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(HANSARD)

Tuesday, March 27, 2012

The Honourable NOËL A. KINSELLA
Speaker

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THE SENATE

Tuesday, March 27, 2012

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

Prayers.

SENATORS' STATEMENTS

PUNISHMENT FOR SEXUAL PREDATORS

Hon. Doug Finley: Honourable senators, last Tuesday, serial sex offender Graham James was sentenced to a meagre two years in jail for sexually assaulting two young hockey players. Something is horribly wrong with our system when such an offender is sentenced to only two years in prison for such horrendous crimes. Compare that to the potential 400 years that Jerry Sandusky could get in the United States. A *Toronto Star* article noted on this ruling that:

... the judge also pointed out that James expressed remorse, apologized to his victims and has experienced what she called "an extreme degree of humiliation" — factors that warranted a reduction in his sentence.

Extreme humiliation? Graham James deserves more than extreme humiliation for the disgusting crimes he committed against children. How is this justice? Sparing the disgrace of a sexual offender appears to have taken precedence over providing justice for these two victims. Even Mr. James' brother believes he should face at least life in prison. Steve Simmons, from the *Toronto Sun* wrote, "Two years for Graham James isn't a sentence, it's a gift."

Graham James received a feeble sentence; surely no one doubts that. Meanwhile, Mr. Fleury and Mr. Holt could only bemusedly accept their abuser's good fortune, like so many other victims. What about their humiliations time after time after time?

Graham James was in a position of authority and trust. Not only did he abuse that authority, he destroyed that trust. James has damaged the lives of at least four individuals and apparently countless others who have not yet come forward. Regrettably, this abject failure by our court system will do little to encourage other alleged victims to raise their voices.

Graham James had previously served 18 months of a three-and-a-half-year sentence after pleading guilty to sexually assaulting two other boys 350 times, and then later he received a pardon for it. I recall Senator Carstairs saying during one debate that once is too much. I wonder what 350 represents.

One of James's victims was Sheldon Kennedy. Mr. Kennedy appeared before the Standing Senate Committee on Legal and Constitutional Affairs in February and stated:

We constantly tell our children and their caregivers to come forward and to tell someone. They need to know that the courage it takes to tell someone and report this will

result in consistent convictions that will stick and that justice will be served. To me, the fundamental reason for change to these laws is simple — we cannot let these perpetrators walk freely among our youth organizations, our schools, our neighbourhoods and our workplaces. Children need to feel safe and parents have to trust that the government is playing a role in protecting them.

Honourable senators, this two-year sentence for Mr. James is a mockery and an insult to these victims. Cases like this, where justice was not rightfully served, are precisely why we need to impose tougher sentences. In order to protect our youth and to preserve the integrity of our legal system, we need harsher punishments for sexual predators who commit crimes against minors. Todd Holt summarized the judge's ruling as nothing short of a national travesty — a national travesty indeed.

• (1410)

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of a delegation of army cadets, along with representatives of the Army Cadet League of Canada (Ontario), the Canadian Forces, the Ontario Legion Provincial Command and the Vimy Foundation of Canada. They are guests of the Honourable Senator Munson.

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

Hon. Senators: Hear, hear.

VIMY RIDGE DAY

THE ARMY CADET LEAGUE OF CANADA

Hon. Jim Munson: Honourable senators, as His Honour mentioned, we have special guests here today. They are guests of mine and guests of yours, and they are great Canadians. They are accompanied by my old friend Don McCumber, who is President of the Ontario branch of the Army Cadet League of this country.

I am so pleased, Senator Marshall, that your side and our side have agreed to put these pins on. It is very important. Their presence here today is part of a lead-up to Vimy Ridge Day on April 9. The Army Cadet League is a national program that offers 12- to 18-year-olds opportunities to take part in challenging outdoor activities to help them become responsible, healthy members of their communities.

The cadets also participate in a special educational program, introduced just last year, focusing on the Battle of Vimy Ridge. This historic battle took place in 1917, almost 100 years ago, but its significance and the courage of those Canadian soldiers who were there is as relevant today as ever.

With knowledge about the contributions that our soldiers have made to ensure our freedom, today's young generation will be ready to pass the torch of remembrance to future generations. The cadets who complete this program receive the Vimy Pin, which is produced by the Vimy Foundation to commemorate and build awareness of this important military event. The Vimy Foundation has generously offered to provide these pins to all of us. If you have not received a pin, we have a few more. Please let us know, and I will see that you get one. If you would like to know more about the design of the pin, you will find lots of interesting information on the Vimy Foundation's website.

I want to thank the foundation and the members of the Ontario Army Cadet League for their being with us today and for their efforts to ensure that we remain mindful of the acts of courage that have helped to shape this country.

Cadets, I have a few personal memories. I will keep them brief. When I was a national reporter, I covered a major anniversary of Vimy Ridge. It was 1987. Many veterans were at the ceremony. As a foreign correspondent, I have never been more moved than by listening to their stories — the living stories at that time — at the site which defined Canada as a nation.

Right here in the Senate, we had a senator whose father fought at Vimy. The late Senator Atkins' dad had a diary of that day in which he described his experiences in typical soldier fashion. The entry from Sergeant George Atkins simply reads:

Put over a barrage this morning 5 a.m. The Canadians took Vimy Ridge aflying, took a lot of prisoners.

Simple as that.

Only a couple of years ago, Senator Atkins said this about his dad:

My father taught me a great deal about values, ethics, loyalty to a cause, and loyalty to one's beliefs. He was so proud of his country and its people.

Cadets, I believe these are the words that should guide you. We shall never forget Vimy.

INTERNATIONAL DAY FOR THE ELIMINATION OF RACIAL DISCRIMINATION

Hon. Donald H. Oliver: Honourable senators, March 21 was the United Nations International Day for the Elimination of Racial Discrimination. Each year on this day, citizens of the world are reminded of their obligation to combat racism. I rise today to speak about several groups of Canadians who are in need of our special interest. I refer specifically to visible minorities, Jewish, and Aboriginal peoples across Canada who continue to face discrimination.

This year's theme was "Racism and Conflict." The United Nations believes that "in many parts of the world, racism, prejudice and xenophobia create extreme tension and are used as powerful weapons to engender fear or hatred." I think, for

instance, of the senseless killings that took place in France this month, where a self-proclaimed al Qaeda operative killed seven people, including a rabbi and three Jewish schoolchildren. It was an act of terrorism based on race.

At home, March 21 allows us to celebrate Canada's many accomplishments in the fields of diversity and equality. For the occasion, the Governor General David Johnston said:

Canadians are fortunate to live in a multicultural society, where diversity is both a source of great strength and the foundation of our national identity. And yet, as those who endure the indignity of discrimination well know, fear and prejudice never rest, and no society is free of racism.

Indeed, Canada is not immune from race-related crimes. Last month, I rose in this chamber to share with you specific examples of acts of racism that have taken place in Canada recently. As Prime Minister Harper said:

While Canada's international reputation as a tolerant, free and pluralistic society is well earned, our Government recognizes how important it is to continue working closely with partners across the country to eliminate racism in all its forms.

Honourable senators, I agree with our Prime Minister. I believe that it is time that the Senate conduct a special study on the daily challenges of our racialized minorities. We need to find ways to combat racial discrimination and ensure that all Canadians are given equal opportunities. Perhaps even a special joint committee of the Senate and the House of Commons could look into these problems that have been a blemish on Canada's reputation around the world as a welcoming and tolerant society.

Honourable senators, I hope that you, as Canadian parliamentarians, will join me in reaffirming our commitment to diversity, inclusion and justice.

The first article of the Universal Declaration of Human Rights affirms that:

All human beings are born free and equal in dignity and rights.

We have a responsibility to promote, uphold and protect the ideals of the declaration. The time has come for us to focus our efforts on trying to make our country more tolerant by conducting an in-depth study on race and discrimination in Canada.

[Translation]

LE CONSORTIUM NATIONAL DE LA FORMATION EN SANTÉ

Hon. Marie-P. Poulin: Honourable senators, in 1999, a national experiment was launched, coordinated by the University of Ottawa. The goal was to enhance French-language training for health care professionals in a host of disciplines, such as medicine, speech therapy, nursing, social work, rehabilitation and palliative care.

The project is now well into its third phase, which began in 2008 and is scheduled to end in 2013. It has proved to be a resounding success by increasing the number of health care professionals and thus making it possible to improve French-language health services in all provinces and territories and create interprovincial and inter-institutional partnerships.

Officially known today as the Consortium national de formation en santé, or CNFS for short, the experiment engages a pan-Canadian group of 11 colleges and universities offering French-language health care education, as well as six regional partners that facilitate access to a variety of training programs.

The CNFS's national secretariat plays a leadership and coordination role and embodying a novel governance and funding model that allows CNFS member institutions to receive federal government funding from Health Canada through the Roadmap for Canada's Linguistic Duality 2008-2013.

In practical terms, CNFS enables francophones wishing to pursue health care careers to do so without leaving their home provinces. And, after graduating, 86 per cent of these students end up working in francophone minority communities and 79 per cent of them end up working in their own provinces or hometowns. The 2,834 bilingual CNFS students who have graduated so far are also qualified to provide health care to the non-francophone population at medical facilities across the country.

The third phase of this project is scheduled to end on March 31 of next year. It would be a shame if this health care initiative were allowed to expire.

• (1420)

We can only hope that the government will acknowledge the accomplishments of CNFS and continue to provide it with funding for the next phase until 2018.

Honourable senators, I ask you to join me in congratulating CNFS, which has brought together a remarkable number of teaching institutions across the country to train health care professionals in French. I also invite you to support the ongoing funding of CNFS. Thank you.

STAR ACADEMIE 2012

Hon. Percy Mockler: Honourable senators, as we say back home: Wow! Today, the people of New Brunswick can take enormous pride in their artists.

Honourable senators, I am talking about a young man from Sainte-Anne-de-Madawaska. I am proud to speak today to offer my most sincere congratulations to Jason Guerette, an artist from my home region, on his great performance on the show *Star Académie* 2012. I am sure that this unforgettable experience is the start of a long career in show business for him. He has taken a new step toward achieving his dreams and then some. He was chosen among 5,000 talented Canadians from Quebec and Acadia.

[Senator Poulin]

Throughout his journey, Jason has demonstrated his leadership to his teachers, the judges and the people of Canada, Quebec and Acadia. His confidence, determination, tenacity and perseverance have made him a world champion. The people of the small village of Sainte-Anne, his friends, all Brayons, and Acadia are proud of him.

In addition to showcasing his immense singing talent at the national and international level, Jason has also become greatest great ambassador of our province and of Canada.

Like the Guerette family, I am proud to tip my hat to the brilliant career he has begun at *Star Académie*, where he is following in the footsteps of Céline Dion, Roch Voisine and others.

In closing, honourable senators, join me in congratulating Jean-Marc Couture, an Acadian and the overall winner of *Star Académie* 2012, on his success and on the brilliant career he will have alongside major artists. Congratulations also to the entire *Star Académie* team, especially Julie Snyder and Pierre Karl Péladeau for their leadership, fantastic commitment and support for our young Canadian, Quebec and Acadian talent. As the Brayons like to say, Job well done!

Jason and Jean-Marc, our hats are off to you. You have earned your stripes.

[English]

FRASER VALLEY CULTURAL DIVERSITY AWARDS

Hon. Mobina S.B. Jaffer: Honourable senators, on Friday, March 2, I had the pleasure of attending the Fraser Valley Cultural Diversity Awards in Abbotsford, British Columbia.

The Fraser Valley Cultural Diversity Awards recognizes all aspects that encompass diversity, including gender, age, socio-economic status, race, religion and sexual orientation. The vision for the ceremony is to present cultural diversity with a broad scope in an effort to ensure that people from all communities are able to identify with concepts of inclusion and discrimination.

This event also sets out to encourage people to be more mindful of not only the barriers that they themselves often face but also the barriers that others often face. For a decade, this awards ceremony has celebrated diversity by recognizing the accomplishments and best practices of organizations, initiatives and businesses in the Fraser Valley.

Among this year's award recipients, École Mission Central Neighbourhood Centre, which provides services and individual support for all age groups, won the Inclusive Environment Award; Crystal Hearing and Vision Centre was awarded the Marketing Award; the City of Abbotsford Building Connections Project, which addresses the cultural and faith silos that exist in Abbotsford by building intercultural and interfaith connections, was the recipient of the Outreach Award; Columbia Kitchen Cabinets was the winner of the Reflective Workforce Award; the Honouring Our Teachers Ceremony, an Abbotsford School District professional development day put on by the Aboriginal

Education Centre, was the recipient of the Innovative Initiative; and last but certainly not least, Dorothy Jeffery and Harold Rosen were the recipients of the Champion of Diversity Awards.

Looking around the room, it became clear that the whole of Abbotsford was represented at the event. As senators, we often have the privilege of attending events in our communities. In my experience, I have noticed that many events I attend showcase a particular community that exists within a larger community. What makes the Fraser Valley Cultural Diversity Awards truly special is that people from all communities in the Fraser Valley were represented. I personally find the enthusiasm with which people from every ethnicity, gender, religion and ability come together to celebrate these awards to be truly inspiring.

I would like to congratulate the chief organizer of the Fraser Valley Cultural Diversity Awards, Ms. Manpreet Grewal, and Ms. Virginia Cooke, the president of Abbotsford Community Services, for making the awards such a great success. I would also like to applaud the community of Abbotsford for embracing the true meaning of diversity.

[Translation]

ROUTINE PROCEEDINGS

PRIVY COUNCIL

SPECIAL ECONOMIC MEASURES (SYRIA) REGULATIONS AND SPECIAL ECONOMIC MEASURES (SYRIA) PERMIT AUTHORIZATION ORDER TABLED

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, pursuant to section 7 of the Special Economic Measures Act, I have the honour to table, in both official languages, copies of the Special Economic Measures (Syria) Regulations and the Special Economic Measures (Syria) Permit Authorization Order, announced on March 5, 2012.

[English]

STUDY ON THE PROGRESS IN IMPLEMENTING THE 2004 10-YEAR PLAN TO STRENGTHEN HEALTH CARE

SEVENTH REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE TABLED

Hon. Kelvin Kenneth Ogilvie: Honourable senators, I have the honour to table, in both official languages, the seventh report of the Standing Senate Committee on Social Affairs, Science and Technology, entitled *Time for Transformative Change: A Review of the 2004 Health Accord*.

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

CERTAIN GOVERNMENT BILLS

FIRST REPORT OF SPECIAL COMMITTEE PRESENTED

Hon. Hugh Segal, Chair of the Special Senate Committee on Certain Government Bills, presented the following report:

Tuesday, March 27, 2012

The Special Senate Committee on Certain Government Bills has the honour to present its

FIRST REPORT

Your committee recommends that its name be changed from the Special Senate Committee on Certain Government Bills to Special Senate Committee on Anti-Terrorism.

Respectfully submitted,

HUGH SEGAL
Chair

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

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

[Translation]

THE ESTIMATES, 2012-13

MAIN ESTIMATES—EIGHTH REPORT OF NATIONAL FINANCE COMMITTEE TABLED

Hon. Joseph A. Day: Honourable senators, I have the honour to table, in both official languages, the eighth report of the Standing Senate Committee on National Finance on the expenditures set out in the Main Estimates for the fiscal year ending March 31, 2013.

With leave of the Senate and notwithstanding rule 58, I move that the report be placed on the Orders of the Day for consideration later this day.

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

Hon. Senators: Agreed.

(On motion of Senator Day, report placed on the Orders of the Day for consideration later this day.)

CRIMINAL CODE

BILL TO AMEND—FIRST READING

Hon. Claude Carignan (Deputy Leader of the Government) presented Bill S-9, An Act to amend the Criminal Code.

(Bill read first time.)

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

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

• (1430)

[English]

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY THE POWERS AND RESPONSIBILITIES OF THE OFFICERS OF PARLIAMENT AND THEIR REPORTING RELATIONSHIPS TO THE TWO HOUSES

Hon. Gerald J. Comeau: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the Standing Committee on Internal Economy, Budgets and Administration be authorized to examine and report on the powers and responsibilities of the officers of parliament, and their reporting relationships to the two houses; and

That the committee present its final report no later than March 31, 2013.

ABORIGINAL PEOPLES

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY THE EVOLVING LEGAL AND POLITICAL RECOGNITION OF THE COLLECTIVE IDENTITY AND RIGHTS OF THE MÉTIS

Hon. Gerry St. Germain: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the Standing Senate Committee on Aboriginal Peoples be authorized to examine and report on the evolving legal and political recognition of the collective identity and rights of the Métis in Canada, and, in particular on,

- (a) the definition, enumeration, and registration of the Métis;
- (b) the availability and accessibility of federal programs and services for the Métis; and
- (c) the implementation of Métis Aboriginal rights, including those that may be related to lands and harvesting.

That the Committee submit its final report no later than June 30, 2013, and that the Committee retain all powers necessary to publicize its findings until 180 days after the tabling of the final report.

NATIONAL SECURITY AND DEFENCE

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY EAST AND WEST COAST NAVY AND AIR FORCE BASES

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

That the Standing Senate Committee on National Security and Defence be authorized to examine and report on Canada's east and west coast navy and air force bases; in particular the committee shall be authorized to examine the capabilities, roles, responsibilities and state of readiness of:

- (a) Maritime Forces Atlantic (MARLANT) and Maritime Forces Pacific (MARPAF) headquarters, including their respective Joint Task Forces;
- (b) the Joint Rescue Coordination Centres, the Joint Operations Centres and the Marine Security Operations Centres (MSOC);
- (c) the long range patrol and transport and rescue squadrons;
- (d) the Royal Canadian Navy submarine fleet;
- (e) the Royal Canadian Navy Halifax Class frigate fleet, including an examination of the Halifax Class Modernization Frigate Life Extension Program (HCM FELEX); and
- (f) the Royal Canadian Air Force search and rescue and maritime helicopter fleets.

That the Committee submit its final report to the Senate no later than December 31, 2013, and that the Committee retain all powers necessary to publicize its findings until March 31, 2014.

[Translation]

QUESTION PERIOD

TRANSPORT

AIR CANADA—AVEOS

Hon. Maria Chaput: Honourable senators, my question is for the Leader of the Government in the Senate. Under federal legislation passed in 1988, Air Canada has an obligation to keep its maintenance and repair centres in Montreal, Mississauga and Winnipeg. We are talking about 2,600 workers. Some 2,600 Canadian jobs could disappear.

The mayors of the three cities in question — including Sam Katz from Winnipeg — wrote a joint letter to the Prime Minister of Canada invoking that clause in the federal legislation and

insisting that those jobs be kept in Canada. The government would certainly not want to face legal proceedings to have the legislation enforced, since we are talking about an illegal shutdown of Aveos repair centres across Canada.

Would the leader not agree that Air Canada must obey the law? Is the government prepared to intervene and ensure compliance with the legislation?

[English]

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, I thank the honourable senator for the question. We recognize that the loss of these jobs is devastating for the workers and for the communities in which these facilities are located. Yesterday, Minister Lebel asked the Transport Committee in the other place to look into the issue and hear from all of the parties involved.

As the minister has stated, and what is fact, is that this is ultimately a private sector issue between these two companies. Obviously, this is a situation that Air Canada and this private company have to work out.

However, with regard to the Air Canada Public Participation Act, the law is the law. The act requires that Air Canada maintain operational and overhaul centres in Montreal, Mississauga and Winnipeg. I repeat: obviously, the law is the law. We expect the law to be adhered to. We will monitor developments surrounding Aveos and Air Canada and examine the advice that we receive from the committee in the other place.

[Translation]

Hon. Céline Hervieux-Payette: Honourable senators, you understand that the presumed loss of jobs in Montréal, Winnipeg and Mississauga is not convincing. This is another way of intimidating the workers regarding the issue of bargaining with Air Canada, which, as we all know, has a less than stellar record when it comes to bargaining and labour relations. But there appears to be a double standard here. There does not seem to have been any committee that could have ordered the government to intervene in the case of Air Canada; the government intervened right away.

Can someone tell us when the minister will intervene? There are 1,800 people out on the street and families are suffering. People have the right to have a job. Until the government says it will obey the law, who will take care of maintenance on these planes? I believe that safety does fall under your jurisdiction. So, when does the government plan to intervene and put an end to this intimidation?

[English]

Senator LeBreton: Honourable senators, obviously, this is a private company; Air Canada is an important facility for Canadians.

With regard to the Aveos facilities in Mississauga, Montreal and Winnipeg, this is a situation that does cause concern. Air Canada is a private company and it is a global company. There are facilities around the world for maintenance, although I cannot comment directly on the internal operations of Air Canada.

With regard to Aveos, it is a private company. However, I hasten to point out that our government has made investments totaling more than \$393 million in more than six different companies in Montreal. There are other companies in the aerospace industry in Montreal that have benefited from the policies of this government. This does not take away, of course, from the seriousness of the issues with regard to maintenance for Air Canada. Again, Aveos is a private company; Air Canada is a private company. We would hope that they would work out their maintenance situation among themselves.

[Translation]

Senator Hervieux-Payette: Honourable senators, we all know that these are private companies, but they are nevertheless subject to the government's legislation, and the government's legislation says that this company is authorized to perform aircraft maintenance.

I do not see how maintenance of Air Canada planes can be transferred overnight to Boston, New York or Chicago when there are qualified employees here. If the government really wants to create jobs in Montreal, why not start by saving the ones that are already there?

There has been talk about qualified jobs. This is retaliation by a company that did not exactly do an outstanding job during contract negotiations. To us, the important thing is knowing when the government will enforce its own laws.

• (1440)

[English]

Senator LeBreton: Honourable senators, the government, of course, is very concerned about the situation that developed with regard to Aveos, and Minister Lebel has also indicated that he is seeking legal advice as to how to proceed with this very difficult situation.

[Translation]

Hon. Jean-Claude Rivest: Honourable senators, my supplementary question is for the Leader of the Government in the Senate. No doubt you recall that the Right Honourable Brian Mulroney privatized Air Canada and that he made three firm, solemn promises at the time.

The first was to keep corporate headquarters in Montreal, but now, decisions are made in Toronto even though the company is headquartered in Montreal. The second was to respect bilingualism at Air Canada. Every year, Air Canada falls short with regard to bilingualism. The third was to keep maintenance centres in Montreal, Winnipeg and Mississauga. The Right Honourable Brian Mulroney formally made those promises when Air Canada was privatized.

There is talk of a parliamentary commission. It would be interesting to hear from Mr. Mulroney about how the government is dealing with this file. My specific question is about the significant concerns of workers who have lost their jobs.

The government — the minister just made reference to this — said that Minister Lebel has referred the question to a parliamentary committee. Given that a parliamentary committee will take a month or two to produce a report, can the minister guarantee workers today that all the Aveos facilities will remain in place and that Aveos and its facilities will not be dismantled?

If a parliamentary committee does produce a report, the government could then say that the infrastructure no longer exists and that workers cannot go back to Aveos. Before referring this issue to a parliamentary committee, did the government ensure that Aveos will not make any changes to its maintenance centre for Air Canada aircraft in Montreal?

[English]

Senator LeBreton: Honourable senators, I cannot give any assurance at all, because we are talking about a situation between two private companies, and obviously the situation is of great concern. However, as I just indicated to Senator Hervieux-Payette, Minister Lebel is seeking advice, including legal advice.

To answer the honourable senator's specific question, the government obviously cannot intervene in a situation between two private companies. The actions of the government with regard to Air Canada were specifically to protect the public, the consumer, Air Canada, and all the people involved with Air Canada. We heard witnesses here in this very chamber. At that time, the Aveos issue was not before us. This happened after the legislation was passed. I hasten to point out that this legislation was passed; it did get the consent of both houses of Parliament. However, I cannot, honourable senators, make any comment on how the government would ever possibly intervene in a dispute between two private companies, Aveos being one.

Hon. Terry M. Mercer: Honourable senators, it seems to me somewhat ironic for the minister to be standing up here talking about two private companies and saying that governments cannot get involved. I changed my seat this week, but I did not think I had changed chambers entirely. It was here, not two weeks ago, that this government interfered with this private company, Air Canada, in labour negotiations between itself and its pilots and its machinists. Remember that at that time not a single hour of work stoppage had happened, either by layoff or by strike, not a single hour. However, today, thousands of people in Montreal, Mississauga and Winnipeg are without jobs, and the minister is doing what?

This is a much more critical situation than we had a couple of weeks ago, when Parliament was brought to a halt so we could all spend our time debating legislation to force Air Canada pilots and machinists into a situation that they already said they were quite prepared to negotiate. What is the difference now? There are thousands of people who do not know how they will pay next month's mortgage. This is a critical situation that this government needs to address today.

Senator LeBreton: First, with regard to Bill C-33, which proceeded through both houses of Parliament, with the consent of both houses, the government acted to protect, as I mentioned a

moment ago, the travelling public and the Canadian economy. We saw examples last week of how this dispute is interfering with the lives of Canadian families and the Canadian public. We will always act in the best interests of the Canadian public.

With regard to Aveos and the facilities in Winnipeg, Mississauga and Montreal, I can only tell the honourable senator that the Minister of Transport is seeking legal advice, and he will take this advice and act on it in the best interests of all of us. I would suggest that I would want to see what advice is given to the Minister of Transport before moving forward on this dispute between Air Canada and a private company.

Senator Mercer: I do not know where the leader got the advice for the labour minister to act as she did a couple of weeks ago. The leader's comments are "to protect the Canadian economy and the travelling public." I do not know what is more important for protecting the Canadian economy than keeping people working at jobs in Canada. That seems pretty logical to me. In terms of protecting the travelling public, part of the job of these people is to help maintain the planes and the safety of those planes.

This makes no sense. The minister has not connected the dots here. The logic escapes me, it escapes thousands of Canadians, and it certainly escapes the employees of Aveos, who find themselves on the street not knowing how they will pay next month's mortgage.

This is an issue for today. This is not an issue for Minister Lebel to go off and consult with some lawyers in the Department of Justice or elsewhere. Minister Lebel, the industry minister and the labour minister — and whatever other minister needs to be involved — need to act now.

Senator LeBreton: Honourable senators, I can only say what I have already said. Obviously, we are very concerned about the Aveos workers in Mississauga, Winnipeg and Montreal. The Minister of Transport is seeking advice as to how to deal with the situation. Air Canada has a responsibility to the Canadian public to provide safe passage for its customers. Obviously, Air Canada would take that responsibility very seriously, and I can only suggest to the honourable senator that until Minister Lebel has had a chance to look at the various options and decide what we should do to proceed, there is nothing more I can add at the moment.

[Translation]

Hon. Maria Chaput: I would like to ask a supplementary question. I have a very serious concern about Aveos. First, Canada will lose over 2,400 jobs because Aveos is closing the three centres. Second, I see here that Aveos's parent company in South America is tripling its operations. How can we be losing jobs in Canada when the same parent company is tripling its operations in another country? Is this true? Can you explain to me what is happening?

[English]

Senator LeBreton: Honourable senators, I cannot stand here, as Leader of the Government in the Senate, and answer for policy decisions of a private company.

[Senator Rivest]

• (1450)

Obviously there is a concern with regard to these jobs in Canada, but I have not read the article to which the senator referred. In my capacity as Leader of the Government in the Senate, I cannot possibly answer for any private sector company in the country, let alone Aveos.

INFRASTRUCTURE

POWER CABLE PROJECT FOR PRINCE EDWARD ISLAND

Hon. Catherine S. Callbeck: Honourable senators, my question is directed to the Leader of the Government in the Senate. More than a year ago Prince Edward Island applied for funding under the Green Infrastructure Fund. It was to help fund the upgrade of the electrical transmission system between my province and New Brunswick.

This is a very pressing issue for Islanders because the two cables that we have are 35 years old, and their potential life span is 40 to 50 years. Last week it was discovered that one of the cables had been punctured. Fortunately, it will be fixed without much electrical impact on the province, but the fact remains that we need two cables to provide power to the whole Island.

Islanders have been waiting for over a year for word on this funding under the Green Infrastructure Fund. Will this government help fund the power cable project for Prince Edward Island?

Hon. Marjory LeBreton (Leader of the Government): I thank the senator for the question. Honourable senators, I believe we tabled an answer to this very question last week, but I will double check that. I will take the question as notice as I check these other facts.

Senator Callbeck: I thank the leader for taking that as notice, because this matter is certainly of great importance to Prince Edward Islanders.

Power from the mainland is currently our primary source of electricity, and we need to have secure and stable transmission lines to the mainland. As I said, the two cables we have are 35 years old and their potential life span is 40 to 50 years.

This has been a serious issue for Islanders for many years, and we all know that the previous Liberal government committed to sharing the cost, but the deal was cancelled under this government. Ever since it was cancelled, provincial politicians and officials have been making applications and meeting with their counterparts in Ottawa to try to get some funding for a new cable.

The leader said she would take the question as notice. Would she include as well, if a decision has not been made, when Islanders can expect to receive a decision on this?

Senator LeBreton: Honourable senators, further to my last response, I was recently reading through a lot of the delayed answers and written responses that I had provided, and I believe

there was a response. I was reading through these last week, and it might have been a response we had given to Senator Hubley quite some time ago, but I will check and add this further query to the question and take it as notice.

NATIONAL DEFENCE

F-35 AIRCRAFT PURCHASE

Hon. Wilfred P. Moore: Honourable senators, my question is also for the Leader of the Government in the Senate. It was revealed yesterday that the government did not follow normal procurement procedures for the joint strike fighter purchase. In fact, we also learned that the F-35 does not meet Canada's operational requirements.

The Prime Minister and Minister of National Defence have continuously stated that the F-35 is the only plane that meets Canada's requirements, and that is the reason for not holding a competition.

Honourable senators, in light of this development, can the Leader of the Government now indicate that, in order to follow the proper legal and military procurement rules, this government will now hold the competition and ensure that the right plane is purchased that meets Canada's requirements?

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, there is all kinds of media speculation about what was and was not done with regard to the F-35.

As I have indicated in the past, Canada has been a partner in the F-35 program for 15 years now.

Our plan is to continue in the program but, as I indicated last week, we have not signed a contract for a purchase. We have the flexibility we need to operate within the budget that we set out, and ultimately we will ensure, at the end of the day, that the air force has the aircraft it needs to do the job we ask of them. There is nothing more, honourable senators, that I will add to that today. That is the situation as it presently stands.

Senator Moore: On a supplementary question, on April 8, 2011, in the middle of an election campaign, the leader of the Conservative Party said this:

A lot of the developmental costs you're reading in the United States, the contract we've signed shelters us from any increase in those kinds of costs. We're very confident of our cost estimates and we have built in some latitude, some contingency in any case. So we are very confident we are within those measures.

We now know this is completely untrue.

Not only is there no guarantee that shelters Canadians from rising developmental costs, but there is no such contract.

Honourable senators, this is clearly an issue of credibility. When the Prime Minister of Canada cannot be trusted to speak the truth regarding the F-35s, how are we to believe the previous answer regarding Canada's requirements?

Senator LeBreton: Honourable senators, I indicated when I responded to Senator Moore a moment ago that I cannot add anything more to what I said in my previous answer. Obviously Canada has, as I pointed out, been a partner in the development of this aircraft for 15 years. There are many Canadian companies participating in the development of this aircraft: Many hundreds of millions of dollars have flowed into these Canadian companies and the development of this aircraft.

I can only say that, at the moment, our plans are to continue in this program. Obviously we have a budget, and we will operate within it. As I mentioned a moment ago, our ultimate aim is to provide our Royal Canadian Air Force personnel with the best possible equipment to do the job we ask of them.

Senator Moore: I am not clear, is there a contract or is there not? The Prime Minister, the leader of the Conservative Party, said there was and now we find out there is not.

Costs are rolling and Canada is now concerned about the total budget. Not only that, but we are also concerned about whether this airplane meets operational requirements.

The leader mentioned jobs. I would ask the minister to please table a copy of every contract awarded to a Canadian company or supplier under this F-35 program.

Senator LeBreton: There was an agreement signed by the previous government to participate in the development of this aircraft. I cannot add anything more than that, honourable senators. The answer I gave a moment ago is the only answer that I am prepared to give today.

[Translation]

DELAYED ANSWER TO ORAL QUESTION

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, I have the honour to table, in both official languages, the answer to the oral question asked by the Honourable Senator Downe on February 28, 2012, concerning the commemoration of historical events.

CANADIAN HERITAGE

COMMEMORATION OF HISTORICAL EVENTS

(Response to question raised by Hon. Percy E. Downe on February 28, 2012)

The Government of Canada has no plans to commemorate General Wolfe's victory on the Plains of Abraham. The Government's national commemoration policy stipulates that anniversaries of national significance will be commemorated in milestone years of 25, 50 and subsequent 25 year intervals. 2012 marks the 253rd anniversary of his victory.

The Government of Canada is in discussion with the Government of Prince Edward Island on areas of mutual interest related to the 150th anniversary of the Charlottetown Conference.

ANSWER TO ORDER PAPER QUESTION TABLED

VETERANS AFFAIRS—CONSEQUENCES OF DEFICIT REDUCTION ON MINISTRY BUDGET

Hon. Claude Carignan (Deputy Leader of the Government) tabled the answer to Question No. 36 on the Order Paper—by Senator Downe.

• (1500)

[English]

ORDERS OF THE DAY

APPROPRIATION BILL NO. 4, 2011-12

SECOND READING

Hon. Richard Neufeld moved second reading of 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.

He said: Honourable senators, the bill before you today, Appropriation Act No. 4, 2011-12 provides for the release of supply for Supplementary Estimates (C) 2011-12 and now seeks Parliament's approval to spend \$1.2 billion in voted expenditures. These expenditures were provided for within the planned spending set out by the Minister of Finance in his June 2011 Budget.

Supplementary Estimates (C) were tabled in the Senate on February 28, 2012, and referred to the Standing Senate Committee on National Finance. These are the third and final supplementary estimates for the fiscal year that ends on March 31, 2012.

The first supplementary estimates, Supplementary Estimates (A), were approved in June 2011. The second supplementary estimates, Supplementary Estimates (B), were approved in December 2011. Supplementary Estimates (C) 2011-12 reflect a decrease of \$0.4 billion in budgetary spending, which consists of \$1.2 billion in voted appropriations and a decrease of \$1.6 billion in statutory spending.

The \$1.2 billion in voted appropriations requires the approval of Parliament and includes major budgetary items such as \$353.4 million for the Gas Tax Fund to support environmentally sustainable municipal infrastructure projects that contribute to cleaner air, cleaner water and reduced greenhouse gas emissions; \$381.5 million for Canada's fast-start finance commitments under the Copenhagen Accord, which support climate change adaptation and mitigation in developing countries; \$162.2 million for the writeoff of debts owed to the Crown for unrecoverable Canada student loans; \$151.9 million in support of Canada's new training mission in Afghanistan; \$100 million for additional grants to international organizations for development assistance, food aid

and education; \$95 million to meet operational requirements of nuclear laboratories such as ensuring continued isotope production and health and safety upgrades; \$70.4 million for Canada's response to the humanitarian crisis in Eastern Africa resulting from the prolonged drought in the region; \$59.7 million to realign operating resources following a review of Employment Insurance administrative cost allocation; \$54 million for an increase in non-discretionary expenses, fit-up, maintenance and temporary accommodation associated with Crown-owned buildings and leased space.

These supplementary estimates also include a decrease of \$1.6 billion in budgetary statutory spending that has been previously authorized by Parliament. Adjustments to projected statutory spending are provided for information purposes only and are mainly attributable to the following forecast changes: \$232.9 million for expenses of elections; \$74.4 million increase to Canada study grants payments due to higher than anticipated statutory payments and in accordance with revised growth rate projections by the chief actuary; a decrease of \$311.7 million in a revised forecast for Old Age Security and Guaranteed Income Supplement benefit payments; a decrease of \$415.8 million in a revised forecast of payments to the Newfoundland Offshore Petroleum Resource Revenue Fund; a decrease of \$1.448 billion following a revision to the forecast of public debt.

Supplementary Estimates (C) 2011-12 also reflect an increase of \$0.2 billion in non-budgetary statutory spending, primarily due to \$157.4 million in net loans disbursed under the Canada Student Financial Assistance Act as a result of higher new loan projections made by the chief actuary offset by higher than anticipated loan repayments.

Appropriation Bill No. 4, 2011-12 seeks Parliament's approval to spend a total of \$1.2 billion in voted expenditures. Honourable senators, should you require additional information, I would be pleased to try and provide it.

Hon. Joseph A. Day: Honourable senators, I am pleased to join Senator Neufeld, Deputy Chair of the National Finance Committee, in debate on Bill C-34.

Although Senator Neufeld described statutory expenditures, statutory expenditures do not appear in Bill C-34. This bill is only asking you to consider Schedules 1 and 2 to it, which are voted appropriations. Those are items for which this chamber and the other place must authorize the executive before any expenditures can be made out of the Consolidated Revenue Fund of Canada.

Honourable senators, the first step in this process is to look at the supplementary estimates we have been studying in the Standing Senate Committee on National Finance. The supplementary estimates are outlined in some detail, the various votes that must take place with it as well as each department. It also outlines for information purposes the statutory expenditure anticipated, the estimated expenditures in statutory expenditures, in this instance, for Supplementary Estimates (C), for the balance of this particular fiscal year.

As a result of that study, the Standing Senate Committee on National Finance prepared a report. That report on Supplementary Estimates (C) and the report that follows that, honourable senators,

is the report that we debated at the last sitting of this chamber. I commend you this report. It outlines in some detail the work of the committee in relation to the various witnesses that we had before us.

As Senator Neufeld has indicated, the voted appropriation portion for Supplementary Estimates (C) and the supply bill that flows from that is \$1.2 billion.

Honourable senators, that is the report that has been voted on in this chamber and adopted. What I typically do to assist you is to check the two schedules that are attached to this particular supply bill, Appropriation Bill C-34, and I confirm that I have found that the schedules appear to be identical to those we studied in our Finance Committee when we studied the supplementary estimates.

That being said, honourable senators, we have, in effect, done what might be compared to a pre-study of this particular supply bill. I would suggest to you that it would not be inappropriate for us, once second reading is concluded, to not follow our procedure that we follow with respect to other bills where we send the bill after second reading to committee for consideration; rather, we could follow the procedure that we have adopted in this chamber of proceeding to third reading, provided that the committee has had an opportunity to look at the supplementary estimates and to report to you so that you have some knowledge, some background upon which to base your movement to deal with the bill at third reading.

Honourable senators, I commend the report to you, and I find the schedules to be reflective of that which we have studied. Again, honourable senators, we are being asked to approve final expenditures for this fiscal year of \$1.2 billion.

Hon. Suzanne Fortin-Duplessis (The Hon. the Acting Speaker):

Are honourable senators ready for the question?

Hon. Senators: Question!

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

Hon. Senators: Agreed.

(Motion agreed to, bill read second time.)

• (1510)

The Hon. the Acting Speaker: When shall this bill be read the third time?

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

APPROPRIATION BILL NO. 1, 2012-13

SECOND READING

Hon. Richard Neufeld moved second reading of 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.

He said: Honourable senators, the bill before you today, Appropriation Act No. 1, 2012-13, provides for the release of interim supply for the 2012-13 Main Estimates that were referred to the Senate on February 28, 2012.

The government submits estimates to Parliament in support of its request for authority to spend public funds. Main Estimates include information on both budgetary and non-budgetary spending authorities, and Parliament subsequently considers appropriation bills to authorize the spending.

The \$251.9 billion in budgetary expenditures includes the cost of servicing the public debt; operating and capital expenditures; transfer payments to other levels of government, organizations or individuals; and payments to Crown corporations. These Main Estimates support the government's request for Parliament's authority to spend \$91.9 billion under the program authorities that require Parliament's annual approval of their spending limits. The remaining \$160 billion is for statutory items previously approved by Parliament and the detailed forecasts are provided for information purposes only.

Together, the budgetary and non-budgetary voted spending authorities equal \$91.9 billion, of which \$26.6 billion is sought through Appropriation Act No. 1.

Honourable senators, should you require additional information, I would be pleased to try to provide it.

Hon. Joseph A. Day: Honourable senators, you have before you Bill C-35. We are now at second reading of this bill, and it does indeed request that at this stage we vote appropriation in the amount of \$26.5 billion. That is to carry the government through to the end of June. The reason for that, honourable senators, is that it is appropriate for Parliament to have oversight of government's requests and proposals for expenditure. As we just received the estimates some time ago, it is important for us to have an opportunity to study them. We have, in fact, begun our study of these particular estimates and earlier today I filed the eighth report of our committee — with which I hope to deal later this day, honourable senators — which will help to explain what is in these estimates. That is the reason that we had an opportunity to study these estimates, so that we can report back to honourable senators with a report, table the report and give an opportunity to understand what is in here.

This is an interim report that we will be providing at this stage. We will continue our study of the Main Estimates throughout the year, and we anticipate that we will be filing another report before the end of June so that honourable senators will have an opportunity to understand what is in these Main Estimates before we vote on full supply for the rest of the year.

However, it is also anticipated, honourable senators, that Supplementary Estimates (A), Supplementary Estimates (B) and Supplementary Estimates (C) will be filed. The three of those, together with the Main Estimates, will give an appreciation of what the government estimates it needs to run the government and the country for the coming fiscal year. We anticipate that we will receive Supplementary Estimates (A) sometime in June.

It is important for honourable senators to understand that the estimates that we are dealing with in this supply bill and the interim supply that we are voting on do not reflect the budget that honourable senators will become more familiar with as of Thursday of this week. The budget is not reflected, because these estimates were prepared before the government's intention with respect to the budget had been made known. That is why we need the supplementary estimates. Supplementary estimates will begin to reflect the government policy that is in the budget.

In these Main Estimates, we find some of the initiatives announced in last year's budget, and we were able to look at those with Treasury Board and the other departments so that we had an understanding of what was happening and why expenditures were increasing.

It is important to take these two documents together, honourable senators. You have already indicated that we can do so, and it is on the Order Paper. In anticipation of dealing with the report of our committee, I believe it would be appropriate for us to allow this bill, like the previous bill, to go to third reading rather than to be sent to committee for study because the study has been done. Honourable senators just have not yet had an opportunity to hear about the report.

Hon. Anne C. Cools: Is this interim supply?

Senator Day: This is interim supply to the end of June, for the fiscal year beginning April 1.

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

Senator Day: I would be pleased to.

Senator Mercer: Honourable senators can anticipate my question.

Senator Day indicated that we would be getting Supplementary Estimates (A) in June. Now, this will have to be passed by the end of June to allow things to proceed if we are not here in July and August. Am I correct?

Senator Day: I indicated that I anticipate that that will be the case. It is, of course, the government's decision as to when to bring forward an estimate, but all indications are that there will be some initiatives in the budget that may be reflected in Supplementary Estimates (A) or possibly (B), which comes after the summer break.

Senator Mercer: As honourable senators have heard me say here before, we continue to get these bills from the other place that are extremely important, with an inordinate amount of detail, and then we are asked to pass them in a very short order of time. I would hope that both Senator Day and Senator Neufeld are telling officials that we would like them in a little more timely fashion, so that we could have the proper time to allow our excellent committee to do the work that it does and so that we can all feel comfortable that we have all the knowledge we will need when we are asked to consider billions and billions of dollars.

Senator Day: I would like to thank Senator Mercer for that comment. It is a comment and a feeling that I share with him. It is very important that we obtain the documents that we are expected to review and provide intellectual comment on as quickly as possible.

Just so that honourable senators are aware, before the end of June we also anticipate a budget implementation bill that will be reflective of some of the initiatives in the budget that have to be implemented quickly. I would hope that we would have the opportunity to either receive that bill early or, alternatively, have an opportunity to pre-study the bill so that we can be ready to deal with it.

• (1520)

While I am saying that, it is important to compliment and thank the other members of my committee, as well as Senator Neufeld, our deputy chair, for their cooperation in understanding the urgency of wanting to do the job expected of us to review this documentation. As I mentioned to honourable senators previously, the House of Commons Standing Committee on Finance is going through a review at the present time because they do not believe that they are providing proper scrutiny. They have heard our comments on many occasions, and they want to explore ways that they might be able to provide more oversight and scrutiny in relation to this particular process of supply. One of the suggestions is to back up the budget to another time before Christmas, for example, which would allow for the estimates to be reflective of the estimates.

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

An Hon. Senator: Question.

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

Hon. Senators: Agreed.

(Motion agreed to and bill read second time.)

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

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

THE ESTIMATES, 2012-13

MAIN ESTIMATES—EIGHTH REPORT OF NATIONAL FINANCE COMMITTEE ADOPTED

The Senate proceeded to consideration of the eighth report (interim) of the Standing Senate Committee on National Finance (2012-2013 Main Estimates) tabled earlier this day.

Hon. Joseph A. Day: Honourable senators, this is my final appearance before you this afternoon.

An Hon. Senator: Oh, no!

An Hon. Senator: Say it is not so.

Senator Day: But I will be back in June.

Senator Carignan: Another day.

Senator Day: Honourable senators, this is the report that I made reference to when we were talking about the appropriations bill, C-35. This is the first interim report on the Main Estimates that has been presented and delivered to each honourable senator. I apologize for the fact that honourable senators have only just received it, but these are ongoing matters. It is an interim report. If there are items in this report that honourable senators wish to bring to the attention of this chamber or to our Standing Senate Committee on National Finance for future consideration as we continue our study of these Main Estimates, we would be very pleased to hear about them.

This is our first interim report on the Main Estimates for fiscal year 2012-13. Honourable senators will know from the debate we have already had that the overall estimates we are looking for, at this stage, are net voted appropriations of \$91.9 billion. There are also statutory expenditures outlined in this particular Main Estimates. The statutory expenditures are those expenditures that we have voted on as part of a separate bill and we have given authority in the bill to spend funds. Therefore, we do not have to vote on those again, but they are in here so that we understand them and the overall picture.

The net statutory appropriations for the coming year, at this stage, are \$160 billion. Honourable senators can see it runs roughly two-to-one in terms of statutory and voted. The total voted and non-voted, or statutory, appropriations for the fiscal year that begins April 1 amount to \$251.9 billion. That compares to last year, which was \$250.8 billion. To reiterate: It is \$251.9 billion compared to \$250.8 billion, which means \$1.1 billion more is forecast to be spent this year than in the previous year.

Senator Mercer: Big spenders, these guys.

Senator Mitchell: I thought they were going to cut.

Senator Day: It is expected, honourable senators, that we will be seeing Supplementary Estimates (A), (B) and (C). What is in those supplementary estimates we will see at that time, but that will have to be added to the particular document.

Honourable senators, as soon as the document was referred to us, we met with nine federal departments and agencies to discuss their requests for appropriations for the coming fiscal year. The list of departments that we met with includes: Treasury Board of Canada Secretariat, Aboriginal Affairs and Northern Development Canada, Natural Resources Canada, Canadian Heritage, Correctional Service of Canada, Human Resources and Skills Development Canada, Canada Mortgage and Housing Corporation, Public Works and Government Services Canada, and the final one — the one I would like to talk a little bit about — Shared Services Canada.

Honourable senators can see that we met a good cross-section of departmental witnesses in our first look at these Main Estimates for the coming year and for our interim report. We discovered a number of things that we want to pursue further, and we can do that because we have the mandate throughout the year to study these particular documents.

Honourable senators, the department I wanted to talk about is Shared Services Canada, a new department. It was created in August 2011 as an independent department with an eight-year mandate to rationalize the government's information technology services, to reduce overlap, and to modernize service delivery to Canadians while making the government's information technology infrastructure more secure.

In part, it is described as an effort to save money. That will be over the long term because, for the first year, the department is asking for \$1.4 billion. In effect, that money is being transferred from a number of other departments. To date, 6,300 employees from 40 different departments and agencies within the Government of Canada have been transferred to Shared Services Canada.

Honourable senators, we will want to keep a very close watch on this new initiative. We cannot indicate that all of the activity it is planning is being conducted to save funds or to make things more efficient because it is only just under way. However, we generally support this worthwhile initiative.

Having said that, it is important to remember something when we review the various departments. A department will come in and say that their budget is less than last year. However, a budget will be less because a piece of it has been moved over to this new department, Shared Services Canada. When it is all added up, the bottom line is the same; it is just that it is put in different places. We were conscious of that, honourable senators, in our deliberations. We will be conscious of that as we proceed.

• (1530)

Treasury Board Secretariat was very helpful, as they always are, in outlining the major expenditures and the major highlights. Senator Neufeld touched on a number of the major highlights earlier on, so I will not need to go through those.

I want to tell you that Indian and Northern Affairs will, in due course, become known as Aboriginal Affairs and Northern Development. That is the new name, but it has not been reflected in legislation as of yet. We still talk in terms of Indian and Northern Affairs Canada, but Aboriginal Affairs and Northern Development will be the new name.

We had quite a discussion about that particular department. There is some sunseting of funding for what appeared to be worthwhile projects, such as the First Nations Water and Wastewater Action Plan. Sunseting a program like that does not mean we will never see it again; it just means that it has not been renewed until now and it might be in the budget coming out on Thursday. As of now, and that is all I can speak for, that has sunsetted. There is a reduction of \$159 million in the budget at

this time because that program has sunsetted, meaning it was intended to last until 31 March 2012 and it has not been extended.

That is one of the ones we were interested in knowing about, and we will be watching the budget in that regard because there are a number of important initiatives to help our Aboriginal communities.

Honourable senators, there are a number of expenditures for settlement of Indian residential schools and a number of land claim settlements. They are all in this document. Some are statutory, some are voted, but they are all in there, and we had a chance to look at them.

We were reminded that the rate of growth of the Aboriginal population is almost double that of the rate of growth of the Canadian population as a whole. That trend suggests that in 15 to 20 years there will be more than 1.5 million Aboriginal persons in Canada under the age of 25 years. There is an extremely important initiative to ensure that those individuals become productive members of our society. That is something we must not overlook. To put a positive spin on all of this, if we are able to achieve that and have that group that will be coming up become productive members of society, they could contribute to the gross domestic product in the amount of over \$400 billion over the next 20 years. If graduation rates and employment rates among Aboriginal peoples reach the level of just the non-Aboriginal population in Canada, that would be a wonderful initiative and one that we should be working on, honourable senators.

The total amount that we are now on an annual basis in estimates — and there may be some ups and downs on this, but not likely to be down — is approximately \$11 billion a year that is applied to the Aboriginal file — \$11 billion a year for Aboriginal peoples living in Canada. Honourable senators, that is a huge number. We must bring this matter under proper control, and it is deserving of our attention.

The next item that I could talk about is Natural Resources Canada. There is a decrease there of \$712 million. This net decrease in budgetary expenditures of \$712 million includes a decrease of \$549 million related to sunseting of a number of programs. I am hopeful that we will see some of them reinstated. Pulp and paper, green transmission program, ecoENERGY Technology Initiative, ecoENERGY for Biofuels incentive for producers and a decrease of \$21.9 billion in isotope supply initiatives — all of these have sunsetted. They will disappear.

Many of the initiatives that we were hoping would lead us into the next generation will not be there to assist initiatives.

On CANDU reactors, AECL is responsible for all of the obligations created before SNC-Lavalin took over. We can expect for a good number of years to be seeing appropriations in that regard; \$274 million appears in this particular supplementary estimates, and that will continue even though the AECL entity and all the technology has been sold and transferred to SNC-Lavalin.

I think those are the main highlights I wanted to bring to the attention of honourable senators. There is an \$8.5-million grant plus another \$4.5-million contribution to TV5 for French

broadcasting. I thought that was important for us to highlight because of the focus on English broadcasting. It is important that we understand that TV5 is a very important and popular channel, and Canada is doing its part, along with many other countries in the world, in French broadcasting.

Correctional Service Canada, very briefly, indicated that they did not anticipate hiring the 4,000 new staff that they had originally expected, but they did have a request in here for an additional \$175 million in the Main Estimates to manage the expected increase in inmate populations as a result of implementing the Truth in Sentencing Act and Tackling Violent Crime Act. That is \$175 million more.

Senator Mercer: The crime rate is going down and they are spending more money.

Senator Day: The cost per inmate is estimated to be \$114,000 per year.

Honourable senators, there are a number of other points in this report that I would like you to be aware of. My colleague Senator Neufeld will bring to your attention a number of others. I will commend the report to your reading and ask that you support it when the vote is called.

[Translation]

The Hon. the Acting Speaker: Is Senator Day moving the adoption of the report?

Senator Day: Honourable senators, may I request an additional five minutes to answer questions?

The Hon. the Acting Speaker: Is it agreed, honourable senators, that Senator Day will have five more minutes?

Hon. Senators: Agreed.

[English]

Hon. Wilfred P. Moore: Honourable senators, on page 13, Canada Mortgage and Housing Corporation, the last line in that section says that departmental officials promise to provide more information in order to answer senators' questions. Have the questions that were raised at committee by you, Senator Neufeld or other members been answered so that you are satisfied that we are now able to vote on this in a learned way?

Senator Day: I thank the senator for the question. We have not received the answer from Canada Mortgage and Housing Corporation yet, but I remind honourable senators that this is just interim supply. They will be back in two months asking us for more money and we will be following up at that time. If we have not received the answers by that time, we would be less inclined to give them full supply.

• (1540)

Senator Moore: Honourable senators, what happens come June if we get the same answer? Will we then be under the gun to extend more money without having the detailed answers to support the request?

Senator Day: Thank you for the question. The answer is yes. That is why it is very important for us to follow up on these questions and to ensure that we do have an answer before we are back here again in June on those various outstanding issues. That is not the only place in this report where we have said that; there are a number of them. The reason is that we are rushed a bit in trying to get these reports done. The departments are a little slower in getting the requested information to us, but this is an ongoing matter. We continue to be seized of the matter, which will allow us to follow up and provide the answers so we can vote intelligently on full supply.

It has been brought to my attention that I have overlooked asking that the chamber adopt this motion. Might I revert to the front of my speech to ask that very question?

Honourable senators, I move the adoption of this report.

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

Some Hon. Senators: On debate.

Hon. Grant Mitchell: Honourable senators, I note on the bottom of page 4 of the report that the committee looked at the projected reduction of \$1.4 billion in the cost of servicing the public debt. The cost would be almost \$29 billion. It seems counterintuitive and contrary to certain expectations of interest rate movement that anyone would anticipate that the debt cost would actually go down. The Governor of the Bank of Canada is suggesting that, if anything, interest rates will go up. In fact, recent figures on inflation would suggest there is pressure that would confirm his concern in that regard.

[Translation]

Can you explain why the government is expecting a reduction in its costs?

Senator Day: It is difficult for me to explain the government's reasons, but we did ask that question. In the past, the government put forward an amount that was higher than necessary, based on the interest rate. This year, they are more comfortable with the amount, but we can change the amount at any time, if need be.

For example, if the interest rate were to increase, the government would have to ask for a larger amount in the supplementary estimates to cover the interest expense.

The Hon. the Acting Speaker: Senator Day's time has expired. Does Senator Moore wish to participate in the debate or does he have a question?

[English]

Senator Moore: On debate, I want to make the point that I am concerned about not having some of these answers. I think a message should be sent to the delinquent people at the departments regarding the questions that have been given, that although the Senate cannot add taxation we can certainly decrease money bills. They should know that unless they give

full and proper answers, we are prepared to do that. I think the committee should go back to these departments and urge them to provide the answers in a timely way.

[Translation]

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

Some Hon. Senators: Question.

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

Some Hon. Senators: Agreed.

(Motion agreed to and report adopted.)

[English]

PURPLE DAY BILL

SECOND READING—DEBATE ADJOURNED

Hon. Terry M. Mercer moved second reading of Bill C-278, An Act respecting a day to increase public awareness about epilepsy.

He said: Honourable senators, it is a pleasure to rise today in support of Bill C-278, An Act respecting a day to increase public awareness of epilepsy — or, simply, the Purple Day Bill — at second reading. This bill was introduced in the other place by my friend and honourable colleague Geoff Regan, the Member of Parliament for Halifax West. The purpose of the bill is simple, but its effect will be widespread. As the bill states, people are encouraged to wear the colour purple to indicate support for people with epilepsy and to increase public awareness of this disorder every year on March 26. That, of course, was yesterday, but as you can see, I am wearing my purple ribbon today and have more if you would like to wear one, and I encourage you to do so.

I am sure, honourable senators, that you know someone who suffers from epilepsy. Epilepsy is a seizure disorder but not a disease. Seizures occur as a result of a sudden excessive electrical discharge in the brain. In fact, about one in ten people will experience at least one seizure during their lifetime.

Purple Day was founded in 2008 by then nine-year-old Cassidy Megan, who also happens to be a constituent of Mr. Regan, and she suffered her first attack at the age of seven. While learning what was happening to her, she decided that not enough people knew exactly what epilepsy was and so she decided to start Purple Day; pretty impressive for a young lady like that. It has grown internationally since then.

Why purple? The international colour for epilepsy is lavender. If you go to the Purple Day website, it will tell you that the lavender flower is often associated with solitude, which is representative of the feelings of isolation many people affected by epilepsy and seizure disorders often feel.

Honourable senators, epilepsy is one of the most common chronic neurological disorders, affecting an estimated 50 million people. Here are a few people in history who had epilepsy: Julius

Caesar, Alexander the Great, Agatha Christie, Socrates, Joan of Arc, Richard Burton, Alfred Nobel, Muhammad, Thomas Edison, Napoleon Bonaparte, Vincent van Gogh and Charles Dickens.

There are a lot of heavyweights in that list of people. Then there is my friend Matt, in Halifax, who turned 30 the other day and who has been living with epilepsy for a long time. He is doing fine.

• (1550)

I would like to thank my colleague Geoff Regan for introducing and shepherding this bill through the other place. I also would like to congratulate Cassidy for such a great campaign to increase awareness of a disorder that can affect anyone. It goes to show that something as small as an idea can grow into something so huge and meaningful. I encourage all honourable senators to support this bill.

(On motion of Senator Carignan, debate adjourned.)

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

EIGHTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the eighth report of the Standing Committee on Internal Economy, Budgets and Administration (*economic increases and severance pay for unrepresented staff of the Senate*), presented in the Senate on March 15, 2012.

Hon. David Tkachuk moved the adoption of the report.

He said: Honourable senators, in October 2011 the Internal Economy Committee approved economic increases and the cessation of severance accumulation for the administration management staff. This was the result of Treasury Board's notice of changes to the executive level compensation for senior management. As well, Treasury Board has signaled in the past its intention to align severance benefits for voluntary departures with employee practices within Canada. Most recently, the House of Commons has informed its unrepresented employees that economic increases have been approved from 2011 to 2013 by their Board of Internal Economy and that the accumulation of severance pay for voluntary departures will cease as of March 31, 2012.

The report before honourable senators approves economic increases for unrepresented employees, including senators' staff and the administration. It is important to note that this does not impact severance benefits for involuntary departures, which remain the same. Voluntary departures occur when a staff or employee retires or resigns from the Senate. In these cases, unrepresented employees would no longer accumulate these benefits.

As well, the Senate is currently in the process of collective bargaining with three unionized groups, and any other changes to the terms and conditions of employment for unrepresented

[Senator Moore]

employees will be considered only once bargaining is completed. Should the economic increases be approved for unrepresented employees, they will be effective April 1, 2011, for senators' staff and October 1, 2011, for the administration.

I thank honourable senators for their consideration and ask that they approve the eighth report of the Standing Committee on Internal Economy, Budgets and Administration.

Hon. Wilfred P. Moore: Honourable senators, the report states, "retroactive to April 1, 2011." Will that retroactivity impact many people?

Senator Tkachuk: It will impact non-unionized staff and senators' office staff. That is in keeping and parallel with the negotiations taking place with unionized staff in the three union groups currently bargaining.

Hon. Mac Harb: Could Senator Tkachuk clarify if economic increases for senators' staff would come from the existing envelope of each senator or would there be an increase in that envelope?

Senator Tkachuk: As the honourable senator knows, we have tried to keep senators' office budgets frozen at their present levels. They will continue to remain so except for the top-ups that will occur when salary increases take effect for staff members. It is important that this report be passed before the end of the fiscal year. We have the money in the budget and those increases will be reflected by a topping up of senators' office budgets so they can pay their staff.

Hon. Terry M. Mercer: With respect to the severance provision of the report, many long-term employees have probably planned for that severance in their retirement plans. We all have some very good employees, as Senator Tkachuk and I have, who have been here for some time. Have we thought about how we will address that from the point of view of the employees who are unrepresented and do not have a union to represent them? How will we put the argument before the board in any formal way? It would seem that this will change what future retirement may look like for some of these people.

Senator Tkachuk: It will change only for those who voluntarily leave. We had a strange situation whereby people would receive severance for retiring, which is sort of not the point of severance. It will not affect everyone else and so I do not think senators' staff has much to be concerned about. They will be able to deal with members of the administration or human resources to figure out the best avenue for them. It is not that we are taking away something they have already earned; it is just stopping the accumulation in the future.

Senator Moore: To follow up on Senator Harb's question, is the top-up sufficient to cover any step increases that are provided for in the suggested memo we received from the Human Resources Directorate?

Senator Tkachuk: The step increases are within senators' budgets.

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

Hon. Senators: Question.

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

Hon. Senators: Agreed.

(Motion agreed to and report adopted.)

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

FIRST REPORT OF COMMITTEE—POINT OF ORDER—SPEAKER'S RULING RESERVED

On the Order:

Resuming debate on the motion of the Honourable Senator Smith P.C. (*Cobourg*), seconded by the Honourable Senator Cordy, for the adoption of the first report of the Standing Committee on Rules, Procedures and the Rights of Parliament (*Revised Rules of the Senate*), presented in the Senate on November 16, 2011.

Hon. Anne C. Cools: Honourable senators, I rise on a point of order regarding the First Report of the Standing Senate Committee on Rules, Procedures and the Rights of Parliament presented here on November 16, 2011, and currently before us in respect of proposed recommendations to the Senate for rule changes. I assert that this report is irregular and out of order as it is contrary to well-established Senate and Senate committee practices and procedures for recommending rule changes. I submit that these irregularities are major and in three distinct areas.

First, the report exceeds the scope and mandate authorized by rule 86(1)(d)(i), on which the committee depends for these rule changes.

Second, the report purports, most improperly, to impose closure on Senate debate, and orders a date for the coming into force of the new rules.

Third, contrary to well-established Senate practice, the committee's recommended rule changes are not part of and are not included in this report. They are contained in a separate document, alien to the report, named an appendix.

• (1600)

This appendix, because of the nature of this motion and of this form of proceeding presently before us, is procedurally incapable of and precluded from putting the proposed rule changes before the Senate for consideration and debate.

These three distinct sets of irregularities are major and organic and are so compelling as to demand that the prosecution of this proceeding be arrested forthwith.

I submit that the report before us is defective and irregular and is inadmissible for our consideration, debate and vote here. I ask His Honour to rule the report out of order on these grounds.

Honourable senators, first I wish to acknowledge the subcommittee and its three members, Senator Carignan, Senator Stratton, and Senator Fraser, the chair.

I thank them for their labours and their hard work. I commend their efforts. I laud them and accord them all that they should be accorded and more. At the same time, I maintain and uphold our duty as senators to subject their findings and conclusions to our careful and diligent examination and to uphold the rules, rights and privileges of this house. It is in light of this responsibility, shared by every individual senator, that I feel bound to call attention to these three procedural breaches of this report.

Honourable senators, I shall move to the first breach. This report exceeds the scope of mandate authorized by rule 86(1)(d)(i), the rule on which this committee depends for authority to present this report to the senators and the Senate for consideration. By this rule, our Committee on Rules, Procedures and the Rights of Parliament is empowered:

... on its own initiative to propose, from time to time, amendments to the rules for consideration by the Senate;

Our Senate rules are the tools, the mechanics by which we actuate and exercise our privileges. Rule 86(1)(d)(i) was born of the Senate's notion that our rules are our privileges and that we should hold them jealously and closely and keep them under constant study. This rule intended an enlarged role for senators in rule changes, not a shrunken or reduced one.

Honourable senators, this rule grants a limited power to the committee to initiate rule changes in close concert with senators. It does not intend nor contemplate such voluminous and massive change as the total repeal of the status quo. A total repeal is not an amendment, and no amendment can negate the whole of that which it amends. These proposed rule changes — 174 pages of them — are the single largest, most voluminous changes to our Senate rules ever, in 145 years. It would repeal in one massive 174-page fell swoop the entire rule book *in toto* and replace it with a new one, by one sentence in the report and one motion.

This one-shot bulk approach, this total repeal, this total reframing and recasting of the rules is not, even to the widely imaginative, "amendments from time to time."

Honourable senators, the subcommittee was first created on April 13, 2010, following debate on concerns that I raised about the legal and parliamentary probity of a small, self-selected group of senators and selected staff meeting privately, without Senate authority and with no record, yet with a stated intention to use this rule to bring their proposals to the Senate. Vital to that debate was the necessity of the subcommittee's records of its deliberations. I had questioned the committee's persistent use of in camera meetings and its routine and undesirable use of secrecy. That day, I agreed; I voted to constitute a subcommittee whose mandate was limited to changes of a grammatical nature and of clarity, with a much needed focus on harmonizing the English and French versions.

The subcommittee received no power and no authority to touch the substance or content of the rules, as it clearly has. I support the undoubted linguistic fact that the French and English versions of our rules must be harmonized. This, by itself, is a huge undertaking and a worthy one, but the subcommittee, without authority, chose to extend its reach beyond its mandate and waded into deep waters, making a good many substantive and major changes, including some to our ancient privileges granted by the British North America Act, 1867, section 18.

The consequence is that the report exceeds the mandate of the committee and is, therefore, out of order.

Honourable senators, I turn now to the report's second breach of order. A committee is a creature of the Senate, and, as such, it has no powers other than those expressly delegated to it by the Senate. The first recommendation reads as follows:

That the existing *Rules of the Senate* be replaced by the revised *Rules of the Senate* contained in the First Appendix to this report, including the associated appendices to the Rules, effective from September 1, 2012;

Honourable senators, by imposing an end date for adoption, expressed as the date for the coming into force of the revised rules, the committee, in practical terms, has given an instruction to the Senate limiting debate and imposing a form of closure. This exceeds the powers delegated to it by the Senate. The proper procedures for imposing time limits on debate are clearly stated in our rules 38, 39 and 40. The Senate has never delegated to any of its committees any power to limit debate here in the Senate. It is most improper for a committee to impose a deadline on a Senate proceeding.

The established practice for adopting rule changes in this house is that they either come into effect by a separate resolution of the Senate, as was the case when significant changes were made in 1906 and 1968, or upon adoption of the motion that seeks to amend the rules itself.

For example, in the 1991 rule changes, recommendation 19 of the then Rules Committee report stated:

That changes in the *Rules of the Senate*, contained in this Report of the Standing Committee on Standing Rules and Orders, come into force when the Senate next meets after the adoption of this report by the Senate.

Honourable senators, the Senate is not subject or subordinate to the authority of its committees. A recommendation in this report dictating a specific date by which the revised rules should come into force is irregular and, in itself, is grounds for the report to be ruled out of order.

I come now, honourable senators, to the third, and by far the most important, profound and far-reaching breach.

This report does not contain the substantive matter that is the subject and purpose of the report, specifically, the text of its proposed rule changes.

Instead, the substantive portion of the report is found in what has been styled the first appendix to the report. This motion to adopt the report does not put the actual recommended rule changes before us for debate. That is a very serious matter. Simply put, we cannot debate the proposed rule changes because they are not part of or included in the report that this motion asks us to adopt.

This report, by its form of proceeding, has placed its substantive matter, the actual proposed rule changes, beyond the procedural ability of senators to consider, debate, amend and vote on the actual words, paragraph by paragraph, of the rule changes. It is, therefore, out of order.

Honourable senators, let us examine what a committee report is. Marleau and Montpetit, in their *House of Commons Procedure and Practice, First Edition*, tell us on page 879 that:

Committees make their views and recommendations known to the House by way of reports.

It is pretty clear. The report is the means to deliver, to present their recommendations to the house. That is what the report is. It comes out of an oral tradition where members would rise and make the report orally, presenting to senators.

A committee report is the form of proceeding by which Senate committees present or deliver their findings and recommendations to senators and the Senate. A report is structured as a cluster of clearly designated paragraphs *in seriatim*, often numbered, and clearly signed by the committee chair. Let us understand this, honourable senators. This entire system is a very profound one. A committee report is those words — those paragraphs — below the title “Report” and above the chair’s signature, which certifies that those words and those paragraphs are the committee’s words, the words seeking Senate adoption. Those words, in those paragraphs, and no other words in any other text, are the report. No other words over there in another document or over here or wherever are the report. It is within the pages of the report that we find the substantive questions or recommendations for which the committee is seeking the Senate’s acknowledgement and approval.

• (1610)

The report before us is a mere page and a half. Instead, the recommendations are to be found without the chairman’s signature in the first appendix, a mere 174 pages of recommended changes to the *Rules of the Senate*.

Honourable senators, most senators do not even realize that these recommended rule changes are 174 pages and that they are the single largest, in quantum and volume, amount of rule changes ever put before this house, and God knows I have reviewed endless Rules Committee reports in the last while.

Honourable senators, unlike a report, an appendix is not a “form of proceeding” that Senate committees use to put their hard laboured recommendations, their choice conclusions, before the Senate and senators for their judgment. The *Oxford Dictionary* defines “appendix” as:

An addition subjoined to a document or book, having some contributory value in connexion with the subject-matter of the work, but not essential to its completeness.

An appendix is of limited and narrow use. It is a subsidiary, a non-substantive piece deployed usually for information purposes only.

Honourable senators, no lawyer would put his most important arguments in an appendix to his main document. Why would he hide them?

An appendix is inconsequential and non-substantive to any decision or judgment that the house or any court is asked to make. In our experience in this chamber, an appendix usually contains information like lists of witnesses who appear before the committee or other factual information, but which is not central to the main purpose of the report itself.

House of Commons Standing Order 108(1)(a) is instructive. It permits a committee to print a brief appendix to any report with opinions and recommendations that dissent from or that supplement the report while it maintains and upholds the integrity of house procedure on committee reports by defining that such brief appendix is not part of the report. There were many problems with those issues some years back.

The Commons annotated Standing Orders, second edition, at page 387, state:

Such appendices are attached after the signature of the Chair, and do not form part of the report in a procedural sense.

Similarly, Senate rule 98 states, in part:

When any amendment to the bill has been recommended by the committee, such amendment shall be stated in the report.

No chairman will put amendments to a bill in the appendix to a committee report, but they do it in a committee report here on rule changes. Interesting, is it not.

Rule 98 specifically states “in the report,” honourable senators, not in an appendix to the report because an amendment to a bill is a substantive matter which requires the Senate to consider, debate, amend, reject or adopt specific words. They must be in the report.

Clearly, the wholesale replacement of the existing *Rules of the Senate* with these proposed revised rules should be more than an appendix, an afterthought placed not in its place, not quickly observed.

Honourable senators, the procedural problem is that the two-page report before us, signed by the chairman, does not contain a single paragraph, not a single word of the committee’s recommended rule changes, the proposed rule changes themselves. We cannot debate them. We cannot actuate and amend them because they are not before the Senate for actual debate and amendment, as is the report. This is a serious problem. In other words, any senator cannot rise and say, “I move to

amend the committee report by deleting these words and inserting those.” The actual words of the rule changes are not in the report. I shall show it to you. The report is a page and a half. I am informed that most senators do not even know that this is the case.

Here, last November 29, Senator Fraser indicated to us her mistaken belief that senators may debate and amend the text of the proposed rule changes. She said:

... the important thing is that the Senate itself ... must examine this work and decide whether it wants to adopt all of it, some elements of it or some of it amended.

Senator Fraser obviously believes that in this form of proceeding we can amend the report, but we cannot. Though reassuring that there is no sinister ploy at work here, Senator Fraser seems unaware that this proceeding permits no amendment to a single rule of the proposed rule changes and does not even put them before us.

Honourable senators, this first report deviates from long-established Senate practice and from the Rules Committee’s own consistent practice, which has been that the report itself contains the actual text of its recommended rule changes, paragraph by paragraph and word by word. By this practice of inclusion in the report, the motion to adopt the report will adopt the proposed rule changes. There is a reason the customary practice is to include the rule changes within the text of the report, not appended as an appendix. Rules are fundamental to parliamentary practices and procedures and to the function of this chamber. The *Rules of the Senate* are not explanatory or supplementary. They are substantive in nature and do not belong in the appendix but in the main text, the main body of the report.

In other words, honourable senators, the committee masterpiece production should be before us for debate. The star of the show should be on the stage; do you not agree?

Honourable senators, as an example, the last major revision to the rules occurred in 1991. At that time, the report, presented by Senator Robertson, contained the text of every single proposed rule change, paragraph by paragraph: 38 pages of them structured and numbered as 19 recommendations, each one showing clearly every amendment made and proposed, all above her signature. I have a picture of it here to show honourable senators.

However, the 1991 changes were not the only example of the recommended rule changes being in the body of the report. I have reviewed the most significant rule changes in Senate history, be it 1991, 1975, 1972, 1968, 1915 or 1906. I went back to 1894. I have also examined 75 of our Rules Committee reports recommending rule changes to the Senate from the present, 2012, back to 1969; 68 of these 75 included the recommended rule changes in the report.

My 43-year review informs that our Senate Rules Committee’s practice has been diligent to include the actual text of their recommended rule changes, paragraph by paragraph, in their committee reports, thereby putting them before senators for consideration.

Honourable senators, do not misunderstand; I am not being slavish in any way because I am going to give an example where recommendations were put in a different document. However, that document was moved directly before the house for senators’ consideration. It is important to note, honourable senators, that in particular instances, such as in 1968 and 1906, where the substantive proposed rule changes were contained in a schedule or another paper different from the report, that schedule or paper was referred to Committee of the Whole, thereby putting the substantive matter of these separate documents directly before the house for consideration.

• (1620)

Some of us remember Senator Molson. On December 10, 1968, Senator Molson, an independent senator and Chairman of the Special Committee, moved:

... that consideration of the Fourth Report of the Special Committee on the Rules of the Senate be postponed until Thursday next, but that the schedule thereto containing a proposed revision of the Rules of the Senate be referred to the Committee of the Whole for consideration forthwith.

Honourable senators, we can do things sometimes differently. The point is that whatever we do, what we are asking the house to adopt has to be put before the house directly by motion.

Honourable senators, in Committee of the Whole, senators considered those rule changes *in seriatim*, moving and voting on them individually, one by one. Interestingly, I was talking about reports and oral process. Committee of the Whole continues the tradition of the report by the committee chairman being an oral presentation. There is no written report brought forward. The schedule, as amended in Committee of the Whole, was orally reported back to the chamber and adopted. In 1906, it was a draft set of rules or a list, and the Senate did the same thing. That document, that piece of paper, was referred to Committee of the Whole. Honourable senators, I shall establish later that rule 86, which put these rule changes before us, was anticipated and intended to work in conjunction with Committee of the Whole. By referring a schedule or a paper to the Committee of the Whole, the proposed rule changes were put before the Senate for consideration and debate. That has not been done in this instance. As a matter of fact, when the report was presented, none of the proposed rule changes were put before the house whatsoever.

Honourable senators, we cannot adopt any measure that is not seen and known by us and is not put before us by motion for debate and vote. We have a right, a privilege and a duty to know and examine every single word of the proposals that any motion asks us to adopt and vote on. This is our duty and our privilege in law. In the Law of Parliament, this process of knowing is called “reading” or “a reading.” It is the parliamentary process by which the actual proposed text put by motion before us is considered, debated, amended and voted. Long before easy access to printing, the parliamentary procedure of “reading” took its name from the physical act of reading aloud every word of every bill and motion so that every member could have cognitive knowledge, and the house cognizance, of the proposal before them. Individually as

senators and collectively as the Senate, we “read” every single word, paragraph by paragraph, in the case of reports, and clause by clause in the case of bills, to express our judgment by our vote. Under the oath we took as senators, we verify or we swear that those words and our votes on them are true. The question now before us is the motion to adopt the report, but we cannot “read” the recommended rule changes because this report, this form of proceeding, does not make the recommended rule changes available to us. They are not within the pages of the report. Only the report is before us. Therefore, the proposed rule changes are not before us for debate.

Honourable senators, the recommended rule changes are unavailable to us and beyond our procedural reach. We cannot consider them, amend them or vote on them. This procedural exclusion, this procedural absence of the substantive, actual recommended rule changes from this report, renders the report defective, irregular, out of order and even void, *ab initio*. The proposed rule changes are the centrepiece of the report. The star of the show must be on the stage. The recommended rule changes are not on the stage at all.

I put a lot of work into this, honourable senators, because I am aware that any rule change is an enormous challenge for the most experienced senator and I am aware that there are scores of new senators here. I could easily have presented the same material differently, but I have tried to make it intelligible to be understood.

Honourable senators, I have outlined three distinct areas where this report is defective and irregular. I will repeat them. First, the report exceeds the scope and mandate authorized by rule 86(1)(d) (i). Second, the report purports to impose closure on Senate debate and orders a date for the coming into force of the new rules. Third, contrary to well-established Senate practice, the most important item, the committee’s recommended rule changes, are not part of and are not included in this report. They are contained in an appendix to the report, which is, by this particular form of proceeding, procedurally beyond the reach of senators to be debated or amended. These three distinct sets of irregularities are so major that I ask His Honour to rule the report out of order on these grounds.

[Translation]

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, I would like to speak to the point of order raised by Senator Cools. I have a great deal of respect for the work done by Senator Cools, who always puts a great deal of time and energy into her research, into strengthening her arguments and into her presentations. We always learn something from her arguments.

However, I would like to point out, first of all, the inadmissibility of this point of order, given that a point of order must be raised at the earliest opportunity, which was obviously not the case here.

Indeed, on November 16, on behalf of the committee, Senator Smith presented the first report — and I will address the definition of a report in a moment — of the committee, and on a

Senate motion, the report was placed on the Orders of the Day for consideration at the next sitting, as usual. The motion was adopted without objection.

If we look at the *Journals of the Senate* from November 16, 2011, on page 407 we see that the honourable Senator Smith, P.C., Chair of the Standing Committee on Rules, Procedures and the Rights of Parliament presented that committee’s first report, entitled *Revised Rules of the Senate*. His motion was seconded by Senator Cordy and the report was placed on the Orders of the Day for consideration at the next sitting. The question was put on the motion and was adopted.

In citation 321, Beauchesne states:

A point of order against procedure must be raised promptly and before the question has passed to a stage at which the objection would be out of place.

Any objections concerning the committee procedure up to the point of adopting the motion on November 16 are therefore out of place and, honourable senators, you may take these arguments into consideration. Therefore it would be important to draw His Honour the Speaker’s attention to these infringements, before the Senate reached a decision regarding the presentation of the report.

Then there are the other questions concerning the substance of the report and the committee’s mandate.

• (1630)

The Standing Senate Committee on Rules, Procedures and the Rights of Parliament has the power to act on its own initiative. I believe that applies to the Standing Senate Committee on Internal Economy, Budgets and Administration as well. Even if the Senate’s mandate had not been clear — which I do not believe to be the case because it seems to me that the mandate was quite specific — Rule 86(1)(d)(i) gives the committee the following power:

(i) on its own initiative to propose, from time to time, amendments to the rules for consideration by the Senate;

The first part is “on its own initiative.” Even if the Senate does not give the committee a mandate, it can give itself a mandate. It does not need a specific order from the Senate.

The second part is “to propose. . . amendments.” The rule says nothing about the scope of the amendments. It does not say “minor” or “major” or “significant amendments.” It says “amendments,” which gives the committee the power to initiate major amendments to form or content. Nor does the rule say that the amendments arising from the committee’s initiative are restricted to form.

I think that the committee’s mandate with respect to revising the rules is clear.

As to the substance of the report, the first recommendation, which is on page 412 of the *Journals of the Senate*, reads as follows:

1. That the existing *Rules of the Senate* be replaced by the revised *Rules of the Senate* contained in the First Appendix to this report, including the associated appendices to the Rules, effective from September 1, 2012;

Clearly, Senator Cools is defining a report according to the *Standing Orders of the House of Commons*. I would very respectfully suggest that the *Standing Orders of the House of Commons* do not apply to the Senate, and that nowhere in the *Rules of the Senate* is there a definition of what constitutes a report. A report, in the regular sense of the word, is an account or a statement. A committee conducts an examination and then presents or reports the results to the people who requested the examination or to those to whom it is supposed to present the report. The Rules therefore do not contain a definition of report nor do they specify any standards pertaining to reports.

Here we have a two-page report that refers to appendices that are a few hundred pages long. The Rules do not indicate that a report cannot have an appendix nor do they provide any specifications regarding the length of such documents.

This is a complete revision of the Rules. So, although the appendix is longer than two pages, I do not believe that this constitutes a defect in form or substance that would affect the validity of the report. Amendments can be proposed to the appendix or to the first two pages, which consist of recommendations. Additions, changes and deletions can be made. So, the Senate, in its sovereignty, has full power to change the first two pages of the report and the related appendices. There is absolutely nothing stopping the members of this chamber from asking questions about or changing parts of the appendices that they feel are unsatisfactory or need improvement.

As for the date of September 1, 2012, this is clearly a recommendation from the committee. It is not an order. The committee does not have the authority to give orders or instructions to the Senate. The Senate is sovereign. The committee has made recommendations to the Senate. Together, we will be free to discuss whether or not to accept those recommendations.

We can also decide to implement this rule later or even earlier, given what I would call the exceptional work done by the Standing Committee on Rules, Procedures and the Rights of Parliament to simplify and more clearly define the Rules. It is in our interests to implement these changes as quickly as possible.

As far as the date is concerned, it is a recommendation, not an instruction. I do not see how the Senate would be bound by it.

For all these reasons respectfully submitted, I believe that the point of order is out of order because it was not raised in time. As far as the substance of the point of order raised at length by Senator Cools is concerned, I have to say that it is not valid. We may say that it is not before us or pretend that we did not know

anything about it, but we all have read it; it is in the *Journals of the Senate*. In any case, if it does not exist, it certainly took a long time to read.

I think the point of order must be rejected.

[English]

Hon. Joan Fraser: Honourable senators, like everyone else in this chamber, specifically Senator Carignan who just spoke, I hold Senator Cools in great respect for her dedication to the integrity of Parliament, more particularly of the Senate, and for the depth of her research and reflection. When she raises these points, it behooves us all to take them very seriously.

I listened very carefully to her arguments and I would like to respond to the three objections that she raised. She said, first, that this report and its appendices, taken as a whole, exceed the mandate of the committee and of the subcommittee. I think this is not accurate. There is no limit in our rules to the initiative that the Rules Committee may take in proposing, from time to time, amendments to the rules for consideration by the Senate. That is an unlimited authority. The decision about whether the proposals will be adopted remains with the Senate, of course, but the Rules Committee is free to recommend changes that are as minor or as major as the members of that committee, after study and reflection, think is appropriate.

The subcommittee's mandate was equally broad. In both 2010 and 2011, it was simply "to review the rules of the Senate," and we did that. We undertook — and I personally undertook — to make that review as thorough as seemed appropriate. Except where we believed substantive change was truly necessary or appropriate according to the practices already in place in this chamber, we undertook that we would clarify the language and reorganize the rules in the attempt to make them clearer and easier to use. I believe that was fully within the mandate both of the Rules Committee and of the subcommittee.

• (1640)

Senator Cools mentioned that the record of the proceedings was absent. That is, of course, because the subcommittee met in camera, and the subcommittee had the undoubted right to meet in camera. By our rules, rule 92(3) says that meetings of subcommittees may be held in camera at the discretion of the subcommittee members. Further, of course, rule 92(2) authorizes committees, and therefore presumably subcommittees, by extension, to hold in camera meetings when considering any draft report. Every single one of the 29 meetings that the subcommittee held, long meetings, consisted of the consideration of a draft report. That was what the subcommittee was doing.

Beauchesne, sixth edition, at citation 850(2) says:

The purpose of *in camera* sittings is to allow members to feel free to negotiate, discuss, deliberate and, sometimes, compromise without the glare of publicity, which might add to the difficulties of agreeing . . .

It exactly covers what we were engaged in doing. I would submit that Senator Cools' first objection that we exceeded our mandate is not valid.

[Senator Carignan]

Senator Cools' second objection is that this amounts to a form of closure because the report includes a suggested date of September 1 for these rules to take effect if the Senate chooses to adopt them. I cannot agree that this is in fact a direct or indirect form of closure of debate. This matter has been before the Senate already for more than four months. Every senator has had the chance to speak, every senator will continue to have, if that is the will of the Senate, more chances to speak, although I wonder if after nearly four and a half months very many more senators are interested in speaking. The point of inserting a suggestion of September 1 was precisely to avoid the situation that Senator Cools referred to when a previous change to the rules was made, when any change to the rules is made, unless there is a date of coming into force. She referred to one where she specifically quoted the provision that this rule will take effect when the Senate next meets, and normally —

Senator Cools: After adoption.

Senator Fraser: After adoption. Normally anything that we adopt takes effect immediately unless we have said no, give people time. The object of suggesting a date of September 1, which of course the Senate can vary or reject if it wishes, was precisely to give even more time to senators and staff to familiarize themselves with the new formulation of the rules. I do not think that that constitutes closure.

Finally, Senator Cools raises an interesting and serious point when she says that the recommendation for the actual proposed new formulation of the rules is not part of the report and therefore is beyond the reach of the Senate, not before the Senate, unavailable to the Senate. I was interested to hear her refer to a past set of rule changes that was contained in a schedule to a report. It seems to me that the difference between a schedule and an appendix is not substantively serious. The point of putting these proposed changes in an appendix was to present them in an intelligible form as a coherent whole because among other things, this proposed reformulation of the rules rearranges many of the existing rules, and to have presented them paragraph by paragraph would have been a very cumbersome way to proceed.

On the other hand, it was clean and neat, we believed, to present as an appendix the entire document that would become the new formulation of the rules if the Senate approved it.

That appendix can, of course, be amended. A report of a committee can be amended. If the Senate wishes to amend this report, it can do so. It can say, "We adopt the report except that the proposed new rule 16(3)(g)" — I made that up, I do not know if there is such a rule — "will be amended as follows." The Senate can do whatever it wishes with this document. No element of it is beyond the reach of this chamber in deliberation.

Therefore, I cannot agree, much though I respect her argument, that this point of order is valid, and I hope Your Honour will so rule.

Hon. Mac Harb: Honourable senators, initially I did not want to say anything about this matter being brought by my colleague, but I think now I may want to add a few words. First, I very much appreciate what Senator Cools has brought to the attention to the Senate. This is an extremely important point and a very important

question. Frankly, it justifies the reasons that the Rules Committee had to look at the rules in order to specifically clarify what can and cannot be said, what can and cannot be done by a committee or by the Senate, by individual members of the Senate or by the Senate as a whole.

She raised three points, including the scope of the report and whether or not it fit in the mandate, and she pointed out rule 86(1)(d)(i) regarding whether on its own initiative the committee can make substantive amendments, or a few amendments, or can change the whole rule. I think this is something very important for the Speaker as well as our legal team to look at. It is an important point.

As for the second point, closure, I suppose I agree with what has been brought forward, that the Senate can decide not to implement the recommendations by September 1, 2012. They can put it indefinitely. However, I find troubling a comment made by my esteemed colleague, the chair, when he presented the first report of the Standing Committee on Rules, Procedures and the Rights of Parliament. He said:

Honourable senators, I note that some useful background documents comparing the current and revised rules and explaining the more significant changes will be circulated to senators' offices in electronic form during the coming days.

That troubled me a bit because if I am to take this the way it is, then I am assuming that Appendix I and Appendix II may or may not have been tabled in the Senate at that time. Now, if I am to look at the actual report on the following page, it clearly states here in the first part:

Pursuant to rule 86(1)(d)(i), your committee has reviewed the *Rules of the Senate*, and recommends as follows:

That the existing *Rules of the Senate* be replaced by the revised *Rules of the Senate* contained in the First Appendix to this report, including the associated appendix to the Rules, effective from September 1, 2012.

• (1650)

I assume that the first appendix was tabled with the report in the Senate. After point 3, the report states:

The Second Appendix to this report contains a concordance indicating the relationship between the existing Rules and the revised Rules.

We have Appendix I and Appendix II. I submit, that in the Speaker's ruling it is imperative to look into this in the context of what we are discussing. Were Appendix I and Appendix II tabled with the report of the committee in the Senate? If so, that is one issue. If they were not tabled in the Senate and were sent electronically to members of the Senate at a later date, then Senator Cools is making a very important point that needs to be considered carefully, not only on this occasion but for future consideration of the Senate.

Senator Fraser: Honourable senators, I want to clarify a little something. This report recommends adopting as the revised *Rules of the Senate* the first appendix. The further explanatory

document, to which reference was made by the chair when he presented the report and to which Senator Harb refers, was circulated to all senators. It was available in printed form to anyone who wanted it, but these days we tend to circulate documents electronically, and that has been considered appropriate. It did not seem appropriate to the committee to include that as part of its formal report because that would have meant a third appendix. It seemed clearer to do it the other way, but that information was available.

Senator Cools: Honourable senators, I will make a few remarks and a few clarifications so that senators do not think I said what I did not say.

Senator Fraser raised a question about Senator Molson and when his schedule was put before the Senate. She said there is no difference between a schedule and an appendix. Senator Fraser missed my point totally. I am not quibbling about what we call the thing. My point is that the motion must put before us that which it asks us to vote on. The situation with Senator Molson was entirely different because the schedule was moved by motion to the house. Perhaps Senator Fraser would have some ground to stand on if she or someone had moved the First Appendix before the house for consideration. She may have some ground. In point of fact, nothing has been raised here in debate whatsoever about the fact that the recommended rule changes are not in the report. Most senators have believed erroneously that they are in the report.

I would just like to deal with that point. I do not give a scrap whether a report has a schedule or two schedules or an appendix. The point I am making is that whereas in the instance of Senator Brenda Robertson, and in 68 out of the 75 committee reports, in the last 43 years the proposed rule changes were in the report. Neither Senator Fraser nor Senator Carignan has explained the deviation from that which is Senate Rules Committee practice. The consistent practice of the Senate Rules Committee has been to put those proposed rule changes in the body of the report. I reject entirely Senator Fraser's notion that there were too many rule changes and it would have been too clumsy. Well, if there were so many rule changes, honourable senators, perhaps the committee could have considered bringing in several smaller reports so that the Senate could digest them.

I noticed that when Senator Fraser spoke many weeks ago, she said that these changes began with Senator Molgat. Well, I would like to inform Senator Fraser that Senator Molgat strenuously opposed large scale rule changes in a single report. Those of us who served with him would know that very well.

I also notice that the question I have put to His Honour has not been addressed by any of the senators who spoke.

I want to show senators the report of Senator Robertson, which I happen to have here, and I shall quote from it. At the time, many of us thought that 38 pages was a lot. Senator Robertson's report, dated June 11, 1991, clearly begins by saying that the Committee on Privileges, Standing Rules and Orders has the honour to present its first report, followed by each and every of the 19 recommendations, one after the other, some with more than one rule change, and ends, "Respectfully submitted, Brenda Robertson, Chairman."

[Senator Fraser]

Honourable senators, I would like us to be crystal clear that someone has to explain why the Senate Rules Committee has deviated from its own practice of including the recommendations in the report. If the committee chose to adopt a different practice, why was that new practice not explained to the house when the Chair of the Rules Committee presented the report and moved the report for adoption? Anything can be accepted as long as it is put before us. The committee has put very little before the house. Many new senators have been left to figure out what is really happening. I look forward to someone asking the questions.

Honourable senators, Senator Fraser claims unlimited authority under rule 86. Rule 86 is a delegated authority. There is no such thing as an unlimited delegated authority, for those who care to understand what delegated authorities are. The Senate has delegated an authority to the Rules Committee to recommend amendments on its own initiative from time to time. The Senate, when it did that, never anticipated what I would describe as procedural excess or procedural gluttony.

Honourable senators, first, there is never a right to do wrong. No power ever confers a right to do wrong. There is wrong going on here and it cannot be justified by referring to the rule. Every delegated authority is limited by the nature of it being a delegated authority.

Second, Senator Fraser also raised the issue of in camera meetings and records. I would say to honourable senators that when a committee, without an order of reference from the Senate, brings forth proposals or recommendations to the Senate, they have a duty to put their evidence before the Senate for its consideration. This is well documented. It is a sad day if we need rules to tell us that. When Senator Fraser says that the committee has a right to have meetings in camera and then cites consideration of draft agendas or draft reports as justification, I think she misunderstands the rule totally.

• (1700)

That rule about considering draft reports expects that, after the committee has met in camera, it comes out of camera and then does the adoption in public. That is the practice that this place used to do and is a practice I could not persuade the Senate Rules Committee to put it into force. No committee has any absolute right to secrecy. I repudiate that totally.

I want to get at something that the Honourable Senator Harb touched on a little bit. I want to say to honourable senators that the record is very unclear about what was actually presented on November 16, 2011. The *Debates of the Senate* show that Senator Smith says, "I have the honour to present the first report, which proposes a revised version." This statement in no way indicates — as did Senator Molson many years ago — that there were additional documents. Interestingly enough, honourable senators, if we were to look at Senator Brenda Robertson's presentation, we would see her very clearly asking the Senate to append the documents presented and to append the report to both the *Debates* and the *Journals* to form part of the permanent records of the house. That does not happen in this case. The *Debates of the Senate* say, "For the text of the report, see *Journals of the Day*."

Honourable senators, I want to pose a very important question to you. Journals are what we call the Reports of the Senate. These fine people over here are called reporters. They are third-party reporters. They merely report that which is said, done, and spoken here.

If Senator Smith or anyone else here do not ask that the documents be appended to the Journals, how did they spring on into Journals? Their mere presence in Journals does not put them before us for debate. Someone should take a look at this record.

The other question is that — and I want to deal with this as gently as I can — Senator Carignan has said that one must raise a point of order at the earliest opportunity. That is not true at all. This is not a question of privilege. A point of order is raised when the person comes to terms with it and does enough research to support it. In addition, Senator Carignan certainly cannot, in all earnestness, believe that because someone did not do something that it somehow validates a most invalid action. I do not accept that at all.

Further, I add to that my understanding that committee reports may be ruled out of order even though they have been received by the House. I cite Beauchesne, sixth edition, citation 893, at page 244:

A committee report may be ruled out of order even though it has been received by the House, and a motion to concur therein cannot then be entertained.

We should not mix up rule 43 — earliest opportunity — and a point of order. I have a copy of it here in front of me. I might as well put it on the record here.

Senator Fraser is a great proponent of in camera meetings. My instinct is always for the public record. In a rare record of a Rules Committee proceeding, on March 10, 2009, at page 2:9, Senator Fraser says in debate:

For those reasons — not for what is in front of us today — I would suggest an in camera practice in general.

There is something very wrong when any colleague rises and says to me that in camera should be the natural state of Senate committee deliberations on rule changes.

Honourable senators, I wish to answer more fully some of the objections that were raised because when Senator Carignan spoke he said that the Senate does not abide by the House of Commons rules. Yet, one of these rule changes says that now the precedence and practices of the House of Commons shall be followed in unprovided for cases. That is one of the proposed new rules that the honourable senator is eager to vote on. But he just said that the Senate should not follow the House of Commons. Make up your mind. The honourable senator should perhaps look at the proposed rules more closely.

I would like to thank honourable senators for speaking today, and I add that I am merely trying to uphold a principle, the long-held principle that rule changes should be moved for adoption here in the Senate after there has been clearly demonstrated need, demand and agreement for such changes.

Honourable senators, as I said before, this motion is defective. Nothing has been said to make me think differently, and no authorities have really been cited. I wish to say again that the Rules Committee report does not conform with its own customs, its own well-established practice, and its own form of proceeding on its reports that recommend changes to our Senate rules.

Senator Carignan, or someone, should explain why 68 of the 75 Rules Committee reports — 43 years — followed the system that Rules Committee Chairman Brenda Robertson also followed, and why this committee did not.

Honourable senators, as I said before, this form of proceeding has been followed by this committee in 68 out of the 75 reports that this committee presented to senators.

Honourable senators, I will return to my theme of the star of the show must be on the stage.

The committee's substantive rule changes must be put before us. Honourable senators, some may think and have argued that the proposed changes need not be in the report and that their presentation in the appendix is just fine. I would say that such an assertion diminishes the decision-making authority of the Senate because to say this is to say that the Senate and senators need not legally and constitutionally know what they are voting on and adopting. I disagree with them.

Consider, colleagues, the mischief — the horrors — that will be visited upon this country if our law of Parliament and our rules permitted this.

• (1710)

Let us understand what is being said here. Is it possible that one empty bill can be presented here containing only the words that bills 1, 2, 3 and 4 be adopted as outlined in bill 1, 2, 3 and 4 still in the House of Commons? We had better be careful with what is being advocated here. Our practice in this place is that the proposal which is moved by motion to be adopted here has to be legally seen and known by us.

Honourable senators, the crucial matter is that, however styled, every proposal before the house must be put before the house by motion for consideration. The appendix, by its nature, is not a part of the report. If we wanted to make it a formal proceeding, it would have to be moved by its own motion.

Honourable senators, I have already said that where other documents and papers contained a schedule or a list, in the past that schedule or list has been put by motion directly to the senators.

Honourable senators, in the case that I was speaking about, when Senator Molson put his schedule before the house, we must understand that those separate papers were then referred to Committee of the Whole. In the Committee of the Whole we will discover, if we look to the record, that the proposed changes were debated, amended and voted in seriatim, one by one.

Honourable senators, these rule changes before us are what I can only describe as a single-motion approach. By one simple little motion, this jumbo package, this combo approach, this massive document, this omnibus report — that is a good word — wants to be adopted.

Honourable senators, we have to work harder and better than that. No committee can get everything in one shot, one try.

These proposed rule changes are simply too numerous, too comprehensive and too complex for consideration in one proceeding, in one shot. This one-shot approach, this procedural excess, this procedural greed, these are deadly sins which tend to corrupt proceedings.

Honourable senators, I come now to the very important question that our rule changes are, de facto, always changes to our powers and privileges in the Senate.

Until 1968, the Senate had a rule which expressly ordered that whenever rule changes were to be put before the house, every senator had to be summoned. I will read this. Until 1968, Senate rule 29 expressly ordered that:

No motion for making a standing rule or order can be adopted, unless two days' notice in writing has been given thereof, and the senators in attendance on the session have been summoned to consider the same.

This is what Senator Molson and his committee were dealing with when they moved to the regime of rule 86(1)(d)(i). This special summons was repealed in 1968, on the same ground that the Senate adopted rule 86(1)(d)(i), the authority for this report before us. This new rule intended that the Rules Committee follow established practice, like the Committee of the Whole, to consider its proposed rule changes. Our *Companion to the Rules of the Senate of Canada*, 1994, states expressly at page 307 — this is for Senator Fraser and Senator Carignan, too:

When a report of the Committee of [Privileges,] Standing Rules and Orders recommends substantial changes in the Rules of the Senate, such report is usually referred to a Committee of the Whole for consideration.

Let us understand, the 1968 changes had the notion that we should keep the rules under constant study. They should not be a mystery. It was intended, in the heads of the senators who proposed these rule changes under this rule, that this rule would be used in conjunction with Committee of the Whole. Now most senators do not even know that rules are privileges.

Honourable senators, we have a right and a duty to know and examine every single word of the proposals a motion asks us to adopt. By placing the text in an appendix, the committee has placed this beyond our reach.

Honourable senators, when Senator Molson put his schedule before the house, he also told the Senate that the schedule included the proposed rule changes, paragraph by paragraph, side

by side the existing rules. The schedule was composed of two sets of rules: the current rules, the existing rules, and the proposed rule changes. Nothing like that has happened here in this instance.

Senator Molson informed honourable senators that:

... the rules now recommended to the Senate are set forth in a schedule to the report showing clearly which should be repealed, the amendments proposed for others, and the new rules considered to be desirable.

Nothing like that has happened here.

I come finally to the importance of knowing. Honourable senators, when we come to this place, we stand here in the presence of all senators in a very solemn moment. We put our hands on a Bible and we take our oath. I have problems with such oaths being slighted.

Honourable senators, the ancient parliamentary concept of “reading” is a necessary and routine feature of all consideration and debate. The senators and the Senate read and consider every committee report, just as we read every bill. A senator may move that a committee report be read again a second time or that it may be referred back to committee or be hoisted for six months or that its consideration be postponed to another day.

Daily we read the orders of the day one after the other as the clerks call them. Rule 59(5) allows a senator to move a motion without notice to proceed to the reading of the Orders of the Day, that is, to their consideration and debate. Right now we are reading the Orders of the Day, Order No. 4 under Reports of Committees. Reading is a cognitive process of knowing cognition. Cognition is those mental processes including perception, reasoning and judgment. It is the hearing of, the setting our eyes on, and the actual reading of every word in the proposals put before us by motion. It is our oath, colleagues, that sacred and solemn invocation of our deity, divinity, to witness the truth of our actions and words. We debate and vote under sworn oath. By “readings,” by our cognition of the words proposed, we verify that those words we hear and read are the very same words that we vote. Under oath we verify and swear that those words and our votes on them are true.

To this end, the Clerk of the Senate, also under oath, certifies a copy of every motion, bill and report immediately after adoption. Our business is transforming words into law, but only those particular words circumscribed by and limited to the forms of proceedings in bills and reports put before us by motions. We transform those words and only once, and this — very important to me — we transform only those words, not other words elsewhere in other documents or other proceedings, but those words limited and circumscribed by those pages we style bills and committee reports.

In this we are sworn before God to exercise diligence, like judges in judicial proceedings, which our proceedings are. Our vote on this report will transform the designated words of the report into our rules, the law of Parliament, the law by which we make law. We are sworn to be true.

Honourable senators, the question before us is the motion to adopt the report, but the actual proposed rule changes are not within the pages of the report. They are outside of and beyond it, in an alien document. We cannot read them.

I ask senators in closing, can we read what we cannot see? Can we vote on what we have not read? Can we swear that the words we cannot see and read are the very words on which we vote? Can the Clerk of the Senate over at the table certify that we did that which we did not?

The strength of our parliamentary system is that every procedure stands on moral ground — moral ground, colleagues — to preserve truth, to facilitate free speech and debate and, at the end of the day, all for the common good.

Senator Fraser and others could explain to me the common good in secrecy and in all these processes.

• (1720)

The Hon. the Speaker: Honourable senators, pursuant to the *Rules of the Senate*, the Speaker, at a certain point, is able to advise the house that he or she has heard the argument and has grasped the nuances.

I was going to suggest that, having been a member of Senator Robertson's committee, I should recuse myself, but then the arguments would all have to be made over again to another Speaker. However, I did not sit on Senator Molson's committee, so maybe it balances out.

I would like to say that there is an old principle of *Nihil est in intellectu quod non prius fuerit in sensu*. That is the principle that says, "Nothing is in the intellect that was not first in the senses." That principle has been well articulated in the argumentations this afternoon.

However, more importantly, honourable senators, as many of you know, in the Speaker's quarters, there is a passage from Seneca that says, "Nothing that rushes headlong and is hurried is well ordered," *Nihil ordinatum est quod praecipitatur et properat*. It is based on that principle that I will take this matter under advisement. Thank you.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to welcome the young Canadians in our gallery who are fortunate to be witnessing this excellent debate in the Senate of Canada this afternoon. The students are from Father Michael Troy Junior High School in Edmonton.

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

Hon. Senators: Hear, hear.

[*Translation*]

EDUCATION IN MINORITY LANGUAGES

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Losier-Cool, calling the attention of the Senate to the evolution of education in the language of the minority.

Hon. Gerald J. Comeau: Honourable senators, I note that this is the 14th day for this inquiry. I still have not had a chance to finish my research on this subject, but I do intend to talk about it. With leave of the Senate, I would like to adjourn the debate in my name for the rest of my time.

(On motion of Senator Comeau, debate adjourned.)

[*English*]

TRANSPORT AND COMMUNICATIONS

COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY OF EMERGING ISSUES RELATED TO CANADIAN AIRLINE INDUSTRY

Hon. Dennis Dawson, pursuant to notice of March 14, 2012, moved:

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.

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

Hon. Senators: Agreed.

(Motion agreed to.)

(The Senate adjourned until Wednesday, March 28, 2012, at 1:30 p.m.)

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