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(HANSARD)

Wednesday, June 13, 2012

The Honourable NOËL A. KINSELLA
Speaker

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THE SENATE

Wednesday, June 13, 2012

The Senate met at 1:40 p.m., the Speaker in the chair.

Prayers.

SENATORS' STATEMENTS

TRIBUTES

THE HONOURABLE ROSE-MARIE LOSIER-COOL

The Hon. the Speaker: Honourable senators, I have received a notice from the Leader of the Opposition who requests, pursuant to rule 22(10), that the time provided for the consideration of Senators' Statements be extended today for the purpose of paying tribute to the Honourable Senator Losier-Cool, who will be retiring from the Senate on June 18, 2012.

I remind honourable senators that, pursuant to our rules, each senator will be allowed only three minutes and they may speak only once. However, if it is agreed that we continue our tributes to Senator Losier-Cool under Senators' Statements, we will, therefore, have the balance of the 30 minutes for tributes, not including the time allotted for Senator Losier-Cool's response. Any time remaining after tributes would be then used for other statements.

Is that agreed, honourable senators?

Hon. Senators: Agreed.

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, I rise today to bid farewell to our colleague, Senator Rose-Marie Losier-Cool, who is taking her leave of the Senate next week. Senator Losier-Cool is many things: a proud Acadian, a respected educator, a strong advocate for the advancement of women, a truly dedicated parliamentarian and much, much more.

During her time in the Senate of Canada, she has conveyed to all honourable senators just how deeply she takes the responsibility of each of these roles. I had the great pleasure of serving on many Senate committees alongside Senator Losier-Cool, and we shared a lot of common interests, especially when it came to the advancement of women.

Just over 17 years ago, in March 1995, Rose-Marie Losier-Cool was appointed to the Senate of Canada by the former Prime Minister, The Right Honourable Jean Chrétien. Since that time, she has worked hard on behalf of the people of her home province of New Brunswick, and particularly Tracadie, in both this chamber and on Senate committees. Of course, I have fond memories, a few years ago, of attending a large celebration, in Tracadie, of Acadians at an Acadian conference, where Acadians came from all over the world. If my memory serves me correctly, Senator Losier-Cool's husband's mother is a LeBreton, and there were certainly a lot of LeBretons at that event in Tracadie.

One of the responsibilities in the Senate that Senator Losier-Cool took very, very seriously and did a great job on was as chair of the Standing Senate Committee on Official Languages.

During two separate time frames, from 1999-2002 and from 2006-10, Senator Losier-Cool served as Speaker *pro tempore* in this chamber, working in the latter period alongside her fellow New Brunswicker, Senator Kinsella. It is a true testament to the senator's character, judgment and temperament that she was reappointed to this important position on several occasions. As Speaker *pro tempore*, Senator Losier-Cool always showed tremendous respect towards senators on both sides of the chamber.

She had a great respect for the rules which govern this place and adhered to these rules diligently. It is a difficult job and one that she handled with great courtesy.

Honourable senators, I would be remiss if I did not point out that Senator Losier-Cool was the very first woman to hold the position of Chief Government Whip in the Senate, and she leaves the Senate at a time when that role is once again held by a woman, our colleague Senator Marshall.

As a former opposition whip myself — and we worked together on many things — I can sympathize wholeheartedly with her responsibilities in that particular role. You really have to have been whip to understand.

Senator Munson: Yes, you do.

Senator LeBreton: Senator Munson concurs.

It is a unique position, and it is a position on which everyone has a comment or an opinion at one point in time or another. You learn to live with that.

Senator Losier-Cool, as you take your departure from the Senate, I would like to extend my personal best wishes and the best wishes of my caucus colleagues to you — although, knowing you, you are not going to be retiring — to your family, especially the LeBretons in your family, and to your children and grandchildren. We will miss you, Senator Losier-Cool.

[*Translation*]

Hon. Claudette Tardif (Deputy Leader of the Opposition): Honourable senators, it is with some emotion that I speak today to pay tribute to our dear colleague and friend, the Honourable Rose-Marie Losier-Cool, on the occasion of the end of her outstanding career in the Senate.

Senator Losier-Cool is a remarkable, great and proud Acadian woman who is caring and smart. She is a highly regarded colleague who deserves our respect and our deep gratitude. This great parliamentarian has a deep sense of fairness and humanity, and her accomplishments and innovative ideas have enriched our institution.

Senator Losier-Cool was appointed to the Senate by the Right Honourable Jean Chrétien in 1995 and served as the very first female Government Whip from 2004 to 2006, and as Speaker *pro tempore* of the Senate from 1999 to 2002 and from 2005 to 2010, with much diplomacy and diligence.

She sat on the Standing Senate Committee on Official Languages, the Standing Committee of Selection, the Standing Committee on Foreign Affairs and International Trade and the Standing Committee on Human Rights.

Senator Losier-Cool is a deeply committed woman who courageously defended the causes that are dear to her heart, such as advancing education in French, eliminating poverty in our country, developing bilingualism and achieving better representation of women in all spheres of our society.

I am especially touched, Rose-Marie, by your generous contribution to the Standing Senate Committee on Official Languages. You have been a member of the committee since you were appointed to the Senate 17 years ago. As a Franco-Albertan, I sincerely thank you for your invaluable contribution, your conviction and your strong commitment to advancing the language rights of official language minority communities.

Dear Rose-Marie, your career in the Senate is coming to an end. The scope of your actions and your involvement in the Network of Women Parliamentarians of the Assemblée parlementaire de la Francophonie, among other organizations, have contributed greatly to raising the profile of the Senate, not only here in Canada, but elsewhere in the world. You continue to inspire us all. Through your contribution to our democratic institutions you are leaving a remarkable legacy for generations to come.

Dear Rose-Marie, I wish you much happiness and good health in this next phase of your life and many wonderful years shared with your loved ones.

Hon. Andrée Champagne: Honourable senators, of everyone here on both sides of this chamber, I am probably the one who will miss Rose-Marie Losier-Cool the most.

Since arriving here in 2005, I have had the opportunity to sit with my Acadian colleague almost every week at meetings of the Standing Senate Committee on Official Languages.

• (1350)

We worked together on all of the reports that the committee presented to the Senate over the years. To make sure we did our job well, at her instigation, we travelled to virtually every corner of her northeastern New Brunswick peninsula, where we met many of the Acadians to whom we owe a great debt with respect to the survival of the French language in Canada. Rose-Marie, we loved visiting the school that you went to as a child and returned to later as a teacher.

My husband is Acadian. His family, the Savoie family, is from Lamèque Island, which is almost connected to the peninsula. He has always gotten on well with your husband, who is just as Acadian despite his Cool surname.

Rose-Marie has also been a very important member of the Assemblée parlementaire de la Francophonie. We have her to thank for creating the women's network that she chaired from 1997 to 2011. That is one of the reasons she was promoted to the rank of Commander of the Ordre de la Pléiade at the 2010 General Assembly in Dakar, Senegal. The Ordre de la Pléiade promotes La Francophonie and intercultural dialogue. Women parliamentarians from many different countries brought the house down that day, as I mentioned during the Pléiade evening held by the Canadian branch in Ottawa some months later.

I will always remember that evening in Dakar. After the dinner and ceremony, we both left the tent and went to sit on a big rock by the sea. As long as I live, I will treasure the secrets my colleague shared with me that evening.

Dear Rose-Marie, you deserve all the tributes being paid to you today. My few words have but one purpose: to assure you that our friendship will continue. We will never go to Acadia without stopping by, and we expect that you will not come to Montérégie without visiting us.

I never thought that I would thank God for the Internet, but it will allow us to keep in touch. For some time, Will has been talking about playing a round of golf with Sébastien. We can only hope that his health will soon allow him to do so. Rose-Marie, you and I could be their caddies.

I wish you both good health, and may you enjoy the time ahead of you. Once again, a big "thank you" for all the work you have done over the years. I look forward to seeing you again.

Hon. Maria Chaput: Honourable senators, I would like to pay tribute today to an honourable senator, a woman for whom I have a great deal of affection and admiration, Senator Rose-Marie Losier-Cool.

She is a proud Acadian, a distinguished woman who is a good listener, someone who is always available and never keeps track of the number of hours she works.

I pay tribute to her convictions, her determination, her commitment, her wisdom and her zest for life.

Senator, I have had the privilege of benefitting from your advice, support and collaboration, both in the Senate and in committee. When I arrived in the Senate, you were the Chair of the Standing Senate Committee on Official Languages, which had just presented its report, *French-Language Education in a Minority Setting: A Continuum from Early Childhood to the Postsecondary Level*. You were the driving force behind that report. You carried out your various roles and responsibilities in the Senate with great dignity.

You made a significant contribution to improving Canadian society, at both the national and international levels.

Among other things, you provided unconditional support to the international women's network and to official language minority communities. You never forgot your Acadian roots, and Acadians will always have a special place in your heart.

My dear friend Rose-Marie, I will truly miss you.

But you deserve a wonderful retirement with your husband Will, surrounded by your family and friends. Goodbye and thank you.

[*English*]

Hon. Nancy Ruth: Honourable senators, Honourable Senator Losier-Cool, it saddens me to see you go because yours is a voice full of feminist passion conditioned by sophistication. Yours is a voice that knows the world is international and interconnected and travels to know and speak in it. Yours is a voice of power that speaks for the powerless. Yours is a voice of love that cares for the unlovable. Yours is a voice that considers the inconsiderable and pushes forward. Yours is a voice that challenges corruption and weeps at injustice. Yours is a voice that leaves this place, but never to be silenced. Thank you for all you do and have done. *Merci et bonne chance*.

[*Translation*]

Hon. Marie-P. Charette-Poulin: Honourable senators, I rise to pay tribute to my seatmate, Senator Rose-Marie Losier-Cool, who is retiring next week.

She and I have come full circle in this chamber. When I was appointed to the Senate in 1995, I sat directly behind her. Rose-Marie already had six months of experience as a senator. Today, I have the pleasure of sitting beside her. Yes, we have been very close for 17 years, but in many ways, our connection goes back much further than that. We are both francophone women who represent a francophone minority in our respective provinces, and although our provinces do not share any geographic borders, we are closely connected by common concerns and interests.

Honourable senators, we know that one of the strengths of the Senate lies in its representation of the regions and of minority groups. Senator Losier-Cool energetically represented New Brunswick, Acadians, francophones and women in the Senate. But first and foremost, she represented children who go to school in minority communities.

A teacher by profession, she taught the senators and thus Canadians about the history of French-language education in New Brunswick and its important contribution to the province's and the country's cultural and economic well-being. I believe that it is important to point out that Rose-Marie's vision for French-language education and bilingualism extends beyond her own region.

As she so aptly put it in a recent speech in this chamber:

> I have long believed that all Canadians should speak both of our country's official languages as a way to open twice as many doors and to experience twice as much culture. If the rest of Canada followed New Brunswick's example, all Canadians would be much more engaged with the rest of the country and the whole world.

I would like to take this opportunity to congratulate Rose-Marie, who recently received the New Brunswick Francophone Teachers' Association Award of Merit — the highest honour given by the association — for over 30 years of teaching, her years in the Senate and her regional and international contribution, including the fact that she was the association's first female president in 1983.

• (1400)

Last month in this chamber, she named some remarkable Acadians who had benefitted from French-language education in New Brunswick. The list included the former Governor General, the Right Honourable Roméo Leblanc, as well as the former provincial premier, the Honourable Louis Robichaud, both of whom were also senators. This list of distinguished Acadians would not be complete without the name of Senator Rose-Marie Losier-Cool.

Bravo, Rose-Marie, and above all, thank you!

Hon. Jim Munson: Honourable senators, it is with great pleasure and a great deal of emotion that I rise to pay tribute to Senator Rose-Marie Losier-Cool and to thank her for her enormous contribution to the Senate of Canada and the Canadian people.

[*English*]

Rose-Marie, before your appointment in 1995, you had been a teacher in my home province of New Brunswick for more than 33 years, including 20 years at a French high school in Bathurst, a corner of the country I know and love well. I know your deep connection to Acadians, their interests and the particular challenges they face.

Senator Losier-Cool and her husband, Will, who is in the gallery and is a friend of mine, were very good friends of my in-laws, Claude and Simone Hébert. In 1967, we not only lived in the same neighbourhood and the Holy Family parish in Bathurst, but my wife Ginette and I rented our first apartment in the senator's house. You could say she gave us our first home.

A woman, a teacher, an Acadian — these are the facets of Senator Losier-Cool's identity that have deeply influenced her work and commitment to issues such as language rights for Canadian minorities and the rights of women.

[*Translation*]

She is a champion of minority rights.

[*English*]

It is no coincidence that she has achieved what she has, or that she has taken the path that she has. She is a quiet and discreet trailblazer who paved the way for others.

[*Translation*]

Yes, she paved the way for others, from Acadia all the way to the heart of Africa.

[*English*]

For instance, in the early 1980s, she became the first women president of the Association des enseignants francophones du Nouveau-Brunswick, and in 1992 she received New Brunswick's

Teacher of the Year award for non-sexist teaching. She is also the former vice-chair of the New Brunswick Advisory Council on the Status of Women.

Of course, as has been said, Rose-Marie, in recent years in your work here in the state you have applied your skills and insights to your work on the Standing Senate Committee on Official Languages, the Committee of Selection, and the Committee on Foreign Affairs and Human Rights. There is always something about rights in what you do, and that is so important.

For many years, Senator Losier-Cool was our deputy speaker as well as the first female chief government whip.

Canadians in general, and women and the Acadian people in particular, have benefited from Senator Losier-Cool's integrity and her understanding of the good that can be accomplished within the Senate.

[*Translation*]

She contributed to the advancement of La Francophonie and the status of women everywhere.

[*English*]

Having had the privilege of working with you, Senator Losier-Cool, I have learned a great deal from your clear-mindedness, your self-knowledge and your unshakeable commitment to people and causes that enrich the character of this country. Ever the educator, you helped me understand through words and activities why issues that matter to you should matter to all of us. In the last few years, you have applied your leadership experience and insight to women and minority issues and carried your ideas to the women of Africa.

I would like to share with you some words from your very close Bathurst friend, to whom Ginette and I spoke this morning, Madame Maryvonne Eddie. These are her words:

[*Translation*]

> To your friends, Rose-Marie, you are an extremely generous woman who has always worked long and hard to promote La Francophonie and this part of your beloved Acadia. We are so proud of your achievements in the Senate and particularly of your commitment to African women, proving that you are a champion of women's rights.
>
> Since you have been away from us for so many years, we are delighted that you will be back with us again for your well-deserved retirement, and we wish you all the best.

[*English*]

Thank you, senator, for what you have taught all of us and for the good work you will no doubt continue to do.

[*Translation*]

Long live Acadia! Long live Acadia!

[Senator Munson]

[*English*]

There is no shore like the North Shore; that is for sure.

Hon. David P. Smith: Honourable senators, I rise to pay tribute to my friend Senator Rose-Marie Losier-Cool. Most of you have heard about the various positions she has been in involving teaching, the New Brunswick Museum, Bathurst College, and the Senate committees.

Although we never spent time on Senate committees together, I want to talk about you personally. Whenever I see you, you put a smile on my face, and that is because you are a genuine, truly sweet, warm and sincere individual. All the vibes you give off are nice. You are universally respected here and in New Brunswick. I really like the fact that you are so proud of your Acadian, New Brunswick and North Shore roots.

If I had the voice of Nelson Eddy or, for younger people, Plácido Domingo, I would start to sing, "Oh Rose-Marie," but I will not subject you to that. I will simply point out that, as I have been telling you, we will all miss you. I think I can truly say that everyone around here really likes you and quite a few of us really love you. We will see you.

[*Translation*]

Hon. Joan Fraser: Honourable senators, so many things have been said about Rose-Marie Losier-Cool and they are all true. All of them. There are not too many people in the world who can inspire so much respect and friendship at the same time, respect for her constant and tireless fight for rights, always for rights — the rights of Acadians, the rights of francophones, the rights of women, back home in Acadia, in New Brunswick, in Canada and around the world.

These are noble battles, but my memories of her go beyond that. First and foremost, what I will remember about Rose-Marie Losier-Cool is her beautiful voice that effortlessly fills this chamber and asserts authority. I think there is only one former teacher who can assert her authority with so much kindness. We sometimes resemble angry children here in this chamber.

I will also always remember Rose-Marie Losier-Cool's gentle and deep kindness. I never heard her speak negatively about anyone, in public or in private. The most negative thing I ever heard her say, one day, when she had obviously been through something very tense, was, "It is not always easy!" That is the most negative thing she would say.

• (1410)

Therein is a lesson we can all take to heart: gentleness and kindness do not imply weakness. Rather, they imply strength — strength that inspires respect and goodwill on the part of all who meet Rose-Marie Losier-Cool.

We will miss her terribly, but we all sincerely wish her many years of happiness.

[*English*]

Hon. Sandra Lovelace Nicholas: Honourable senators, I join with you today in paying tribute to a colleague in the Senate, a fellow New Brunswicker, the Honourable Rose-Marie Losier-Cool.

Senator Losier-Cool was an educator for 33 years and sat on the board of directors of the Canadian Teachers' Federation. In 1983, she was the first woman to be elected president of the Association des enseignantes et enseignants francophones du Nouveau-Brunswick. She was the vice-president of the New Brunswick Advisory Council on the Status of Women and served on a number of foundations and boards. As well, she was the first woman ever to be appointed government whip in the Senate.

It is with gratitude that I look back to 2005 when I was summoned to the Senate of Canada and Senator Losier-Cool accepted to be my sponsor. I was absolutely honoured that she agreed and, in doing so, she again became the first senator to sponsor the first Aboriginal woman senator born and raised in a First Nations community.

Honourable senator, as we look at the legacy and the path you have travelled, or "been there, done that," and whether you decide to continue pouring your energy and enthusiasm to advocating and promoting issues affecting students, women and francophones, or to rest honourably on your success and knowledge gained during your time in the Senate, I wish you health, pleasure and happiness during the rest of your incredible journey.

In my language, when we part ways from one another, we do not say goodbye. We say *"upchich knomewol"*— "I will see you again."

[*Translation*]

Hon. Mobina S. B. Jaffer: Honourable senators, I am very pleased to have this opportunity to pay tribute to our colleague and friend, Senator Losier-Cool, and to celebrate her many contributions to improving the lives of Canadians and people around the world.

I am inspired by Senator Losier-Cool's dedication to promoting the rights and prosperity of women around the world, particularly the women she met in the course of her work with the Assemblée parlementaire de la Francophonie.

Many senators have already spoken eloquently of the senator's achievements and contributions. We know that she was a very active member of the Assemblée parlementaire de la Francophonie and that she became a Commander of the Ordre de la Pléiade in 2010. She also chaired the APF Network of Women Parliamentarians from 2007 to 2011.

I would like to share a story with you. In early October 2010, Senator Losier-Cool went to Lomé, the capital of Togo. The APF women's network was holding a training seminar there for local and regional parliamentarians. During the seminar, the senator presided over the opening of a computer room within the Parliament of Togo reserved for her sisters in the Togolese legislature.

This example is emblematic of Senator Losier-Cool's calm and determined support for women parliamentarians and shows her commitment to politics and a society that are more progressive and just.

Honourable senators, when I arrived in the Senate more than 10 years ago, Senator Losier-Cool was the first senator I met. I imagine that many of us have similar memories of our colleagues who have become our friends. She is a unique individual who made every effort to welcome us to this magnificent institution.

I could not have asked for a more welcoming, generous and sincere first friend. Your gentle manner and reassuring smile gave me the confidence and the knowledge that, by following your example, we could make a significant difference in the lives of Canadians, especially women and linguistic minorities.

Thank you very much, Senator Losier-Cool, for your service to our country and your precious friendship.

Hon. Pierre De Bané: Honourable senators, our colleague, Senator Losier-Cool, joined the Senate after teaching for 33 years and having held such senior positions as the first woman president of the association and various others that she held before joining us.

Born in Tracadie and educated at the Académie Sainte-Famille in Tracadie and then the École Normale in Fredericton, she spent 20 years of her 33-year teaching career at Nepisquit school in Bathurst.

What is remarkable is that when we read the first speech she gave in the Senate in 1995, upon her appointment, we can see just how faithful she has been to her mission:

> My first role is to represent my Acadian community in the Senate and to represent the Senate in my community. That is why I will be visiting New Brunswick often . . . I want to visit the schools, where I will teach the students about the Senate so they have a better appreciation of our beautiful country.

She then went on to fulfil the following commitment:

> I have always passionately defended all women's issues — pay equity, poverty, domestic violence — and, in order to share my concerns and raise awareness of government programs, I attend different activities across Canada that are dedicated to the advancement of women.

A mission on which we worked closely together, with the president of our Canadian chapter of the APF, the Honourable Senator Champagne, is that of the Assemblée parlementaire de la Francophonie. You have no idea how grateful the members of the APF, who represent 75 different parliaments, are for the exceptional contribution our colleague, Senator Losier-Cool, has made to the international Francophonie.

Along with all of my colleagues, I would like to tell you how much I admire your faithfulness and your determination to remain true to the mission that you gave yourself. Well done.

• (1420)

Hon. Gerald J. Comeau: Honourable senators, I would like to thank Senator Losier-Cool for all of the work that we were able to accomplish together during her time here in the Senate. I can tell you that every time we worked together on a file, it was very collegial.

I would also like to commend her on her knowledge and commitment, and particularly on the approach she used to address Acadian issues. Never, over all those years, did she show partisanship on these issues. I would like to sincerely thank her for that.

Lastly, I hope that, as in the past, I will be able to count on her wisdom and advice on issues that we both know have not yet been resolved. We still have a lot of work to do, and I know that she will be there to give us a hand on those matters. Thank you, Rose-Marie, for everything we have done together.

Hon. Rose-Marie Losier-Cool: Honourable senators, this was much more than I wanted, but I must say that it has been enjoyable. I liked it. As has been mentioned, I am retiring next week. I was very moved by all your kind words. I wrote a little something to say to each of you, but I know that, unfortunately, time is a bit limited.

[*English*]

Senator LeBreton, I have now figured out why you are so good at your job; it is because you have some LeBreton in Tracadie in the family. I thank you for your beautiful words.

[*Translation*]

Senator Champagne, I was very touched by your words. I am happy that you did not speak about all the cigarettes we smoked in Dakar and the other things that we shared.

I would like to wish you and Sébastien a great deal of courage. I greatly admire you.

Senator Tardif, Senator Chaput, you are true friends, to whom I often said: "It is a good thing we have each other".

[*English*]

Senator Nancy Ruth, I am happy to hear you telling me that I am the voice because for me you are the voice. Your saying that I have such power really moves me.

[*Translation*]

Senator Poulin, my Franco-Ontarian colleague, thank you.

[*English*]

Senator Munson, that was very special. Only you and Jeanette could find out that I am leaving this place. Being an educator, you stressed that is very important to me.

Senator Smith, who says I am sweet, oh boy, at my age.

[*Translation*]

To all honourable senators, thank you for your kind words. I am incredibly proud to count myself among the 922 Canadians who have served in the Senate since its creation. I am proud to have been the first Acadian woman appointed to this place and to have spent the past 17 years representing New Brunswick's Acadia and my corner of the province, the Acadian peninsula.

In all these years, I learned a great deal from many people and became a better person as a result. I thank you all.

[*English*]

As a member of the Senate, I have met many men and women of all ages and from all walks of life in Canada. I have also travelled abroad, as was mentioned, to meet parliamentarians and locals from almost every continent, and these many encounters have left me with ever-lasting recollections. I hope to have left good memories in return.

[*Translation*]

You did me the honour of appointing me as Speaker *pro tempore* for seven years. I wish to thank the three Speakers whom I have had the honour of working with: the late Senator Molgat, who was loquacious, one might say, and had a way of bringing people together.

[*English*]

Senator Hays, that Albertan gentleman.

[*Translation*]

And the current Speaker, my colleague from New Brunswick, the Honourable Senator Kinsella, who is a true statesman and cares deeply about decorum in our chamber. Senator Kinsella presides over this chamber in a very respectful manner and even in a "cool" way on occasion. Thank you for giving me the job of co-chair of the Joint Committee on Official Languages and then chair of the brand-new Standing Senate Committee on Official Languages, because, as you know, defending the French language in Canada has always been and will forever remain one of my top priorities.

I have gained so much experience here, and I want to briefly talk about Senate reform, which you will be studying over the next few years. We must not forget that the Senate exists to represent and defend the regions and minorities.

I agree that the Senate should be reformed, particularly when it comes to senators' terms. Perhaps 10 years is enough. In 10 years, a senator can become familiar with and effectively accomplish his or her mandate. I must admit that when I arrived here and sat in this corner, I wondered what I was doing here. I was intimidated by this place. I came from a classroom, and instead of having wall-to-wall carpeting, I had wall-to-wall students. I gave myself 10 years. During those 10 years, I served as whip and Speaker *pro tempore*. So I think that a 10-year term would be appropriate.

But in reforming the Senate, we must ensure that we never compromise the future of the regions and minorities. We are the only voice for these minorities and these regions; we must not take that away from them.

I hope I will be replaced, ideally by another woman, but at least by another Acadian who will fight as I and my Acadian colleagues here have done for the one-third of New Brunswickers who are francophone.

[*English*]

My parting wish for all of us is that the Canadian Senate remain the chamber of sober second thought. Over the past few years, unfortunately, the Senate has strayed more and more from its mission.

Here in this chamber, we have a phenomenal advantage over the other place: We have time. Honourable senators, let us take that time to do things right.

[*Translation*]

In conclusion, I would like to express my gratitude to the administrative staff of the Senate; to Garry O'Brien, who was so helpful to me; to Charles Robert, whose infectious laughter I will never forget and who supported me so well over the years; to the clerks, the maintenance staff, the security staff, the senators' support staff, and I cannot forget our dear pages. Never forget that you are the youth here.

[*English*]

Remember the rule of the three Ls: learn, love and laugh.

[*Translation*]

Do not be afraid. Do not be afraid to take a bite out of life before it bites you.

• (1430)

I would especially like to thank my team, beginning with Lise Bouchard, my faithful assistant. Lise, I do not know what I will do without you. You have simplified my life all these years. I would also like to thank my advisor, Richard Maurel, a perfectionist who has become an adopted son of Acadia over the past few years. I wish both of you a very happy retirement.

My husband, Will, I thank you for your unflagging support over the years. Your interest in and knowledge of national and international politics have helped me in so many ways. I should add that Will was married to a teacher for 33 years and a senator for 17 years, which adds up to 50 years in opposition.

Once again, I want to thank all of you. I wish you lots of laughter and good health.

[*English*]

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of our friend, His Excellency Philip Buxo, High Commissioner of the High Commission of the Republic of Trinidad and Tobago; Mr. Keith Kerwood, Head of Chancery of the High Commission; Mrs. Ingrid John-Baptiste, President of the Trinidad and Tobago Association of Ottawa; Mr. Keith Anatol, Co-chair of the Social and Entertainment Committee, Trinidad and Tobago Association of Ottawa; and members of the Trinidad and Tobago Association of Ottawa. They are the guests of the Honourable Senator Meredith.

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

Hon. Senators: Hear, hear!

[*Translation*]

ROUTINE PROCEEDINGS

COMMISSIONER OF LOBBYING

2011-12 ANNUAL REPORTS TABLED

The Hon. the Speaker *pro tempore***:** Honourable senators, pursuant to rule 32(1) and in accordance with section 72 of the Access to Information Act and section 72 of the Privacy Act, I have the honour to table, in both official languages, the 2011-12 annual reports concerning the administration of these acts within the Office of the Commissioner of Lobbying.

FIREARMS ACT

PROPOSED FIREARMS INFORMATION REGULATIONS TABLED

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, I have the honour to table, in both official languages, proposed firearms regulations, pursuant to section 118 of the Firearms Act.

[*English*]

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

TWELFTH REPORT OF COMMITTEE TABLED

Hon. David Tkachuk: Honourable senators, I have the honour to table, in both official languages, the twelfth report of the Standing Committee on Internal Economy, Budgets and Administration, which deals with the report of the Auditor General of Canada to the Standing Committee on Internal Economy, Budgets and Administration on the administration of the Senate.

On November 2, 2010, this chamber adopted the sixth report of the Internal Economy Committee inviting the Auditor General of Canada to conduct a performance audit of the Senate administration. Today I am pleased to be tabling the report of the Auditor General's report from the audit. The audit covered five lines of inquiry: strategic and operational planning; financial management, including procurement; human resource management; information services technology management; and security.

As far as Senate expenses are concerned, the OAG tested claims submitted by senators for travel, living, hospitality and other expenses. We are pleased to note that there were many positive comments about our management approach. We also recognize that there is also always room for improvement and welcome all the recommendations of the Auditor General.

We have already begun to implement many of the actions required and are putting the rest in place. We want taxpayers to know that we are committed to managing public funds conscientiously as we carry out our duties as parliamentarians.

With respect to expenses, the OAG found that the documentation for financial transactions demonstrated a compliance rating of 95.8 per cent. That is pretty good, but we are aiming for 100 per cent and we will keep working on it.

I want to thank all honourable senators who serve on the Standing Committee on Internal Economy, Budgets and Administration for their work over the past number of years. This has resulted in an Auditor General's report that compliments the Senate's management and administration. The 11 recommendations to further improve our administration will be our task over the next while.

I invite honourable senators to thank the clerk and the employees of the administration for their good work with the Office of the Auditor General. We are lucky to be supported by such excellent professionals. You will each be receiving copies of the report in your office this afternoon.

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

FIRST REPORT OF COMMITTEE— REPORT OF COMMITTEE OF THE WHOLE PRESENTED

Hon. Donald H. Oliver, Chair of the Committee of the Whole, presented the following report:

Wednesday, June 13, 2012

The Committee of the Whole, authorized to consider the First Report of the Standing Committee on Rules, Procedures and the Rights of Parliament, has the honour to present its

FIRST REPORT

Your committee, to which was referred the First Report of the Standing Committee on Rules, Procedures and the Rights of Parliament, has, in obedience to the order of the Senate of Thursday, May 17, 2012, considered the report and now reports as follows:

Your committee recommends that the First Report of the Standing Committee on Rules, Procedures and the Rights of Parliament, presented in the Senate on November 16, 2011, which proposes to replace the current *Rules of the Senate* with a revised set of Rules, be adopted with the following amendments:

1. **Replace the first recommendation in the report, at page 412 of the *Journals of the Senate*, with the following:**

   "1. That the existing *Rules of the Senate* be replaced by the revised *Rules of the Senate* contained in the First Appendix to this report, including the associated appendices to the Rules, effective from September 17, 2012;";

2. **Replace rule 2-5(3), at page 25 of the First Appendix of the report (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.";

3. **Replace rule 2-13(1), at page 27 of the First Appendix of the report (page 443 of the *Journals of the Senate*), with the following:**

   "Strangers ordered to withdraw

   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.";

4. **Replace rule 4-13(3), at page 43 of the First Appendix of the report (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.";

5. **Renumber current rule 9-6(1), at page 74 of the First Appendix of the report (page 490 of the *Journals of the Senate*), as rule 9-6;**

6. **Delete rule 9-6(2), at page 75 of the First Appendix of the report (page 491 of the *Journals of the Senate*);**

7. **Replace rule 12-4, at page 93 of the First Appendix of the report (page 509 of the *Journals of the Senate*), with the following:**

   "Standing joint committees

   12-4. The number of Senators appointed to the following standing joint committees shall be recommended by the Committee of Selection:

(a) the Standing Joint Committee on the Library of Parliament; and

(b) the Standing Joint Committee for the Scrutiny of Regulations.

REFERENCES

Parliament of Canada Act, *sections 74 and 78*

Statutory Instruments Act, *sections 19 and 19.1*";

8. Replace paragraph (a) of rule 13-5, at page 117 of the First Appendix of the report (page 533 of the *Journals of the Senate*), with the following:

"(a) raise it during the sitting without notice at any time, except during Routine Proceedings, Question Period, or a vote, but otherwise generally following the provisions of this chapter; or";

9. Replace rule 13-6(1), at page 118 of the First Appendix of the report (page 534 of the *Journals of the Senate*), with the following:

"Consideration of question of privilege

13-6. (1) Except as otherwise provided, or unless the Senate adjourns earlier, questions of privilege of which written and oral notice was given shall be considered as soon as the Senate has completed Orders of the Day, but no later than either 8 p.m. the same day or noon on a Friday.

EXCEPTIONS

Rule 8-4(1): Adjournment motion for emergency debate

Rule 13-5(a): Question of privilege without notice

Rule 13-6(2): When question of privilege without notice considered

Rule 13-7(2): Debate on motion on case of privilege";

10. Add the following new rule 13-6(2), at page 118 of the First Appendix of the report (page 534 of the *Journals of the Senate*):

"When question of privilege without notice considered

13-6. (2) A question of privilege raised without notice shall be considered at the time it is raised, unless the Speaker at any time directs that further consideration be delayed until the time for considering questions of privilege of which written and oral notice was received. In this case, the delayed consideration shall be taken up before any questions of privilege of which notice was given.";

11. Renumber current rules 13-6(2) to 13-6(4), at page 118 of the First Appendix of the report (page 534 of the *Journals of the Senate*), as rules 13-6(3) to 13-6(5);

12. Add the following new rule 15-3(4), at page 130 of the First Appendix of the report (page 546 of the *Journals of the Senate*):

"Suspension of Allowances

15-3. (4) Where a finding of guilt is made against a Senator who has been charged with a criminal offence that was prosecuted by indictment, the Standing Committee on Internal Economy, Budgets and Administration may order the withholding of the payable portion of the sessional allowance of the Senator in accordance with rule 15-3(1)(a) as if the Senator were suspended.";

13. Replace rule 15-4(1), at page 130 of the First Appendix of the report (page 546 of the *Journals of the Senate*), with the following:

"Notice of charge

15-4. (1) At the first opportunity after a Senator is charged with a criminal offence for which the Senator may be prosecuted by indictment, either:

(a) the Senator shall notify the Senate by a signed written notice that is delivered to the Clerk of the Senate, who shall table it; or

(b) the Speaker shall table such proof of the charge as the court may provide.";

14. Replace rule 15-4(2), at page 130 of the First Appendix of the report (page 546 of the *Journals of the Senate*), with the following:

"Leave of absence for accused Senator

15-4. (2) When notice is given under subsection (1), the Senator charged is granted a leave of absence from the time the notice is tabled and is considered to be on public business during this leave of absence.";

15. Add the following new rule 15-4(6), at page 131 of the First Appendix of the report (page 547 of the *Journals of the Senate*):

"Senate resources in case of leave of absence

15-4. (6) If a Senator is granted a leave of absence under subsection (2), the Standing Committee on Internal Economy, Budgets and Administration may, as it considers appropriate in the circumstances, suspend that Senator's right to the use of some or all of the Senate resources otherwise made available for the carrying out of the Senator's parliamentary functions, including funds, goods, services, premises, moving, transportation, travel and telecommunications expenses."; **and**

16. Update any cross-references in the report and its appendices, including the lists of exceptions, accordingly.

Respectfully submitted,

DONALD H. OLIVER
Chair

Some Hon. Senators: Hear, hear!

• (1440)

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

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

[*Translation*]

FIREARMS ACT

NOTICE OF MOTION TO AUTHORIZE LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE TO STUDY PROPOSED FIREARMS INFORMATION REGULATIONS

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

> That the proposed Firearms Information Regulations (Non-Restricted Firearms), tabled in the Senate on June 13, 2012, be referred to the Standing Senate Committee on Legal and Constitutional Affairs, pursuant to subsection 118(3) of the *Firearms Act* (S.C. 1995, c. 39).

[*English*]

The Hon. the Speaker: Honourable senators, is leave granted to consider this matter now?

Hon. Anne C. Cools: Honourable senators, I would like to have an explanation as to why.

[*Translation*]

Senator Carignan: These are proposed regulations on the application of the Firearms Act, specifically with respect to the information that has to be retained by the chief firearms officer. These regulations have to be approved by the House and the Senate and referred to the Standing Senate Committee on Legal and Constitutional Affairs. As this is government business and the other items currently before the senate committee are private bills, we want to give priority to government business with regard to the application of the Firearms Act so that it can come into force as soon as possible.

[*English*]

Senator Cools: Honourable senators, I was looking for an explanation with respect to the urgency. I am supportive of the government's initiatives on firearms. This has been well known for many years. I was hoping the honourable senator would explain to me why this matter cannot proceed in the normal course of things and be referred to the Legal Affairs Committee by the normal notice times.

This rule 3 that the honourable senator is using should be used rarely, and with good reason. Therefore, I was hoping that he could tell me that there was a reason it is urgent.

Is it urgent, or could it be run in the natural state of affairs?

Senator Carignan: In my view, it is urgent.

Senator Cools: It is urgent, but what is the urgency?

I am prepared to give agreement, honourable senators, but I do believe that rule 3 is being used far too frequently. If there is an urgency, like a deadline — tomorrow or next week — we need an explanation. That is all I am after. The rule states that when leave is asked for, an explanation shall be provided.

[*Translation*]

Senator Carignan: The parliamentary session is wrapping up in the coming days and we have to find a way to work efficiently. This new bill has come into force and the regulations are necessary to allow the provisions of the bill to be applied quickly. Not adopting the regulations in the coming days could mean delaying their adoption until the fall. We believe that for the effectiveness of the bill and the implementation of the regulations and the standards that govern it, we must approve these regulations as soon as possible in order to avoid causing difficulties for hundreds of thousands of people.

[*English*]

Senator Cools: Honourable senators, I understand that the Senate is planning to sit into July and that there is no shortage of time. That is the rumour. I do not sit in any caucus, so I do not get regular reports on future Senate business, but my understanding is that we will sit well into July. If this were urgent, I would give leave. However, there is nothing in the explanation of the honourable senator that suggests this measure has to be adopted or completed in the next two or three days.

The point I am making, honourable senators, is that this rule is supposed to be used rarely and it is being used as a matter of routine.

[*Translation*]

The Hon. the Speaker: Honourable senators, the Deputy Leader of the Government has asked for leave to proceed with this government notice now.

In light of the explanation provided by the Deputy Leader of the Government, is leave granted?

[*English*]

Is there agreement, honourable senators?

Some Hon. Senators: Yes.

Senator Cools: No.

The Hon. the Speaker: It is not unanimous consent; it is a notice of motion.

• (1450)

[*Translation*]

L'ASSEMBLÉE PARLEMENTAIRE DE LA FRANCOPHONIE

BUREAU MEETING AND ORDINARY SESSION, JULY 4-8, 2010—REPORT TABLED

Hon. Andrée Champagne: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Parliamentary Delegation of the Assemblée parlementaire de la Francophonie (APF), respecting its participation at the Bureau Meeting and the XXXVI Ordinary Session of the APF, held in Dakar, Senegal, from July 4 to 8, 2010.

[*English*]

BANKING, TRADE AND COMMERCE

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY OF THE PROCEEDS OF CRIME (MONEY LAUNDERING) AND TERRORIST FINANCING ACT

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

> That, notwithstanding the orders of the Senate adopted on Tuesday, January 31, 2012, and Tuesday, May 15, 2012, the date for the final report of the Standing Senate Committee on Banking, Trade and Commerce in relation to its review of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (S.C. 2000, c. 17) be further extended from June 21, 2012, to June 29, 2012.

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTINGS OF THE SENATE

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

> That, until June 29, 2012, for the purposes of its consideration of any item of government business, the Standing Senate Committee on Banking, Trade and Commerce have the power to sit even though the Senate may then be sitting, with the application of rule 95(4) being suspended in relation thereto.

NATIONAL SECURITY AND DEFENCE

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY OF SERVICES AND BENEFITS FOR MEMBERS AND VETERANS OF ARMED FORCES AND CURRENT AND FORMER MEMBERS OF THE RCMP, COMMEMORATIVE ACTIVITIES AND CHARTER

Hon. Donald Neil Plett: 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 Wednesday, June 22, 2011, the date for the final report of the Standing Senate Committee on National Security and Defence in relation to its study on the services and benefits provided to members of the Canadian Forces, to veterans, and to members and former members of the Royal Canadian Mounted Police and their families be extended from June 17, 2012 to June 28, 2013.

[*Translation*]

BENEFITS OF IMMIGRATION

NOTICE OF INQUIRY

Hon. Consiglio Di Nino: Honourable senators, I give notice that, two days hence:

I will call the attention of the Senate to the benefits of immigration in our past, our present and our future.

[*English*]

QUESTION PERIOD

DELAYED ANSWER TO ORAL QUESTION

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, I have the honour to table the answer to the oral question asked by the Honourable Senator Rivest on April 25, 2012, concerning correctional programs.

PUBLIC SAFETY

CLOSURE OF PRISONS

(Response to question raised by Hon. Jean-Claude Rivest on April 25, 2012)

> The Correctional Service of Canada (CSC) is recognized as an international leader in the development and delivery of correctional programs.
>
> Correctional programs enhance public safety results by making offenders accountable for their behaviour, changing pro-criminal attitudes and beliefs and teaching skills for their safe reintegration into society.

CSC offers a broad range of correctional programs to offenders in institutions and in the community, including programs designed to target general violence, family violence, sexual offending, substance abuse and general crime. CSC also delivers correctional programs designed specifically for women and Aboriginal offenders. Reductions in re-offending ranging from 18% to 63%[1] have been reported for some of CSC's correctional programs.

In addition, CSC offers education programs to address offenders' needs as mandated by the *Corrections and Conditional Release Act*. The goal of education within the correctional environment is to provide offenders with the basic literacy, academic, vocational and personal development skills needed to facilitate their safe and successful reintegration into the community. To accomplish this, education programs assist offenders in acquiring the skills to participate meaningfully in CSC's core correctional and employment programs.

Through its special operating agency CORCAN, CSC also provides on-the-job training opportunities in 39 federal institutions across Canada. CORCAN is a key rehabilitation program of CSC that contributes to safe communities by providing employment training and employability skills to offenders in four business lines: manufacturing, construction, services and textiles. On any given day, over 2,000 offenders are working in CORCAN operations across the country, and over the course of a year, over 4,000 offenders benefit from the program—obtaining over 2.5 million hours of on-the-job experience and skills training.

CSC remains well-equipped to respond to the diverse needs of the offender population through its current correctional programs.

(*Footnote to Delayed Answer*)

[1]Statistics related to rates of re-offending were derived from the 2009 National Correctional Program Evaluation [Evaluation Branch—Performance Assurance Sector. (2009) Evaluation Report: Correctional Service of Canada's Correctional Programs. Correctional Service of Canada.]

ORDERS OF THE DAY

SAFE DRINKING WATER FOR FIRST NATIONS BILL

THIRD READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Patterson, seconded by the Honourable Senator Plett, for the third reading of Bill S-8, An Act respecting the safety of drinking water on First Nation lands.

Hon. Lillian Eva Dyck: Honourable senators, I rise today at third reading of Bill S-8, the safe drinking water for First Nations act. This bill was referred to the Standing Senate Committee on Aboriginal Peoples on April 25, and since then our committee has heard from 12 non-federal government witnesses representing First Nations and legal associations.

As honourable senators know, this is the second version of the First Nations safe drinking water act this chamber has seen. Its predecessor, Bill S-11, was overwhelmingly opposed by First Nations and legal experts. However, this time, with some amendments, Bill S-8 does have conditional support from four regional First Nation organizations: the Council of Yukon First Nations, the Treaty 6 and Treaty 7 Chiefs of Alberta, the Assembly of the First Nations of Quebec and Labrador, and the Atlantic Policy Congress of First Nations Chiefs.

The rest of the First Nations witnesses were strongly against Bill S-8, unless critical changes to the bill were made. Their concerns were largely carried into the observations of this report, and I will speak to them later in my speech.

Before I delve into our committee's study of the bill, I would first like to acknowledge and thank the members of the committee and the staff for their hard work during the study of Bill S-8. As a committee we worked together, through consensus, to achieve a common goal.

The government calls Bill S-8 enabling legislation. Most of the regulations that will apply to First Nations and their lands will be discussed after this bill is passed, in negotiation with the department. The legislation itself confers powers to the Governor-in-Council to make certain regulations in the area of water and waste water systems on First Nations reserves. The success of this legislation and the safety of drinking water on reserves will rest on the process of developing the regulations. It is imperative that the Government of Canada work collaboratively and closely with First Nations in the drafting of these regulations.

As critic of the bill, in speaking with my colleagues at committee, we felt that we may progress forward in agreement with this bill with the addition of certain commitments from the Minister of Aboriginal Affairs and Northern Development. Through our committee, the minister wrote to the chair, committing that his department will work with First Nations on the development of regulations that stem from this bill. He also committed to providing resources and funding for First Nations to participate actively in the regulation development and further committed to addressing the infrastructure and resource gap identified by the national assessment. It is with this commitment from the minister that we can conditionally support Bill S-8, with the attached observations that outline key concerns of witnesses that should be taken into consideration when developing the regulations. I will now turn to these key areas of concern.

One of the key concerns over the bill was the failure of the Crown to live up to its duty to consult and accommodate First Nations. Many witnesses expressed their frustration with the Crown's failure to consult and accommodate First Nations in the development of Bill S-8. In particular, self-governing First Nations were not consulted at all during the development of Bill S-11 and Bill S-8. The lack of consultation was the primary

objection for the Union of British Columbia Indian Chiefs and the Federation of Saskatchewan Indian Nations. Without better consultation, these two organizations and their membership will not support Bill S-8. With this track record of consultation, these First Nation witnesses were deeply concerned over the level of future consultation and collaboration during the regulation development.

As the Indigenous Bar Association brief stated, "in light of the Crown's legislative history, First Nations cannot simply rely on 'good faith' covenants that their voices will be heard in the development and operation of the regulations regarding safe drinking water."

However, as I mentioned earlier, with the four First Nations organizations that have offered conditional support, a condition for their support is the continued working relationship that these organizations have been able to garner with the department. A model of this collaboration has been exemplified by the Treaty 6 and Treaty 7 Chiefs of Alberta, who have had successful collaboration with the department in seeking changes to Bill S-8 and a commitment for a more appropriate process for consultations in the development of regulations and adequate resources to ensure the participation of First Nations in such a process. Our committee asked the minister and his department to make these same commitments to all First Nations. The minister agreed to make these commitments in a letter to the chair of the committee, who then wrote to the First Nations and sent a copy of the minister's letter. I, like Chief Weaselhead of Alberta, am "cautiously optimistic," but I must say that it would have been better if the minister had written to the First Nation witnesses directly rather than for them to be sent a copy.

The second area of concern is the lack of funding attached to Bill S-8, or any parallel funding or investment plan to address the massive infrastructure and resource gap facing on-reserve water and waste water systems.

• (1500)

All non-federal government witnesses were conclusive in their concern about the lack of adequate financial resources for infrastructure and training to implement Bill S-8 and associated regulations. The four First Nation witnesses who offered support for Bill S-8 did so on the condition that the required investments for infrastructure upgrades and training be made before Bill S-8 and its regulations and associated liabilities are implemented.

It is clear that Bill S-8 alone will not improve water quality on-reserve. As Grand Chief Weaselhead of Treaty 6 and 7 said:

> Regulations without capacity and financial resources to support them will only set up First Nations to fail . . . The Safe Drinking Water for First Nations Act alone cannot and will not ensure the safety of First Nations drinking water.

The National Assessment has indicated that the investment needed to address the requirement to upgrade on-reserve water and wastewater systems is $4.7 billion over 10 years, plus a projected operating and maintenance budget of $419 million annually. Every report, from the expert panel onwards, including our own Senate report, has emphasized that the infrastructure gap has to be addressed before any legislative or regulatory framework is imposed on a First Nation.

The department officials who appeared at the committee reassured us that regulations and liability will not be imposed until the First Nation has the resources and capacity to abide by those regulations. In addition, in the letter to the chair, the minister stated that infrastructure investments will be made by working with First Nations to identify priority areas. I am encouraged by these words.

The third area of concern centred on clause 3 of the bill. This clause has been described by the government as a non-derogation clause. However, several witnesses argued that this clause allows for derogation of Aboriginal and treaty rights "to the extent necessary to ensure the safety of drinking water on First Nations lands."

The Supreme Court's test for abrogation of section 35 rights is well established and should be used to guide the Governor-in-Council when designing the regulations stemming from Bill S-8, not when prescribing it as a limitation in a statute of Parliament. Furthermore, a clear explanation of how these determinations will be made was never fully addressed. As Mr. Jim Aldridge stated:

> What is left unsaid is how necessity will be determined. Will it be determined by the Governor-in-Council or will it have to be determined through time-consuming, costly and divisive litigation?

These questions were not adequately answered. The argument was made that, if the courts already recognize safety as a limitation on an Aboriginal and treaty right, then there is no need to prescribe it into law. Many witnesses asked the committee to amend clause 3 by deleting the limiting language of "except to the extent necessary to ensure the safety of drinking water on First Nation lands."

Overall, I appreciated the sponsor's cooperative approach to dealing with the key issues surrounding our study of Bill S-8. When certain questions arose from committee members, he was able to provide further clarification and explanations from department officials.

For instance, during committee testimony, the unique situation of the Mohawks of Akwesasne raised serious concerns over how Bill S-8 could actually work for their First Nation as they have great jurisdictional complexity and their own bylaws regulating their water and wastewater systems. They had asked the committee for an exemption under Bill S-8. In conversation with department officials, they were able to make it clear that, under clause 5(4), certain First Nations, like the Mohawk, could be exempted due to provincial variations, which could also incorporate their advanced water system and bylaws regulating it. This discussion was very helpful in not only addressing concerns of the Mohawk but also in looking at how regulation development, under Bill S-8, would practically apply to certain First Nations.

However, not all concerns were dealt with with such common understanding and agreement. I am disappointed that the strong opposition to clause 3 fell on deaf ears. I have, therefore, decided to move an amendment to the bill.

MOTION IN AMENDMENT

Hon. Lillian Eva Dyck: Honourable senators, I move:

> That Bill S-8 be amended in clause 3, on page 3, by replacing lines 9 to 11 with the following:
>
> "*Act, 1982*.".

The Hon. the Speaker *pro tempore***:** It has been moved by Honourable Senator Dyck, seconded by Honourable Senator Watt that Bill S-8 be amended in clause 3, on page 3, by replacing lines 9 to 11 with the following: *"Act, 1982."*

Senator Dyck: Honourable senators, during the committee's study of Bill S-8, the Safe Drinking Water for First Nations Act, we came to a consensus decision —

The Hon. the Speaker *pro tempore***:** Is this a continuation of your third reading speech?

Senator Dyck: The amendment speech; sorry.

The Hon. the Speaker *pro tempore***:** You have finished your speech on third reading is that correct?

Senator Dyck: Yes.

The Hon. the Speaker *pro tempore***:** In third reading, you made an amendment that was moved and seconded.

Senator Dyck: Yes, and now I would like to debate the amendment.

The Hon. the Speaker *pro tempore***:** Honourable Senator Dyck, under the rules, you stood to speak on third reading debate. You did speak on third reading, and, in the course of your third reading debate, you moved an amendment that was properly put before the chamber.

Having done that, that concludes your third reading debate.

Senator Dyck: Could I use the rest of my time?

Some Hon. Senators: Yes.

The Hon. the Speaker *pro tempore***:** Honourable senators, it requires leave for her, having made the amendment and interrupted her third reading speech, to continue her third reading speech to comment on the amendment. Is leave granted, honourable senators?

Hon. Senators: Agreed.

Senator Dyck: Thank you, honourable senators.

Honourable senators, during the committee's study of Bill S-8, the Safe Drinking Water for First Nations Act, we came to a consensus decision to pass the bill with observations. They were strong observations. Nonetheless, I rise to speak to this motion as an Aboriginal senator who feels compelled to do whatever I can to protect existing Aboriginal and treaty rights. Today, my remarks are those of an Aboriginal senator, rather than those of a member of the committee or the opposition critic of the bill.

Honourable senators, I proposed the amendment to clause 3 of Bill S-8 because, while it is important to protect the safety of drinking water in First Nation communities, it is just as important to protect existing Aboriginal and treaty rights of the community. The limiting phrase added to the non-derogation clause in this bill undermines constitutionally protected Aboriginal rights.

Clause 3 of the bill states:

> For greater certainty, nothing in this Act or the regulations is to be construed so as to abrogate or derogate from any existing Aboriginal or treaty rights of the Aboriginal peoples of Canada under section 35 of the *Constitution Act, 1982*, except to the extent necessary to ensure the safety of drinking water on First Nation lands.

My amendment will strike the phrase "except to the extent necessary to ensure the safety of drinking water on First Nation lands" from this clause.

I would like to note that, in the observations attached to the committee report on Bill S-8, we reported that:

> The committee welcomes the inclusion of a clause in the bill which addresses the relationship between the legislation and Aboriginal and treaty rights under section 35 of the *Constitution Act, 1982*. However, the committee is concerned that this clause still expressly allows for the abrogation or derogation of Aboriginal and treaty rights in some circumstances. Such a clause should only be invoked rarely and not extend beyond what is legally justifiable in any given circumstance.

• (1510)

Honourable senators, all of the First Nation witnesses stated that section 35 on Aboriginal rights should be safeguarded from infringements. The few who agreed to the specific derogation did so with the understanding that they would be consulted in the regulation development and that they would receive adequate funding to provide safe drinking water.

While the committee's observations are an attempt to put limits on the use of exceptions to Aboriginal rights, the minister does not have to heed our advice. The only foolproof way to guarantee that Aboriginal rights will be protected is to strike the phrase allowing any exceptions and revert to the standard non-derogation clause. In his second reading speech on Bill S-207, An Act to amend the Interpretation Act, Senator Patterson argued that the government is justified in infringing on Aboriginal rights in Bill S-8. I disagree.

For the record, contrary to the comment made by Senator Patterson in his speech last week on Bill S-207, I was not a member of the Standing Senate Committee on Legal and Constitutional Affairs. I did attend a few of their meetings, but at the time, I was not sitting as a Liberal member.

Senator Patterson stated:

> Even if there was an Aboriginal right on Indian lands that contained an important community water source, a lawyer for the Department of Justice advised our committee that the clause was necessary to ensure that Aboriginal land rights would not prevail if those rights were employed to justify the establishment of a garbage dump or waste site that jeopardized a source of clean drinking water for the community on those lands.

With all due respect to the honourable senator, my colleague, the department's argument does not hold water. The example used by the department trivializes constitutionally protected Aboriginal rights. Frankly, it is ludicrous to suggest that insisting on a specific location for a garbage dump is a section 35 right. Furthermore, to be blunt, no one in their right mind, Aboriginal or otherwise, would argue that they have a constitutional right to harm their own safety by dumping garbage or waste water so close to their drinking water source that it makes their drinking water unsafe to drink. No one would be ignorant enough to knowingly and wilfully endanger the health of their family, children or the community as a whole.

It is not legitimate to claim that establishing a garbage dump or waste site too close to a drinking water source is an Aboriginal right. If a First Nation tried to do this, they would be prevented from doing so simply by application of the regulations developed following passage of this bill.

Clause 4 of the bill states that the Governor-in-Council may make regulations respecting the protection of sources of drinking water from contamination and clause 5(1)(*p*) requires permits to be obtained as a condition of engaging in any activity on First Nation lands that could affect the quality of drinking water.

These provisions ensure that a scenario such as locating a garbage dump too close to the source of drinking water would be prohibited by regulations developed after the bill is enacted. Moreover, the minister has committed to working with First Nations in the drafting of the regulations, so surely the safety concerns expressed by the department can be worked out during their deliberations.

Furthermore, the minister and the department have significant legislative and administrative authority over most First Nations. In other words, they have more decision-making power than most First Nations.

While I have used the specific example that the department officials used, it is important to note that the same argument applies to any activity that might contaminate drinking water on First Nation lands. There is no need to use the phrase "except to the extent necessary to ensure the safety of drinking water on First Nations lands" to derogate from First Nation rights. The whole bill is designed to develop and enact regulations for the provision of safe drinking water on First Nation lands. As I just said, these can be crafted satisfactorily by the department and the First Nations working together.

Honourable senators, perhaps the more important issue to address is how this bill might infringe on existing Aboriginal and treaty rights. There are clauses that could override the existing Aboriginal and treaty rights of Indian Act First Nations as well as any self-governing or other First Nations who choose to opt in. Clauses 5(1)(*b*) and (*c*) allow the Governor-in-Council to delegate whatever power is necessary in specified conditions to make a First Nation band comply with the regulations. For the record, I refer to clause 5, which states:

> (1) Regulations made under section 4 may
>
> (*b*) confer on any person or body any legislative, administrative, judicial or other power that the Governor in Council considers necessary to effectively regulate drinking water systems and waste water systems;
>
> (*c*) confer on any person or body the power, exercisable in specified circumstances and subject to specified conditions,
>
> (i) to make orders to cease any work, comply with any provision of the regulations or remedy the consequences of a failure to comply with the regulations,

Surely such sweeping powers of the Governor-in-Council could be used to interfere with Aboriginal rights.

Honourable senators, the key to understanding why Bill S-8 must have the standard non-derogation clause is to consider specific examples of existing Aboriginal and treaty rights and how they might be affected negatively by the enactment of regulations to provide safe drinking water. Existing Aboriginal and treaty rights would include activities such as spiritual ceremonies, hunting, trapping, fishing, and gathering of plants for nutritional or medicinal purposes. If the physical infrastructure of a water treatment plant and waste water plant destroys, alters or contaminates First Nation lands in any way that interferes significantly with or prevents the practice of these traditional practices, this would be an infringement of Aboriginal rights.

Examples of possible infringements of Aboriginal rights would be construction on or through traditional ceremonial or sacred sites, such as medicine wheel sites, vision quest sites, sun dance sites, fasting areas, sweat lodges and pictograph sites; construction on or through traditional burial sites; construction on or through traditional summer cultural camp sites; construction on or through sites where medicines and traditional foods grow naturally; construction or interferences with migration or movement of wild animals, fish or birds used for food, medicines or other traditional purposes; interference with or interruption of trap lines and traditional fishing sites; and dumping sewage or waste water at or near any of the above-named sites.

Honourable senators, the most likely scenario is that outsiders, such as government, industry or others, will contaminate drinking water sources on First Nation lands rather than the First Nations people contaminating their own land.

Will existing Aboriginal and treaty rights, such as preserving sacred ceremonial sites, be protected without a standard non-derogation clause when the regulations of this bill are

developed? No, not necessarily. They may be protected during regulation formulation, but the only foolproof way to guarantee that Aboriginal rights will be protected is to include the standard non-derogation clause in Bill S-8 by deleting the terminal phrase of clause 3.

Too often First Nations have had their legitimate rights trampled on. If the limiting phrase in clause 3 is not deleted, the department could destroy sacred First Nation sites rather than be legally required to consult with First Nations to find alternative means of providing safe drinking water or disposal of waste water.

I hope that when this bill is studied in the other place, First Nation witnesses will provide examples, as I have done, of how Aboriginal or treaty rights might be infringed upon by this bill. It would be helpful to start talking about these rights using actual examples rather than talking about them in the abstract.

The witness from the Nisga'a Lisims First Nation clearly thought that the standard non-derogation clause was of critical importance.

• (1520)

He stated:

> First Nations, such the Nisga'a Nation and other groups with land claims agreements, will, we predict, be given the invidious choice. You can have money for safe drinking water or you can have your treaty rights, but you cannot have both. We say that this is a cynical, thin edge of the wedge to establish, for the first time in Canadian parliamentary history, a legislative precedent whereby constitutionally protected rights are subject to ordinary statutes of Parliament, and the next time there is a bill with this idea we suggest that the government will point to this bill as being the legislative precedent. The next time there will not be the option to opt in or opt out.

Honourable senators, let me summarize my main points. The phrase "except to the extent necessary to ensure the safety of drinking water on First Nations lands" in clause 3 ought to be deleted, because existing Aboriginal and treaty rights are fundamental rights which should not be undermined.

First, this is what every First Nation witness wanted.

Second, existing Aboriginal and treaty rights, such as protecting sacred sites, could be compromised during the development and implementation of the regulations unless the bill is amended.

Third, the only way to guarantee that existing Aboriginal and treaty rights will be protected is to amend the bill.

Fourth, if the bill is amended, the safety of drinking water and the protection of Aboriginal rights will be guaranteed because both parties will have to undertake true consultation to come to a solution.

For those who are worried that acceding to section 35 rights will negatively impact the implementation of the bill, let me state that I do not believe that section 35 rights will be used to stop the provision of safe drinking water on reserves, but I believe that in honouring those rights, the government and the First Nations will be able to come to a creative solution to accommodate both sides — provision of safe drinking water and upholding existing Aboriginal and treaty rights.

The ideal solution would have been that the Standing Senate Committee on Aboriginal Peoples had time to think more deeply about how to accommodate existing Aboriginal and treaty rights. It would have been even better if we had proposed amendments to the bill to protect existing Aboriginal and treaty rights, such as the ones I used as examples.

Honourable senators, the perfect solution would be for First Nations themselves to initiate legislation that allows their rights to be implemented. Maybe the first step is for them to develop clauses in the regulatory framework to protect existing Aboriginal and treaty rights such as those I have listed above, and to present them during committee study of the bill in the other place.

Honourable senators, I conclude my remarks with this observation: Many of us, especially those of us who are members of the Standing Senate Committee on Aboriginal Peoples, have heard First Nation witnesses whose first words to us are to acknowledge the Algonquin people upon whose unceded lands we are sitting. Do honourable senators know what that means? Do you? I know some of you understand what that means. The land on which the Parliament of Canada sits, the very building in which we are debating a bill that would set limits on existing Aboriginal and treaty rights, is situated on land that Canada took from the Algonquin people without their consent or fair compensation.

In other words, Canada ignored their Aboriginal rights more than 100 years ago.

How can we, as honourable senators, continue to sanction such dishonourable practices by putting limits on existing Aboriginal and treaty rights when we do not have to?

I respectfully ask for support in amending Bill S-8 so that the existing Aboriginal and treaty rights of the First Nation peoples are honoured and not infringed upon when the activities to provide safe drinking water and dispose of waste water on First Nation lands are undertaken.

Thank you.

Hon. Dennis Glen Patterson: Honourable senators, I would like to take some time to consider my response to Senator Dyck's thoughtful remarks on this amendment. I would like to adjourn the motion standing in my name for the remainder of my time.

(On motion of Senator Patterson, debate adjourned.)

IMMIGRATION AND REFUGEE PROTECTION ACT
BALANCED REFUGEE REFORM ACT
MARINE TRANSPORTATION SECURITY ACT
DEPARTMENT OF CITIZENSHIP AND IMMIGRATION ACT

BILL TO AMEND—SECOND READING

Hon. Yonah Martin moved second reading of Bill C-31, An Act to amend the Immigration and Refugee Protection Act, the Balanced Refugee Reform Act, the Marine Transportation Security Act and the Department of Citizenship and Immigration Act.

She said: Honourable senators, I am pleased to rise today to support Bill C-31, the protecting Canada's immigration system act.

Honourable senators, Canada has long been a destination of choice for people around the world. Like many of my colleagues in the Senate, I am an immigrant to Canada, having come here from South Korea with my family in the early 1970s.

[*Translation*]

It is safe to say that immigration is central to our country's history, prosperity and international reputation for generosity and humanitarianism, and it has been central to the success of our country.

[*English*]

Canada has a proud humanitarian tradition. Canada welcomes more resettled refugees than almost any other country in the world, and our government continues to uphold that tradition. In fact, we are increasing the number of resettled refugees by 20 per cent, or an additional 2,500 people.

However, Canada's asylum system is open to abuse. There are countless stories of criminal human smugglers, fraudulent asylum claimants and violent criminals taking advantage of Canada's generous asylum system. This abuse wastes limited resources and slows down the process for legitimate refugees who have to wait longer in the queue. It also undermines public confidence in our immigration system.

[*Translation*]

Canadians are a generous and welcoming people, but they have no tolerance for people who unduly take advantage of our country. That is why I am very pleased to speak today in favour of a bill that will give Canada a coherent, effective and efficient immigration system that will help improve the fairness and speed with which claims are processed and refugee status is granted under the federal system.

[*English*]

As honourable senators know, Bill C-31 aims to strengthen Canada's system in three specific ways. It would further build on the long-needed reforms to the asylum system that were passed in Parliament in June 2010 as part of the Balanced Refugee Reform Act.

It would allow Canadian authorities to better crack down on the despicable, ugly crime of human smuggling by integrating measures that the government previously introduced in the Preventing Human Smugglers from Abusing Canada's Immigration System Act.

[*Translation*]

The bill also provides for the use of biometric information when an application for certain visitors' visas or permits is made, which will contribute to strengthening our immigration program in many ways.

[*English*]

As honourable senators are aware, people in genuine need of our protection now wait almost two years for a decision on their refugee claim. This is unacceptable and unfair to genuine claimants. The system is so slow because it is bogged down by people who are not in need of Canada's protection. Indeed, on average it can take up to four and a half years from the time an initial claim is made until a failed claimant is removed from Canada. In some extreme cases, people have managed to play the system and remain here for 10 years or more.

This is not only unacceptable, it is also very expensive, costing taxpayers far too much of their hard-earned dollars. In fact, the average failed refugee claim currently costs taxpayers around $55,000.

• (1530)

The government brought forward the protecting Canada's immigration system bill to ensure we have a fair, but fast, refugee asylum system that ends the abuse of Canada's generosity.

[*Translation*]

Our refugee system was designed to protect people who really need it. I am talking about people forced to flee because they fear for their lives, since their country is led by a regime that is characterized by brutality, violence, oppression and persecution. These people come to Canada in search of refuge and protection because their lives are in danger. Recent data suggest that we have reason to be concerned. Indeed, thousands of people claiming refugee status in Canada are leaving safe, democratic countries where human rights are respected.

[*English*]

Honourable senators, the facts speak for themselves. In 2011, Canada received a total of 5,800 refugee claims from democratic, rights-respecting member countries of the European Union, an increase of 14 per cent from 2010. This means that 23 per cent of total refugee claims came from the EU. That is more than Africa or Asia.

Most importantly, virtually all EU claims are abandoned, withdrawn or rejected. Refugee claimants themselves are choosing not to see their claims to completion, meaning they are not in genuine need of Canada's protection. In other words, these claims are fraudulent, and the bogus claims from the EU cost Canadian taxpayers over $170 million per year.

Bill C-31, the protecting Canada's immigration system bill, is part of our Conservative government's plan to restore integrity to our asylum system and restore Canadians' confidence in our immigration system. Bill C-31 will make Canada's refugee determination process faster and fairer, and the bill will result in total savings to taxpayers of $1.65 billion over five years.

[*Translation*]

Bill C-31 will help speed up the processing of refugee claims in several ways. For instance, it will improve the provisions dealing with designated countries of origin, which will allow the government to respond more quickly to increases in the number of refugee claims from countries that are not typically a source of refugees. In particular, the files of claimants from most countries of the European Union will be processed in about 45 days.

[*English*]

Claimants who are not from designated countries of origin would also have their hearing timelines accelerated. It is proposed that these hearings would be scheduled within 60 days of being referred to the IRB. Compare this to the more than 1,000 days under the current system.

The United Nations High Commissioner for Refugees has said it is entirely appropriate for an asylum system to accelerate the treatment of claims from countries not known to normally produce refugees. This is a standard feature of most other asylum systems in Western, liberal, democratic countries, including the United Kingdom, France, Germany and Switzerland.

The determination of countries to be designated will be determined based on objective criteria clearly outlined in legislation and ministerial order. Criteria include quantitative criteria, such as a high number of withdrawn, abandoned and rejected claims; and qualitative criteria, including an independent judicial system, democratic rights and freedoms, and the existence of independent civil society organizations.

A country will only be designated after a thorough review.

[*Translation*]

Honourable senators, it is crucial that the process to designate countries of origin be simplified so that we can quickly process the wave of refugee claims filed by people who live in countries that do not usually produce refugees.

[*English*]

Indeed, the success of the new system hinges on our ability to speed up the current processing times for refugee claims. The ability to designate countries of origin plays a key role in our efforts. It is important to note, however, that whether or not a country is designated, every eligible refugee claim would continue to receive a hearing before the independent Immigration and Refugee Board on the merits of their case.

Let me reiterate, because this is a very important point: Each and every eligible claim, regardless of country of origin, will continue to be heard by the independent IRB. In addition, every failed claimant will have access to at least one recourse mechanism, such as the Refugee Appeal Division or the Federal Court.

These new processing timelines would mean that we could more quickly remove individuals who are not in need of Canada's protection. Just as important, it means that people who are in genuine need of Canada's protection would receive it more quickly. This is a goal that all honourable senators should support.

[*Translation*]

Honourable senators, Bill C-31 will also help the government crack down on people who engage in human smuggling. After all, curbing dangerous and nefarious activities like human smuggling must be part of our efforts to protect the integrity of our system.

[*English*]

In 2010, Canadians were given a stark reminder that Canada is not immune to organized crime groups intent on lining their pockets with the proceeds of human smuggling. The arrival of the migrant vessel, the *Sun Sea*, came less than one year after the arrival of the *Ocean Lady*. The fact that these two ships landed on our shores less than 12 months apart clearly demonstrates that human smuggling networks are targeting Canada as a destination and that they can use the generosity of our immigration system and the promise of a new life in Canada as a means to profit.

More recent events remind us that, to this very day, criminal human smugglers continue to target Canada. Just a few weeks ago, a human smuggling operation was dismantled in Togo. A large number of people were in Togo waiting to board a ship to come to Canada. With the hard work of authorities there and in other countries, including Canada, this trip never took place.

The recent capsizing of a small boat off the coast of Nova Scotia reminds us that these dangerous voyages too often end in tragedy. Every year, countless people die before they reach their destination.

[*Translation*]

Bill C-31 includes major reforms to prevent criminals and organized crime groups from participating in dangerous and illegal human smuggling operations and will ensure that such operations do not endanger the lives of Canadians.

[*English*]

Bill C-31 would crack down on criminal human smugglers by enabling the Minister of Public Safety to declare the existence of a human smuggling event, making it easier to prosecute criminal human smugglers, imposing mandatory minimum prison sentences on convicted human smugglers; and to hold ship operators and owners to account for use of their ships in dangerous human smuggling operations.

In regard to the detention provisions, it is incumbent upon any responsible government to ensure the safety and security of Canadians. Individuals entering the country must be identified and their risk assessed before they are released into the public.

On both the MV *Sun Sea* and *Ocean Lady*, there were several people who were determined to be inadmissible for security reasons or for having committed war crimes.

• (1540)

Canadians do not want people like that left to roam free. Detention is necessary in order to protect safety and security. I would note, in response to stakeholders' concerns, that the government acted in good faith, in the best interests of Canadians, and introduced amendments to the original detention provisions of the bill. People who arrive as part of a designated, irregular arrival would still face detention. However, a detention review would be conducted within 14 days by the IRB, with subsequent detention reviews every six months thereafter.

As well, designated foreign nationals who are under the age of 16 would be excluded from detention. Also, once an individual's refugee claim has been approved, that individual would be released from detention.

Furthermore, the minister has the discretion to release from detention smuggled migrants for whom there is no longer a reason to remain in detention.

However, we now know, from the experiences of other countries, that dealing with the push factors alone will not effectively deal with this issue. The pull factors must also be addressed so that individuals no longer choose to pay criminal human smugglers tens of thousands of dollars to come to Canada. That is why Bill C-31 also includes measures that prevent those who come to Canada as part of a human smuggling event from applying for permanent resident status for a period of five years if they are granted refugee status. It also prevents individuals from sponsoring family members for five years.

[*Translation*]

Honourable senators, these measures, which will allow us to crack down on human smugglers, are strict, but they are fair and necessary.

Finally, honourable senators, the measures proposed in Bill C-31 require some foreign nationals from countries whose citizens need a visa to provide biometric data when applying for a visitor visa or a study or work permit.

[*English*]

Under the existing system, visa applicants only need to initially provide written documents to support their applications, but biometrics — photographs and fingerprints — would provide greater certainty in identifying travellers than would documents, which can be forged or stolen. The legislation and regulations that would follow would allow the government to make it mandatory for travellers, students and workers from certain visa-required countries and territories to have their photographs and fingerprints taken as part of their temporary resident visa, study permit and work permit applications.

The use of biometrics would strengthen the integrity of our immigration program. Unfortunately, there are countless examples of serious criminals, human smugglers, war criminals and suspected terrorists, among others, who have entered Canada in the past, sometimes repeatedly, even after having been deported. As fraudsters become more sophisticated, biometrics will improve our ability to keep violent criminals and those who pose a threat to Canada out.

Foreign criminals will now be barred entry into Canada thanks to biometrics. It will be an important new tool to help protect the safety and security of Canadians by reducing identity fraud and identity theft. In short, biometrics will strengthen the integrity of Canada's immigration system and help to protect the safety and security of Canadians while helping to facilitate legitimate travel.

The use of biometrics would be beneficial to applicants themselves because it would facilitate entry into Canada by providing a reliable tool to readily confirm the identity of applicants. For instance, in cases where the authenticity of documents is uncertain or in doubt, biometrics could expedite decision making at Canadian ports of entry. Using biometrics could also protect visitor visa or permanent applicants by making it more difficult for others to forge, steal or use an applicant's identity to gain access into Canada.

Using biometrics will also bring Canada in line with other countries that already use biometrics in their immigration programs, such as the United Kingdom, Australia, the European Union, New Zealand, the United States and Japan, among others.

Honourable senators, Canada has a generous and fair immigration system that is the envy of the world. It has served Canada well, and it has also served well those who have come into our country legitimately. Bill C-31, including the amendments that we have proposed, would protect Canada's very generous immigration system. The proposed measures in this bill are necessary to protect its integrity.

[*Translation*]

These measures ensure a good balance between the safety of Canada and its citizens and the protection of people who need our protection and whom Canada will continue to protect. At the same time, these measures will help us to more quickly remove people who are abusing the system.

[*English*]

I urge all honourable senators to support this worthy bill and to help to ensure its speedy passage.

Hon. Mobina S. B. Jaffer: Honourable senators, I rise before you to speak, at second reading, on omnibus Bill C-31, which is an act that will deal with, first, our refugee system, second, human smuggling and, third, biometrics. Bill C-31 raises many questions, and I cannot do justice to all of them.

I hope that we can study the various aspects of the bill more carefully in committee.

Honourable senators, exactly 40 years ago this year, my family and I became homeless. We lost all of our possessions and the right to live in our country. The world came to the rescue of Ugandan Asians. The United States, Europe, Australia and

Canada came to our aid. In fact, Denmark went the extra mile. They offered to give asylum to all people suffering from disabilities. Ugandan Asians were very lucky. Today, I want to take this opportunity to thank all of the countries, especially Canada, for granting us asylum. Thank you very much for giving us asylum and helping us to become a part of your countries. You came to our rescue, when our own country abandoned us, by welcoming us into yours.

I often think of what would have happened to my family if we had not been granted asylum. I can tell you that, from what we were being told by Idi Amin Dada, we would have suffered a terrible fate if we had not been given asylum.

My greatest fear is that one day Canadians, who are very fair-minded people, will close their door to refugees if they feel that the refugee system is being abused. Therefore, I will be the first one to state that there must be a fair, consistent, efficient system in our country. I want the refugee system to have integrity as I never want the door to be slammed in the face of deserving refugees, refugees who need Canada's help when they are fleeing persecution. Bill C-31 represents our government's attempt at protecting the integrity of Canada's immigration system by helping to ensure that it is fair, consistent and efficient.

Unfortunately, this bill fails to meet each and every one of these objectives. Not only does it fail to strengthen our current immigration system but it also contains provisions that are unconstitutional and that directly contradict Canada's international obligations.

In summary, this bill will authorize the minister to designate as an irregular arrival the arrival of a group of persons and to provide for the designation of a foreign national in relation to detention, applications of permanent resident status and limit sponsorship of families.

This bill will completely change the way we process our refugees.

Honourable senators, today there are about 15 million refugees around the world. In 2010, the UNHCR issued 108,000 applications for refugee settlement. Of those, 100,000 were resettled, and 12,000 of those came to Canada. Resettled refugees represent 0.1 per cent of the world's refugees. The average waiting time in camps is 17 years.

I want to highly commend Minister Kenney for increasing, by 20 per cent, the number of resettled refugees. I have always advocated that we need to accept more refugees who have been identified in camps as refugees.

• (1550)

Minister Kenney stated:

> I am pleased to say our government is increasing by 20% the number of resettled refugees, UN convention refugees who are living in camps in deplorable circumstances around the world. We will now accept them and give them a new life and a new beginning here in Canada. We are also increasing by some 20% the refugee assistance program to assist with the initial integration costs of government assisted refugees who arrive here.

I also believe that if we increase the number of refugees from camps, we create hope for them, and they do not have to further endanger their lives in finding ways to come to Canada.

Honourable senators, my main concern with this bill is that in the event that it passes, our Canada will become very different. Bill C-31 will change the face of Canada as we know it, tarnishing a reputation that has taken decades to build.

A vote to pass Bill C-31 would be a vote against tolerance, acceptance, compassion and justice, all of which are principles that our great country prides itself on.

A vote to pass Bill C-31 is a vote to create a two-tiered refugee system, one that does not provide all refugee claimants with a fair hearing based on the facts of the individual cases and one that discriminates against refugees based on their old country of origin.

A vote to pass Bill C-31 is a vote in favour of treating refugees who have been victims of torture, abuse, persecution and gender-based violence as criminals, rather than as victims.

A vote to pass Bill C-31 is a vote to pass a piece of legislation that directly violates the Canadian Charter of Rights and Freedoms and directly contradicts a number of Canada's international obligations.

Finally, a vote to pass Bill C-31 will be a vote in favour of sending 16-year-old children, who have come to our country desperately seeking refuge, to jail-like detention centres for a minimum of six months.

Honourable senators, this is not the Canada that I know. This is not the Canada that 40 years ago welcomed my family when we desperately sought refuge.

Although several aspects of this bill are incredibly troubling, today I will focus on a few things that are of particular concern to me. First, I will set out how several provisions of this bill are unconstitutional. Second, I will proceed to examine the harmful effect that this legislation will have on children. Third, I will discuss how this bill allows for genuine refugees to be treated as criminals rather than as victims. I will conclude by briefly touching upon several other aspects of this bill that will require further review and study; and then I will talk about biometrics.

I remind honourable senators of a landmark decision for Canada's refugee determination system. Harbhajan Singh claimed refugee status on the basis that he had a well-founded fear of persecution in India. Unfortunately, Mr. Singh was denied status by the Minister of Employment and Immigration on the advice of the Refugee Status Advisory Committee. Mr. Singh challenged the arbitration proceedings under the Immigration Act on the basis that it violated section 7 of the Canadian Charter of Rights and Freedoms and violated section 2(e) of the Canadian Bill of

Rights. The government claimed that since he had no status within the country, he was not subject to the charter. The Supreme Court of Canada agreed with Mr. Singh and held that the Charter of Rights and Freedoms was applicable to refugee claimants.

Sadly, Bill C-31 is a contradiction of the *Singh* decision as it does not provide refugee claimants with the rights that they should be guaranteed under the Charter of Rights and Freedoms. For example, section 7 of the Charter states that everyone has a right to life, liberty and security of the person. However, Bill C-31 can potentially deny genuine refugees access to family, which violates security of the person. In addition, this bill can also lead to increased detention periods, which violates one's rights to liberty. Section 9 of the Charter states that individuals have the right not to be arbitrarily detained. However, Bill C-31 imposes a detention period without review until the expiration of six months and fails to uphold the right as the minister is not held accountable for the prolonged detentions.

Finally, section 10 of the Charter states that an individual is guaranteed the right to prompt review of detention. However, under Bill C-31, if an individual is identified as a designated foreign national, they are detained and eligible for review only after six months, which is in contrast to the Immigration and Refugee Protection Act, which states that foreign nationals should receive a review 48 hours after they have been detained. To be clear, there is a review within 14 days. After 14 days, the next review would be six months later. Unfortunately, under Bill C-31 this definition is not honoured as every individual over the age of 16 years is treated as an adult and, as a consequence, can face unwarranted arrest and detention under this bill. Moreover, Bill C-31 contains several provisions that are incredibly harmful to asylum-seekers and refugees and that unfairly target children and their families.

Honourable senators, does the Canada you know deny constitutional rights to individuals based on the country they emigrate from? Does the Canada you know create laws that directly contradict our international obligations? This is certainly not the Canada I know.

Bill C-31 will give the minister power to impose penalties on designated foreign nationals who arrive as a group, such as mandatory unreviewable detention for six months, including detention of a 16-year-old child. As well, there will be a five-year prohibition on applying for permanent resident status, even if the person has succeeded in becoming a convention refugee, has obtained travel documents, or is recognized as a convention refugee with no possibility of reuniting with family for five years.

There will be no right to appeal a decision to refuse to grant refugee protection. This is contrary to our Charter of Rights and Freedoms, which guarantees the right to life, liberty and security.

Proposed changes to section 31 violate international law. The 1951 Convention Relating to the Status of Refugees and the Charter are the anchors of our refugee system. Article 31(1) of the 1951 convention specifically states that no country will impose penalties on refugees on account of illegal entry. This article was included in the treaty specifically because it was understood that people seeking refuge could be in breach of immigration law.

With regard to children, another aspect of Bill C-31 that I find to be exceptionally troubling is the impact that this legislation will have on children. Many people in Canada are not aware that right here in Canada children are routinely held in detention. In December 2008, 61 children were detained, 10 of them unaccompanied as they arrived without a parent. In 2008, a 16-year-old refugee spent 25 days in detention. He suffered a lot in detention and was forced to deal with several physical and emotional challenges. In 2009, a 3-year-old boy was detained with his mother for 30 days. He had difficulty eating and sleeping while in detention. Over 40 children who arrived by boat in B.C. were detained even though they had spent three months on a dangerous journey where they lived in deplorable conditions. They were in detention for over six months.

Children of 16 years will be detained and, as is the current practice, younger children will be either informally detained with one parent or put in state care.

Children in mandatory detention in Australia have developed severe mental illnesses and have attempted suicide. A study in the U.K. has shown that there is great harm caused to children in detention. Both the United Kingdom and Australia have implemented policies very similar to the ones we are debating today. However, both Australia and the United Kingdom later rescinded these policies as they realized the detrimental effects they had on children who were desperately seeking asylum. Having proof that policies of this nature are clearly harmful to children, we must ensure that we learn from the mistakes of other nations and that we do not neglect to properly assess the impact these provisions will have on children.

Honourable senators, Canada is a signatory to the United Nations Convention on the Rights of the Child and has made a commitment to always ensure that civil, political, economic, social, health and cultural rights are protected. As a country, we have an obligation to honour that commitment and do everything we can to protect the world's most vulnerable population, our children.

• (1600)

The United Nations Convention on the Rights of the Child quite clearly states that a child is defined as every human being under the age of 18.

Honourable senators, the fact that this bill calls for the unwarranted detention and arrest of any individual, let alone a child who is 16 or 17 years of age, is incredibly troubling. I strongly urge all my honourable colleagues to revisit these provisions and to adopt the definition of a child that reflects the one set out in the UN Convention on the Rights of the Child, adjusting the age requirements from 16 to 18 years.

In its present form, Bill C-31 violates Article 37 of the United Nations Convention on the Rights of the Child, which states:

> No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time . . .

It is of the utmost importance that the provisions of Bill C-31 that call for the detainment of children ages 16 and 17 be amended. By adjusting the age by two years we would ensure that children are not unfairly targeted by this bill.

Honourable senators, we cannot accept that a child who has fled his country because he was being persecuted should face imprisonment in our country. That is absolutely unacceptable.

In addition, under provisions of Bill C-31 that discuss irregular arrivals, children who are 16 and 17 years of age who would under this bill face mandatory detention will also be separated from their families, as facilities are segregated by gender, meaning a child would be unable to be accompanied by both parents. This is in direct contradiction of Article 9(1) of the UN Convention of the Rights of the Child, which discusses forced separation when stating:

> States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents . . .

We must remain mindful that, when dealing with children, it is our responsibility to always protect their interests. In the event that this bill is passed, children who are 16 and 17 years of age would be unjustly placed in jail-like detention centres where they will experience a heightened risk of suffering from several mental and behavioural health issues, not to mention the emotional distress of being in a new country separated from their loved ones.

Bill C-31 calls for 16- and 17-year-old children to be detained and forced into a detention centre. Is this the Canada you know? Bill C-31 drives a wedge between families, separating mothers from their sons, fathers from their daughters and brothers from their sisters. Does the Canada you know place this type of burden on families who have already lost everything? Families who have come to Canada in search of safety, protection and opportunity? This is certainly not the Canada I know.

Honourable senators, Bill C-31 also treats refugees as criminals rather than as victims.

International law recognizes that refugees often have no choice but to enter a country of asylum illegally. The Refugee Convention therefore prohibits governments from penalizing refugees who enter or remain illegally in their territory. For a refugee, false documentation may be the only way for an individual to flee persecution in their country.

Canada recognizes this in section 133 of its current Immigration and Refugee Protection Act. Bill C-31 would allow the minister to deem a group an irregular arrival if the identity of the individuals in the group cannot be determined in a timely manner or if there is a suspicion of human smuggling or criminal activity. The fact that refugees may have or use false documents makes them more prone and vulnerable to being declared a designated foreign national because such documents could impede the minister's ability to identify an individual in a timely manner.

Therefore, Bill C-31 has the potential to treat individuals who are genuinely seeking asylum or refuge as criminals rather than victims.

More specifically, included provisions discussing irregular arrivals state that children 16 years or older can be detained and that children under 16 years of age can be separated from their families without any obligation on the federal government to appropriately justify this detention. This is not only unconstitutional but also a direct contradiction of Canada's international obligations.

The minister's ability to designate groups as irregular arrivals puts at risk those who are genuinely seeking refuge. Under this legislation, a genuine refugee may be identified as being part of an irregular arrival and thus be deemed a designated foreign national.

The minister can designate an arrival as irregular based on one of two criteria: if an individual is found to be with a group of two or more individuals that includes persons whose identities cannot be established in a timely manner, or if the minister has reasonable grounds to suspect that the vessel in which they arrived is engaged in human smuggling or criminal activity.

As a result, genuine refugees could be subjected to harsh penalties that are imposed on designated foreign nationals. In this sense, designation is not based only on the context of alleged smuggling but also on the absence of sufficient bureaucratic resources to process arrivals. In addition, only the Minister of Public Safety can make this designation, and it is not subject to parliamentary oversight, nor is it possible for the subject to appeal such a designation.

Unfortunately, for an individual who is identified as a designated foreign national, even if the individual is eventually found to be a genuine refugee, the consequences include mandatory detention of up to six months, the inability to apply for permanent residence for five years and being prohibited from sponsoring family members for five years.

Here I think it is of great importance that we examine the definition of "irregular arrival" that this bill adopts. When doing so, we must remain mindful that given Canada's geographic location, asylum seekers and refugees often have no choice but to arrive by ship. As I am sure you will all understand, arriving by plane without having the proper papers is difficult if not impossible. Therefore, asylum seekers often have no choice but to enter by ships that would have to carry many people at a time to set sail.

We are all aware that when a person is fleeing their country, they may not even have access to their documents.

Further, to enter Canada from most countries, you need a visa, which may not be an option for the refugee, so they end up desperately seeking the support of unsavory people and travelling with false documents.

We know that they often do not have the option to flee with the correct documents, so when they arrive here under Bill C-31, we will detain them.

How can we detain refugees?

Honourable senators, in 1972, my entire family was forced to flee Uganda, the country of my birth and my father's birth, and we sought refuge in Canada. I cannot begin to express to you the fear, desperation and helplessness that my family and our community were overwhelmed with. We were forced to leave the only home we had ever known with nothing but the clothes on our backs. We feared for our lives and for our safety and prayed that we would escape safely and be given the opportunity to rebuild our lives. Just before we fled, my husband, Nuralla, was detained. I almost lost him. We lived in a village very far from the airport. It took us hours to reach the airport. At every army checkpoint, I was petrified that once again Nuralla would be detained. The indignities we suffered on the way to the airport are something we still have not dealt with.

I consider myself extremely fortunate to have been welcomed into Canada, a country that is internationally recognized as being compassionate, accepting and tolerant. I am extremely grateful to call myself a Canadian and represent my province of British Columbia in the Senate of Canada.

Unfortunately, Bill C-31 violates the fundamental human rights of those desperately seeking refuge and asylum.

• (1610)

As a woman who once sought refuge, I understand what courage and sacrifice it takes to leave the only country you have known and start a new life in a foreign and unknown land. Several factors lead one to seek refuge or to emigrate to a new country. Over the past several decades, political upheavals, conflict, persecution, climate change, food and economic crises have motivated individuals from all walks of life to immigrate to Canada, a country full of opportunity and promise.

Not only does Bill C-31 fail to recognize the dangerous and life-threatening circumstances that many men, women and children are confronted with, it also makes these individuals feel unwelcome and treats them as though they were criminals rather than victims.

Honourable senators, does this sound like the Canada we know? Does the Canada we know turn its back on those who desperately need assistance, denying them having their cases heard in a fair trial? Does the Canada we know allow the cries of mothers who are desperately looking to protect their children fall upon deaf ears?

Biometrics is a very important thing. In 2002, when the Liberal Party was in government, I was very much involved with the issue of biometrics. I commend the minister for again looking at this issue. This is an important step, because there is a very legitimate case to be made about implementing biometrics for people who enter our country, as well as for people who are deported from our country so that they do not re-enter. Countries all over the world are implementing biometrics. At committee, we will investigate the framework of how biometrics will be set up and what steps will be taken to protect the privacy rights of refugees.

As I have already stated, Bill C-31 is an omnibus bill, and it covers many issues that I would like to bring to the attention of honourable senators. However, I will not be able to present them fully, as I have very limited time left. However, there are several issues that I would like to briefly touch upon, issues I hope we will be able to study in detail, such as family reunification.

I would like to start with family reunification. A refugee is forced to leave many things behind when he or she flees: their home, their belongings, their friends, but most importantly their family. Recognizing the tremendous loss this would be for a person to have to endure, the drafters of the 1951 Refugee Convention specifically stated that family unity is an essential right of the refugee.

Bill C-31 makes a refugee wait for five years after they have been accepted as a convention refugee, which realistically could end up translating into eight years until they can be reunited with their families. Forced family separation for individuals granted refugee protection in Canada causes great harm not only to the refugee but also to their family, causing numerous challenges and emotional and mental distress.

This is worse for the child who has arrived in our country and will be forced to be without a family for a very long time, thus denying the child the love, care and guidance of his or her family. This is contrary not only to the Refugee Convention but also to the UN Convention on the Rights of the Child.

Another point of concern is provisions of Bill C-31 that deny for five years the application process for permanent residency. The 1951 Refugee Convention clearly states that we are obliged to facilitate the naturalization of refugees. By imposing a five-year delay before a designated foreign national found to be a convention refugee can apply for permanent residence, Bill C-31 violates Article 34 of the 1951 Refugee Convention.

Regarding the appeal process, honourable senators will very clearly remember that, not so long ago, we all accepted the last immigration bill introduced by Minister Kenney here in the Senate that was brought before us as the minister was going to be implementing an appeal process. This was supposed to be implemented in June. Now this process will not be implemented as we expected.

Bill C-31 restricts access to Refugee Appeal Division for designated country of origin claimants designated foreign national claimants who came to Canada via a safe third country and claimants whose refugee claims have not been found to have a credible basis. Restricting the right to appeal these decisions is punitive and unfair, especially in the light of the commitment the minister himself made to us in the Senate last year.

There are also compressed timelines. Bill C-31 amends the process leading to an initial hearing by the Refugee Protection Division. The timelines for the process will be drastically shortened. Now once the claimant makes a claim within 15 days they have to

submit a basis for a claim form. The current timeline is 28 days. Having prepared hundreds of these forms, I can personally attest to the fact that this is an extremely important fact-gathering exercise, one that takes a very long time as one needs to build trust with the claimant before one can properly fill out the forms.

Bill C-31 gives the power solely to the minister, where before it was to an advisory committee, to decide which countries are designated countries of origin or safe countries. Claimants from these countries will be subjected to serious procedural disadvantages, namely truncated processing times at the Refugee Division, denial of access to appeal, and potential deportation before the judicial review application is decided.

This is incompatible with sections 7 and 15 of the Charter.

Another issue is denying health care to refugees. Under this provision, there will also be no medication provided to refugees, as there have been drastic cuts to the Interim Federal Health Program without any consultation with the provinces. Therefore, a refugee will be denied medication for common illnesses, such as diabetes, cancer or heart disease.

Honourable senators, Canada has a very proud and well-earned reputation for being exceptionally tolerant and an accepting nation, a nation that has always been generous to those who have sought refuge and protection. However, this has not always been the case. Our government once imposed a head tax on all Chinese immigrants, refused to allow African farmers to immigrate to our country, and incarcerated Ukrainians and later Italian and Japanese Canadians. We have before us in the Senate a motion introduced urging the government of Canada to officially apologize to all of those individuals who were targeted by Canada's discriminatory policies and who were turned away from entering Canada in 1914.

Our government has realized their wrongdoings and has chosen to redress these historical wrongs. Our government has worked hard for decades to be perceived as a nation that is based on the principles of justice, equality, fairness, acceptance and tolerance.

Bill C-31 does not reflect these principles. Bill C-31 does not right historic wrongs; instead, it repeats them. Bill C-31 will change the way the international community perceives our great nation, tarnishing a reputation that has taken almost a century to build. Bill C-31 will change the face of Canada as we know it.

When studying this bill, I thought of my family. If my family did not have the largess of Canadians and had not been welcomed here, and if we had turned up 40 years ago, if Bill C-31 was in place, what would have happened to us? There were 10 of us who arrived on the shores of Canada. We would have been a group. This bill states that if you arrive in a group consisting of more than two persons, you would be detained. We would have been placed in jail-like detention centres. My two younger sisters, despite the fact that they were under the age of 18, would also have been detained. Although my son, who was just a year old, would not be detained with us under this bill, he would be separated from our family and placed in state care, which for a mother is unimaginable.

Honourable senators, over the last year, I have run into many Somalians in Africa who are fleeing. Many African countries are giving thousands of Somalians sanctuary. Under Bill C-31, if a 16-year-old Somalian boy arrives on Canadian shores, we will detain him for six months. Then, if he is found to be a refugee, we force him to wait five years before he can apply for permanent residency or before he can be reunited with his family.

The United Kingdom and Australia have abandoned their policy of detaining 16-year-olds. Let us also not detain 16-year-olds.

We will also deny them essential medicines.

Honourable senators, I know the committee will study this bill very carefully. Although I am in agreement that we need to establish a balanced and fair immigration system, we must ensure that we continue to be a country that is internationally recognized as being compassionate and humanitarian.

I urge all honourable senators to study and debate Bill C-31 carefully and to stay true to our values, which make us proud to say we are Canadian.

The Hon. the Speaker *pro tempore***:** Are honourable senators ready for the question? It is moved by the Honourable Senator Martin, seconded by the Honourable Senator Tkachuk, that Bill C-31 be now read a second time.

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

Hon. Senators: Agreed.

(Motion agreed to and bill read second time.)

REFERRED TO COMMITTEE

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

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

BUSINESS OF THE SENATE

The Hon. the Speaker *pro tempore***:** Honourable senators, it being past 4 p.m., and the Senate having come to the end of Government Business, pursuant to the order adopted on October 18, 2011, I declare the Senate continued until Thursday, June 14, 2012, at 1:30 p.m., the Senate so decreeing.

(The Senate adjourned until Thursday, June 14, 2012, at 1:30 p.m.)

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