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Tuesday, May 29, 2012

The Honourable NOËL A. KINSELLA  
Speaker

## CONTENTS

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

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## THE SENATE

Tuesday, May 29, 2012

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

Prayers.

### VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, before calling for Senators' Statements, I wish to draw your attention to the presence in the gallery of a Parliamentary Delegation of Officers of the Rajya Sabha from the Republic of India, another commonwealth parliament.

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

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

**The Hon. the Speaker:** Honourable senators, also present in the gallery are a distinguished delegation from Kyrgyzstan led by Her Excellency Roza Otunbayeva, Former President of Kyrgyzstan; Mr. Muktar Djumaliyev, Ambassador of Kyrgyzstan to Canada and the United States of America; Ms. Nurjehan Mawani, Diplomatic Representative of His Highness the Aga Khan in Kyrgyzstan; Ms. Mira Karybaeva, Director, Department for Inter-Ethnic Relations, Religious Policy and Relations with Civil Society; Ms. Elvira Saryeva, Chairperson of the Public TV and Radio Corporation; and Mr. Janybek Iraliev, First Secretary of the Kyrgyz Embassy. They are the guests of the Honourable Senator Di Nino.

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

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

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## SENATORS' STATEMENTS

### MS. ROZA OTUNBAYEVA

FORMER PRESIDENT OF KYRGYZSTAN

**Hon. Consiglio Di Nino:** Honourable senators, occasionally during one's life one comes across an extraordinary person who helps to change the course of history. I met Roza Otunbayeva several years ago during an OSCE Parliamentary Association conference and, over the years, have come to know her and her views. She was a member of the Kyrgyzstan parliamentary delegation, the only delegation of the OSCE from Central Asia that had more than one party represented.

She is a distinguished academic, including head of the Philosophy Department at the Kyrgyz State National University. As a diplomat, she held several ambassadorial postings, including to

the U.S.A. and Canada, and served as Foreign Minister and Deputy Prime Minister of the first independent Kyrgyzstan government.

As a key leader of the Tulip Revolution, she helped to overthrow President Akayev, as well as played a leadership role in the 2006 protests that led to a new democratic constitution. She also headed the parliamentary opposition group, the Social Democratic Party of Kyrgyzstan.

Following the popular revolution of 2010 and the overthrow of President Bakiyev, she was selected to head the Kyrgyz interim government and subsequently became its President, becoming the first female head of state in Central Asia.

U.S. First Lady Michelle Obama presented this inspirational woman with the U.S. State Department's 2011 International Woman of Courage Award, and U.S. Secretary of State Hillary Clinton described her as "a woman who I think can stand as an example to many leaders around the world about what democracy and power should be used for, to help the people that you are supposed to serve."

Let me close with some of Ms. Otunbayeva's own words spoken at the award ceremonies:

The Almighty provided us with such a powerful sense of dignity that we cannot tolerate the denial of our unalienable rights and freedoms . . . It is the magic of people, young and old, men and women of different religions and political beliefs, who come together in city squares and announce that enough is enough.

She continued:

The new country we are building is inclusive and grounded in the rule of law. We choose to celebrate our differences and to resolve them not in the streets but in Parliament via democratic channels. Through all of this, the Kyrgyz people have persevered. . . . The path to democracy is not easy but it is the only way forward.

• (1410)

Last night, Ms. Otunbayeva was introduced by His Highness the Aga Khan as the inaugural speaker at the Annual Pluralism Lecture of the Global Centre for Pluralism in Ottawa.

Honourable senators, please join me in saluting Roza Otunbayeva, a true inspiration for us all.

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

**Hon. Mobina S.B. Jaffer:** Honourable senators, I also rise to pay tribute to Her Excellency Roza Otunbayeva, the former President of the Kyrgyz Republic.

Yesterday evening during an event of the Global Centre for Pluralism held at the Delegation of Ismaili Imamat, I had the privilege of hearing President Otunbayeva deliver an inaugural lecture on the prospects and challenges of pluralism in the Kyrgyz Republic and Central Asia. The launch of the annual lecture by the Global Centre for Pluralism was attended by a number of distinguished guests, most notably the Chairman of the Board of Directors for the Global Centre for Pluralism, His Highness Prince Karim Aga Khan, and board members Princess Zahra Aga Khan, the Right Honourable Adrienne Clarkson and Mr. Khalil Shariff. Also in attendance were the Right Honourable Beverley McLachlin, Chief Justice of Canada; Minister Baird; Minister Oda; Minister Kenney; our esteemed colleague, Senator Di Nino; Mr. John McNee, Secretary General of the Global Centre for Pluralism; and Mrs. Nurjehan Mawani, the Aga Khan's diplomatic representative to the Kyrgyz Republic.

Honourable senators, while listening to President Otunbayeva's address, I was fortunate enough to witness how the hard work, vision and dedication of one person could help to change the course of an entire nation, leading them through hardship and diversity.

Throughout her life, both as a politician and as a passionate advocate of democracy, President Otunbayeva has rendered a great service to the people of Kyrgyzstan and has led them through a number of difficult and challenging times. In 2005, she was one of the key figures in the Tulip Revolution, paving the way for stability and democracy.

In 2010, she was the first female president in Central Asia. Under her leadership, the people of Kyrgyzstan voted on a new constitution, establishing Central Asia's first parliamentary democracy. Most significantly, she dedicated herself to the first peaceful and constitutional transfer of power between presidents in Central Asia — a remarkable achievement with tremendous implications for governance inside and outside the Kyrgyz Republic. I am also pleased to inform honourable senators that President Otunbayeva served as Kyrgyzstan's first ambassador to Canada.

Yesterday evening, I listened with great admiration as she spoke of the challenges faced by the people of Kyrgyzstan and how she hoped to learn from Canada about how to create a society that embraces difference and thrives on diversity. I was truly humbled and pleased to hear her speak of Canada with such high regard, especially when discussing bilingualism and diversity.

Honourable senators, while introducing President Otunbayeva, His Highness the Aga Khan described her as a remarkable leader and woman of courage, conviction, integrity and foresight. The Aga Khan commended her for her remarkable achievements in cultivating shared citizenship for the diverse population of Kyrgyzstan.

I applaud President Otunbayeva for having successfully guided the people of Kyrgyzstan in their quest for democracy, while always safeguarding human rights. We admire her courage and foresight and look forward to working with her.

## INDIA

### PARLIAMENTARY DELEGATION OF OFFICERS OF THE RAJYA SABHA

**Hon. David Tkachuk:** Honourable senators, this week the Senate of Canada is honoured to receive as its guests a delegation from the upper house of India, the Rajya Sabha, at the invitation of the Clerk of the Senate. This delegation is led by the Secretary-General of the Rajya Sabha, Dr. Vivek Kumar Agnihotri, who was appointed by the Chairman of the Rajya Sabha. The position of secretary-general is equivalent to the highest civil servant in the union.

The Council of States, or Rajya Sabha, of India is the upper house of their federal Parliament. Membership to the Council of States is limited to 250 — 238 of whom are chosen by election of the state and territorial legislatures. The remaining 12 members are chosen by the President of India for their expertise in art, literature, science and social services. A term in the Rajya Sabha is six years, with one third of the membership retiring every two years.

The Rajya Sabha, unlike the lower house, the Lok Sabha, sits in continuous sessions and is not subject to dissolution. Much like our own system, committees play a key role in the Indian parliamentary system and act as an important link between Parliament and the public. There are many similarities between the Senate of Canada and the Rajya Sabha but also many differences, which we can learn from, and, because of this, we believe that the visit of the Secretary-General will be mutually beneficial.

In the course of their meetings with various Senate officials and senators, a number of administrative areas will be discussed, including communication, translation and ethics. We wish Dr. Agnihotri and his officials the greatest success in the services they provide to the Council of States. If there is anything that the Senate of Canada can do to assist them, our officials will be pleased to do so.

### INTERNATIONAL DAY OF UNITED NATIONS PEACEKEEPERS

**Hon. Roméo Antonius Dallaire:** Honourable senators, today I rise because it is May 29, the day we commemorate the International Day of United Nations Peacekeepers. Although Canada has a national day on August 9 that commemorates the loss of a crew of 12 Canadians, including a brigadier-general, in the Middle East in the 1960s, May 29 is the day for international recognition of all peacekeepers. An estimated 3,000 have been killed in different operations around the world and several tens of thousands have been injured in a variety of ways.

During the Cold War, peacekeeping was very much a rich country's business because the UN had no capacity. Countries with capacity were the only ones who could send forces into classic chapter 6 peacekeeping. In those days, about 13 countries, mostly developed ones, were the main participants. Today, there are over 82,000 peacekeepers around the world. Interestingly enough, as our guests from India will know, India has over 8,000 personnel deployed in peacekeeping. Currently, 117 countries are involved in

peacekeeping. Where Canada once had a leadership role not only in the field but also at the different headquarters in bringing in the concepts, operations and command, giving significant command exposure and opportunities to the Canadian Forces personnel, today we have only 17 people wearing the Blue Beret.

I recently spent three and half weeks in the Congo, South Sudan, Central Africa, Uganda and Rwanda. There are two missions in the Congo, three missions in Sudan and one mission in Eritria. Interestingly, Rwanda has deployed close to 4,500 troops in peacekeeping. On that trip, a young Canadian Major, who was the second-in-command of all the liaison offices in the Congo mission, which comprises nearly 26,000 troops, was promoted to Lieutenant-Colonel and given full responsibility for the liaison with Congolese forces because of the ineffectiveness of his superior, who was fired.

It is true, as the Chief of the Defence Staff says, that it is not the number but the value added in specific places that can be of great service. However, there is a requirement for numbers on the ground. As we have seen in Syria, the necessity of having eyes and ears on the ground is critical to the international community accomplishing its mission of responsibility to protect the advancement of human rights.

Honourable senators, there are missions screaming for Canadian capability. We have walked away from this role. It is high time we return to it and recognize the sacrifices of those of the past.

#### NATIONAL MARINE MANUFACTURERS ASSOCIATION

**Hon. Gerald J. Comeau:** I take this opportunity to remind honourable senators that the members of the National Marine Manufacturers Association, referred to as NMMA Canada, are in Ottawa today meeting with parliamentarians. NMMA Canada is the nation's leading trade association representing both marine engine and accessory manufacturers. Collectively, association members manufacture an estimated 80 per cent of marine products used in North America. The National Marine Manufacturers Association acts as a unifying force and a powerful voice for the recreational boating industry, working to strengthen and grow boating in many regions across Canada.

• (1420)

The recreational boating industry's economic impact is nearly \$15 billion, generated through creating local jobs and enabling small businesses in regions across our nation. I ask all parliamentarians to join me in recognizing the association's important contribution to economic growth and tourism in Canada and would also like to remind honourable senators of the reception being held at 5:30 today, in room 256-S Centre Block, to which you are invited.

#### LITTLE WARRIORS

##### AWARENESS, PREVENTION AND TREATMENT OF CHILD SEXUAL ABUSE

**Hon. Claudette Tardif (Deputy Leader of the Opposition):** Honourable senators, on Monday, May 28, I had the great pleasure and honour of attending the first annual Be Brave Luncheon, supporting Little Warriors, in Edmonton.

Little Warriors is a national organization dedicated to the awareness, prevention and treatment of child sexual abuse. Its aim is to help to change the world for the lives of children and youth who have been damaged by the violent acts of sexual abuse. I am very proud to sit on the organization's board of directors and to contribute to its long-standing commitment to ending child sexual abuse. The first Be Brave Luncheon was a fundraiser for the Little Warrior's \$3.4-million project aimed at building the Be Brave Ranch, Canada's would-be first treatment centre specifically designed to help child sexual abuse survivors.

During the luncheon, former NHL player Theo Fleury described his personal story of sexual abuse in a presentation called "Don't Quit Before the Miracle." He reminded us that courage is contagious, that even though there are many wonderful, innovative ideas for change in the world, the only way they can effectively make a difference is if somebody stands out, speaks out and finds the bravery it takes to do something no one has done before.

It is these brave souls that make a real difference and motivate others to do the same.

[Translation]

Honourable senators, education and information go hand in hand with child sexual abuse prevention. One in three girls experiences an unwanted sexual act at an average age of 12. One in six boys experiences an unwanted sexual act at the average age of four. A disquieting 95 per cent of child sexual abuse victims know their perpetrator. The vast majority of victims of this type of abuse suffer consequences ranging from drug and alcohol abuse to serious psychological disorders. These facts tell an alarming story.

However, child sexual exploitation remains taboo, difficult to talk about and painful to discuss. I want to commend the Little Warriors for their continued dedication to prevention and raising awareness of this serious issue, and those who attended the benefit lunch for taking a stand against this type of abuse.

[English]

Honourable senators, Theo Fleury offered us a message of hope, hope to one day be able to confront the past, hope to be able to help other victims, hope to move forward and hope to prevent other children from suffering.

Please join me in honouring his story and in thanking Little Warriors and Glori Meldrum, the organization's founder and chair, for working tirelessly to provide a safety net for our children, a place and people for them to turn to when they need help, and the tools and resources needed for them to heal.

#### REPUBLIC OF AZERBAIJAN

**Hon. Salma Ataullahjan:** Honourable senators, I rise today to commemorate the ninety-fourth Independence Day of Azerbaijan. On May 28, 1918, Azerbaijan was proclaimed a republic. It was the first successful attempt to establish a democratic state in the Muslim world.

I would like to emphasize that Azerbaijan was the first Muslim country to grant women equal political rights to men. Women were granted the right to vote in the same year as independence,

[ Senator Dallaire ]

1918, one year later than in Canada and two years earlier than in the United States.

Even before this historic occurrence, Azerbaijan had promoted the status of women. In 1901, the first secular girls' school was opened, the first of its kind in the Russian empire. In 1908, Sona Valikhan became the first certified Azeri female physician. Since gaining the right to vote, the women of Azerbaijan have participated in all facets of life, including politics. The first female cabinet minister was appointed in 1934, and the first female head of Parliament in 1964. More recently, in 2009, a woman was appointed Major-General, the third highest military rank in the nation.

Although the life of the republic was cut short by the occupation of the Bolsheviks in 1920, the founders laid the groundwork for building a modern and secular statehood. Azerbaijan restored its independence in 1991 after the collapse of the Soviet Union.

I would like honourable senators to join me in wishing Azerbaijan a happy Independence Day. I hope the country will continue to prosper in the development of its democracy, especially in regard to women's rights, equality and representation.

[Translation]

### SHAWINIGAN CATARACTES

#### CONGRATULATIONS TO 2012 MEMORIAL CUP WINNERS

**Hon. Michel Rivard:** Honourable senators, a small city in central Quebec made sports history this past Sunday. After 43 years of waiting and despite always having a competitive team, this city has never had the honour or pleasure of winning this highly coveted trophy.

Let us not forget that Shawinigan has the oldest franchise in the Quebec Major Junior Hockey League. This past Sunday, a team of motivated young players won the Memorial Cup, the trophy given to the best major junior hockey team in the country.

Shawinigan had the honour of hosting this prestigious event this year and as the host city, it had to organize a week of festivities for its local fans and countless visitors and scouts: mission accomplished!

Sports experts did not expect the Cataractes to win this coveted title. Yet, with the support of fans and extraordinary performances by every player, they were successful. Often success is a result of many elements coming together. That is why I would like to congratulate the players; the head coach, Éric Veilleux, and his assistant coaches; the general manager, Martin Mondou, and his assistant manager; and the board of directors, which is led by the passionate Réal Breton from Quebec City, president and one of 18 shareholders from the business community.

To all the players, coaches, administrators, fans, municipal authorities and the organizing committee, congratulations and thank you for the excitement of the past week after 43 years of waiting. We look forward to another win in the near future.

### THE LATE MR. GEORGES-HENRI GAGNÉ

**Hon. Ghislain Maltais:** Honourable senators, I am very sad to rise today to mark the passing of a great man from the North Shore, Georges-Henri Gagné, who was mayor of his community for 25 years, reeve of the Manicouagan RCM for over 20 years and chair of the Conférence des élus de la Côte-Nord.

As a member of Parliament for the North Shore, I had the privilege of working with Mr. Gagné for about 12 years. I think it is important to remember those who serve in public office and who inspire our younger generations.

Mr. Gagné was a good father. He raised three children and made sure that they received a good education. Leaving the North Shore often means living in Quebec City or elsewhere. Mr. Gagné was a family man and a public figure. I think that, over all those years, he set himself apart by putting aside any possible or conceivable partisanship.

His only goal was to loyally serve his fellow citizens. He did so with a proverbial smile. He was a man who loved the outdoors, hunting and fishing. He knew how to recognize what is most precious in the North Shore: peace and the strength to work for the people of the community.

Mr. Gagné set a good example for the young people of the next generation, who will be able to follow in his footsteps in the coming years and to make remarkable progress in developing the North Shore, as he did.

• (1430)

[English]

### VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, before calling for the tabling of documents, I wish to draw your attention to the presence in the gallery of His Excellency Milorad Živković, who is the Speaker of the House of Representatives of Bosnia and Herzegovina. He is accompanied by the Distinguished Ambassador of Bosnia and Herzegovina, Her Excellency Biljana Gutić-Bjelica.

We are doubly privileged because the Deputy Speaker of the House of Representatives of Bosnia and Herzegovina, Mr. Denis Bećirović, is with the delegation, together with Mr. Martin Raguž, member of the House of Peoples, and Mr. Drago Kalabić, member of the House of Representatives and Chairman of the Parliamentary Friendship Group Canada-Bosnia and Herzegovina.

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

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

[Translation]

## ROUTINE PROCEEDINGS

### PRIVY COUNCIL

#### SPECIAL ECONOMIC MEASURES (SYRIA) REGULATIONS 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, officially announced on May 17, 2012.

[English]

#### STUDY ON POLITICAL AND ECONOMIC DEVELOPMENTS IN BRAZIL

##### FIFTH REPORT OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE COMMITTEE TABLED

**Hon. A. Raynell Andreychuk:** Honourable senators, I have the honour to table, in both official languages, the fifth report of the Standing Senate Committee on Foreign Affairs and International Trade, entitled *Intensifying Strategic Partnerships with the New Brazil*.

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

[Translation]

### JOBS, GROWTH AND LONG-TERM PROSPERITY BILL

#### NOTICE OF MOTION TO AUTHORIZE SELECT COMMITTEES TO REFER PAPERS AND EVIDENCE ON STUDY OF SUBJECT MATTER OF BILL C-38 TO NATIONAL FINANCE COMMITTEE

**Hon. Claude Carignan (Deputy Leader of the Government):** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the papers and evidence that have been or will be received and taken, and work that has been or will be accomplished, by the committees to which were referred on May 3, 2012, the subject-matter of certain elements of Bill C-38, An Act to implement certain provisions of the budget tabled in Parliament on March 29, 2012 and other measures, except documents and other material relating

to in camera meetings of these committees, be referred to the Standing Senate Committee on National Finance for the purposes of its concurrent study on the subject matter of all of the said Bill.

[English]

### FOREIGN AFFAIRS AND INTERNATIONAL TRADE

#### NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY OF CANADIAN FOREIGN POLICY REGARDING IRAN

**Hon. A. Raynell Andreychuk:** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That notwithstanding the Order of the Senate adopted on Thursday, February 2, 2012, the date of presentation of the final report of the Standing Senate Committee on Foreign Affairs and International Trade on the Canadian foreign policy regarding Iran, its implications, and other related matters be extended from June 30, 2012 to October 31, 2012.

### ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

#### COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

**Hon. W. David Angus:** Honourable senators, I move, with leave of the Senate and notwithstanding rule 58(1)(a):

That the Standing Senate Committee on Energy, the Environment and Natural Resources have the power to sit at 5 p.m. on Tuesday, May 29, 2012, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

**The Hon. the Speaker:** For clarity, the honourable senator, of course, should have given notice. If the house is agreeable, can we take that as notice? Then he has to ask for permission of the house if we are to consider it. Could I hear from the Honourable Deputy Leader of the Opposition?

**Hon. Claudette Tardif (Deputy Leader of the Opposition):** I believe it would be important to understand the reason for the request. Could Senator Angus share with honourable senators the reason for this particular request?

**Senator Angus:** Honourable senators, this motion is out of an abundance of caution in case we are not through at 5 p.m. today. We have three ministers coming on the pre-study of Bill C-38: Minister Ashfield of Fisheries and Oceans, Minister Kent of the Environment and Minister Oliver of NRCan. They have a vote in the other place. Our schedule is tight as it is, so if we are to receive their testimony, I thought it would be wise to ask unanimous consent at this time.

**The Hon. the Speaker:** I will put the motion. It was moved by the Honourable Senator Angus, seconded by the Honourable Senator Tkachuk, that the Standing Senate Committee on



Energy, the Environment and Natural Resources be allowed to sit this afternoon even though the Senate may then be still sitting. Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

(Motion agreed to.)

NOTICE OF MOTION TO AUTHORIZE COMMITTEE  
TO EXTEND DATE OF FINAL REPORT ON STUDY  
OF CURRENT STATE AND FUTURE OF ENERGY  
SECTOR AND TO DEPOSIT REPORT WITH  
THE CLERK DURING ADJOURNMENT OF THE SENATE

**Hon. W. David Angus:** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That notwithstanding the Order of the Senate adopted on Thursday, June 16, 2011, the date for the tabling of the final report by the Standing Senate Committee on Energy, the Environment and Natural Resources on the current state and future of Canada's energy sector (including alternative energy), be extended from June 29, 2012 to September 28, 2012; and

That, notwithstanding usual practices, the committee be permitted to deposit with the Clerk of the Senate the above mentioned report if the Senate is not then sitting and that the report be deemed to have been tabled in the Chamber.

## QUESTION PERIOD

### ATLANTIC CANADA OPPORTUNITIES AGENCY

#### RURAL COMMUNITIES

**Hon. Terry M. Mercer:** Honourable senators, the attack on rural Canada and Atlantic Canada continues by this government. Recently, 50 economic development agencies in Atlantic Canada were notified that the federal portion of their operational funding will be cut by the Atlantic Canada Opportunities Agency.

Although this cut may eliminate some duplication and overlap of funding between organizations, it leaves the rural community in the dark. Over this next year, those rural organizations will be spending a fair amount of their time trying to figure out how to make up the loss of federal dollars by letting their employees go.

• (1440)

For a government that claims to be creating jobs, why is it taking away the funding that will help save employees in rural Canada from being fired? Why is it leaving rural Atlantic Canada in the dust with little help to sustain itself?

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, nothing could be further from the truth. The government engages in many activities in the interests of all parts of the country. With regard to regional economic

development organizations, our government is taking action to directly support the growth of small- and medium-sized enterprises and the communities in which they are located across Atlantic Canada. The decision is about reducing duplication and focusing our efforts on providing small- and medium-sized enterprises and communities right across the region with the tools and resources they need.

Over the coming years, honourable senators, we will continue to engage with the provincial governments, municipalities and our other economic partners to explore more effective ways to work together for the benefit of all Canadians, most particularly those in rural areas across the country and in rural areas of Atlantic Canada.

**Senator Mercer:** I do not know who writes that stuff for the leader, but it has very little to do with the question. The question is, why does this government continue to attack rural Canada and, in particular, Atlantic Canada and Eastern Quebec?

I will help the leader find some of the money to put back into these programs. I think she has heard these names before. John Lynn was hired to head Enterprise Cape Breton Corporation under ACOA Minister Peter MacKay. Kevin MacAdam, a former staffer of Minister MacKay, was hired as director general of ACOA regional operations on Prince Edward Island, with a salary of \$133,000.

Patrick Dorsey was senior adviser to Premier Binns before he was named ACOA's vice-president for P.E.I. in 2007, when Minister MacKay was the ACOA minister. Cecil Clarke, a defeated Conservative candidate in Cape Breton, became a consultant to the Cape Breton County Economic Development Authority, making over \$135,000 a year.

All of these people I have named, honourable senators, somehow have a connection with Minister MacKay. Those salaries added up come to almost half a million dollars. That is a significant amount of money that could be better served in the protection and creation of jobs in Atlantic Canada. That money could create more local jobs than it does right now to support the very few employees that are making around \$133,000. Instead of removing the funding for economic development agencies, which in turn forces organizations to cut jobs in rural areas, why are these salaries not reduced or, better yet, why are these people not being fired? Why are the desires of political friends being favoured over the needs of the people in Atlantic Canada?

**Senator LeBreton:** When the honourable senator rose and suggested that he would provide a source of funds for all of this, my heart started to flutter because I thought I was about to be handed a brown envelope with \$40 million to \$50 million in it. I will try to get over the shock of it.

The honourable senator asked similar questions last week. As I pointed out, we agree with the head of the Public Service Commission that all hiring has to follow proper processes and be properly accounted for.

**Senator Mercer:** Those of us in Atlantic Canada are getting a little fed up with this government's attitude toward rural Canada.

**Senator Day:** A little?

**Senator Mercer:** I was trying to be kind.

I might recommend some reading for the minister and her colleagues around the cabinet table. I have a great document here called *Beyond Freefall: Halting Rural Poverty*. It is the final report of the Standing Senate Committee on Agriculture and Forestry, ably chaired by Senator Fairbairn, tabled in the Senate in June 2008. The deputy chair was Senator Gustafson from Saskatchewan.

In this report there are some terrific ideas about how to help rural Canada. It also outlines many of the problems in rural Canada, but we see none of that coming from this government. The report calls for a federal department of rural affairs. If we had that department today and the government had followed the recommendations of a committee of this chamber, it would not be in the trouble that it is in. Senator Comeau could have walked down the streets of Meteghan with his head held high because the government would have been doing good work.

The report also called for a national anti-poverty strategy sensitive to rural and urban differences. Instead, this government attacks rural Canadians, attacks Atlantic Canadians and cuts programs. When will the government stop cutting programs that service Atlantic Canadians?

**Senator LeBreton:** First, we are not cutting programs that affect any part of the country, most particularly rural Canadians. Having been raised in rural Canada myself and looking around at people in the agricultural industry, whether they are in Atlantic Canada, Quebec, Ontario or the West, the record is pretty clear that the agricultural industry is doing very well, not only in this country but also in terms of the many trade doors we have opened for their products around the world, including, in the West, giving them marketing choice for their products.

The honourable senator is quite incorrect in saying that the government has turned its back on Atlantic Canada or on rural Canada, because there are absolutely no facts to bear this out. The opposite is the case.

[Translation]

#### ABORIGINAL AFFAIRS AND NORTHERN DEVELOPMENT CANADA

##### FUNDING FOR THE NATIONAL CENTRE FOR FIRST NATIONS GOVERNANCE AND HEALTH SERVICES OF THE NATIVE WOMEN'S ASSOCIATION OF CANADA

**Hon. Céline Hervieux-Payette:** Honourable senators, my question is for the Leader of the Government in the Senate. After more than two decades of negotiations between representatives of the Canadian government and Aboriginal peoples, the United Nations Declaration on the Rights of Indigenous Peoples was adopted by a majority of the 143 states.

The declaration is part of a universal framework to ensure that states set minimum standards for the well-being of Aboriginal peoples and respect their individual and collective rights. Although the Conservative government initially voted against the declaration, it did sign in 2010 under pressure from the international community.

Recently, we learned that the Harper government intends to eliminate funding for the National Centre for First Nations Governance and the Native Women's Association of Canada's health services. These two organizations are critical to the delivery of health services, assistance, education and the management of community funds.

In light of the recommendation of the United Nations expert who condemned the lack of nutritious foods available to Aboriginal peoples and to ensure that women and children can benefit from better health through nutrition, can the government leader tell us which programs and funds will be made available to Aboriginals and when we will have a policy on funding for the transportation of perishable goods to the far North?

[English]

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, we signed on to the UN declaration and not, as the honourable senator states, under pressure. We signed of our own volition. I actually did respond last week, as did Minister Aglukkaq, to the UN Special Rapporteur. We have engaged in many programs, not only in education but also with regard to food, such as the Nutrition North program. There is a long list of initiatives taken by our government specifically with respect to Aboriginal Canadians. I will be happy to provide that long list to the honourable senator by written response.

**Senator Hervieux-Payette:** The leader does not tell us exactly how the government will deliver these programs.

• (1450)

Some institutions were there to advise the government on how to do it. Certainly the leader agrees with us that they are more knowledgeable about governance and the administration of programs is very important. These two programs have been cut.

Knowing the cost of food in the North from having been there, there is no one with an average salary there who can feed themselves and their family. Of course, the fact that the native population has the highest levels of diabetes in the population is a good sign that they do not get the proper nutrition.

Could the leader tell me when the government intends to have their food delivered at the same cost as we have here in Ottawa, Toronto and the rest of the country?

**Senator LeBreton:** Honourable senators, we have the Nutrition North program and we are working with people directly affected, meaning people in the North. I dare say we have probably the best expert that any government could ever want in Minister Aglukkaq, a minister from the North. We also have a senator from the North. We rely on people from the North who are very knowledgeable about the specific challenges and obstacles faced.

The government is committed to the program. It is, as we would all understand, a unique and difficult issue because of the distances and the costs. However, the government is committed to the Nutrition North program.

I would suggest to the honourable senator that we have people in place dealing with the issue who actually know what they are talking about because they are from the North and they are working with their partners in the North to resolve this issue.

**Senator Hervieux-Payette:** Honourable senators, with a budget of over 400 pages and knowing there is a fiscal concern in this, my colleague Senator Watt has been working for a number of years to suggest to the government how to handle this question of equity and fairness, recognizing that the people living in the North are playing a vital role to ensure that the North will be developed properly.

My question is the following: Where in these 400 or more pages can I find the measure that will allow these people to live and to have the same kind of food that we have, at the same price?

**Senator Mercer:** It's not there.

**Senator LeBreton:** Honourable senators, the fact of the matter is that this program and the amount of resources that the government expends with regard to this program and others are well known and on the record. I can only assure the honourable senator that we are relying on the assistance and advice of people from the North who fully understand the issue. They live in the North in remote communities, as Minister Aglukkaq does, and understand the difficulties in transporting fresh food, especially at certain times of the year. Obviously, the aim of the government is to ensure that nutritious food is available to northerners at a reasonable price so they can avail themselves of the good quality of food that most Canadians take for granted.

[Translation]

## LABOUR

### CANADA LABOUR CODE

**Hon. Jean-Claude Rivest:** Honourable senators, my question is for the Leader of the Government in the Senate and aims to clarify the government's intentions regarding the Canada Labour Code.

For the past year, any time a strike has been announced, the government has intervened with special legislation. Of course, these have involved public services such as Air Canada, Canada Post, and now Canadian Pacific.

As we all know, under the Canada Labour Code, workers have the right to strike. They can use that right to apply economic and social pressure in order to get the results they are seeking and improve their working conditions.

Can the minister tell us if the government plans to amend the Canada Labour Code and simply do away with workers' right to strike when it comes to public services?

I think that would make things clearer, in contrast to what the government is doing now: intervening with special legislation every time workers exercise their right to strike, which, we must not forget, is guaranteed under the Canada Labour Code.

[English]

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, we have been dealing with three completely different situations. Obviously, the government believes the best solution is for the labour groups and their employers to resolve these issues through negotiation.

In the case of the current work stoppage of Canadian Pacific — and this will come as no surprise to anyone here — the government's top priority is, and has been, and will be, creating jobs, economic growth and long-term prosperity. With regard to CP Rail, the work stoppage is costing the Canadian economy an estimated \$540 million each week. Of course if that were to continue, many thousands of jobs of other Canadians will be put at risk.

To answer the honourable senator's specific question, the government still believes that the best solution to all of these situations is a negotiated settlement between labour and management. There are times — and this is one example — when the economy is put at risk and the government feels it is necessary to act.

With regard to any proposed changes to the Canada Labour Code, I will take that portion of the honourable senator's question as notice.

[Translation]

**Senator Rivest:** Honourable senators, did the Leader of the Government just say that, in the case of public services, the best solution is arbitration, rather than strike action? Is she suggesting that the government plans to amend the Canada Labour Code to eliminate the right to strike and impose arbitration for all public sector workers?

[English]

**Senator LeBreton:** Honourable senators, I did not suggest that. I hope the honourable senator is not suggesting that I suggested that. I will take the honourable senator's question as notice.

[Translation]

## FOREIGN AFFAIRS

### UNDERSTANDING CANADA PROGRAM

**Hon. Claudette Tardif (Deputy Leader of the Opposition):** Honourable senators, my question is for the Leader of the Government in the Senate and has to do with the recent decision by the Department of Foreign Affairs to eliminate the Understanding Canada program.

The program is intended for foreign academics who want to study about or conduct research on Canada. Some components of the program are also available to promote teaching and

publications about Canada in various disciplines. It is important to note that for every dollar invested in Canada, \$14 is invested by researchers and professors from the international Canadian Studies community.

The government keeps saying that it wants to promote commerce, investment and Canadian interests abroad. What better way to promote these priorities than with such a program, one that costs the public purse very little and produces excellent results, according to the government's own verification?

Can the Leader of the Government explain the rationale behind this decision, which seems to go against the government's own priorities?

[English]

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, as I have said in this place many times, various government departments went through an exercise of self-assessment and came to the government with several proposals where certain agencies and activities of the government were no longer deemed to be necessary. Other organizations have filled the spot, or they have outlived their usefulness.

With regard to the specific program, I will take the honourable senator's question as notice.

**Senator Tardif:** Honourable senators, this program costs about \$5 million annually to taxpayers and results in over \$70 million of expenditures in Canada annually. This program has more than paid for itself.

To put the cost of this program into perspective, I note that Germany spends \$5 million annually on academic relations just with Canada. Furthermore, the program is an important source of leverage for acquiring additional money from other sources such as endowment funds and foreign governments. As a result, the actual impact of this cut will be magnified.

Let me quote Mr. John Graham, a former Canadian diplomat who headed the Department of Foreign Affairs' academic relations division when the program was started. He stated:

Canadian studies works like a hybrid engine. You put in a little gas and foreign universities and governments keep the battery charged. It is so cost effective that it is a no-brainer — which must mean that cutting the program would have to be a zero brainer.

Madam Leader, why is the government jeopardizing millions of dollars in economic benefits, as well as a great deal of international influence, profile and allies that helped promote Canadian interests, by cutting this program?

• (1500)

**Senator LeBreton:** Again, I would have to get the specific details, but I hasten to add that quoting people who were formerly in charge of programs that they probably devised themselves is probably not the best way of convincing me it is a good program to keep.

[ Senator Tardif ]

Honourable senators, as we went through the whole cost analysis, looking for savings in the government, each department, through their senior public servants, brought to the table programs that they had deemed were no longer effective, efficient, cost effective or that had been replaced by other programs that were yielding much better results.

With regard to this specific program, as I indicated earlier to Senator Tardif, I will be happy to provide more details by written response.

**Senator Tardif:** I thank the honourable senator for her answer. Also, I would most appreciate it if she could provide information on the program that has replaced the existing one.

**Senator LeBreton:** I did not mean to suggest that in this particular case a program might have replaced it. I am saying that, overall, people brought to the table programs that had outlived their usefulness. Some were relying on universities and some on the private sector. In this particular case, I do not know. However, if there is a replacement program, I am sure it will be part of the answer.

## FISHERIES AND OCEANS

### AMENDMENTS TO FISHERIES ACT IN BILL C-38

**Hon. Grant Mitchell:** Honourable senators, the government's continued intense, destructive attacks on the environment are now washing over into the Fisheries Act. There are many Canadians — some significant Conservatives — who feel that the Fisheries Act will pretty much be gutted by Bill C-38. Some include, for example, former Conservative Fisheries Minister Tom Siddon. He says:

This is a covert attempt to gut the Fisheries Act, and it's appalling that they should be attempting to do this under the radar.

A former Conservative MP and Conservative leader in British Columbia, John Cummins, aggressively criticizes the changes:

There is that potential for serious damage to the fisheries resource if we move in the way that's proscribed.

Mr. John Fraser, a Conservative and former Fisheries Minister, reports that at a recent meeting of the Pacific Salmon Foundation, many people came up to him. He quotes those who presented to him in this way:

"Fraser, what the hell is the government doing with the Fisheries Act? I'm not making this up," he said. "When you get two lifelong Conservatives like Tom Siddon and myself, who are prepared to go public with the very government we support, somebody ought to wake up."

I wonder if this government would be prepared to wake up, decouple the Fisheries Act provisions from Bill C-38, and consult those people in the know, in the boats, in the regions and in the industry that are affected?

**Hon. Marjory LeBreton (Leader of the Government):** I thank the honourable senator for his question. I actually did read the comments of both former ministers Siddon and Fraser and thought to myself, “Perhaps it is they who should wake up and read what is proposed.”

I did say in this place that I noticed the comments of the former Minister of Fisheries, Mr. Fraser. We all know what happened to him with his appointment when he headed up the Fisheries portfolio.

Regardless, as I said, we are focusing —

**Senator Mitchell:** These are her friends.

**Senator LeBreton:** If the honourable senator wants to get into what friends say about the Liberal party, I can keep him engaged for hours — diminishing friends, by the way.

In any event, with regard to the Fisheries Act, I have said in this place before that we are focusing our efforts on fish and fish habitat protection, not on farmers’ fields and ditches. I am sure honourable senators, especially those from Saskatchewan, will remember that last year a major jamboree was nearly cancelled after some fields flooded. The Fisheries officials deemed that they were perhaps home to fish habitat and therefore the jamboree could not continue. This is the ridiculous kind of situation.

We are focusing on fish and fish habitat. The Federation of Canadian Municipalities welcomed Minister Ashfield’s announcement:

These reforms will make it easier for governments —

— and of course the municipal governments are very involved in this —

— to set clear, sensible priorities for protecting fish habitats. Currently the Fisheries Act applies the same protections to rivers and streams as municipal drains and farmers’ irrigation canals. That doesn’t make sense.

Therefore, before the honourable senator runs around assuming things about what the budget implementation bill is actually saying about the Fisheries Act, I would suggest to the honourable senator and former ministers Siddon and Fraser that they apprise themselves on what the government is saying and not read some interpretation that is not in any way connected to reality.

**Senator Mitchell:** Given how the honourable leader treats me, I have often wondered how she would treat her friends, but I guess now we know. I am in good company; in fact, I am in the company of Mr. Mulroney.

The leader says that the Fisheries Act now will protect fish and fish habitat, but in fact it will not protect all fish and all fish habitat. As a result of Bill C-38, it will only protect fish habitat and fish as it relates to fish and fish habitat of commercial, recreational and Aboriginal significance.

Honourable senators, who will have the power? Where will the power come from? Who will protect all the other marine life that does not fall under that very limited triumvirate of categories?

**Senator LeBreton:** In that same Department of Fisheries and Oceans there has been a considerable amount of work done on fish science. Just yesterday, the minister made a very important announcement with regard to the invasion of Asian carp into the Great Lakes system.

There are many things that the government is doing, honourable senators, to protect fish and fish habitat. However, I dare say that the act has been in place for a very long time. As it presently exists, it goes way beyond what any government wants to do, and that is to protect fish and fish habitat.

In Eastern Ontario, the Department of Fisheries and Oceans intervened in relation to a Roman Catholic high school being built on a creek that had no water in it. However, apparently a fish habitat was affected. Construction of the school was held up because of a dry creek bed that once or twice a year contains water and in which there may be a fish or two. That is the kind of thing that the government is striving to correct.

[Translation]

## DELAYED ANSWERS TO ORAL QUESTIONS

**Hon. Claude Carignan (Deputy Leader of the Government):** Honourable senators, I have the honour of presenting three delayed answers to oral questions posed in the Senate. The first is in response to the question raised by Senator Hervieux-Payette on February 29, 2012, concerning the Canadian Criminal Real Time Identification Services; the second is in response to the question raised by Senator Peterson on March 15, 2012, concerning foreign takeovers of major Canadian corporations; the third is in response to the question raised by Senator Mercer on May 9, 2012, concerning the Canadian Agricultural Adaptation Program.

## PUBLIC SAFETY

### CRIMINAL AND ADMINISTRATIVE RECORDS— PENAL REFORM

(Response to question raised by Hon. Céline Hervieux-Payette on February 29, 2012)

Police services from across Canada contribute criminal record information and supporting fingerprints to the Royal Canadian Mounted Police (RCMP) Canadian Criminal Real Time Identification Services (CCRTIS). CCRTIS maintains the National Repository of Criminal Records and ensures that criminal record information is updated. This National Repository currently holds approximately 4.3 million criminal records. Currently, there are approximately 420,000 criminal records in the National Repository that have not been updated with the latest criminal record information. English updates represent approximately 75% of the backlog, whereas the French and/or Bilingual updates represent approximately 25%.

The RCMP can confirm that the estimated processing times for criminal record updates is two to three times longer for French or bilingual criminal records than English criminal

records. The difference in processing times can be attributed to the fact that should a French or English criminal record be updated with a new entry in the “other” language, CCRTIS will automatically translate all previous entries on the criminal record, and maintain this record in a bilingual format (including entering all new entries in both official languages). In addition, a large majority of the French entries are submitted by police services in the province of Quebec, who usually provide charge and disposition information using multiple attachments. They require more time to review and process than submissions that are limited to one document.

Additional personnel have been hired and business processes streamlined to improve service delivery. Predetermined priorities have also been established for updating criminal records:

- In every instance where a new criminal record is created, this is done immediately;
- Requests to provide criminal records for court or parole purposes are completed as soon as possible and prior to the date required for the proceedings; and
- Requests for fingerprint-based criminal record checks for civil screening purposes include a check in the criminal record backlog prior to issuing a product to ensure that the search results are as up-to-date as possible.

The RCMP is redesigning the CCRTIS organizational structure for updating criminal records and all interdependent activities that relate to criminal records management to improve efficiencies for all criminal record and fingerprint identification services, including criminal record updates and language requirements. The RCMP also continues to gain processing efficiencies through the further implementation of the Real Time Identification System, which provides for the electronic submission of fingerprints to the National Repository.

The RCMP is confident that these efforts will assist in reducing the current backlog of criminal record updates.

## INDUSTRY

### FOREIGN CORPORATE TAKEOVERS

*(Response to question raised by Hon. Robert W. Peterson on March 15, 2012)*

The rules governing the net benefit determination under the *Investment Canada Act* are clearly articulated in section 20 of that Act.

The factors assessed to determine whether a foreign acquisition subject to review is likely to be of net benefit to Canada are:

- the effect of the investment on the level and nature of economic activity in Canada, including, on employment, resource processing, the utilization of parts, components and services produced in Canada and on exports from Canada;

- the degree and significance of participation by Canadians in the Canadian business and in related industries in Canada;
- the effect of the investment on productivity, industrial efficiency, technological development, product innovation and product variety in Canada;
- the effect of the investment on competition within any industry or industries in Canada;
- the compatibility of the investment with national industrial, economic and cultural policies, including industrial, economic and cultural policy objectives enunciated by the government any province likely to be significantly affected by the investment; and
- the contribution of the investment to Canada’s ability to compete in world markets.

Budget 2012 reinforces our Government’s commitment to an open investment framework that encourages foreign investment in Canada as well as Canadian business investment abroad, while safeguarding Canada’s interests.

## AGRICULTURE AND AGRI-FOOD

### CANADIAN AGRICULTURAL ADAPTATION PROGRAM

*(Response to question raised by Hon. Terry M. Mercer on May 9, 2012)*

The Canadian Agricultural Adaptation Program (CAAP) is a 5-year, \$163 million program that was launched in 2009. CAAP will expire as of March 31, 2014.

As part of the Government of Canada’s 2012 Budget, Agriculture and Agri-Food Canada (AAFC), along with all other federal departments, carefully reviewed all of its operations and programming to identify efficiencies.

As part of this process, it was decided to consolidate and centralize all program administration to one area within the Department in order to reduce the risk of duplicating project work across regions; to provide greater consistency, monitoring and accountability on selected projects; and to improve access by producers and processors to AAFC services and programs they want and need.

AAFC has a strong regional presence, with an extensive network of regional offices and research centres that work to ensure the Department’s programs and initiatives respond to regional needs and are in line with national priorities.

Innovation programming will continue to be important as AAFC works to help the Canadian agricultural sector adapt and remain competitive with investments in new and emerging market opportunities to help build a stronger agriculture industry and Canadian economy.

• (1510)

[English]

## ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

### NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING ADJOURNMENT OF THE SENATE

Leave having been given to revert to Notices of Motions:

**Hon. W. David Angus:** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That, pursuant to Rule 95(3)(a), the Standing Senate Committee on Energy, the Environment and Natural Resources be authorized to sit for two days this summer, on dates to be determined after consultation with the committee members, for the purpose of considering a draft report, even though the Senate may then be adjourned for a period exceeding one week.

[Translation]

## CRIMINAL CODE

### BILL TO AMEND— DECLARATION OF PRIVATE INTEREST

**The Hon. the Speaker:** Honourable senators, I wish to advise you that Senator Massicotte has made a written declaration of private interest regarding Bill C-290, An Act to amend the Criminal Code (sports betting) and, in accordance with rule 32.1, the declaration shall be recorded in the *Journals of the Senate*.

## ORDERS OF THE DAY

### THE ESTIMATES, 2012-13

#### NATIONAL FINANCE COMMITTEE AUTHORIZED TO STUDY SUPPLEMENTARY ESTIMATES (A)

**Hon. Claude Carignan (Deputy Leader of the Government)** pursuant to notice of May 17, 2012, moved:

That the Standing Senate Committee on National Finance be authorized to examine and report upon the expenditures set out in the Supplementary Estimates (A) for the fiscal year ending March 31, 2013.

(Motion agreed to.)

[English]

## CRIMINAL CODE CANADA EVIDENCE ACT SECURITY OF INFORMATION ACT

### BILL TO AMEND—SECOND REPORT OF SPECIAL COMMITTEE ON ANTI-TERRORISM— DEBATE ADJOURNED

The Senate proceeded to consideration of the second report of the Special Senate Committee on Anti-terrorism (Bill S-7, An Act to amend the Criminal Code, the Canada Evidence Act and the Security of Information Act, with amendments and observations), presented in the Senate on May 16, 2012.

**Hon. Hugh Segal** moved the adoption of the report.

He said: Honourable senators, I am pleased to move the adoption of the report for Bill S-7, which was given consideration at the Special Senate Committee on Anti-terrorism. I would like to thank my co-chair Senator Joyal for his forbearance, support, cooperation and many insights. I also want to thank Senators Frum, Andreychuk, Dallaire, Day, Dagenais, Tkachuk, Smith and Buth for their insightful questions and contributions into the study of the bill now before you.

I would like to thank the clerk of the committee, Jodi Turner, for her dedication, hard work and due diligence, and Lyne Casavant, Holly Porteous and Dominique Valiquet, whose research and support for the technical parts of this bill were of immense value.

Honourable senators, Bill S-7, the combating terrorism act, proposes to re-enact the provisions found in the former Bill C-17 from the last session of Parliament, which focuses on the investigative hearing and the recognizance-with-conditions provisions that sunsetted in 2007. It also responds to recommendations of the parliamentary review of the Anti-terrorism Act, which took place between 2004 and 2007, and includes additional improvements to the Criminal Code, the Canada Evidence Act and the Security of Information Act. New criminal offences dealing with travelling abroad in support of criminal terrorist activities are also created by this bill.

The Senate Special Committee on Anti-terrorism examined the bill and is now reporting it back to this chamber with two amendments, which were agreed to unanimously by members of the committee.

The amendment to clause 10, thanks to the insights of Senator Day, has to do with the role of the judge in the recognizance hearing process. It deals with proposed subsection 83.3(13) of bill, which addresses the power to vary conditions imposed in recognizance with conditions. Subsection 83.3 appeared to limit that power to vary the conditions to only the same judge who imposed them. The amendment proposed that it would be that judge or another judge of the same court who may vary the conditions. This is consistent with similar provisions throughout the Criminal Code.

Therefore, honourable senators, the first amendment is as follows:

1. Clause 10, page 10: Replace line 36 with the following:

(13) The judge, or any other judge of the same court, may, on application . . .

In clause 12, thanks again to Senator Day, it was noted that the English and French versions did not equate and that while the English had the right understanding that this was a mandatory review, the French version did not. The word “doit” had been replaced in the French version with “peut.” The proposal is that clause 12 be amended by replacing, in the French version, line 27, on page 11 with the following:

2. Clause 12, page 11:

(a) Replace, in the French version, line 27 as follows:

“83.28, 83.29, 83.3, et de leur application doit”; and

(b) Replace, in the French version, line 31 with the following:

“cas, désigne ou constitue à cette fin.”

The committee also made certain observations, which I commend to all members to review as their time permits. Let me reference just two.

The committee believes that the new offences created by this bill will allow law enforcement and intelligence officials to accomplish the important goal of protecting Canadians. However, we only believe this is possible if there are real agreements with respect to protocols of operation between the various agencies, border protection, the police, the RCMP, the local police forces responsible for the airports, CSIS and the rest, and we made a recommendation in our observations that that matter be addressed fully.

Another observation I would like to put on the record, honourable senators, relates to the protection of the rights of youth. Much of what is being discussed in the bill relates, in terms of new crimes created under the Criminal Code, to the movement of people back and forth to countries that may, by their very definition, be movements in support of terrorist activity.

In fact, our Danish allies just today arrested young people going back and forth from Somalia into Denmark with express plans for terrorist activities, and, by acting in a proactive fashion, they have prevented something terrible from happening in our ally's territory.

That being said, our committee took a strong view that as Bill S-7 is law of general application, it will therefore apply to both adults and young persons under the age of 18. We pointed out that in Canadian criminal proceedings, the Youth Criminal Justice Act applies to protect the rights of individuals between the ages of 12 and 18 who become involved in the criminal justice system.

[ Senator Segal ]

Some witnesses are of the view that Bill S-7 should include specific provisions that would outline how the bill applies to persons under 18 to ensure that it complies with Canada's obligations under the Convention on the Rights of the Child and other international instruments. The committee recognizes that the YCJA applies to the provisions contained in Bill S-7, as confirmed by the Supreme Court of Canada in *Regina v. R.C.* In that case the court stated that any Criminal Code proceedings involving a young person should be conducted in light of the principles of the YCJA. In accordance with the views of certain witnesses and members of the committee, the committee endorses a detailed analysis of the bill's provisions by the Department of Justice to ensure they are interpreted in accordance with YCJA principles, as well as Canada's international obligations regarding the rights of young persons.

Honourable senators, I commend this bill to your early and constructive consideration.

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

**Hon. Joseph A. Day:** Perhaps for the record, honourable senators, we adopt the report of the honourable senator. It explains well the work we did. This is an important piece of legislation that balances fundamental rights and the state's tools needed to combat terrorism. We must watch this type of legislation closely. In the normal circumstance, we would determine this seems to be going further than we would like to see legislation go in intruding on individual rights.

• (1520)

The honourable senator has explained the report clearly. It is reflective of the deliberations that we had at the hearing, and I suggest that we will be supporting this report.

**Hon. Claudette Tardif (Deputy Leader of the Opposition):** Honourable senators, I know that the committee has done excellent work with this and is supportive of the amendments and observations that have gone forward, but it is my understanding that Senator Dallaire wanted to say a few words, so I will take the adjournment in Senator Dallaire's name.

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

## RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

### FIRST REPORT OF COMMITTEE— CONSIDERATION IN COMMITTEE OF THE WHOLE

On the Order:

The Senate in Committee of the Whole on the consideration 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.



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

[Translation]

**The Chair:** Honourable senators, the Senate is resolved into a Committee of the Whole to consider the first report of the Standing Committee on Rules, Procedures and the Rights of Parliament, pursuant to the order adopted by the Senate on May 17.

The pages can give you copies of the *Journals*, which contain the report.

The business of this Committee of the Whole shall be conducted according to the following schedule:

During the initial period of the meeting, for a maximum of one hour, the senators may ask questions of representatives of the Standing Committee on Rules, Procedures and the Rights of Parliament, with the time for the question and response being counted as part of the ten minutes' speaking time allowed under rule 84(1)(b).

My understanding is that upon completion of consultations, honourable senators Carignan, Fraser and Stratton will be available to answer questions from the honourable senators.

During the second portion of the meeting, the committee shall consider chapters one, two, three and four of Appendix I of the report for a maximum of one additional hour.

Honourable senators, rule 83 states that:

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

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

**Hon. Senators:** Agreed.

**The Chair:** Senators Fraser, Stratton and Carignan, I invite you to make your introductory remarks.

[English]

**Senator Cools:** Mr. Chair, I would like to ask a question first. I notice that the reference calls for representatives of the committee, and I notice you have just made reference to particular members of the committee, being Senators Fraser, Carignan and Stratton. I wonder if you could explain to us what a "representative" of a committee is and how a representative is chosen to be a representative.

**The Chair:** A representative is a member of the committee and I presume the three people called are members of that committee.

**Senator Cools:** Mr. Chair, I am interested in knowing how they were chosen to represent the committee. The reason I ask is because we are quite unused to the process that is unfolding

before us. It is our habit and our expectation that the chairman of a committee usually sponsors and squires the reports of their committees through the chamber. This is a most unusual event to the extent that the committee's chairman, who is the voice of the committee, so to speak, is not performing those functions. I wonder why that is and how that business of sponsoring has been transferred to other persons now called "representatives."

**The Chair:** Senator Cools, I think those are great questions. It seems to me that one of the things that the three honourable senators first want to do is give a brief exposition of the position of the rules and, second, they are open and available for questions from all honourable senators. I think those would be good questions to put to the three senators.

Senator Fraser, you have the floor.

**Honourable Joan Fraser, Senator, The Senate of Canada:** Honourable senators, it is a rather daunting privilege to appear before you in this way.

To answer Senator Cools' question, the three of us were asked to represent the Rules Committee because we constitute the subcommittee of the Rules Committee that did the final work on this proposal to rewrite the *Rules of the Senate*. The members of the committee, the chair and the deputy chair of the committee in particular, asked us, therefore, to represent the whole committee here today.

[Translation]

I would like to point out that the report before you is the result of many years of work, which began approximately 13 or 14 years ago, under the direction of Senator Molgat. In that time, I cannot say how many senators have worked on this project; I do not wish to name them for fear of forgetting someone. It was a tremendous amount of work carried out by many senators.

As I indicated, the subcommittee consisted of myself and Senators Carignan and Stratton, who will address you in a moment.

[English]

I wish to pay homage to Senators Carignan and Stratton who worked incredibly hard on this report, and I would also like to utter profound thanks to the table officers — I think in the end all of them were involved — who did so much to help us as we moved forward.

I want to stress that what honourable senators see is the product of a rule of consensus. There was nothing in this report that we did not have consensus on. If we did not achieve consensus, it did not go into the report.

The goal of this report, of the work we did that produced this report, is to make the *Rules of Senate* clearer and more user friendly. The object was not to change the substance of the rules, except in a few specific circumstances. For example, where changes were necessary, according to law or the Constitution. For example, the Constitution says that votes in the Senate are won or lost by

majority vote. Our rules say at the moment that in order to rescind a vote that has happened in the same session, one needs a two-thirds majority. That is not according to the Constitution, so we would propose to adjust our rules to reflect the Constitution.

We proposed substantive changes where upon examination it became apparent that our rules, as they now stand, are internally contradictory. All senators, I think, are familiar, for example, with the thorny way in which we have tried to address the contradictions in present rules on questions of privilege.

• (1530)

We proposed changes where there was an obvious omission — glaringly obvious and not controversial.

[Translation]

For example, nowhere in the existing Rules does it state that the Speaker must preside over Senate sittings. The Rules refer to the fact that the Speaker *pro tempore* or even other senators can sometimes preside over Senate sittings. We thought it was a good idea to mention the fact that it is the Speaker himself who presides.

[English]

Finally, where there is clear and established, settled practice in the Senate, and where it seemed appropriate to adjust the rules to reflect that practice, we have done so. For example, the rules say that written questions will appear in the Orders of the Day, I think it is, every day. However, for 30 years, following a report from the Internal Economy Committee, it has been our practice to publish them only once a week after the first publication. The proposed report would reflect that practice.

To make the rules clearer, we did several things. Honourable senators will have observed that we proposed a rather different format. The page size is different, apparently much cheaper to print. We have done a significant amount of work to regroup the rules so that rules on a single topic, to the extent that is humanly possible, appear together. For example, proposed new rule 2-1, which concerns the duties of the Speaker, takes items from the present rules 18, 43 and 60, which seemed logically grouped together in a single rule.

Honourable senators will note the new numbering system that we would propose. Like the present rules, the new report proposes grouping the rules into chapters, but we propose renumbering the rules to reflect the chapter in which they appear, so that, for example, anyone who looks at rule 9-3 will know that it is in Chapter Nine, and it appears as rule 3 in Chapter Nine.

We have done as much work as we could to ensure that the marginal notes are accurate reflections of the rules to which they refer, and the table of contents includes all those notes, subheadings and marginal notes. We believe it is much clearer. It is, in a sense, a mini index, as it is now proposed.

Finally, we have taken out from the body of the rules the series of definitions that now occur and would propose to append to the rules an appendix that would be a greatly expanded series of definitions, an appendix on terminology.

[ Senator Fraser ]

We believe that the language in the proposed report is much clearer than in the present rules. I will give one example. The phrase “the Senate’s customs, usages, forms and proceedings” would be reasonably replaced, we suggest, with the phrase “the Senate’s practices.”

[Translation]

We worked hard, particularly Senator Carignan who worked very hard to improve the French version of our Rules. Honourable senators are aware that, for now, the French version is essentially a translation — one that is often inaccurate — of the English version. There are even some places where the French and English versions of the same rule contradict each other. So, we really wanted to write the French version of the Rules in French, in accordance with parliamentary practice.

**Senator Losier-Cool:** Hear, hear!

**Senator Fraser:** You will also see an innovation that will be useful for Senators.

[English]

When there are exceptions elsewhere in the rules to any particular rule, those exceptions are listed immediately following the first rule and they are signalled by the introductory phrase “except where otherwise provided.”

We have also provided, where appropriate, legal references. For example, if a given rule is based on the Constitution Act, 1867 or on the Parliament of Canada Act, we have included that legal reference so that senators may know where to go to get the reference.

[Translation]

**Honourable Claude Carignan, Senator, The Senate of Canada:** Clearly, this was a fairly big job. As Senator Fraser said earlier, many teams have worked on the Rules over a period of approximately 12 years, so we did have a significant amount of material to get us started.

In subcommittee, we also worked with Senator Carstairs until she retired.

Most of the work involved trying to make the two versions as intelligible and understandable as possible. We tried to abide by the primary definition of a rule. A rule is a standard that is general and impersonal and that is supposed to be intelligible. I thought about this when I read the Rules for the first time. If I, as a lawyer, had a hard time understanding certain passages, then it is probably because there is a problem with the way those passages are written. In a number of places, we realized that the way the text is written, the double exceptions and the stilted French translations have made the Rules, particularly in the French version, very difficult to understand. There are even provisions that contradict each other. We therefore tried to draft the French Rules in French while staying as true as possible to the existing rules and practices, except for the few exceptions that were mentioned by Senator Fraser and that are included in the report.

Senator Stratton also gave his point of view on certain parts, even on the French language. The teamwork that was done was very much appreciated. I think the *Rules of the Senate* are now much easier to use and understand. The text is now more logical.

I would like to give an example of the kind of revisions that were made. Consider the new subsection 2-5(2), which has to do with the explanation of rulings. It now reads:

In ruling on a point of order or a question of privilege, the Speaker shall give the reasons for the ruling and cite any rules, practices or authorities on which the ruling is based.

This section replaces two sections: the former 18(2) and 43(12), which were in completely different sections of the old text. I think those sections were written in a strange manner. Rule 18(2) reads as follows:

The Speaker shall decide points of order and when so doing shall state the reasons for the decision together with references to the rule or other written authority applicable to the case.

Rule 43(12) states:

The Speaker shall determine whether a *prima facie* case of privilege has been made out. In making a ruling, the Speaker shall state the reasons for that ruling, together with references to any rule or other written authority relevant to the case.

I need not point out that the wording was much more complex. The main idea of the rule became clear after a little effort, both in English and in French, and then the idea was simplified and worded as clearly as possible.

Personally, as Deputy Leader, I am already using the new version, which sometimes makes it easier to understand certain passages of the *Rules of the Senate*. This simply illustrates that it is already a very useful tool. I hope all honourable senators will find it as useful as I do.

• (1540)

I would of course like to thank the members of the committee, and particularly Senator Fraser, an expert writer with an excellent command of both official languages, which enabled us to clearly express our ideas on several occasions. I wish to thank her for her outstanding contribution. Thank you to everyone.

[English]

**Honourable Terry Stratton, Senator, Senate of Canada:** My role in this whole affair was more or less to be the wagon master to ensure we kept this thing moving along, and that was a critical element, as far as I was concerned. We have been using this set of rules since 1991, and it got more and more frustrating when I was playing the role of the whip, in both opposition and government, and as deputy leader for a year in opposition. The rules needed to be dealt with. I was determined that it needed to be done, as a matter of fact, in order for all senators to understand, not just a few who knew the ins and outs of the existing code. It is more

important for everyone in this chamber to understand what these rules are about. The reorganization that has been done is quite exceptional.

When His Honour, Senator Kinsella, first recommended that we have this Committee of the Whole, I was a little chagrined, and then I realized that this was a different era than 1991 when that set of rules was adopted. This is the 21st century, so we have to be democratic about it. We have insisted, when we have been dealing with this in the subcommittee and in the Rules Committee, that we had to deal with it in a democratic fashion. I think Senator Kinsella was bang on when he suggested that we do this. I think it will help everyone to understand and comprehend just what this means and the impact it will have in the future.

I would like to thank Senator Kinsella for this recommendation.

What got me more than anything was the question of privilege issue that I was personally involved with twice, once on a written question of privilege and, then, quite a short time later, having to go and actually find another alternative on another question of privilege, which was in an entirely different section of the rules. When you think about it, it is pretty ludicrous.

I highly recommend the adoption of this new set of rules. An incredible amount of work has been done by all who have been involved over the years, not just these three sitting here. We represent those who have worked on this before. To all those, thank you; in particular, the chair, who, as honourable senators know, is the former editor of the *Montreal Gazette*; and, of course, Senator Carignan, who is a lawyer and a francophone in the truest sense, who worked hard to ensure that we had the French language properly written. That was essential. I want to thank all those who have participated.

**The Chair:** Honourable senators, the floor is now open for all honourable senators to pose questions or ask questions of the three presenters. If you would indicate to the chair, the table officer will take your name down and I will call you in order.

**Senator Cools:** Thank you, Mr. Chair.

I would like to begin by thanking the three members of the subcommittee for all their work. Toil is a worthwhile thing and a good thing, but we all have a duty to judge the work by the quality and the righteousness of the work rather than the fact that it was done. I admire labour and industry. My mother was Methodist, so you can understand my preoccupation.

I was hoping that our three colleagues would have answered the question as to what a representative of a committee is and how come the chairman, who should be sponsoring this matter through the house, seems to have disappeared from the proceedings. I was hoping that question would be addressed, because this is the first time in my career that I have seen a chairman reluctant or disinclined to carry his product through the house.

I would like to come to a few important issues, colleagues. I notice that the committee representatives have thanked the staff of the committee and all those who have contributed. However, I did not hear mention of any involvement of the law clerk's office

in the drafting of these rules. I wonder if I could find out whether or not the law clerk's office was involved in the drafting of the rules.

I will tell you why, colleagues. One of the things that has been created here — and there are numerous things — is what I would call the “enumeration” of the rules themselves. The change that is proposed here is an extremely unusual style for enumeration. I have looked through statutes trying to find an equivalent. I have found one, but not in any statute. I will come to that.

I find it difficult to pronounce them, the enumerations. For example, I would have called the first rule “1 hyphen 1” instead of the enumeration following the usual practice, which would be usually single numbers, perhaps followed by a period, then single numbers again, then bracketed numbers, and on by bracketed a's. This enumeration is a novel creature. I have never heard in my parliamentary career of a rule referred to a “1 hyphen 1(1).”

Maybe few senators have taken note of this, and perhaps I can put two questions. What was the thinking behind this revolutionary style of numbering? It is even clumsy to use. One has to say either “1 hyphen 1,” rather than “1 sub 1,” because this is a hyphen. We must remember that whereas in enumeration, in the process of drafting, commas and full stops usually have significance, but I do not know what hyphens and dashes mean.

Maybe Senator Carignan, who is one of the lawyers involved, could explain. First, were the legalists from the law clerk's office involved in this at all and consulted on this enumeration? This is totally novel.

Second, why did anyone feel a need to change a system of numbering that has been with us for over 100 years? If there was an urgent need to do it, I would be happy to be convinced, but it begs the question as to what is involved here. I do not think anything is clarified when an entirely new numbering system is invoked that can hardly be pronounced or uttered or articulated. I am listening.

**The Chair:** The Honourable Senator Cools has asked two questions: Was the law clerk's office involved in the drafting, and what is this new system of numbering? Perhaps the honourable senator could take the two questions in order.

**Senator Fraser:** The law clerk was involved when we were considering matters of actual law. We did consult the law clerk's office. One that comes to mind, for example, had to do with the way the rules are phrased in connection with petitions for private bills. However, the *Rules of the Senate* are the *Rules of the Senate*. They are not statute law. We believed it was not necessary to have a representative of the law clerk with us at all times as we considered every element of the rules.

• (1550)

We believed it would be a helpful change to provide this kind of numeration because, as I suggested a few moments ago, it would at least provide a guide as to where to go in the rule book to find a given rule. I do not think that saying “rule 11(1)” is any

more peculiar than saying “notwithstanding rule 58(1)(h),” which I believe the Deputy Leader of the Government says just about every day. I do not think it is any more complicated. The idea was to assist senators. If senators do not find it of assistance, then do not do it.

[Translation]

**Senator Carignan:** As a supplementary answer to the question on numbering, we tried to use a numbering system that is logical and will allow senators to find a subject quickly without necessarily using the index.

Often in the Rules we had to try to find the key word in the index. We had to consult five or six rules or sections that might have to do with a particular subject. We grouped the subjects into chapters, so now when we want to know about the voting procedure, we know that we have to go to Chapter Nine.

Everything having to do with a vote is in Chapter Nine. There is a logical order to the information and the provisions relating to the vote and its conditions.

We know that everything having to do with the Speaker and the decorum of the Speaker's role is in Chapter Two. We refer to the table of contents and go directly to Chapter Two.

The idea was to be able to find a subject quickly, especially because questions about the Rules are often raised during a meeting. This new approach allows senators to get to the subjects more directly, to intervene and participate in the debates, which was not necessarily the case before.

When it came to the Rules, people would get lost in the index and dared not intervene because they were unable to find the relevant sections. And when they found them, they were not sure whether there might be another section somewhere that said the opposite or complemented the point.

If a question about the Rules has to do with voting, everything is in Chapter Nine. Chapter Nine is arranged logically so we can get the answers to our questions and then make our arguments.

[English]

**Senator Stratton:** Referring back to the legality issue, Mr. Sebastien Spano, who is a lawyer with the Library of Parliament, sat with us every day and ensured that we complied. As well, Mr. Michel Patrice, a lawyer with the Senate, has reviewed this document. We have had sufficient backing on the legal side to carry this forward.

**Senator Cools:** I knew Senator Molgat very well and I sat in the Liberal caucus with him for many years. I would like honourable senators to know that right up to 2004, there was no Liberal Leader of the Government in the Senate who was going to tolerate any rule changes. We should get the record straight on the Liberal wishes at the time.

I have been trying to find out for quite some time the source of these rules. The only thing I am ever told is that it began during Senator Molgat's time. I was very familiar with Senator Molgat's

[ Senator Cools ]

interest in good and fair translations from English into French and vice versa. However, honourable senators, anything to do with rule changes, such as a comprehensive overhaul, never came to the Liberal caucus and I rarely missed a meeting.

Honourable senators should know some of the background to some of these at some other point in time. The bitterness after the GST debate was so profound that there was a great sense of bringing peace and harmony. In addition, the Liberals were in a minority position and the Conservatives in a majority position. Remember: the Liberals did not vote for these rules in 1991, and I was among them. I can also tell honourable senators that they would have tolerated no hint, suggestion, motion or anything in that way to change the rules. This is a very new development.

**The Chair:** I remind the honourable senator that her 10 minutes for questioning has expired. Do other honourable senators wish to intervene?

**Senator Fraser:** For the sake of the record, may I say briefly that a first draft of this complete revision of the rules was begun under Senator Molgat acting as Speaker of the Senate, not acting as a Liberal. Senator Hays, when he became Speaker of the Senate, presented a draft complete rewriting of the rules to the Rules Committee but not to the caucus of either party, as I understand it.

**The Chair:** Do other honourable senators wish to pose questions to the three senators on the subcommittee?

**Senator Kinsella:** Could the honourable senators explicate the difference between what is proposed in rule 1-2 and the existing rule 2. As I was reading it, what we are proposing relates to privilege.

**Senator Fraser:** Yes.

**Senator Kinsella:** Proposed rule 1-2 states:

These Rules shall not limit the Senate in the exercise and preservation of its powers, privileges and immunities.

Rule 2 states:

Except so far as is expressly provided, these rules shall in no way restrict the mode in which the Senate may exercise and uphold its powers, privileges and immunities.

Would the honourable senator explain the rationale for making that change? The existing rule makes it clear that the Senate can make rules, "Except so far as is expressly provided, these rules shall in no way restrict . . ."

**Senator Fraser:** "Except so far as is expressly provided" is gone in large measure because we have taken that phrase in the proposed new version to be a signal that there will be exceptions and it will be followed immediately by a list of the exceptions.

In terms of the substantive difference, I would submit that it is not great. In fact, I do not think there is any substantive difference. To say that the Senate will not be limited by these rules in the exercise and preservation of its powers, privileges and immunities is, to my way of thinking, a more concise way of saying that the Senate shall not be restricted in the mode in which it may "exercise and uphold," as distinct from "preserve."

I admire the honourable senator's dedication to fine detail, but I would suggest that we do not really have a difference of substance.

[Translation]

**Senator Carignan:** The current version of Rule 2 states "Except so far as is expressly provided, these rules shall in no way restrict the mode in which the Senate may exercise and uphold its powers, privileges and immunities."

It says, "Except so far as is expressly provided," which suggests that in some instances the Rules might restrict the privilege of a senator. However, the privilege stems from legislation and a rule cannot restrict legislation. That is why we expressed 1-2 as a form of interpretation, "These Rules shall not limit the Senate in the exercise and preservation of its powers, privileges and immunities." And it was not necessary to say "except as provided in the Rule," because a rule cannot contradict the law.

• (1600)

**Senator Kinsella:** I would like to ask Senator Carignan a supplementary question.

In the revised version of the French Rules, Rule 1-1(2) uses the wording "Dans les cas non prévus" whereas the existing version uses the wording "Dans tous les cas non prévus."

Can you tell me the difference between these two phrases?

**Senator Carignan:** It is often just a matter of semantics. The phrase "Dans les cas non prévus" implies all cases not provided for.

This is a good example of poorly written text because one instance implies that we are referring to all cases not provided for while the other implies that we are referring to just certain cases. Since "Dans les cas non prévus" is used in some places and "Dans tous les cas non prévus" is used in others, we assume there must be a difference between the two and we start looking for differences that do not exist. The different wording merely reflects the fact that the text is poorly written. We tried to make the text more consistent. You have just pointed out a good example of what we did. There is no difference between "Dans les cas non prévus" and "Dans tous les cas non prévus." It is just a matter of writing more clearly.

[English]

**Senator Kinsella:** Chair, do I have time to ask a second question?

**The Chair:** Yes.

**Senator Kinsella:** It is relative to revised text 1-1(1), primacy of rules, and our current version 1(2). The current rule 1(2) provides that:

The *Rules of the Senate* shall in all cases be interpreted as having priority over any practice, custom or usage described in any of the appendices to the rules. Any conflict between the appendices and the rules shall be resolved by reference to the rules alone.

In the revised version, rule 1-1(1) provides that:

The *Rules of the Senate* shall govern the proceedings of the Senate and its committees and shall prevail over any practice and the appendices to these Rules.

Currently, rule 1(1), says:

In all cases not provided for in these rules, the customs, usages, forms and proceedings of either house of Parliament of Canada shall, *mutatis mutandis*, be followed in the Senate or in any committee thereof.

It is the word “committee.”

The proposed rule 1-1(2) says:

In any case not provided for in these Rules, the practices of the Senate, its committees and the House of Commons . . .

Could you explain what your thinking was? Is my reading of that correct? If some practice has been developed in some standing committee and if the rules are not dealing with an issue, can an honourable senator get up and say “Well, in our committee on whatever, this is how we operate,” and that will become instructive to the chamber?

**Senator Fraser:** No, honourable senators. This comes back to the, shall we say, vigorous discussion we had about whether or not to preserve the phrase *mutatis mutandis*. We have, instead, used the phrase “with such modifications as the circumstances require,” which we believed to have the same meaning in English as the shorter, familiar Latin phrase, *mutatis mutandis*. If you put *mutatis mutandis* back in, I think it would be quite clear. I believe that, even as now formulated, it is clear that the long-standing practice in a committee, where the rules are silent, shall be followed in committees. However, there was certainly no intention at all of suggesting that committees could tell the chamber how to function. That was why the phrase “with such modifications as the circumstances require” was used. The idea was to say that chamber practices are relevant to the chamber. Committee practices are relevant to committees. House of Commons practices may be relevant, with some adjustments as the circumstances require. Indeed, other equivalent bodies may also have practices that are relevant to us, or they may not. As Senator Kinsella knows better than any of us, Speakers’ rulings often refer to the practices of other legislative chambers or bodies. That is in there to reflect what has been done, for many decades, in Speakers’ rulings.

[Translation]

**Senator Joyal:** First, I would like to make a comment and then I would like to ask the committee members a question. Those of us who use the French version of the Rules have certainly noticed that most of the French version is a literal translation of the English. The English syntax was followed in the French translation, which quite often makes it difficult to understand. Often, you have to refer to the English version to be able to understand the meaning of the French.

[ Senator Kinsella ]

As the committee was making changes, did it take French syntax into account to provide us with a version that is as clear as possible in French? Am I expressing myself clearly enough to be understood?

**Senator Carignan:** Yes, absolutely. And that is what the committee did. The purpose was, first of all, to identify the idea behind the rule, agree on that in English and French, and then draft the rule in both languages.

The funny thing was that, once we came up with the best possible French wording, we sometimes translated the rule from French into English to better express the meaning of the rule. But what it boils down to is that you are right and, as you can see from reading the rules, the French rule was conceived in French and the English rule in English.

**Senator Joyal:** The reason I ask, honourable senators, as I am sure you will have no trouble understanding, is that back when the rules were written, the Justice Department did not have the parallel approach to drafting in English and in French that it does now. The rules were formulated in English and translated into French. While the translation was equally valid, it did not make quite the same impression as the original.

It has always seemed to me that the purpose of revising the rules was essentially to work backwards and get to the heart of the message underlying each rule in both languages so that a francophone reading in French would immediately have the same understanding of the text as an anglophone reading in English and not have to muddle through sentences that are much clumsier in one language than in the other.

As I mentioned just now, the first few times I read the rules in French, I had to refer to the English version to understand what the French meant, to be sure that I had correctly understood the French wording. As you were working through the rules, did you consult linguists or resource people who might have suggested a way to formulate the rules in order to achieve the desirable goal I have described?

• (1610)

**Senator Carignan:** Yes, we heard from experts, particularly experts in linguistics, who were asked to propose a draft in French or English, depending on the case, that corresponded most to our idea. Sometimes we had to reject their suggestion, for instance, because they had a tendency on occasion to use words from France, which did not take into account the British parliamentary system. We therefore sometimes had to refuse the suggested French version, which we did because it came from French-language dictionaries from France, translating a French legislative tradition, failing to take into account our British traditions. So, we did have the occasional conflict regarding how it was drafted.

I can tell you that the terms used in Quebec legislation were very helpful when it came time to select the most appropriate word.

**Senator Joyal:** Can you give us an example?

**Senator Carignan:** I am looking for one; I know it happened.

**Senator Joyal:** I am not trying to put you on the spot, senator; I understand very clearly what you are saying.

**Senator Fraser:** I have one that we discussed at length. You will note that, in the report, we used the French word “comité” when talking about standing Senate committees. In France and even in Quebec, the word used would be “commission.” However, after considerable discussion, we concluded that it would be useful to maintain the distinction between a committee and a commission, as we have always done in the federal government, because a commission of inquiry, a royal commission or anything like that is not at all the same thing as a parliamentary committee.

**Senator Joyal:** Of course.

**Senator Fraser:** So, in this case we decided to look at the tradition in the federal Parliament, even though the expert really wanted everything to be called a “commission.”

**Senator Joyal:** Indeed, in Quebec, they use the expression “parliamentary commission rather than “committee.”

**Senator Fraser:** And sometimes members of the public, and even the media, are confused between the various types of commissions proposed to deal with issues.

**Senator Joyal:** So, I can conclude, based on what you are proposing, that the French has been “standardized” based on a similar approach to the one used at the Department of Justice for the drafting of bills.

**Senator Fraser:** Precisely.

**Senator Joyal:** Thank you.

**Senator Comeau:** Honourable senators, I too would like to congratulate you for the attention paid to put the French language on an equal footing with the English language. I myself, when I have to look at the Rules, refer to the English version. Indeed, I have sometime been very frustrated with the way the French version was drafted. It is very frustrating for a francophone to have to refer to the English version when looking at the Rules. I congratulate you for ensuring that the linguistic equality of our two official languages is respected. Thank you very much for doing that.

[English]

**Senator D. Smith:** First, a brief comment on the issue which was raised as to why I, Chair of the Rules Committee, was not on this panel. I would like to point out that I was not on the subcommittee that did the review. It was chaired by Senator Fraser and countless hours were put in to that process. It seemed appropriate that those who did the heavy lifting and the grunt work should be here to give the most thorough possible answers as to any of the changes that are in there. That is the situation there.

I have two questions. First, it would be helpful if you could enlarge a bit on what I refer to as the “consensus culture.” In the Rules Committee as a whole we avoid partisanship and try to do the right thing for the institution. On this, we had consensus on

both sides, with both government members and opposition members. We were just not going down that road, whether it be one side outvoted by the other or something else. When it came to the subcommittee, you would literally have unity because it would be two to one. Actually, we had unity in the committee as a whole when the report came back and was adopted and tabled in November. It has taken a long time to get from November to today, but maybe you could comment on that.

Second, there was some reference to changes made in the early 1990s and the position of the parties, and it did not seem to connect with my recollection. If the honourable senator has his research there, could he clarify what did happen then?

**Senator Stratton:** If I may answer this one. I have never sat on a committee or subcommittee — and I have sat on a few subcommittees — that worked as well as this one has over the time frame. It was quite a while. They were long, intensive hours. Mondays for the entire day were a fairly regular occurrence.

It was remarkable in the fact that we used consensus. The definition of “consensus” is not unanimity. It is called consensus, a give and take. On some issues I would take a certain position and Senator Fraser would feel another way, and vice versa. We would come to a compromise to ensure the entire project moved forward. It was remarkable and frustrating for senators at times who had to yield to their point, but we accepted that this was the appropriate way to go. That really is the background. Completely all the way through this, it was by consensus.

When we tabled the document in the Rules Committee and reviewed the document, the same thing occurred. It was by consensus that the committee approved the report and brought it to the chamber, and that, in itself, was quite remarkable.

With respect to the issue of the background of this, the rules were brought forward in 1991 and were adopted after a very short period of time. I do not care to give the summary right now, but if I may seek leave at the end of this whole session — not just today, but at the completion of it — I will give some of the history.

Essentially, in 1991, after the GST debate, indeed, things were rather terse and tough, and the rules were adopted on a standing vote, and they were put into effect the day after the vote occurred. It went like this: Here is the report and the committee reported the new rules. The rules were debated over one day, voted on, passed and adopted the next day.

We are proposing that these rules take effect in the fall, not to give us the time to adapt but rather to give the administration time to adapt and to look at how this would work and will work in their whole process. It was important to recognize that. That is really the brief history in a nutshell of how the revision to the rules of 1991 took place.

**Senator Fraser:** We have insisted on the degree to which we operated on consensus because it was a remarkable feature of the work. I would like to go further on that and say that what was really quite amazing about the consensus is that it was always a consensus in the service, as Senator Smith suggested, of the institution.

• (1620)

I do not recall a single case where the disagreements we had were in the slightest way partisan. They were based upon experience among members of the subcommittee — both in government and in opposition — and a true belief that the rules must serve the institution and all senators on all sides, including independent senators.

I think I have not ever had such a prolonged experience in this place of that nature, and it was a great privilege.

[Translation]

**Senator Robichaud:** I notice that the existing rule 1(3) talks about grammatical “gender,” but I do not see it in the version you are proposing. Perhaps it appears later on, because we use the masculine form in French to refer to “a senator” and “the Speaker.” Is that part of the rules an obsolete form that was deemed unnecessary in the new rules?

**Senator Fraser:** When you refer to section 1(3) in the rules, you are alluding to the current version of the rules, as they refer to gender.

[English]

In English we say “masculine, marked genders.” If I may answer in English, Senator Robichaud, even francophones had trouble actually understanding the grammatical paragraph that is in the present rules about marked genders.

[Translation]

“Marked” and “unmarked” genders: it seems the only people who could understand this were the interpreters. They were very pleased to learn why it was done that way. However, we found that it was not worth putting something that no one understood into the rules, particularly since we had agreed that it would be useful to include all the definitions in Appendix I, Terminology. If you look at our report, we point out at the very beginning of this appendix that:

In the French version, the masculine gender is used throughout, without any intent to discriminate but solely to make the text easier to read.

That seemed to us to be the core of the issue and we are leaving it to grammar experts to debate the “marked” and “unmarked” genders.

**Senator Robichaud:** I thank you for your answer. It is just that I had not made it to the appendixes. You are saying we did not understand, but I thought it was quite clear.

**Senator Fraser:** For you. Surely, you are more of an expert than I am.

**Senator Robichaud:** I do not believe that it is a question of expertise because the masculine forms “le sénateur” and “le président” are everywhere in the French version of the

Rules. To understand that these terms apply to both genders, you must refer to the Appendix. In the current Rules, the explanation is found at the very beginning which, I believe, made it clear that the masculine term applied to both genders. Thank you.

**Senator Fraser:** That is true. However, Senator Carignan may perhaps also wish to comment on this matter. I have to say that I was definitely influenced by my experience on the Standing Senate Committee on Legal and Constitutional Affairs. There is no mention at the beginning of each bill that the masculine applies to both genders. It is assumed. It may be a certain professional habit.

**Senator Carignan:** I agree. The rules apply to both genders, even though only the masculine is used. It does not apply to just male senators

**Senator Robichaud:** I realize that. Had you wanted to do that, there would have been an uproar in the chamber and I would have supported those who opposed it. I completely understand what you did.

[English]

**The Chair:** Honourable senators, there being no other senators on my list, we have two minutes to go in this hour under the order of the Senate that says we have 60 minutes for this.

**Senator Cools:** I have two very quick questions. The first has to do with the devotion expressed by the members of the subcommittee and their obvious success in fraternal relations. I just wondered, since they were so successful in those relations, why did they not come to the house for a reference to do a full scale study involving the whole Rules Committee, with the power to travel, if necessary, on these rules?

The second question speaks to with the order of reference itself. As honourable senators would know, it is that portion of the motion which states the purpose for which the committee is appointed. In other words, it is that part which specifies the purpose of the committee.

I wonder if Senator Carignan could answer why his motion — which set out the order of reference — did not specify the purpose for this Committee of the Whole study. Why was it excluded? As honourable senators know, the purpose was to investigate or study whether the mandate provided under 86(1)(d)(i) of the committee extended to subcommittees in respect of studying and revising our rules. As we know, the rules are the mechanics which actuate our privileges.

I am sure the successes my honourable friend speaks about are to be commended, but I must tell honourable senators that I have attended many Rules Committee meetings and have never been greeted by anything I would consider warm or friendly feelings. As a matter of fact, I have never noticed the situation that is being described, but perhaps my absence creates that cosiness.

**The Chair:** Honourable senators, the hour available under the order of the Senate to ask questions has expired, but with the leave of honourable senators, I would ask that the three witnesses have a brief opportunity to respond to the recent question from Senator Cools. Is that agreed, honourable senators?

[ Senator Fraser ]



**Hon. Senators:** Agreed.

[Translation]

**Senator Carignan:** We are in Committee of the Whole because the Speaker's ruling clearly states that we must or that we can study the Rules. The Speaker's ruling was quick and clear, and established that we can review the Rules.

As for the warm welcome, I do not know what things were like before, but I must say that the Rules Committee works well together.

[English]

**The Chair:** Thank you very much.

Honourable senators, it now remains for me, on behalf of all honourable senators, to thank our three honourable senators for the excellence of their presentation to outline what took place in the drafting and redrafting of these rules. I would like to say thank you very much to Senators Fraser, Stratton and Carignan.

[Translation]

Second portion: Honourable senators, I would like to remind you that, pursuant to the order adopted by the Senate, we have a maximum of one hour to consider Chapters one, two, three and four of the First Appendix of the report. In order for all senators to have the opportunity to propose their amendments, I suggest that we proceed as follows:

[English]

I would ask senators who intend to propose amendments to any of these chapters to do so now, but the consideration of the amendments will be suspended until we dispose of the appropriate chapter — that is Chapters One, Two, Three or Four. This would ensure that the committee is seized of the amendments should we run out of time.

• (1630)

After receiving the amendments, we would then proceed to debate the chapters. After having debated the chapters, we would then deal with the motions necessary to dispose of them.

Are there any amendments?

**Senator Tardif:** Thank you, Mr. Chair.

[Translation]

**Senator Tardif:** I would like to begin my comments —

[English]

**Senator Cools:** — natural order to proceed in this way? I would think that, if we follow the natural order, since that is what the order of reference laid out, we will find that there are some rules some honourable senators want to make amendments to. However, I do not understand the purpose of banking or collecting amendments in advance of the order being called in its rightful place.

**The Chair:** After this initial period that just took place, which shall be a maximum of one hour, the order calls for the committee to consider Chapters One, Two, Three and Four of the First Appendix of the report for a maximum of one additional hour.

I have now called for amendments. The Honourable Senator Tardif has indicated that she has an amendment. We will hear that and any other amendments, and then begin within the hour the debate of Chapters One, Two, Three and Four.

[Translation]

**Senator Tardif:** I would like to begin my comments by thanking the committee, which has worked energetically and vigorously on this major project. I thank it very sincerely and I am convinced that the changes presented to us will allow the Senate to work more efficiently. The wording of the revised version is better, and I am very pleased to see a much more comprehensible French version.

[English]

As the chair has indicated, we will be looking today at Chapters One through Four, and I want to draw attention to two particular issues that I have identified as requiring the attention of the Senate.

I have spoken about this matter with honourable senators opposite, as well as within my own caucus, and I will present them. I would ask that the pages circulate the two amendments, if they could.

The amendment I will be presenting pertains to rule 2-5(3). I would like to draw attention to proposed new rule 2-5(3), which addresses the appeal of a Speaker's ruling and reads in part:

The appeal shall be decided immediately using the procedure for a vote on a non-debatable motion.

This proposed new rule makes, in my estimation, substantive changes to what is currently in place. I think something as important as an appeal of a Speaker's ruling requires a maximum amount of time and flexibility for honourable senators to consider the matter at hand. I believe, therefore, that it is more appropriate to use the normal procedure for bells for such a vote rather than the procedure for voting on non-debatable motions.

Therefore, honourable senators, I move:

That the first report of the Standing Committee on Rules, Procedures and the Rights of Parliament be not now adopted but that it be amended in the First Appendix of the report to read as follows:

That chapter two of the First Appendix of the report be not now adopted but that it be amended by replacing rule 2-5(3), at page 25 of the Appendix (page 441 of the *Journals of the Senate*), with the following:

“Appeals of rulings

**2-5. (3)** Any Senator may appeal a Speaker’s ruling at the time it is given, except one relating to the expiry of speaking times. The appeal shall be decided immediately using the ordinary procedure for determining the duration of the bells.”

I would ask the pages to also circulate my second amendment. In that one, I draw attention to Chapter Four, which deals with the ordering of government business. I would like to first remind the chamber of the wording of the current rule. Rule 27(1) reads in part:

Government Business shall be called and considered in such sequence as the Leader of the Government in the Senate or the Deputy Leader of the Government in the Senate shall determine.

The wording proposed by the Rules Committee found in new rule 4-13(3) says:

At any time during Government Business, either the Leader or the Deputy Leader of the Government may indicate the order in which the remaining items of Government Business are to be called.

In practice, it has been my experience that if the sequence of government business set out in the Order Paper and Notice Paper was to be reordered, usually there would have been an earlier discussion between the deputy government and deputy opposition leaders. The Deputy Leader of the Government would then rise when Orders of the Day were called to inform the Senate in what sequence the various items of government business would be called.

However, this is not the practice described in the new proposed rule. In fact, the word “sequence” is dropped from the new rule. The word “sequence” certainly strengthens the impression that the order of items should not be determined on the run, one at a time. In my own experience and from my examination of practice prior to my assuming this role, I cannot find any occasion where the Deputy Leader of the Government changed the agreed-to or understood sequence of events or items while in the middle of government business.

I believe it would be beneficial if all honourable senators knew from the start what the new order of government business will be if it is to be changed from what is in our Order Paper and Notice Paper. That has certainly been the unbroken practice during the current wording of rule 27(1).

Consequently, I feel this wording should be retained in our new rules. Therefore, honourable senators, I move:

That the first report of the Standing Committee on Rules, Procedures and the Rights of Parliament be not now adopted but that it be amended in the First Appendix to the report as follows:

That chapter four of the First Appendix of the report be not now adopted but that it be amended by replacing rule 4-13(3), at page 43 of the Appendix (page 459 of the *Journals of the Senate*), with the following:

[ Senator Tardif ]

“Ordering of Government Business

**4-13. (3)** Government Business shall be called in such sequence as the Leader or the Deputy Leader of the Government shall determine.”

**The Chair:** Are there further amendments to Chapters One, Two, Three or Four that honourable senators wish to put forward?

**Senator Cools:** No, I withdraw.

**Senator Kinsella:** My difficulty is that the French version of rule 1(1) is the same in both the revised text and the actual text. Regarding the revised text, it is the issue of committees and procedures in committees being used as authority for procedures in the chamber. The current rule 1(1) does not make reference to drawing on practices or procedures in Senate committees.

In my opinion, the current rule is preferred, although it is interesting that the French version of the current rule does say “ses comités.”

I will listen to the discussion, but I am signaling that I might move an amendment to maintain the present version that has worked for several decades.

**The Chair:** Senator Kinsella, as long as it is understood that we have some 50 minutes left, by order of the Senate, to deal with Chapters One, Two, Three and Four. If the honourable senator does, in fact, wish to make an amendment to rule 1(1), either in the French or the English, or both, he would have the 50 minutes to do it. I thank him for bringing that to our attention.

**Senator Kinsella:** The amendment technically will be to maintain the present wording.

**The Chair:** In both the English and the French?

**Senator Kinsella:** No. I would want the French to say the same thing as the English.

**Senator Tardif:** Which one?

• (1640)

**Senator Kinsella:** Current rule 1(1).

[Translation]

**Senator Fraser:** Which version?

**Senator Kinsella:** The English version.

[English]

**The Chair:** I will come back to you again, Senator Kinsella.

Honourable senators, we have before us to date two amendments made by Senator Tardif and seconded by Senator Cowan. Instead of reading them, shall I dispense, honourable senators, and is it agreed that they are now lawfully before this Committee of the Whole?

**An Hon. Senator:** Yes.

**The Chair:** Moved by Senator Tardif, seconded by Senator Cowan; agreed.

**Senator Cools:** I am trying to follow this process. Right now are you banking the amendments?

**The Chair:** That is correct.

**Senator Cools:** Then you will begin debate afterwards on the amendments?

**The Chair:** Right now I am calling for amendments to Chapters One, Two, Three and Four.

**Senator Cools:** I understand that.

**The Chair:** We have amendments to Chapters Two and Four, and I am still calling for other amendments. Senator Kinsella is considering an amendment to No. 1.

**Senator Cools:** I also have an amendment on a similar ground as that of Senator Kinsella. Maybe I should move it, too.

**The Chair:** Maybe you and Senator Kinsella could get together —

**Senator Cools:** No. It would be best if the house could have the choice of the better. We are not as cozy.

**Senator Duffy:** As a member of the Rules Committee, I rise on a point of information. As our colleagues who testified earlier have told us, there was extensive consultation and I must say at times vigorous debate in the Rules Committee, both in public and in camera, in discussion of all of this. The reports that are presented to the house today have been subject to a fairly rigorous process.

My question to the leadership or to Senator Tardif perhaps, is the following: Has the senator's amendment been discussed with the so-called leadership? Were members of the Rules Committee on our side aware that this amendment would be made in advance? Is there a reason that it did not come to the Rules Committee itself?

**Senator Tardif:** Yes. Further to the Speaker's ruling, we felt that the Speaker had given a very strong recommendation. We took the opportunity to examine the rules once again. We read them very carefully. In that reflection and in that rereading, certain elements did come up. We did mention them to the committee members on the other side, as well as to my honourable colleague Senator Carignan, who has agreed that these are reasonable amendments to put forward and to support.

**Senator Fraser:** I also had discussions with Senator Stratton from the other side, not about the precise wording of the amendments but about the substance of the amendments. I think he would confirm that we were in agreement as to the substance. What I am trying to say is that there was bipartisan discussion.

**Senator Stratton:** If I may, senator, what happens with amendments is that in this particular case they were being massaged right up until this morning, virtually. To try to take a set of amendments to the Rules Committee was not possible. Rather, what we tried to do was to work with the subcommittee on the sense of the amendments and the principle of the amendments. Having reached agreement on that, we then proceeded to do the wordsmithing, which quite often takes a while.

**Senator Duffy:** Allow me, Mr. Chair, to finish by making the point that it seems regrettable that, for something on which there has been such teamwork going on for so long not only by the steering committee but also by the regular members of that committee, time was not found even for an email update, a conference call or a brief meeting to say here is where we are going, or here is what is being suggested. I file as a note of regret that that extra step was not taken.

[Translation]

**Senator Carignan:** I apologize and take part of the blame regarding the sending of information on the proposed amendments. We discussed the appropriate way to bring amendments and the government leadership agrees with the amendments proposed by Senator Tardif on the ground that, in practice, the existing situations are clear and reflect an adequate process.

We did not want to include a new section that would change this practice, both as regards section 4-13(3), dealing with the reordering of Government Business, and regarding an appeal of a Speaker's ruling, which has an impact on the bells. To appeal a Speaker's ruling is a very serious matter. It is rather unusual, but it can happen because the rules allow it.

It seemed acceptable and even desirable to draw attention on the seriousness of appealing a Speaker's ruling and requiring the bells. However, in its desire to be productive, functional and efficient, the committee may have omitted a few things. In fact, we were reminded of that, and appropriately so.

As for reordering Government Business, the current practice provides that this must be done at the beginning of Government Business, to avoid taking people by surprise and to clarify the situation. We are comfortable with the practice that applies to the current version. Should there be a dispute later on regarding the change made to the order or to the time, it would then be possible to simply call on the Speaker, who could decide whether the current wording of the section allows the leader or the deputy leader to amend the order without consent, or at a time other than at the beginning of Government Business.

Since this practically never happens, and since the current practice is rather well established, it seems appropriate to keep the current version.

[English]

**The Chair:** Thank you, Senator Carignan.

Honourable senators, are there any further amendments to Chapters 1, 2, 3 or 4?

**Senator Mahovlich:** I just want to mention that I agree wholeheartedly with Senator Kinsella to leave No. 1 alone. I think it is very important to leave that Latin alone; it has worked so well all these years. However, if you can install the Latin in the French version, I think we would have it.

**Senator Cools:** Yes, I have a couple of amendments, moved by myself, obviously, seconded by Senator Watt. It is on the same issue as Senator Kinsella's. Just in case the time goes by quickly, I would like to move mine as well.

• (1650)

I move, seconded by the Honourable Senator Watt:

That the First Report of the Standing Committee on Rules, Procedures and the Rights of Parliament be not now adopted, but that it be amended, in Appendix I, chapter 1, on page 21, by replacing section 1-1 with the following:

“1-1. (1) The *Rules of the Senate* shall govern the proceedings of the Senate and its committees and shall prevail over any practice described in the appendices to these Rules.

1-1. (2) In any case not provided for in these Rules, the practices of the Senate and the House of Commons shall be followed, with such modifications as the circumstances require.”.

We are not in debate; we are just banking. Is that it?

**The Chair:** That is correct.

**Senator Cools:** It is essentially the same issue that a Senate committee is a delegated authority, so the Senate should not be following practices or precedents set in committees.

It is essentially the same concern, but it is just to put it in the bank. It is a bank and banks, as we know, are good holders of valuable things.

**The Chair:** Could the table have a copy?

**Senator Cools:** Absolutely.

**The Chair:** Honourable senators, it has been moved by the Honourable Senator Cools, seconded by the Honourable Senator Watt:

That the First Report of the Standing Committee on Rules, Procedures and the Rights of Parliament be not now adopted, but that it be amended, in Appendix I, chapter 1, on page 21, by replacing section 1-1 with the following:

“1-1. (1) The *Rules of the Senate* shall govern the proceedings of the Senate and its committees and shall prevail over any practice described in the appendices to these Rules.

1-1. (2) In any case not provided for in these Rules, the practices of the Senate and the House of Commons shall be followed, with such modifications as the circumstances require.”.

It is now moved and seconded and before the chamber. Is it adopted as a motion before this chamber, honourable senators?

**Hon. Senators:** Agreed.

**The Chair:** It is agreed that it is before the chamber for debate.

I now call for further amendments on Chapters 1, 2, 3 or 4. Are there any further amendments?

There being none, the floor is open for debate on any of the amendments on the floor.

We have 39 minutes. I will hear Senator Carignan and Senator Fraser.

[Translation]

**Senator Carignan:** I disagree with Senator Cools' proposed amendment. It is not unlike the idea Senator Kinsella raised earlier.

I had the chance to speak with Senator Kinsella. The idea of adding committees came from the fact that in the former English and French versions, there was a contradiction. The phrase “or its committees” was included in the French but not in the English. We decided to uphold the idea that the Rules also govern the committees because in any event, we have the phrase “as the circumstances require.” This concept of adapting the Rules allows the committee to be governed by the Rules. If there were a rule that was not appropriate for a committee, it could make the necessary adaptations to make the rule applicable to the committee.

It is the content of the current rule that is being upheld. By eliminating the notion of committee, we amend the very substance of the current rule. The revised text clarifies this situation to make this the case both in French and in English. By removing the notion of committee, oddly, we would amend the current version with regard to the one that should have rule of law, because it is clear enough in the current French version that this also applies to the committees.

[English]

**Senator Fraser:** Along similar lines, Mr. Chair, the present rules say — actually, in both English and French, although the ordering of the wording is different — that both the Senate and its committees, in any case that is not provided for in these Rules, will, *mutatis mutandis*, follow the practices of the Senate or its committees, *mutatis mutandis*.

[Translation]

And it says roughly the same thing in French.

[English]

If I had to choose between the two similar amendments that have been put forward to us, I would choose the one presented by the Speaker, because it would follow the operating principle we had, that if we did not have agreement, then we would revert to the substance of the rules as they stand.

That would take care of what would be the second paragraph of Senator Cools' amendment. I would opt for the Speaker's amendment.

For the first paragraph of Senator Cools' amendment, my difficulty is the "*Rules of the Senate* shall govern the proceedings of the Senate and its committees and shall prevail over any practice described in the appendices to these Rules."

Part of the difficulty is that some of the appendices to the rules now, which would be reproduced in the new version, actually have been adopted by order of the Senate. They are more than practices, and I think it just becomes complicated and possibly confusing to get into a discussion of "practices described in the appendices." I think it was useful to keep the distinction between practice and appendices.

Finally, I do not know whether we are heading for consensus here or not, but I wonder if the Speaker would contemplate a friendly amendment to his proposed amendment. He has not made it, but I think he said he was going to — or he did, sort of — which would be to pick up the second sentence of proposed new rule 1-1(2), which says, "The practices of other equivalent bodies may also be followed as necessary."

[Translation]

What is more, the practices of other equivalent bodies may also be followed as necessary.

[English]

As I tried to say in the earlier portion of this meeting, the fact is that, when matters go so far as requiring a Speaker's ruling, the Speaker will frequently refer to practices in other equivalent bodies, such as Westminster or provincial legislatures. That being the practice, I would still think it would be not a bad idea to include that.

**Senator Cools:** That rule has a very long history. In its original form years ago, it used to include the House of Lords. Then, later, as it developed, it included the House of Commons. However, it has never before included the committees.

The important point that Senator Fraser is making is, I think, a very different kind of point. The fact of the matter is that we do not know what an equivalent body is to the Senate, in this country or in any other country. We would not want a case where a ruling in the Senate of some unknown land that we do not know much about could be applied. The intention of that rule was always

ever to refer to practices of bodies higher, mostly in the House of Lords or equal to, since the Senate is equal to the House of Commons, since it has coordinate powers with it. It was never intended to be for unnamed equivalent bodies.

• (1700)

What could be contemplated there and used to be used in practice was an appeal to what they will call all those assemblies and parliaments that use the common law. They would call it the common law of Parliament. I suggested my amendment wording as I did because it is unclear, selective and subjective opinion as to what body is an equivalent body to the Senate.

I have no emotion or sentiment or anything wrapped up in this. I am prepared to accept the decision. We know I always accept the decisions of the house; right, Senator Comeau? I always do, even when they are wrong.

**Senator Ogilvie:** I wish to speak briefly to one of the amendments that I have in my hand that deals with section 1-1(1) and section 1-1(2). I personally think it is a mistake to delete reference to the practices of committees in this section. In the short time I have been here, the very limited examples of practice in committees that lie outside the formal rules have been put to good experience in the committees. I would like to see the actual reference to committees remain within this section, and I will be voting against this amendment.

[Translation]

**Senator Carignan:** I would like to clarify something regarding the amendments currently before us. Senator Kinsella did not propose any amendments, and my understanding is that he had no intention of doing so. Thus, it is not correct to talk about Senator Kinsella's amendment, or amendment to the amendment, as this could create confusion. To my knowledge, there are currently three proposed amendments, and I think we need to focus on those for the moment.

As for similar assemblies and the notion of this addition in the revised text, the former text talked about "usages, forms and proceedings of either House of the Parliament of Canada." However, speakers' rulings are often based on rulings handed down in other chambers. All authorities cited often use rulings from other chambers, particularly other Commonwealth assemblies, but not necessarily limited to Commonwealth countries.

That is why we changed this part of the Rules — in order to clearly indicate that referring to similar assemblies in the context of speakers' rulings is a well-established practice. The purpose of this section is to formalize a rule that is already a well-established practice: drawing inspiration from other institutions.

[English]

**The Chair:** Honourable senators, we have just a little over 20 minutes left in this 60-minute section or the hour available to consider Chapters One, Two, Three and Four. It is almost over. I would remind senators that once the hour has run out, no

further amendments can be received. I would therefore invite honourable senators who intend to propose amendments to do so now. If there are no further amendments now, the floor will still be open for further debate.

**Senator Cools:** Honourable senators, I have an amendment to the new 2-13(1). Maybe I should put it first. Actually, it is sub (1), (2) and (3). I move:

That the First Report of the Standing Committee on Rules, Procedures and the Rights of Parliament be not now adopted, but that it be amended, in Appendix I, chapter 2, on page 27, by replacing sections 2-13 with the following:

**“2-13.** (1) If at any sitting of the Senate, or in Committee of the Whole, a Senator shall take notice that strangers are present, the Speaker or the Chairman (as the case may be) shall forthwith put the question “That strangers be ordered to withdraw”, without permitting any debate or amendment.

**2-13.** (2) When the Speaker or the Chairman shall think fit, either of them may order the withdrawal of strangers from any part of the Senate, without a prior order of the Senate to that effect.

**2-13.** (3) When the Senate orders the withdrawal of strangers, the galleries shall be cleared, but those authorized to enter the Senate Chamber and to be on the floor of the Senate while it is in session shall continue to have free access to the Senate.”.

It is seconded by Senator Watt.

**The Chair:** Honourable senators, it has been moved by Senator Cools and seconded by Honourable Senator Watt:

That the First Report of the Standing Committee on Rules, Procedures and the Rights of Parliament be not now adopted, but that it be amended, in Appendix I, chapter 2, on page 27, by replacing sections 2-13 with the following:

**“2-13.** (1) If at any sitting of the Senate, or in Committee of the Whole, a Senator shall take notice that strangers are present, the Speaker or the Chairman (as the case may be) shall forthwith put the question “That strangers be ordered to withdraw”, without permitting any debate or amendment.

**2-13.** (2) When the Speaker or the Chairman shall think fit, either of them may order the withdrawal of strangers from any part of the Senate, without a prior order of the Senate to that effect.

**2-13.** (3) When the Senate orders the withdrawal of strangers, the galleries shall be cleared, but those authorized to enter the Senate Chamber and to be on the floor of the Senate while it is in session shall continue to have free access to the Senate.”.

Honourable senators, this amendment has been moved and seconded, and it is now before us for further debate.

Senator Cools, did you wish to say something?

**Senator Cools:** Thank you, honourable senators. This particular rule, formerly rule 20, has stood in essentially the same words as it is now for about 100 years, and it has stood in the same words almost in the House of Commons. The reason I have moved this amendment, honourable senators, is not just nostalgia but to uphold the dignity of all of those who have gone before us, who worked hard to create this system for us and who have passed this on to us as an entailed inheritance. This rule that someone has rewritten is taken from the actual words of Benjamin Disraeli in 1875. There is something wrong with passing judgment retroactively on people’s grammar or style, just like there is something wrong with someone changing things because the style is not likeable. There is something wrong with that.

What I am trying to say to honourable senators is in those days and until very recently, most of these rules that we were deforming in this go-round were actually moved by the original people who set the precedents themselves, by those individuals standing on the floors of the houses making those motions.

• (1710)

If you read the earlier editions of Bourinot and Beauchesne, you see them being very slavish to the actual words of the original precedent, which I have for those who are interested in looking at it. It was moved in 1875 by Mr. Disraeli, then British Prime Minister, on an important question of strangers. It was changed slightly here in 1991 when divided into two parts. Quite frankly, the words of Disraeli set the precedent, defined and articulated it and were carried right across the Commonwealth. In that particular way, they bear something worthy of preservation in our history. I would like to move that for the sake of preserving those words. Some of those gentlemen spoke well and they spoke long; and I have great respect for them. I do not understand manipulating or deforming other people’s words for nothing other than style.

This committee change is not substantive; it is stylistic. I understand there is a fair amount of vanity tied up in much of this, understandably because people worked hard. This rule needed no change, neither in substance nor in form. I just wanted to record that. Many of these changes have not been premised on their origins where they were originally spoken and adopted by us in “the colonies.” If anyone is interested, those words spoken by Mr. Disraeli in debate in 1875 were adopted verbatim by the House of Commons of Canada and the Senate.

**Senator Stratton:** Briefly, the whole intent was not to insult anybody from the past. That was not the intent of this at all. Rather, it was to take a 21st century look at the way the language is written and interpreted today. It is simply that and has nothing to do with our taking what was written at that time and deeming it inappropriate. We simply want to move it into the 21st century.

**Senator Cools:** Perhaps then one should begin with a blank paper and pencil and start writing from scratch. That would take some skill.

**Senator Stratton:** You would not want to do that either. We take what was previously written, with respect, look at it and see how it can be improved so that it makes more sense under today's usage of the English language — simply that.

**Senator Cools:** Perhaps you could explain the improvement. That is the characteristic of this movement and this proceeding.

**Senator Stratton:** I think I just did that.

**Senator Cools:** They are not explained.

**Senator Stratton:** I think I just did that.

**Senator Cools:** That was not an explanation.

**The Chair:** Is there further debate, honourable senators?

[Translation]

**Senator Carignan:** Clearly, there was no change to the substance of the text in that part. Whether we are referring to the report or the notes, the new version does not change the substance of the old Rule. The new version states "That strangers do withdraw" rather than "That strangers be ordered to withdraw." The substance is the same. The only changes we made were to the form, the style or the words used to translate the Rules.

Although I think it is noble to want to return to tradition or to the spirit of tradition, the problem with copying some of the old articles into the new version without using the same words or style as the rest of the new version is that it creates interpretation issues because the same wording is not being used. The entire team worked on the writing — and I use the word "team" because there were senators, table officers and staff — to try to ensure that the words used in one article were the same as those used in another. So, I think it is dangerous to import text directly. Upon reading the amendment, I find it hard to imagine what problems it could cause. However, in future practice, problems could well arise.

I therefore disagree with the proposed amendment because it is not a substantive change; it is simply a return to the former style. There is a risk of error that, for now, I am unable to identify. However, it is very likely that there would be a risk of error.

Often, during a trial or ruling, those who are interpreting a law realize that it was amended in this fashion at the last minute by a committee, which makes the law confusing. They try to find meaning in that amendment but there is none; it was made simply as a result of a desire to change something.

It is risky to cut and paste. I would prefer to stick to the logical way it has already been written.

[English]

**Senator Cools:** In that instance, I simply proposed a reversion to the original. However, if we really want to look at updating and clarifying the rules, we would certainly look at the proposed new rule 2-13(3), which says:

When strangers are ordered to withdraw, the public galleries shall be cleared, but individuals authorized to be in any part of the chamber during a sitting shall continue to have access to it.

If there was a rule that needed revising, it was that one. As the event showed some months back during the Speech from the Throne on June 3, 2011, if the Speaker had ordered the galleries or the floor cleared of strangers, the offensive individual would have been allowed to stay. Let us understand: There was a time when that rule did not allow any strangers whatsoever to stay. It has been amended to include many strangers. In ancient days that one person had only to say, "I spy a stranger," and that was the immediate order to clear all strangers out. It has been modified over time, but in today's community we are facing equal chances that the offender will be one of those strangers authorized to be on the floor of the house.

I am looking for the opportunity in this debate to raise that issue and to address the fact that all of us that day sat here hoping and wishing that nothing bad would happen; but some action should have been taken. If we want to look at bringing something into modernity, the rule of automatically admitting every stranger here because they work for the Senate perhaps should be reviewed.

Just think about it, Senator Carignan: If that had been invoked, that offensive person could have claimed a right to remain here. I ask you to think.

**The Chair:** Is there further debate, honourable senators?

[Translation]

**Senator Carignan:** The last part of Rule 2-13(3) states: "but individuals authorized to be in any part of the chamber during a sitting shall continue to have access to it." It goes without saying that those who are authorized to be there are not strangers. If the Rule was applied to or targeted a specific individual, it would not fall under the section about clearing the galleries.

• (1720)

The Speaker could exercise his or her authority to order a person to withdraw because that person is being disruptive or could have powers other than the power to exclude strangers. For example, if a page created a disruption, the Speaker, by virtue of the power to maintain order, could direct the Usher to remove that person.

[English]

**Senator Cools:** That rule is not the rule that is required to eject a disorderly person. That rule is an emergency rule to empty the place of strangers, and a stranger is a person who is not a member of this house. There was an instance in the House of Commons, a long time ago, where a senator was ordered out of the House of Commons because one member called, "I spy a stranger." That rule has a long history and, with all due respect to the honourable senator, many of these rules are older than we are. If I were convinced that the committee had done that study and research, it would be a different matter. However, honourable senators will recall that I did sit in on a few of those meetings, and I saw no such penetration of the history, purpose and foundation of these rules. Some of them for which alteration and change is proposed go back to pre-Confederation, to the old legislative councils.

Let us be aware, when we are revising, that we are now living in an era when security is a question uppermost in most people's minds and that rule, the clearing of strangers, is a very important rule. That is all I was saying, and I would say that the words that maintain the tradition are worth keeping.

It is pretty clear to me that nothing I say here will be taken. I think I had an inkling of that before I began, but, if we are going to debate this, we should debate on the grounds of argument, evidence and study. It would be nice to win the arguments in debate, not by muscle but by vote. I commend that to the honourable senator. Try it.

[Translation]

**Senator Carignan:** I would like to clarify that we studied past practices and the history of the rules. That is why we kept the rule that a senator can object to the presence of strangers and ask them to withdraw. That rule was kept because we found it to be relevant. It was not changed. The substance of the rule has not been changed. The formulation was changed to make it clearer and stylistically similar to the other rules. The substance of the rule — that a stranger can be forced to withdraw — has not been altered.

[English]

**Senator Cools:** The change has altered the nature of the question that the Speaker will put.

[Translation]

**Senator Carignan:** Everyone could agree that the question now be "That strangers do withdraw" to maintain the tradition of the words "that strangers be ordered to withdraw." I believe we would find unanimous consent.

[English]

**Senator Cools:** Like the honourable senator, I am sticking to my guns.

**The Chair:** I would like to draw to honourable senators' attention that we have three minutes left in this hour for amendments to chapters 1, 2, 3 or 4. Are there any other amendments?

[Translation]

**Senator Carignan:** Since we have just three minutes left, I would move an amendment to maintain the original question on the withdrawal of strangers.

Out of respect for tradition, instead of saying, "that strangers shall withdraw," we would say, "that strangers be ordered to withdraw" given the history of the question and the wording.

[English]

**Senator Fraser:** That strangers be ordered to withdraw?

[ Senator Cools ]

**The Chair:** It is moved by Honourable Senator Carignan, seconded by Honourable Senator Tardif:

That the First Report of the Standing Committee on Rules, Procedures and the Rights of Parliament be not now adopted, but that it be amended, in Appendix I, chapter 2, on page 27, by replacing sections 2-13. (1) with the following:

"2-13. (1) When, during a sitting of the Senate or a Committee of the Whole, a Senator objects to the presence of strangers, the question "That strangers be ordered to withdraw" shall be decided immediately."

Is it agreed, honourable senators, that this amendment is now lawfully before this Committee of the Whole?

**Hon. Senators:** Agreed.

**The Chair:** Honourable senators, is there any further debate?

**Senator Cools:** Chair, the debate has been dominated by members of the committee. I am the only non-member of the committee who has participated. Perhaps you can make an appeal to any of those other senators who might want to say something.

**The Chair:** I have called, on many occasions, asking whether honourable senators wish to participate in the debate.

**Senator Cools:** I know, but I am asking if you could ask for the last time.

**The Chair:** I did not want to single out certain senators.

**Senator Cools:** I am aware of that. The Chair has been very sensitive, but I am saying that maybe he could ask one last time.

**Senator Duffy:** I think we have learned a lesson here today, honourable senators. Things proceed smoothly when we have proper, advanced preparation. Might I suggest that if there are other amendments coming in future weeks to this work that we have spent years on, that some of us — at least the members of the committee — be alerted in advance so that we would not have this sprung on us at the last minute? If we are going to put this through — and there are points on both sides — having a fully informed committee would be important.

[Translation]

**Senator Robichaud:** I agree with what Senator Duffy said. This project is now before the Senate and all senators must receive the same information. This project to change the Rules is no longer before the committee. It is before the Senate. Advance notice would be good, but it should not limit our privilege to present amendments during debate on the issue.

[English]

**Senator Ogilvie:** I will speak against the suggestion of the honourable senator. I think that the amendments put before this chamber are in language that is easily understandable. During the course of debate, it is entirely possible that members of a body



such as this would see aspects of important issues that have not occurred to them before, and I would urge that this chamber not preclude amendments arising from the floor.

**Senator Duffy:** Mr. Chair, my suggestion was not that amendments be precluded, but that members of the committee who have worked on this not be excluded by the steering committee from understanding where the process is going and what arrangements have been made bilaterally.

**The Chair:** I think that the record will show that Honourable Senator Duffy's very first intervention made that clear. It is now very clear.

Honourable senators, the hour available, under the order of the Senate, to consider chapters 1, 2, 3 and 4 has expired and, accordingly, I must interrupt proceedings to put all questions without further debate.

Honourable senators, we are now disposing of chapter 1. The Honourable Senator Cools has moved, seconded by Honourable Senator Watt:

That the First Report of the Standing Committee on Rules, Procedures and the Rights of Parliament be not now adopted, but that it be amended, in Appendix I, chapter 1, on page 21, by replacing section 1-1 with the following:

**1-1.** (1) The *Rules of the Senate* shall govern the proceedings of the Senate and its committees and shall prevail over any practice described in the appendices to these Rules.

**1-1.** (2) In any case not provided for in these rules, the practices of the Senate and the House of Commons shall be followed, with such modifications as the circumstances require.

• (1730)

Is it your pleasure, honourable senators, that the amendment shall carry?

**Some Hon. Senators:** No.

**The Chair:** The amendment is negatived.

Shall Chapter One carry unamended?

**Some Hon. Senators:** Agreed.

**The Chair:** Carried.

**Senator Cools:** Mr. Chair, I am a little bit puzzled by the process. I was under the impression that we would not actually be voting on all of this today.

**The Chair:** That is what the order provides.

**Senator Cools:** No, no, the order does not tell the committee what to do; it just prescribes what it can recommend to the house. The order says it must make a recommendation to adopt or not to adopt. It is not my understanding that they are to go back with a report saying it was adopted here in the Senate. We could look at a copy of the motion.

**The Chair:** We are in the Committee of the Whole. I will read what the order says:

... after this initial period, which shall last a maximum of one hour ... after which the chair shall interrupt proceedings —

— which I just did —

— to put all questions necessary to dispose of these chapters successively —

— meaning Chapters One, Two, Three and Four —

— without further debate or amendment, after which the committee shall rise once it has disposed of any consequential business. . . .

Honourable senators, we are now disposing of Chapter Two. The Honourable Senator Tardif moved, seconded by the Honourable Senator Cowan:

That chapter two of the First Appendix of the report be not now adopted but that it be amended by replacing rule 2-5(3) on page 25 of the Appendix (page 441 of the *Journals of the Senate*), with the following:

Appeals of rulings

**2-5.** (3) Any Senator may appeal a Speaker's ruling at the time it is given, except one relating to the expiry of speaking times. The appeal shall be decided immediately using the ordinary procedure for determining the duration of the bells.

Is it your pleasure, honourable senators, that the amendment carry?

**Some Hon. Senators:** Yes.

**Senator Cools:** Mr. Chair, you are not asking for abstentions.

**The Chair:** I just asked if it carried. May I finish doing that first?

**Senator Cools:** Absolutely, but you did not ask for abstentions for the previous one.

**The Chair:** Is it your pleasure, honourable senators, that the amendment carry?

**Some Hon. Senators:** Yes.

**The Chair:** Is it your pleasure that it be negatived, honourable senators?

The amendment is carried.

**Senator Cools:** I would like to record a series of abstentions.

**The Chair:** That shall be so noted.

Honourable senators, we continue disposing of Chapter Two. The Honourable Senator Cools has moved, seconded by the Honourable Senator Watt:

That the First Report of the Standing Committee on Rules, Procedures and the Rights of Parliament be not now adopted, but that it be amended in Appendix I, chapter 2, on page 27, by replacing section 2-13 with the following:

**2-13.** (1) If at any sitting of the Senate, or in Committee of the Whole, a Senator shall take notice that strangers are present, the Speaker or the Chairman (as the case may be) shall forthwith put the question “That strangers be ordered to withdraw”, without permitting any debate or amendment.

**2-13.** (2) When the Speaker or the Chairman shall think fit, either of them may order the withdrawal of strangers from any part of the Senate, without a prior order of the Senate to that effect.

**2-13.** (3) When the Senate orders the withdrawal of strangers, the galleries shall be cleared, but those authorized to enter the Senate Chamber and to be on the floor of the Senate while it is in session shall continue to have free access to the Senate.”

Honourable senators, is it your pleasure that this amendment carry?

**Some Hon. Senators:** No.

**Senator Cools:** On division.

**The Chair:** It is negatived.

We have noted, Senator Cools, that you wanted to have your objection recorded.

**Senator Cools:** I want to show I disagree with the negative vote. It is not an abstention. You did not call for a vote, so it cannot be a positive. It has to be an “on division.”

**The Chair:** Thank you. That is noted, Senator Cools.

We continue with disposing of Chapter Two. The Honourable Senator Carignan moved, seconded by the Honourable Senator Tardif:

That the first report of the Standing Committee on Rules, Procedures and the Rights of Parliament be not now adopted but that it be amended in Appendix I, chapter 2, on page 27, by replacing section 2-13. (1) with the following:

**“2-13.** (1) When, during a sitting of the Senate or a Committee of the Whole, a Senator objects to the presence of strangers, the question “That strangers be ordered to withdraw” shall be decided immediately.”.

Is it your pleasure, honourable senators, that the amendment carry?

**Some Hon. Senators:** Agreed.

**The Chair:** Carried.

**Senator Tardif:** That was not the right one.

**Senator Cools:** The order goes in reverse.

**The Chair:** Senator Carignan, you have the floor.

[Translation]

**Senator Carignan:** The proposed amendment had to do with section 2-13.(1) and replacing “That strangers do withdraw” with “That strangers be ordered to withdraw.”

[English]

**The Chair:** That is precisely what I just said.

[Translation]

**Senator Carignan:** I would like the last phrase of the proposed amendment to be clear, because that is not what I heard. Section 2-13.1 should read as follows: “When —

**The Chair:** “be ordered to withdraw.”

**Senator Carignan:** That is at the beginning. It comes before. I think you read the current version instead of the new version.

[English]

**The Chair:** The old version said that “strangers do withdraw,” and your amendment is to remove the word “do” and replace it with “be ordered to withdraw,” and that is the motion I put to the Committee of the Whole right now.

**Senator Carignan:** Okay, I agree.

**The Chair:** That is what I said and that is what the committee voted on.

[Translation]

**Senator Carignan:** Okay. That is not what I understood.

[English]

**The Chair:** Honourable senators, shall Chapter Two carry as amended?

**Some Hon. Senators:** Agreed.

**The Chair:** Carried.

There were no amendments to Chapter Three. Shall Chapter Three carry?

**Some Hon. Senators:** Agreed.

**The Chair:** Carried.

We are now disposing of Chapter Four, honourable senators. The Honourable Senator Tardif moved, seconded by the Honourable Senator Cowan:

That chapter four of the First Appendix of the report be not now adopted but that it be amended by replacing rule 4-13(3), at page 43 of the Appendix (page 459 of the *Journals of the Senate*), with the following:

“Ordering of Government Business

**4-13.** (3) Government business shall be called in such sequence as the Leader or the Deputy Leader of the Government shall determine.”

Is it your pleasure, honourable senators, that the amendment carry?

**Some Hon. Senators:** Agreed.

**The Chair:** Carried.

• (1740)

Shall Chapter Four as amended carry?

**Hon. Senators:** Agreed.

**The Chair:** Carried.

Honourable senators, pursuant to the order of the Senate of May 17, 2012, I declare the committee adjourned until its next meeting, which will be on the next Tuesday the Senate sits, at the end of Government Business. Under the order of the Senate, the committee is not required to seek leave to sit again.

Honourable senators can return their copies of the Journals to the pages if they so wish, so they can be used at future sittings. The committee is now adjourned.

(The committee adjourned.)

**The Hon. the Speaker:** Honourable senators, the sitting is resumed.

[Translation]

## STUDY ON THE ESTABLISHMENT OF A “CHARTER OF THE COMMONWEALTH”

### THIRD REPORT OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE COMMITTEE— DEBATE ADJOURNED

The Senate proceeded to consideration of the third report of the Standing Senate Committee on Foreign Affairs and International Trade entitled: *A Charter “Fit for Purpose”: Parliamentary Consultation on the Proposed Charter of the Commonwealth*, tabled in the Senate on April 3, 2012.

**Hon. Claude Carignan (Deputy Leader of the Government):** Honourable senators, I know that Senator Andreychuk wants to speak to this subject. She has not had the chance to prepare her notes. I want to take the floor to reset the clock. I would ask to adjourn the debate for the rest of my time.

(On motion of Senator Carignan, debate adjourned.)

[English]

## INVOLVEMENT OF FOREIGN FOUNDATIONS IN CANADA’S DOMESTIC AFFAIRS

### INQUIRY—ORDER STANDS

On the Order:

Resuming debate on the inquiry of the Honourable Senator Eaton calling the attention of the Senate to the interference of foreign foundations in Canada’s domestic affairs and their abuse of Canada’s existing Revenue Canada Charitable status.

**Hon. Nicole Eaton:** Honourable senators, I have been busy in the Standing Senate Committee on National Finance and have not had an opportunity to finish my remarks. I would like to adjourn the debate in my name for the rest of my time.

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

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** Perhaps I will ask the table to refer us to the order that we have just given the continuation of the adjournment to Senator Eaton. I am advised by the table that we are at No. 32, resuming debate on the inquiry of Senator Eaton calling the attention of the Senate to the interference of foreign foundation in Canada’s domestic affairs and their abuse of Canada’s existing Revenue Canada charitable status. Senator Eaton rose to adjourn the debate on that item. I understood for the remainder of her time.

**Senator Fraser:** No. She has already spoken.

**Senator Eaton:** I would like to close the debate, Mr. Speaker.

**Senator Tardif:** We do not close the debate on inquiry.

**The Hon. the Speaker:** I will check at the table as to whether Senator Eaton has spoken before. Has Senator Eaton spoken before?

**Senator Eaton:** Yes, I proposed the debate, Your Honour. I understood from my research that I could close the debate, and that is what I wish to do.

**The Hon. the Speaker:** Perhaps if the matter is simply stood in the name of Senator Duffy, where it is currently adjourned, Senator Eaton is absolutely correct. As the mover of it, she has the right of final reply. However, I think other senators may wish to speak.

Is it agreeable that this item remains standing in the name of Senator Duffy?

**Hon. Senators:** Agreed.

(Order stands.)

## HUMAN RIGHTS IN IRAN

### INQUIRY—ORDER STANDS

On the Order:

Resuming debate on the inquiry of the Honourable Senator Frum, calling the attention of the Senate to egregious human rights abuses in Iran, particularly the use of torture and the cruel and inhuman treatment of unlawfully incarcerated political prisoners.

**Hon. Anne C. Cools:** Honourable senators, I took this adjournment a couple of days back. It was in danger, as honourable senators will remember, of falling off the Order Paper. I was trying to help Senator Frum. I am prepared to speak to it, but my time is precious these days. I have been very busy. I am quite prepared to let it continue to stand in my name, and anyone who wants to speak is quite free to speak. At the end of the day, it is up to Senator Frum to decide how long she wants it around.

(Order stands.)

## EMPLOYMENT INSURANCE

### INQUIRY—DEBATE ADJOURNED

**Hon. Catherine S. Callbeck** rose pursuant to notice of March 28, 2012:

That she will call the attention of the Senate to the need to adequately support new mothers and fathers by eliminating the Employment Insurance two-week waiting period for maternity and parental benefits.

She said: Honourable senators, I am pleased to rise today on an issue that has been brought to my attention several times by people in my province. As honourable senators know, the Employment Insurance benefit proposes a two-week waiting period before a claimant can begin to receive either regular benefits, like when a person becomes unemployed, or special benefits, like for maternity or parental leave. I believe that the case of maternity and parental benefits is unique and that the federal government should eliminate the two-week waiting period for these types of benefits.

Since 1971, eligible biological new mothers can claim up to 15 weeks for maternity benefits. The benefits are capped at 55 per cent of their average insured earnings. Parental leave benefits were added in 1990 and were extended over the years so that parents now have up to a year of leave to care for their newborn babies. Right now, benefits can be received for up to 50 weeks; 15 weeks of maternity benefits for biological mothers only and 35 weeks of parental benefit, which are available to either parent, biological or adoptive, that can be shared.

In 2008 and 2009, more than 172,000 new mothers claimed maternity benefits, receiving an average weekly income replacement of \$350. In addition, nearly 194,000 biological and adoptive parents registered for parental benefits and received an average \$384 per week.

The two-week waiting period applies to every new claim. I think this waiting period imposes an unfair hardship and should be eliminated for maternity and parental benefits.

There has been considerable debate and discussion among various groups about this proposal. It has been suggested that eliminating the two-week waiting period for EI maternity benefits is not needed; there is no demand for it. I beg to disagree with that.

• (1750)

First and foremost, the measure has been widely advocated by the House of Commons Standing Committee on the Status of Women, which is made up of members of Parliament from all parties, as we all know. In fact, in its report in June 2009, this particular recommendation was endorsed by all members of the committee and received no dissenting commentary. The committee noted that it heard from several witnesses that the two-week waiting period for special benefit claims should be eliminated.

The elimination of the waiting period has also been advocated by the National Association of Women and the Law; the Canadian Federation of Business and Professional Women; the Liberal Women's Caucus; and, in my own province, the Women's Network of Prince Edward Island.

It has been suggested that the two-week waiting period eliminates short claims. Why should this apply to maternity and parental leaves? They are not short-term claims; they are actually very predictable in their start and duration. The average maternity benefit claim is for 14.6 weeks, just a few days short of the 15-week maximum. The average parental leave for biological and adoptive parents together is 28.3 weeks.

Eliminating the two-week waiting period would also not make these claims any more costly to administer. Applicants will not get their money any faster; payments will simply go back to the first day of the claim. In fact, maternity and parental benefits should be the easiest of all the EI benefits to administer. Again, they are predictable in their start and in their duration. It is inappropriate to place a waiting period on the people who are applying for these benefits.

When a family welcomes a new member, parents experience a drastic reduction of income when one parent stops working — often it is the mother. They also experience serious additional

costs in preparing for the new addition. Less income and additional expenses put a tremendous squeeze on new parents. The Québec Parental Insurance Plan recognizes this situation and does not impose a two-week waiting period for maternity and parental benefits.

Losing two weeks of income can be a terrible financial burden on families, especially for single parents. Indeed, about 16 per cent of single-father households live below the low-income cut-off, while more than 32 per cent of single-mother households live below the LICO. They are almost four times more likely to be poor than a two-parent household. All in all, almost 30 per cent of all single parents live below the poverty line.

The Canadians who are hardest hit by the waiting period are low-income mothers, who will rely solely on maternity and parental benefits. Many never receive an income supplement from their employers and find it difficult enough to support their new babies on just 55 per cent of their regular income.

Honourable senators, eliminating the two-week waiting period is a straightforward and easy change that would provide immediate support to Canadian families when they need it. It makes perfect sense. Maternity and parental benefits play a critical role for families. Support of these benefits allows women and men to stay home to nurture their child, which helps the child, their family and society at large. It is also good public policy. It helps new mothers and fathers bond with their children without too much financial worry, ensuring babies can have the very best start in life.

Furthermore, it would not cost the taxpayer one cent more. It would not extend the benefit period. It would be administered in existing facilities by existing employees. It will not require any additional time.

This is certainly an easy change, one that will help mothers, fathers, babies and our communities without costing the taxpayer anything more. I urge the federal government to reconsider eliminating the two-week waiting period for Employment Insurance maternity and parental benefits.

**Hon. Jane Cordy:** Would the honourable senator take a question?

**Senator Callbeck:** Yes.

**Senator Cordy:** I thank the honourable senator for her initiative on this very important issue, particularly for those who are low-income parents or low-income single mothers, because the two-week waiting period certainly causes great financial hardship.

The honourable senator talked about the two-week waiting period and said that the reason for it was to eliminate short-term claims. However, the honourable senator said, rightfully so, that it does not matter with parental leave or maternity leave because they will be claiming for only 50 weeks. Also, it should be a very easy file to administer, because they know that 50 weeks is the limit. Whether the two weeks are at the beginning, without the waiting period, or at the end, it will not cost taxpayers of Canada any additional money, but it will certainly make it much easier for new parents.

Does the honourable senator believe this would be an easy change to make, administratively?

**Senator Callbeck:** I thank the honourable senator for the question. Certainly, as the honourable senator says, it is very important to low-income families.

I do not see it as a difficult change at all. The recipient will get 50 weeks and they will get paid from day 1. I think it would really help out low-income families, especially, as I said, single mothers, who are having a difficult time if they are relying only on maternity and parental benefits, because they get only 55 per cent of their salary.

Therefore, no, I do not think this would be a difficult change at all. I think it would be very easy to bring about and one that would certainly be well received.

(On motion of Senator Hubley, debate adjourned.)

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

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## CONTENTS

Tuesday, May 29, 2012

	PAGE		PAGE
<b>Visitors in the Gallery</b>		<b>Notice of Motion to Authorize Committee to Extend Date of Final Report on Study of Current State and Future of Energy Sector and to Deposit Report with the Clerk during Adjournment of the Senate.</b>	
The Hon. the Speaker . . . . .	1876	Hon. W. David Angus . . . . .	1881
<hr/>			
<b>SENATORS' STATEMENTS</b>		<b>QUESTION PERIOD</b>	
<hr/>			
<b>Ms. Roza Otunbayeva</b>		<b>Atlantic Canada Opportunities Agency</b>	
Former President of Kyrgyzstan.		Rural Communities.	
Hon. Consiglio Di Nino . . . . .	1876	Hon. Terry M. Mercer . . . . .	1881
Hon. Mobina S. B. Jaffer . . . . .	1876	Hon. Marjory LeBreton . . . . .	1881
<b>India</b>		<b>Aboriginal Affairs and Northern Development Canada</b>	
Parliamentary Delegation of Officers of the Rajya Sabha.		Funding for the National Centre for First Nations Governance and Health Services of the Native Women's Association of Canada.	
Hon. David Tkachuk . . . . .	1877	Hon. Céline Hervieux-Payette . . . . .	1882
<b>International Day of United Nations Peacekeepers</b>		Hon. Marjory LeBreton . . . . .	1882
Hon. Roméo Antonius Dallaire . . . . .	1877	<b>Labour</b>	
<b>National Marine Manufacturers Association</b>		Canada Labour Code.	
Hon. Gerald J. Comeau . . . . .	1878	Hon. Jean-Claude Rivest . . . . .	1883
<b>Little Warriors</b>		Hon. Marjory LeBreton . . . . .	1883
Awareness, Prevention and Treatment of Child Sexual Abuse.		<b>Foreign Affairs</b>	
Hon. Claudette Tardif . . . . .	1878	Understanding Canada Program.	
<b>Republic of Azerbaijan</b>		Hon. Claudette Tardif . . . . .	1883
Hon. Salma Ataullahjan . . . . .	1878	Hon. Marjory LeBreton . . . . .	1884
<b>Shawinigan Cataractes</b>		<b>Fisheries and Oceans (Bill C-38)</b>	
Congratulations to 2012 Memorial Cup Winners.		Amendments to Fisheries Act in Bill C-38.	
Hon. Michel Rivard . . . . .	1879	Hon. Grant Mitchell . . . . .	1884
<b>The Late Mr. Georges-Henri Gagné</b>		Hon. Marjory LeBreton . . . . .	1885
Hon. Ghislain Maltais . . . . .	1879	<b>Delayed Answers to Oral Questions</b>	
<b>Visitors in the Gallery</b>		Hon. Claude Carignan . . . . .	1885
The Hon. the Speaker . . . . .	1879	<b>Public Safety</b>	
<hr/>			
<b>ROUTINE PROCEEDINGS</b>		<b>Industry</b>	
<hr/>		Foreign Corporate Takeovers.	
<b>Privy Council</b>		Question by Senator Peterson.	
Special Economic Measures (Syria) Regulations Tabled.		Hon. Claude Carignan (Delayed Answer) . . . . .	
Hon. Claude Carignan . . . . .	1880	1886	
<b>Study on Political and Economic Developments in Brazil</b>		<b>Agriculture and Agri-Food</b>	
Fifth Report of Foreign Affairs and International Trade Committee Tabled.		Canadian Agricultural Adaptation Program.	
Hon. A. Raynell Andreychuk . . . . .	1880	Question by Senator Mercer.	
<b>Jobs, Growth and Long-term Prosperity Bill (Bill C-38)</b>		Hon. Claude Carignan (Delayed Answer) . . . . .	1886
Notice of Motion to Authorize Select Committees to Refer Papers and Evidence on Study of Subject Matter of Bill C-38 to National Finance Committee.		<b>Energy, the Environment and Natural Resources</b>	
Hon. Claude Carignan . . . . .	1880	Notice of Motion to Authorize Committee to Meet during Adjournment of the Senate.	
<b>Foreign Affairs and International Trade</b>		Hon. W. David Angus . . . . .	1887
Notice of Motion to Authorize Committee to Extend Date of Final Report on Study of Canadian Foreign Policy regarding Iran.		<b>Criminal Code (Bill C-290)</b>	
Hon. A. Raynell Andreychuk . . . . .	1880	Bill to Amend—Declaration of Private Interest.	
<b>Energy, the Environment and Natural Resources</b>		The Hon. the Speaker . . . . .	1887
Committee Authorized to Meet During Sitting of the Senate.		<hr/>	
Hon. W. David Angus . . . . .	1880		
Hon. Claudette Tardif . . . . .	1880		

	PAGE		PAGE
<b>ORDERS OF THE DAY</b>		Senator Comeau . . . . .	1895
<b>The Estimates, 2012-13</b>		Senator D. Smith . . . . .	1895
National Finance Committee Authorized to Study		Senator Robichaud . . . . .	1896
Supplementary Estimates (A).		Senator Tardif . . . . .	1897
Hon. Claude Carignan . . . . .	1887	Senator Duffy . . . . .	1899
<b>Criminal Code</b>		Senator Mahovlich . . . . .	1900
<b>Canada Evidence Act</b>		Senator Ogilvie . . . . .	1901
<b>Security of Information Act (Bill S-7)</b>		<b>Study on the Establishment of a “Charter of the Commonwealth”</b>	
Bill to Amend—Second Report of Special Committee		Third Report of Foreign Affairs and International	
on Anti-Terrorism—Debate Adjourned.		Trade Committee—Debate Adjourned.	
Hon. Hugh Segal . . . . .	1887	Hon. Claude Carignan . . . . .	1907
Hon. Joseph A. Day . . . . .	1888	<b>Involvement of Foreign Foundations in Canada’s Domestic Affairs</b>	
Hon. Claudette Tardif . . . . .	1888	Inquiry—Order Stands.	
<b>Rules, Procedures and the Rights of Parliament</b>		Hon. Nicole Eaton . . . . .	1907
First Report of Committee—Consideration		<b>Human Rights in Iran</b>	
in Committee of the Whole.		Inquiry—Order Stands.	
Senator Cools . . . . .	1889	Hon. Anne C. Cools . . . . .	1908
Honourable Joan Fraser, Senator, The Senate of Canada . . . . .	1889	<b>Employment Insurance</b>	
Senator Losier-Cool . . . . .	1890	Inquiry—Debate Adjourned.	
Honourable Claude Carignan, Senator, The Senate of Canada . . . . .	1890	Hon. Catherine S. Callbeck . . . . .	1908
Honourable Terry Stratton, Senator, Senate of Canada . . . . .	1891	Hon. Jane Cordy . . . . .	1909
Senator Kinsella . . . . .	1893		
Senator Joyal . . . . .	1894		



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