kind of disparity from the low end to the high end.

In your tentative agreement that you may have had with the airline, was the low end of this range an issue? In this day and age, \$40,000 is not a lot of money, and it is not a lot of money for someone who is also expected to live the kind of lifestyle that someone in your industry must.

Mr. Strachan: Certainly we have what I would characterize as probably a classic deferred wage scheme in concert with our pension. You are quite right in that the entry-level salary is very low. I spent 10 years in the air force and a couple years at another airline before I joined Air Canada. I think my starting salary at Air Canada would have probably been in the low to mid \$30,000 range. I would have earned in that neighbourhood, with a moderate increase in the second year, depending on the position at the time. The pilot assigned to that could possibly be extended to a third year, at which point I would make the transition then to what we call formula pay, for which you would get a sizable increase then in your third or fourth year. At that point you would probably typically end up around the \$80,000 or \$85,000 range and start moving from there. It is all predicated on your ability to progress to larger pieces of equipment and/or captaincy of the aircraft.

The average earnings for a pilot, and we have 3,000 and change —

Mr. Ritchie: It is about \$100,000 a year.

Mr. Strachan: The average would be around \$100,000 or a little more than that probably. Total pilot compensation was just over \$400 million last year on revenue of \$11 billion and change. It is less than 4 per cent of revenue. Unfortunately, costs are almost the same as revenue.

The important note is that we often get compared to other airlines. There are many other pilot groups in Canada who are making more money than Air Canada pilots — notably WestJet.

Senator Mercer: The company said the average salary for pilots was \$143,000.

Mr. Strachan: That does not add up, if I do the math.

Senator Mercer: It was interesting to me. I wanted to ensure you were aware of what they said.

• (1820)

It struck me as kind of strange, especially when I thought that there was a much lower —

It seems to me that the airline does not have to negotiate in good faith at all, because every time there is a bump in the road they are here to solve the problem and we were here to oppose them.

Do you see that at the bargaining table? I have been at the bargaining table at a number of levels, and when one team thinks that they have the other team by the you-know-what, the negotiations are not moving very far. Has the threat of this legislation — even if it was not said but implied — been the big elephant in the room?

Mr. Ritchie: Absolutely.

Mr. Strachan: Certainly it has. I mean, just look at the special mediation that was recently convened under section 105 of the code. It was some 23 days into that process where we had the first meeting with the other party, Air Canada, at which it dropped an absolutely onerous proposal on the table. It then put a 24-hour gun to our head and said, “Take it or leave it, and if you do not take it within 24 hours —

Senator Mercer: My final comment, chair —

Mr. Strachan: This was supposed to be up to a 180-day mediation, we understood.

Senator Mercer: It seems they provoked this legislation to get themselves out of a bind. Thank you.

Senator Di Nino: Welcome to all of you. First of all, I would like to associate myself with Senator St. Germain’s comments. We believe the machinists, pilots and everybody else who works for Air Canada do a very good job, and we appreciate that.

Let me start by stating that your two organizations really are part of a company in a very privileged position that has a role as an important driver of the Canadian economy, as well as being a responsible and vital partner of the economic team of this country. Having made that comment, let me address a question to the pilots.

From what I understand, after the expiry of the collective agreement about a year ago now — March 31, I believe it was — on March 17, 2011, the parties reached a tentative agreement subject to ratification by the union membership. On March 19, the membership voted to reject. Shortly after, the union membership replaced — or should we say fired — its executive bargaining team.

On we go, and we continue. A conciliation process was started, extended and negotiations went on. Once again an agreement was reached, and on February 14, the union membership voted 97 per cent in favour of strike action.

[Senator Mercer]

What has not been said here, which I think is appropriate to put on the record, is that not far after — I think it was the beginning of March — the company gave notice of a lockout.

In its responsibility to all Canadians, particularly at a time when we are going through a very fragile economic recovery, the government has to take some action.

Frankly, I believe the message to the government was pretty clear: There is going to be no agreement. The government’s responsibility to each and every Canadian is to protect them from the fallout of a shutdown of Air Canada.

I ask the pilots’ association, and you can answer this if you wish Mr. Strachan, how do you see your role in affecting your responsibility as that important partner that I spoke of, on behalf of all Canadians?

Mr. Strachan: I think our organization does that every day, sir. In fact, we have cooperated with this government and assisted it on several files on international air policy and aviation security. Of course, we deal with them on a daily basis. We have a unique view from our vantage point in respect of security issues. Obviously, we are entirely at the forefront in regard to safety issues. A whole division of our organization is dedicated to flight safety and nothing else. There is certainly no association with the political or representational responsibilities of the organization, such as collective bargaining. There are an awful lot of things that this organization does that are very good and that contribute very meaningfully to what you are suggesting.

The situation here is simply this: In the presence of this threat of government intervention, there has been no onus on Air Canada to sit down with us and conduct meaningful discussions to achieve an agreement. That is the net effect of the government’s policy adopted here. I am not quite sure how else to address what you are saying.

Senator Di Nino: My question goes a little deeper than that. I think we have all acknowledged, or at least some of us have acknowledged, that in the responsibility you have as pilots, I believe you take it seriously and do a very good job.

However, as an economic partner, a shutdown, even for a short period of time, would have tremendous impact on jobs, the well-being of Canadians, and family reunifications that look to the airline industry to keep in touch in a huge country like Canada. It is more than just doing your job, which we believe you do well; it is also about being part of the economic engine of this country. The government cannot allow a shutdown, whether created by you or the airline company, to go on because of the huge costs to every other Canadian. Do you not feel a responsibility there?

Mr. Ritchie: Senator, let me —

Senator Di Nino: I will come to you in a moment, sir.

Mr. Strachan: You mentioned the responsibility of pilots, and that is one that they accept very well. Do they get to participate in the benefits, too?

The part that really astonishes me in all of this is there was no crisis. You are talking about a work stoppage. Good grief, that is the last thing we ever wanted. If I said it once, I said it 30 times: We did not engage in any industrial action whatsoever. Right up until this point today we have not done it. We said we would not do it, and we did not do it. We specifically assured people at Christmastime and reassured them at spring break that the pilots would not interrupt work, and they have not. The whole time this sad charade has played out, the pilots have been going to work and the planes have been flying, so where is the crisis?

Why can we not be allowed the basic right to sit down and negotiate our terms of employment with our employer? It was in no jeopardy from us. In fact, its jeopardy was its own. The government ostensibly in the case of this one organization had to step in to do what? To protect the corporation from itself?

Senator Di Nino: As I said before —

Mr. Strachan: I am saying that approach by the corporation characterizes everything that has happened in the last year.

Senator Di Nino: As I said before, the way I see it, there is a dispute between three parties in this case. Let us talk about the pilots, two parties, and both of them seem to have come to a position where an agreement seems impossible. Government has responsibility.

I will turn to Mr. Ritchie now. I have the same question for you as well, because you really are no different. You are part of the same team — that privileged position that I talked about — as being part of a very, very important component, a partner in the economic well-being of this country.

I would like you to answer that, but I also want to challenge you on your statement that I wrote down and I hope I am correct. You said a shutdown would be an inconvenience to some Canadians. There is an estimate that a million Canadians would have been impacted, particularly at this time of the year when there is so much family time spent with kids out of school, so they can spend some time together to renew their relationship and love for each other. That is more than just “some” Canadians.

• (1830)

Mr. Ritchie: If it was 5 million Canadians, it is an inconvenience. Democracy does not have a price. We just spent billions of dollars going around the world to bring democracy to people. We lost 153 great men and women of this country trying to bring democracy to Afghanistan, and you are talking to me about me not having my rights as a Canadian and that my rights are inconveniencing people and, thereby, my rights are being overridden? I do not apologize, sir. As a Canadian, I am proud to have those rights and I do not give them up for anyone's inconvenience, whether it is 1, 2 or 5 million. Believe you me, they are my rights and I am not about to give them up.

When you ask me if I have a responsibility on economics, I certainly do. Someone told me years ago: Those that have the gold make the rules. Air Canada is in the position of stopping this and, because I did not go with what they want, I am the bad guy.

Negotiations are a two-part system, senator. You come, you both try to do what you can, and you both have to suffer. When you have people prepared to say, “You don't have to worry; I've got your back,” there is no suffering. That is exactly what happened to Air Canada. Someone had their back, they did not have to suffer, and guess what? We do not have an agreement.

Senator Di Nino: Thank you for that response, but I did not ever speak about the denial of rights. I spoke about the responsibility of the Government of Canada to act when actions taken by any component of the society will impact on the general society.

Mr. Ritchie: By doing so, they are denying my rights.

[Translation]

Senator Dallaire: I completely agree with you. Having served this country, I agree with your position even more. Never back down.

Captain Bélanger, there is still the matter of professional ethics. You have very effectively set out what you do not want and that is pilots who have to work in a stressful situation in which they are uncomfortable in their job and are not able to fully concentrate on their work. God only knows that I have been in similar situations and these people need to feel protected and supported in order to be able to fulfil roles where lives hang in the balance.

We are not talking about whether someone is going to get a letter or a cheque in the mail. We are talking about people who will either get to their destination safely or who may die on the way. You have an enormous responsibility, which is difficult to quantify, particularly for public servants here in Ottawa who are trying to make calculations. All headquarters act this way.

What is your ethical responsibility in the situation in which you are going to find yourselves. If this bill passes, you will be in an adversarial position. You will have other thoughts, other focuses. Will your pilots be able to continue providing the good service they do now? Will they take other steps to ease the stress they will feel after a situation they find unacceptable has been imposed on them?

Mr. Bélanger: That is an excellent question. My responsibility is not only to my passengers and the travelling public but also, as chair of my association's executive council, to our pilots. This is an important responsibility because, in Canada, a pilot assistance program has been developed. I am not sure if you are aware of it. We are the first to have a program of this kind. It took a strike in 1976 to achieve this three-part system, which includes the medical department, the management of air operations with Air Canada's senior management and the pilots association. And we manage the stress.

When someone in our organization loses his mental faculties, we take him in hand, care for him, treat him and ensure that he is able to return to work. If he is not, we take care of that as well. There is a whole management system so that my fellow pilots are not subject to any factors that would reduce their mental capacity.

or their ability to work. We are the first in the world to have a program like this and it has been copied by other pilots associations.

In that sense, we have managed to protect the travelling public by being innovative. The new Aeronautics Act has brought changes to air regulations. Together with representatives of the Department of Transport, we had a role in ensuring that the air regulations evolved. What we have before us today is not a wish, but an obligation imposed by the act to declare us unfit to work. I must say that, at present, all Air Canada pilots are going through a collective divorce. My company is divorcing me. My company has told me: I will show you to the door because I do not have faith in your skills and we are unable to come to an agreement. The government is only throwing oil on the fire by giving Air Canada so many powers. There are no consequences for the actions of Air Canada's management.

We are very worried about this and, for that reason, other groups of pilots across the country support us. We should clarify that because it is important.

I promise that we, the Air Canada pilots, will not fly any aircraft if we are not in full control of our faculties. We have all the mechanisms to do that. The company has just notified us that they were about to consider it an illegal strike. We will refute that. We will ensure that pilots are fully capable of taking the controls. It does not mean that everyone will stop working.

Everything that is going on, the stress and the different layers of stress that accumulate over time, has an impact on our airline operations. The only way to change that is to re-establish the trust we had with our management. They must clearly tell us, "You are the best. We chose you. We are going to grow the airline. Let us sit down together and run all these airlines." We do not want to emulate the Jet Star model.

Senator Dallaire: When he was in office in the 1980s, President Reagan had problems with the air traffic controllers. He decided to settle the matter by throwing them out. That is what he did. He fired them all. Then they rebuilt.

What if you are faced with this legislation and are in a stressful situation where you find that you are compromising your ability to do your job. In those conditions, are you in a situation where the government is putting us at risk by keeping you? Should it fire everyone so as to not put anyone at risk, and then start from scratch?

Mr. Bélanger: I do not know what you would think of that, if you were a pilot. First of all, we cannot easily be replaced. Second, the example of the Americans and their air traffic controllers does not apply.

Let me give you the example of the Qantas pilots. Their airline is dying. Where are the jobs going? Vietnamese, Chinese and Japanese pilots fly Jet Star planes based in Hanoi, Singapore and Tokyo, for airlines serving the interior of Australia. I have before me a speech given by Senator Xénophon in the Australian upper chamber that explains this issue.

Exactly the same model is appearing right now in our negotiations with Air Canada. They want to dismantle the main network, move on to secondary networks, and have people with less experience. That is the plan. If we make too much noise, they may get rid of us. I would remind you that a pilot's experience is very important. A man named Bob Pearson glided a plane into Gimli in 1983. Another pilot, Robert Piché, saved everyone on board in the Azores in 2001.

• (1840)

Last year in Singapore, Richard de Crespigny, a pilot with Qantas, saved an airbus A380 full of passengers. The plane was headed straight for a crash landing.

Let me give you a recent example. When Chesley Sullenberger appeared before the American Congress, he said, "You people who are putting pressure on the profession, if you continue to reduce working conditions and airline safety regulations, we will no longer be able to attract the best people to the profession and standards will drop."

The American pilots who demonstrated during the Occupy Wall Street movement said they did not know anyone in the industry right now who is encouraging their kids to become pilots.

We are lucky in Canada. The country needs pilots in the Canadian Forces. In Canada, there are people who not easily intimidated. Some have dropped laser-guided bombs while being fired upon by the enemy. They did so to defend their country. Others have led search and rescue operations by air, while others have piloted ski planes from the North Pole to the South Pole, discovering the entire geophysical reality of the planet.

We know that Air Canada has good pilots. Some pilots start with Air Canada at \$39,000 a year. They are paid less than pilots at Air Transat, WestJet, Canadian North and Jazz. At WestJet, the starting salary is \$62,000 a year.

The Rio to Paris flight crashed into the ocean because of pilot error. The two co-pilots at the controls had less experience than Air Canada's newest recruit. The captain of that Airbus had less experience than all of the co-pilots working on my jumbo jet. I am giving this background information so that you can see how lucky we are.

Honourable senators, help us maintain our professionalism and experience, which we export around the world. Our pilots are in great demand. I can tell you that, with 32 years of service and nearly 20,000 flying hours, if the government fires me, I can easily get a job in China or the Middle East that pays better. But then I would not be able to live in my country.

[English]

Senator Segal: I want to try to clarify something that I heard our guests say at the outset, which I cannot find any textual support for in the bill. I may have misunderstood what you said. I think I understood you to say — I am sorry, I do not recall which one of you gentlemen said it — that the arbitration process was tainted because it could not go above what the last offer had been. I think I heard someone say that.

[Mr. Bélanger]

I look at clause 14(2) of the act, and, if there is something I am misunderstanding, I hope our guests will help me understand it. It says:

In making the selection of a final offer, the arbitrator is to take into account the tentative agreement reached by the employer and the union on February 10, 2012 and the report of the conciliation commissioner dated February 22, 2012 that was released to the parties, and is to be guided by the need . . .

I do not see the words that say that it cannot exceed, cannot provide for more than that.

Clause 16 says:

Nothing in this Part precludes the employer and the union from entering into a new collective agreement at any time before the arbitrator makes a decision and, if they do so, the arbitrator's duties under this Part cease as of the day on which the new collective agreement is entered into.

I am not a specialist in labour negotiations. My grandfather helped start the International Ladies' Garment Workers' Union on the streets of Montreal. Let me tell you, Mr. Ritchie, when he did that, starting a union was against the law and demonstrating was against the law. He went to prison in support of that. In no negotiation would he ever have cited Canada's war dead to make his economic case, just so you and I are clear about that.

I want to ask the witnesses today to help me understand where in the bill you found the notion that the arbitrator could not go above, based on what seemed to be a fair process. If I am misunderstanding, I very much look forward to your clarification.

Mr. Ritchie: First of all, I am proud to be a Canadian. My father, who was a war veteran, went over there and fought for your father to have those rights. You know what? All of those people that we send, day in and day out, are fighting for our rights, and I will use them at any time, brother. I want you to know that. I am proud of those people and of my four nephews who serve in this army today. I have nothing to apologize for, thank you very much.

Let me just say to you, going back to your question, that it does say in the bill — and you need to read it — that, under clause 14(2), they are to use that as the upper limit.

Senator Segal: No, it does not say that. It says "take into account." That is different.

Mr. Ritchie: It is in the bill, sir. I have to tell you, I would not put it down if it was not there.

Senator Segal: It is not there.

Mr. Ritchie: You want to read the whole bill.

Senator Carignan: Do you want a copy?

Mr. Ritchie: Yes, I did not bring my copy, so give me a copy and let me take a look at it.

Senator Carignan: It is not the same version? We need to speak about the same text.

Senator Segal: Can I ask a supplementary question?

The Chair: Yes, but he is still checking the notes.

Senator Segal: Thank you. I will wait.

Mr. Ritchie: I apologize because I guess it does not say that, so I am wrong. I think where I come to that conclusion is where it says that he is to take into account the short-term, the long-term conditions, the viability, the competitiveness, the employer and the subsequent, and the employer's pension plan, taking into account any short term or whatever. I was figuring that, if he takes it all into account, that is the upper limit. I apologize that I put that interpretation in.

Senator Segal: Let me first accept your apology without any hesitation, and let me also point out that what various folks have fought for over the years, in various wars, is our ability to disagree on an interpretation, which I think we have just done. That is a legitimate part of the process.

If the government had not intervened at all, if we had gone down the road of the rejection by bargaining units of agreements that their own leadership had reached, then the lockout of Air Canada would have struck me as just as offensive, if I may say so. My supplementary question is to the ask our friends from the pilot union: Is it your honestly held view that if, after all that had transpired, the government chose not to intervene, to say that millions may be inconvenienced but that is life, you would have made progress in the last few days and reached an agreement or been closer to reaching an agreement than you are now? Is that the view that you would wish us to take away from your interventions this afternoon?

Mr. Strachan: Yes, senator. If the expectation of government intervention had not been there all the way along, we would have achieved an agreement.

Senator Segal: Assuming, for the moment, that you would take the view, understandably, that the lockout proposition from Air Canada was unhelpful and unconstructive, is it your view that the government should have stood back and said, "That lockout proposal is of no concern to us; we should not engage. Let them throw the pilots out. Let them throw other employees out. As a government, we have no obligation to protect the rights of the employees and have some kind of balanced approach?" We should stand back and let the lockout stand?

Mr. Strachan: I do not accept that Air Canada actually intended to lock its pilots out. It is \$30 million a day. If that was the intent of the corporation, I, as a shareholder of this corporation — which I am, by the way — would be looking at this executive with a very jaundiced eye, as in, "What are you doing?"

• (1850)

Senator Segal: It is not the measures that they have taken but their motivation that you question?

Mr. Strachan: Yes.

Senator Segal: Thank you.

The Chair: The next two questioners on the list are Senator Mahovlich and Senator Duffy, but Senator Munson has indicated that he has a brief supplementary arising from Senator Segal's question.

Senator Munson: You have been invited here to express your points of view. Does this change anything? We in the Senate like to look at ourselves as sober second thought, but does this change anything? You get a bunch of things off your chest. You have your views; the government has their views. At the end of the day, the government, with its majority, will just stamp it done. Why does this process matter?

Mr. Ritchie: I think it matters on the basis that, as I have said all along, we live in a free democracy, and that means we have the right to express that view. Just maybe there are some people in this room that did not quite get the full picture, and we are giving them the full picture. Just maybe they would have it within their hearts to think that they can do the right thing by sending this back to the government.

I want you to keep in mind that we are in a process under the CLRB, under 87(4), anyway, so we cannot strike while we are under that process. That is there. However, they can send this bill back and say, "Look, if we have to intervene, why not do the right thing? Why not take this final offer selection off, send them to mediation, arbitration, having it as a final decree, and let it happen?" We could put everything else in there. Give the people at least the belief that they will be heard, that they will be understood and that they have a third party who can say, "You know what? You are not completely right, but you are not completely wrong." In this circumstance, we are either right or we are wrong. He either picks Door A or he takes Door B. We cannot create a Door C. That is why this system is flawed, because it is "winner takes all." In free collective bargaining, that is not what it is meant to be.

If anything, I would appeal to everyone in here to send it back and come up with some stuff. We cannot take action anyway because it is in the process. Tell them, "Look, put a process in that at least appears to be fair." At least it gives the appearance of fairness. I would ask all of you to do that.

Senator Munson: I am sorry, chair, but he wanted to say something.

Mr. Bélanger: On that very same point, we were asked a question, and I just wanted to respond.

The Chair: Briefly, please.

Mr. Bélanger: It will be very short.

The Chair: This was a supplementary.

Mr. Bélanger: Would you like us to respond?

Senator Munson: Absolutely.

Mr. Bélanger: It is a bit of a cynical question, because you ask me to not believe in this process. You are telling me, "Whatever you say, Captain Bélanger, these people will not listen to you." I have faith in the Parliament of Canada, and I am telling you that this legislation is unfair and we are going to fight it. There are things you cannot do with your pilots. We will fight that, too.

I would like to believe that you have learned a few things from our testimony here tonight. I would like to think that. If you want more information, we will provide you with the information in a welcome fashion.

Please ask the Minister of Labour to talk with the Minister of Transport. The legislation is against the laws of aeronautics. This is fair warning. We came here tonight not empty handed. We opened our hearts to you. Canadian pilots as a whole are the best in the world. We need your support.

Senator Dallaire asked us, "What you going to do?" I submit to you, do not let this industry go down, as it has been attacked everywhere else around the world. One accident is too many. Let us not allow that together, please. There is work to do. I am not trying to be forceful here, but I do not want to have the cynical view that this was all in naught. Please hear us out.

Senator Mahovlich: I am very curious. One of the largest democracies in the world is the United States of America. Can you tell me how many strikes their airlines had in the past, say, 20 years?

Mr. Ritchie: I cannot tell you how many but I can tell you they have happened.

Senator Mahovlich: They happened?

Mr. Ritchie: Absolutely. My union represents the largest number of airline employees in the world, and I can tell you we have struck continuously in the United States airlines.

Senator Mahovlich: Within the past year? They have their strikes?

Mr. Ritchie: Not within the past year. You asked me in the past 20. In the past 20 years, absolutely.

Senator Mahovlich: They have gone on strike?

Mr. Ritchie: Yes, sir.

Senator Mahovlich: And they have survived?

Mr. Ritchie: Yes, sir.

Senator Mahovlich: Thank you.

Senator Duffy: Welcome to our witnesses. I appreciate you coming in. They are having a requiem for Braniff, for Pan American, and for some of the others that have gone down.

Gentlemen, let me say that few groups, perhaps no other group in our society in this country, comes here with more friends and with more appreciation for what you do than the Air Canada team. Everyone in this room flies with you at least once if not twice a week. Most of us have heard the stories of this tragedy of the breakup of the company. We have heard that former senior executives have to have bodyguards to walk through Pearson Airport. When you hear the story of why that is necessary, you have a great appreciation of mistakes that were made in the past.

This is a sad story involving great people and a great airline and great machinists — just the best. They just won another award as the best in the world. It is a sad story that must be fixed. We understand that. However, we cannot fix it in the face of all of the incidents and all of the events that are going on.

In addition to yourselves, we hear, and I hear personally very heavily, from Pionairs, the retirees' organizations. They are terrified that they will not have a pension because tomorrow or next week or three days from now Air Canada will go out of business. They did not believe, and we did not believe when we saw the privatization occur, that it could ever end up the way it has ended up. You guys were right in the middle of it. "Give me this, give me that, a little of this here and there." We know that story, and we know there were wrongs done when they merged Canadian and Air Canada. We remember all the problems with the seniority lists and how we were going to have fistfights in the cockpits. It has been a mess and a tragedy involving people who do not deserve this.

From the bottom of my heart, and I think this is shared by all of the people in this room on both sides, we do not do this with any sense of us and them or, "We're going to get you." We have to find a way to fix the problem with Air Canada. We cannot do it in this room tonight, and we cannot do it when the planes are on the ground and someone we do not even know 3,000 miles away in a penthouse, in a plush mansion in London, pulls a pin, and you are all out of work and the Pionairs are out of their pensions. That is what this is about.

No one disagrees that we have a huge problem that has to be fixed, but we have to find some time, we have to buy some time, and we have to keep you going so that you get your paycheques for your members and the retirees get their pension cheques.

We are not blind in this place. We are aware there are big problems. Somehow, some way, some power beyond me has to find a way to fix it because we need Air Canada. We love Air Canada, we love you, and we love your employees and members. It gives us no joy tonight to do this.

When people try and twist it and make it something more, and I hope they will not, we all understand that governments on both sides have had to do this in the last 40 or 50 years. We do not do it with any joy. I promise you this: We will not rest until we fix those problems that put you guys in this corner.

• (1900)

Mr. Ritchie: Honourable senator, the minister put us under section 87.4. Section 87.4 is to decide whether or not there are any health and safety reasons that we should be. Under that, we are stopped from striking. So long as we are under section 87.4, we cannot strike.

This bill does not have to go forward. We are under section 87.4. We cannot strike; we cannot do anything. It allows us to get back to the table, it allows us to negotiate, and it allows us to do everything. Maybe it allows us to go in and get a mediated, arbitrated board, but you do not have to go to final-offer selection.

Final-offer selection works if it is one item. These are very complex issues. They need to be discussed. They need to get a resolution. You may need a third party that says, "Okay. You are right and you are wrong." or "You know what? You are not completely right or wrong; I am going to saw this off." However, under this legislation, he cannot do that.

We have to go in and do our thing, and the employer has to go in and do his thing, and it is either A or B on all these complex issues. Within that scope, he has to look at the economic viability of the airline, the future, the pension and all these other things. When you are weighing those costs, you are saying that you are only adding to the burden. Where does it come out? However, when you are looking at the other and there are compromises there, it can happen.

I say to you that this is not the kind of legislation we need to go. If you have to do what you have to do, allow us to go into mediation arbitration. Compulsory? Whatever. You end up with the same result, but you know what? It is fairer, because we have got somebody who can actually say something and do something that is not quite an A or a B. He can come up with a C solution. That is what I ask that you do. You accomplish all that you need to do, but not with this type of legislation. Please, look at it from a fairness point of view only. It can happen.

Senator Cordy: Thank you very much for being here. I was at a committee meeting, which is why I am late, so perhaps my questions have been answered.

I wonder whether any government in the past has ever brought in back-to-work legislation before there has been a strike or a lockout. I could not find any, but I am not an expert. I thought perhaps you would know.

Mr. Ritchie: I honestly cannot answer that question. I do not know.

Mr. Strachan: We do not normally do this, either, so it is very difficult for us to say.

Senator Cordy: I could not find any examples. I kept looking. I found back-to-work legislation that has been brought in after a lockout or a strike, but I could not find it being brought in before there actually was a walkout or a strike. Maybe you are pioneers, though not in the good sense.

I am wondering also how this type of legislation will affect collective bargaining, not just for Air Canada, but for other unions throughout the country. I think you made reference earlier that if one side in the negotiation knows that there will likely be back-to-work legislation, then what effect will that have on negotiations and collective bargaining overall?

Mr. Strachan: I think it will negatively affect bargaining. I do not think any bargaining will occur under those conditions. You are right: The scope of it goes beyond this immediate issue. It certainly spreads as far as the federally regulated sector, anyways.

I take well Senator Duffy's comments, and I appreciate them. I am a patriot. I fought for this country. I went to war, as Honourable Senator Dallaire did. I believe we met one time actually, General Dallaire, in Europe. You will not remember it, as I was a young captain at the time.

The hangover from this is what concerns me the most. I know the sun will rise tomorrow and life will go on, but there is real injury in this for the people whom I represent, and they are good people. The hangover from this type of legislation will be a long one.

I agree with Senator Duffy that Air Canada ought to be a source of national pride, and I do believe it does provide the best product of any airline in North America. I am very proud of the men and women whom I work with. However, if we are to save this thing, everybody has to be brought along with it. You cannot simply discard the interests of those people in this arbitrary fashion. It is really heavy handed, and it does not need to be.

I am afraid that hangover will be so long and so deep that there will be serious damage in terms of the people who remain as interested as you and I, Senator Duffy, in saving this because I believe it is worth saving. Thank you.

Mr. Ritchie: On the same question, let me just say that I agree: I think it does have a large impact on bargaining. Collective bargaining is meant to be there and both sides get down to what I call "short strokes."

You do not always get what you want, but you know you live for another day, and that is what the collective bargaining does. You do not get everything, but you know you will come back and you will do it. However, you do that with the sense that it is free and open. When someone knows that there is a possibility that they do not have to be as up front and whatever, then you do not have that exchange. That is where we are at.

You have to bring people to the table and they have to want to compromise. That is what life is about. We make compromises every single day of our lives, whether it is with your wife, your kids, whether you will take the car or the bus. Compromise exists every day.

That is what collective bargaining is about, and it is about coming to the point that you may not get everything you want, but you can live with what you get. Both sides were supposed to give a little bit and hurt a little bit. Let us do that — give a little

bit and hurt a little bit. We can do that even under legislation, but this legislation does not allow that. It is A or it is B; it does nothing for the process.

By the way, it does not do anything for the government, either, because they can accomplish what they need to accomplish by going into mediation arbitration. It is exactly the same thing; it is a binding process and it takes away the right to strike, as they have done. The public will not be affected. Bargaining would resume, however.

Here is the key about the little bit: The third party makes the decision on who is being reasonable, us or Air Canada. What can they afford? All of these decisions are made with an open and honest debate, and that is a good process. Unfortunately, this does not allow us that process. I ask for you to give it to us.

Senator Cordy: Thank you.

[*Translation*]

Senator Rivest: I will continue along more or less the same lines as Senator Duffy. Now that I have heard all of the statements, I am very worried. We were told there would be no rest until we, as Canadians, looked at the situation facing Air Canada and its employees, because we really care about it and we are really worried about the problems it is having. I am imagining myself in the position of Air Canada employees.

Earlier, a senator raised the possibility of continuing negotiations, under clause 16.

• (1910)

I do not see how this clause makes any sense when, in terms of their working conditions, the workers will have to wait for the commissioner's report, the arbitrator's report, and, in addition, this legislation that arrives in the middle of the bargaining process. Ultimately, there will be court challenges and everything that goes with them. I am very concerned and wonder if there is any hope that Air Canada's employees, in the fairly near future, will achieve real improvement in their working conditions through this entire imbroglio that Air Canada and its employees are in.

Do you seriously believe in the hope clause 16 of the bill offers: that, despite everything you are going through right now, it may be possible to extend the bargaining process to its proper end, in other words, with respect and equality for both parties?

Do you not believe that the government's action has just compromised Air Canada's recovery and made it difficult for the fundamental rights of Air Canada's workers to be respected?

Mr. Bélanger: I completely agree. This makes no sense. When we look at the history of the negotiations so far, if there had been good faith and a desire to negotiate, it would have been done despite this arbitrary process the government is imposing on us. It is hard to believe that, while all of this is happening, while we are challenging the legislation and ending up in final-offer arbitration, it is not possible for us to sit down with Air Canada and negotiate in good faith. We might be interested.

[Senator Cordy]

I can assure you that that is not the message we got because, for example, last week's notice of lockout tells us that the company is not interested in the least.

We are seeing other signs from Air Canada's senior management that they are trying to put pressure on us. As far as air safety problems are concerned, we have a bargaining committee that can no longer travel because the members have to pay for their tickets; people who work on our committees can no longer be released from their work although we used to have such rights before. These are dangerous little games that are being played. This is no indication of Air Canada's desire to negotiate with us.

You stated a fact and asked me a question. I completely agree with you.

[English]

The Chair: Mr. Atkinson, Mr. Ritchie, Mr. Strachan and Mr. Bélanger, on behalf of all honourable senators here assembled, I wish to thank you very much for coming here this afternoon and not only making your presentations, but answering a whole variety of questions that have helped us an awful lot in our deliberations. Thank you very much, and you are now free to leave.

Mr. Ritchie: Thank you. We appreciate it.

The Chair: Honourable senators, as the witnesses are getting ready to leave the room, is it agreed that we move to clause-by-clause consideration of Bill C-33, An Act to provide for the continuation and resumption of air service operations?

Hon. Senators: Agreed.

The Chair: Is there leave that we do this by grouping the clauses according to the parts of the bill?

Hon. Senators: Agreed.

The Chair: Carried.

Shall the title stand postponed?

Hon. Senators: Agreed.

The Chair: Carried.

Shall clause 1, the short title, stand postponed?

Hon. Senators: Agreed.

The Chair: Carried.

Shall clause 2 carry?

Some Hon. Senators: Agreed.

Some Hon. Senators: On division.

The Chair: Carried, on division.

Shall clauses 3 to 17 carry?

Some Hon. Senators: Agreed.

Some Hon. Senators: On division.

The Chair: Carried, on division.

Shall clauses 18 to 32 carry?

Some Hon. Senators: Agreed.

Some Hon. Senators: On division.

The Chair: Carried, on division.

Shall clauses 33 to 38 carry?

Some Hon. Senators: Agreed.

Some Hon. Senators: On division.

The Chair: Carried, on division.

Shall clause 1, the short title, carry?

Hon. Senators: Agreed.

The Chair: Shall the title carry?

Hon. Senators: Agreed.

The Chair: Shall the bill carry without amendment?

Some Hon. Senators: Agreed.

Some Hon. Senators: On division.

The Chair: Carried, on division.

Honourable senators, shall I report the bill without amendment? Carried, on division?

Some Hon. Senators: On division.

The Chair: Carried.

The Hon. the Speaker: Honourable senators, the sitting of the Senate is resumed.

REPORT OF COMMITTEE OF THE WHOLE

Hon. Donald H. Oliver: Honourable senators, the Committee of the Whole, to which was referred Bill C-33, An Act to provide for the continuation and resumption of air service operations, has examined the said bill and has directed me to report the same to the Senate without amendment, on division.

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

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

APPROPRIATION BILL NO. 4, 2011-12

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-34, An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2012.

(Bill read first time.)

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

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

APPROPRIATION BILL NO. 1, 2012-13

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-35, An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2013.

(Bill read first time.)

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

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

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, as we have now gone beyond Government Business, and it being past 4 p.m., therefore by its orders of October 18, 2011, I am required to declare the Senate continued until Thursday, March 15, 2012, at 1:30 p.m.

(The Senate adjourned until Thursday, March 15, 2012, at 1:30 p.m.)

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