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OFFICIAL REPORT
(HANSARD)

Tuesday, December 9, 2014

The Honourable PIERRE CLAUDE NOLIN
Speaker

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

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THE SENATE

Tuesday, December 9, 2014

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

Prayers.

[*Translation*]

ROYAL ASSENT

NOTICE

The Hon. the Speaker informed the Senate that the following communication had been received:

RIDEAU HALL

December 9th, 2014

Mr. Speaker,

I have the honour to inform you that the Right Honourable David Johnston, Governor General of Canada, will proceed to the Senate Chamber today, the 9th day of December, 2014, at 4:00 p.m., for the purpose of giving Royal Assent to certain bills of law.

Yours sincerely,

Stephen Wallace
Secretary to the Governor General

The Honourable
The Speaker of the House of the Senate
Ottawa

[*English*]

SENATOR'S STATEMENT

NATIONAL CHRONIC CEREBROSPINAL VENOUS INSUFFICIENCY

Hon. Jane Cordy: Honourable senators, five years ago, the lives of many Canadians living with multiple sclerosis changed dramatically. It was on November 21, 2009, that the CBC investigative journalism program "W5" aired a program on Dr. Paolo Zamboni and the research that he was doing on chronic cerebrospinal venous insufficiency in MS patients. His work provided hope for people worldwide living with MS and showed real promise with a procedure that could drastically improve quality of life and provide relief from the devastating symptoms of multiple sclerosis.

Unfortunately, after five years, Canadians who want the procedure still have to travel outside of Canada to have it done. Canadians without the financial resources are provided with limited choices of health care options for MS and CCSVI. I know of Canadians who have remortgaged their homes or borrowed money to travel outside of Canada for treatment.

Private members' bills were introduced in the Senate and in the other place that would have provided a national strategy for MS, clinical trials for MS and CCSVI, and collection of data from those Canadians who have travelled outside the country for treatment. These bills were defeated by the government majority in both the Senate and the other place.

Many people have dedicated themselves to helping Canadians with MS in their struggle for access to real health care options when it comes to treating multiple sclerosis. Linda Hume-Sastre is the president of CCSVI Ontario. She has been the driving force when it comes to promoting education, awareness and advocacy of CCSVI treatments for Canadians living with MS in Ontario.

Christopher Alkenbrack is a Nova Scotian who was diagnosed with MS in 1992. In 2010, Christopher was one of the first Canadians to travel abroad to undergo Dr. Zamboni's CCSVI treatment procedure. His experience with the treatment was positive, and he shares his experience with Canadians as an advocate for many Canadians with MS.

Dr. Bill Code is remarkable. He was diagnosed with MS when he was 42 and was confined to a wheelchair. After undergoing the venoplasty procedure and making lifestyle changes in diet and fitness, he now continues to practise medicine.

Dr. Sandy McDonald was willing to explore options of treatment for Canadians with MS. Dr. Bernhard Juurlink, Dr. Mark Haacke, Dr. Robert Zivadinov, to name just a few, are other prominent doctors who continue to do research on CCSVI and MS. Research is finding similarities between Parkinson's, chronic fatigue, dementia and Lyme disease. In fact, our Social Affairs Committee heard from witnesses on Bill C-442, An Act respecting a Federal Framework on Lyme Disease, stating the frequent misdiagnosis of Lyme disease for many Canadians, mistaking it for MS. As Dr. Robert Zivadinov has stated: "CCSVI is definitely bigger than MS."

Honourable senators, we know that MS impacts almost 100,000 Canadians. Five years have passed, and we continue to wait for the science and new evidence. Canadians are just being told to wait and wait and wait. It is discouraging to learn that Canada still doesn't collect data from those who have had the procedure done in order to record results.

It is unfortunate that those with MS must continue to fight the status quo, the MS societies, the pharmaceutical industry and even some neurologists. Those Canadians who challenge the status quo to make things better for those with MS are my heroes. They're fighting hard for future generations of Canadians.

I would like to quote Christopher Alkenbrack, who stated:

> We must not give up hope. We must continue to march forward. We must believe that we will be the last generation of people ever to hear those words that resound in our ears as a life-long sentence of uncertainty and despair, the words that I heard on that day back in April of 1992 - "Mr. Alkenbrack, you have Multiple Sclerosis".
>
> Through further research into the area of chronic cerebrospinal venous insufficiency, we will indeed end MS.

Honourable senators, this is Canada. I believe we can do better.

ROUTINE PROCEEDINGS

NATIONAL SECURITY AND DEFENCE

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY OF NATIONAL SECURITY AND DEFENCE POLICIES, PRACTICES, CIRCUMSTANCES AND CAPABILITIES

Hon. Daniel Lang: 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 Tuesday, November 19, 2013, the date for the final report of the Standing Senate Committee on National Security and Defence in relation to its study on Canada's national security and defence policies, practices, circumstances and capabilities, be extended from December 31, 2014 to December 31, 2015.

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY OF POLICIES, PRACTICES, AND COLLABORATIVE EFFORTS OF CANADA BORDER SERVICES AGENCY PERTAINING TO ADMISSIBILITY TO CANADA

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

> That, notwithstanding the order of the Senate adopted on Thursday, December 12, 2013, the date for the final report of the Standing Senate Committee on National Security and Defence in relation to its study on the policies, practices, and collaborative efforts of Canada Border Services Agency in determining admissibility to Canada and removal of inadmissible individuals, be extended from December 31, 2014 to June 30, 2015.

• (1410)

[*Translation*]

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw to your attention the presence in the gallery of a parliamentary delegation led by Jacques Chagnon, Member and Speaker of the Quebec National Assembly.

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

Hon. Senators: Hear, hear!

[*English*]

QUESTION PERIOD

INFORMATION COMMISSIONER

ACCESS TO INFORMATION REQUESTS—USER FEES

Hon. James S. Cowan (Leader of the Opposition): Honourable senators, my question is for the Leader of the Government in the Senate and pertains to the proposed increased user fees for Access to Information requests.

Last Thursday, Information Commissioner Suzanne Legault testified before the House of Commons Access to Information and Ethics Committee on the funding crisis facing her office. In response, a number of Conservative Members of Parliament proposed that the solution to the office's lack of funding would be to increase the $5 user fee charged for ATIP requests. Erin O'Toole, Member of Parliament for Durham, recommended that the government increase the fees charged to ordinary Canadians from $5 to $25 for each request, and to $200 per request from businesses, including commercial news organizations. This would mean that Canadians would be paying $25 to learn whether Mr. O'Toole's predecessor had charged $16 for a glass of orange juice.

The Information Commissioner made it clear that increasing the cost of ATIP user fees was not, in her opinion, a good idea. She said:

> . . . it is not my office that is in a crisis, it is the fact that Canadians' right to access government information is in jeopardy, that is the real issue . . .

When your Prime Minister came to power in 2006, he promised to usher in a new era of openness and accountability. His exact words were:

> We promised to stand up for accountability and to change the way government works.

Can you explain why the government is even considering charging Canadians more for information which by law belongs to them? If the government does increase user fees, does this not negate completely the government's claim to be more open and transparent and accountable than its predecessors?

[*Translation*]

Hon. Claude Carignan (Leader of the Government): Honourable senators, the Federal Accountability Act of 2006 broadened the scope of the Access to Information Act. In fact, we have published more responses to information requests than the Trudeau, Turner, Mulroney, Campbell, Chrétien and Martin governments combined.

Over the past five years, our government has invested an additional $15 million in our access to information system. In 2012-13, the government set numerous records with regard to openness and transparency. Our government processed a record number of access to information requests, released a record number of materials and improved turnaround times.

Our government processed over 54,000 access to information requests, which represents an increase of 27 per cent from the previous year, or over 10,000 additional requests. Our government also released a record number of materials — over six million pages, which represents an increase of nearly two million pages.

That is what we are referring to when we talk about transparency.

[*English*]

Senator Cowan: People are asking more questions because your government provides less information than any previous government and that's why they have to go through this kind of formal procedure.

Senator Carignan, my question was not about the volume of work, the volume of requests or the volume of responses. My question was: How can you possibly consider increasing the fees that Canadians will pay to get information that belongs to them? How can that possibly be anything other than an attempt to prevent people from getting the information that they're entitled to get?

[*Translation*]

Senator Carignan: Senator Cowan, you are used to my answers. You know that we do not comment on rumours. We on this side of the chamber are interested only in facts.

The fact is that over the past five years, our government invested an additional $15 million in our access to information system and we issued more responses to information requests than the Trudeau, Turner, Mulroney, Campbell, Chrétien and Martin governments combined.

I know that you don't like to hear these facts, but a fact's a fact and let's not forget it.

[*English*]

Senator Cowan: The question is simple: Is your government considering increasing the fees for information requests? Yes or no?

[*Translation*]

Senator Carignan: Senator Cowan, as I said, we aren't here to comment on rumours. We're here to talk about facts. According to the facts, in 2012-13, our government set a number of records on openness and transparency. We processed a record number of access to information requests, released a record number of documents and improved turnaround times. I would also like to remind you that our government processed close to 54,000 access to information requests, which represents a 27 per cent increase over the previous year.

[*English*]

Senator Cowan: Senator Carignan talks about facts; here, I'll give you a couple of facts: At the hearing last Thursday, the Information Commissioner said that her office budget has been cut by 11 per cent and that the number of complaints — or requests, if you like to characterize them that way — has risen by 30 per cent. She testified that her staff is demoralized. They face continual backlogs and an ongoing level of outstanding files. She stated that her office is underfunded to such an extent that they can't investigate complaints in a timely manner. She said that the rights of Canadians are being thwarted. Those are her words, not mine.

The Federal Accountability Act, which your government brought in when it came to power in 2006, now applies to 250 institutions, including Crown corporations. The government has increased the responsibilities of the Access to Information Commissioner, but has cut her budget.

Do you think that allowing rumours to circulate that fees will be increased for Canadians is a proper response to the funding crisis that the commissioner testified about in the other place the other day?

[*Translation*]

Senator Carignan: Senator, as I said, we do not comment on rumours. We are interested only in the facts. Our government acted decisively in 2006, by broadening the scope of the Access to Information Act and by being more transparent and releasing a record number of documents. What is more, 54,000 access to information requests were processed, which represents a 27 per cent increase over the previous year, or more than 10,000 additional requests. Our government also released a record number of documents, or 6 million more pages, which represents an increase of nearly 2 million pages.

Our government will continue to honour its commitment to show transparency by providing better access to information.

[*English*]

Senator Cowan: Will you not put to rest once and for all the rumour that's circulating, if that's the way you describe it, that the government is proposing to increase those fees?

[*Translation*]

Senator Carignan: Senator, I repeat, we are not here to comment on rumours, but rather to talk about the facts. The fact is that this government is a transparent government that has released more access to information requests than the Trudeau, Turner, Mulroney, Campbell, Chrétien and Martin governments combined.

I understand that these facts may not necessarily be what you want to hear, considering your current and past allegiances, but those are the facts, and that is what we care about.

[*English*]

ENVIRONMENT

CARBON TAX—CARBON EMISSIONS

Hon. Grant Mitchell: Colleagues, I rise today to speak about my latest new favourite topic: Preston Manning's support for pricing carbon. It just seems to be a recurring theme.

• (1420)

Preston Manning is on the advisory board of Canada's Ecofiscal Commission, which was established by some of the top economists in the country. He is joined by, among others, Mr. Steve Williams, the CEO of Suncor, former Prime Minister Paul Martin, former Premier Jean Charest, and did I say Preston Manning? Because he's on this board as well.

An eco-fiscal policy, which Canada's Ecofiscal Commission looks at and makes recommendations about, corrects market price signals to encourage the economic activities we do want, for example, job creation, investment and innovation — even this government says they want those — while reducing those we don't want, like greenhouse gas emissions and the pollution of our air, land and water. They go on to say that:

> The revenue generated from ecofiscal policies can create further economic benefits; for example, by reducing income and payroll taxes —

— job killers —

> — or investing in new technologies or critical infrastructure.

My first question is to the Leader of the Government in the Senate. Is this government aware that between 2008 and 2013, the British Columbia government, after imposing a carbon tax, was able to cut income and business taxes by almost $1 billion more than they raised in that carbon tax?

[*Translation*]

Hon. Claude Carignan (Leader of the Government): Senator, I don't know whether you know this, since you often ask me questions on this subject, but I will tell you that our government is the first government in Canadian history to reduce our greenhouse gas emissions, and we are doing so without the carbon tax that the NDP and your Liberal cousins are calling for.

[*English*]

Senator Mitchell: The Ecofiscal Commission, advised as it is by Preston Manning, goes on to say:

> Environmental policies don't have to be expensive to work. But the ones we're currently using the most —

— "we" being the Conservative government —

> — subsidies and heavy-handed regulations — can be costly . . . and they're often ineffective.

Is this government aware that $800 million is the estimated amount that the United States has saved annually by using pollution pricing instead of regulations to reduce, for example, acid rain?

[*Translation*]

Senator Carignan: Senator, as you know, in 2012 Canada became the first major coal user to ban the construction of traditional coal-fired power plants. Coal is the biggest source of greenhouse gas emissions in the world, and we have always said that for any international agreement to effectively reduce greenhouse gas emissions globally, all major economies must commit to taking concrete action. We will continue working on these initiatives with our international partners, including the United States, as you mentioned.

This issue affects the entire continent and therefore requires a North American solution; we will therefore continue working with the United States in order to reduce greenhouse gas emissions, especially in the oil and gas sector.

[*English*]

Senator Mitchell: It's interesting that would you be making a commitment to work with international partners to reduce carbon emissions when you won't even speak to the premiers of Canada about it. Could you give us an update? Does the Prime Minister have any plans to have a meeting with the premiers of Canada to talk about how we might jointly, together, cooperatively, in a coordinated fashion, reduce greenhouse gas emissions in this country?

[*Translation*]

Senator Carignan: I can assure you, Senator, that we have no intention of using or introducing any sort of carbon tax, which is what the NDP and the Liberals want, as that would only kill jobs. Our position on that is very firm.

[*English*]

Senator Mitchell: One of the things that proper eco-fiscal policy — pricing carbon — will do is to incent competition, innovation, the development of new technologies. Canada's Ecofiscal Commission estimates that $816 billion is the value of the global market in clean technology by the year 2015.

Can the leader tell us if the Conservative government has made any estimates at all about what portion of that $816 billion might be accessible to Canadian businesses if there was some political leadership in the green technology industry, like a carbon tax?

[*Translation*]

Senator Carignan: Senator, would you repeat your question? I didn't understand the translation.

[*English*]

Senator Mitchell: Yes, $816 billion is the figure that Canada's Ecofiscal Commission has put on the estimated annual value of global clean technology markets. For new renewable resources, green tech, this kind of innovation and new technology, has this government made any assessment of how we — only one Canadian company ranks in the top 65 publicly traded companies on the clean tech index — might increase the number of Canadian companies that get part of that $816 billion annual market in clean tech?

[*Translation*]

Senator Carignan: Senator, as you know, we have invested hundreds of millions of dollars in clean energy research and development. We will continue to work on reducing our greenhouse gas emissions, in part by turning to renewable technologies.

As you know, Canada has one of the cleanest electricity supplies in the world. Nearly 80 per cent of our sources have zero greenhouse gas emissions. We will continue to work on this.

FOREIGN AFFAIRS

IRAQ COMBAT MISSION

Hon. Céline Hervieux-Payette: Honourable senators, my question is for the Leader of the Government in the Senate.

Like all of you, in the past few days, I have seen the young Ottawa man who claims to be a member of the Islamic State forces on television. I did some research on what Canada has been up to since our intervention in Iraq.

According to the information I found on the Canadian Armed Forces' website, as of December 8 — so that's pretty recent — the Canadian Armed Forces had conducted 175 sorties as part of Operation Impact in Iraq. However, the same government site reports just seven Canadian Forces air strikes between November 2 and December 5.

Can you tell us what the 168 Armed Forces sorties that were not related to military strikes were about?

Hon. Claude Carignan (Leader of the Government): Senator, terrorism remains an ongoing and serious threat to Canadians. We must be vigilant. The Islamic State has been threatening to attack Canada for a long time, and it made those threats long before we launched our mission against the terrorist threat. That's why we will continue to participate in the coalition that is currently conducting air strikes against the Islamic State, and that's why we support the forces in Iraq in their fight against this terrorist scourge.

Furthermore, that is why we are very committed to improving the tools used by police forces and intelligence agencies.

We believe that the air strikes now being conducted will have a real effect and weaken the Islamic State.

As you know, the government has provided CF-18s and refueling aircraft, and we are working with the Canadian Armed Forces to ensure that our attacks are effective and weaken the Islamic State.

• (1430)

Senator Hervieux-Payette: Several experts have said that the air strikes will do nothing to help protect those who are under threat in Iraq. Furthermore, we have deployed 600 soldiers, who are currently stationed in Kuwait and engaged in this mission.

Can we expect a ground operation in early 2015, given that our soldiers, including our former colleague Senator Dallaire, believe that without boots on the ground there can be no chance of advancing democracy in these countries? In 2015, will we be ready to intervene on the ground?

Senator Carignan: Senator, as I said, and in keeping with the motion passed in the House of Commons, we are relying on air operations. As I just said, six CF-18s, one air-to-air refuelling aircraft, two Aurora surveillance aircraft and the necessary crew and support personnel have been deployed for this air force operation.

Senator Hervieux-Payette: Considering that there are Canadians there and that 600 soldiers have been deployed, we expect to be apprised of the cost of the mission. However, your government, which you boasted just now is so transparent, has still not released this information. Can you tell us how much this mission has cost Canadian taxpayers to date? If not, why are you hiding this information? Do you plan on providing this information in the new year?

Senator Carignan: The Minister of Defence was clear. Details about the cost of the mission will be provided at the appropriate time.

Senator Hervieux-Payette: My last question is closely related to recent events. I am talking about the arrest of a citizen at the airport and the young man who made the video. The government

has announced that it plans to introduce a bill to target lone wolves, based on a French law that provides for preventive arrests, by introducing the offence of individual terrorist enterprise.

I have a very specific question. When your government committed to this third war in Iraq, did it know that this decision would inevitably lead to a steady stream of threats and repressive laws and more prisoners? Is this spiral of violence and repression the society you envision for Canadians, especially when you claim that this will make them safe?

Senator Carignan: Senator, this is not the first time that I've had a hard time following you. Normally I'm confused about a single question, but now I'm confused about two questions, one after the other. In one, you criticize us for not sending soldiers to fight directly on the ground. In the next, you criticize us for getting involved in a spiral by increasing our level of involvement. I'm having a hard time following your questions.

Senator Hervieux-Payette: In the past, I said that I was against any form of military involvement. This isn't an operation that Canada should be involved in. We should be helping innocent victims, alleviating their pain and tending to their wounds. Canada could have put this money towards a humanitarian mission instead of getting involved in an unproductive way and following countries like England, the United States and France, which have oil interests and military interests over there, since they manufacture weapons. Canada should never have gotten involved like this.

Will you go further in your legislation to ensure national security by making preventive arrests for individual enterprise terrorist offences? I am quoting France's new law.

Senator Carignan: We know what is in statutes and bills when they are tabled. I will not comment on the intentions of future bills. However, I would like to point out that not intervening also comes at a cost. As the Human Rights Watch report, among others, said, inaction leads to the loss of human life. Such is the case when people are in need and are victimized. Women are victims of rape and are thrown in the gutter, children are murdered. Inaction, senator, is also inhumane. When someone near us needs help, we have a moral duty to help. The same goes when a country needs help. I'm counting on you if I need help.

[*English*]

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Yonah Martin (Deputy Leader of the Government): Honourable senators, pursuant to rule 4-13(3), I would like to inform the Senate that as we proceed with Government Business, the Senate will address the items in the following order: Motion Number 74, followed by all remaining items in the order that they appear on the Order Paper.

THE SENATE

MOTION TO PHOTOGRAPH AND VIDEOTAPE ROYAL ASSENT CEREMONY ADOPTED

Hon. Yonah Martin (Deputy Leader of the Government), pursuant to notice of December 8, 2014, moved:

> That photographers and camera operators be authorized in the Senate Chamber to photograph and videotape the next Royal Assent ceremony, with the least possible disruption of the proceedings.

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

Hon. Senators: Agreed.

(Motion agreed to.)

COPYRIGHT ACT
TRADE-MARKS ACT

BILL TO AMEND—THIRD READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Black, seconded by the Honourable Senator Runciman, for the third reading of Bill C-8, An Act to amend the Copyright Act and the Trade-marks Act and to make consequential amendments to other Acts.

Hon. Yonah Martin (Deputy Leader of the Government): Question.

The Hon. the Speaker: It is moved by Honourable Senator Black, seconded by Honourable Senator Runciman, that this bill be read a third time.

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

Some Hon. Senators: On division.

Some Hon. Senators: Agreed.

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

AGRICULTURAL GROWTH ACT

BILL TO AMEND—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Plett, seconded by the Honourable Senator Frum, for the second reading of Bill C-18, An Act to amend certain Acts relating to agriculture and agri-food.

Hon. Claudette Tardif: Honourable senators, I rise to speak to Bill C-18, An Act to amend certain Acts relating to agriculture and agri-food, or better known as the Agricultural Growth Act, which was introduced in the Senate on November 25.

I thank my honourable colleague Senator Plett for his remarks on this bill.

I would begin by pointing out that the sheer scope of Bill C-18 is an issue. This is a large and fairly technical piece of legislation. In fact, we could call this an omnibus bill because it will amend nine different acts. Let me name them: the Plant Breeders' Rights Act, the Feeds Act, the Fertilizers Act, the Seeds Act, the Health of Animals Act, the Plant Protection Act, the Agriculture and Agri-Food Administrative Monetary Penalties Act, the Agricultural Marketing Programs Act and the Farm Debt Mediation Act.

That is a whole lot of legislation being affected by one bill.

We have witnessed, unfortunately, time and again, the government's tendency to push through legislation while limiting debate in the process by grouping together many different amendments to various pieces of existing legislation.

• (1440)

By doing so, the bills cannot be debated in full and do not have the chance to be thoroughly examined, as they should be. In addition, it puts parliamentarians in a difficult situation as they often agree with parts of the bill but oppose others and are forced to vote for all of the changes at once.

[*Translation*]

Bill C-18 includes numerous necessary elements that I agree with. Some of the legislative measures targeted in the bill have not been updated for more than 50 years. Of course, laws need to be updated so that they are relevant to modern practices and so that the wording can be updated. In fact, many of the amendments proposed in this bill are language related. French terminology needs to be updated, and there should be better agreement between the French and English versions.

Bill C-18 adds regulatory powers to the Feeds Act with regard to record keeping. Last year, when feed destined for the pork industry was recalled because it was linked to a deadly virus, it became clear that there was a real information problem at the Canadian Food Inspection Agency. This incident made us realize that the Canadian Food Inspection Agency needs to be better equipped when it comes to record keeping. These additional regulatory powers will give the CFIA the tools it needs to ensure that information is tracked electronically, which will be very useful should there be a similar crisis.

I agree with the amendments proposed for the Agriculture Marketing Programs Act, which includes the Advance Payments Program. These amendments will reduce red tape and increase access to the programs. For example, the amendments authorize multi-year agreements, under which program participants will become repeat clients instead of new applicants.

Currently, participants in the Advance Payments Program have to apply every year as new applicants because the program makes no distinction between new and repeat participants.

As a result of these amendments, part-time farmers will be eligible for the Advance Payments Program, since they will no longer be required to list farming as their primary occupation.

[*English*]

I am also in favour of the addition of a stipulation to an existing provision in the Feeds Act, the Fertilizers Act, the Seeds Act, the Health of Animals Act and the Plant Protection Act to allow an inspector to have the power to verify compliance and prevent non-compliance to the acts. This will enable the Canadian Food Inspection Agency to order out of Canada, at the owner's expense, imported shipments or their destruction, if they are found to be non-compliant with Canadian standards and regulations.

Although there are many positive aspects to this bill, as with all omnibus bills, there are aspects which are cause for concern.

Bill C-18 will move Canada from the standards set by the International Union for the Protection of New Varieties of Plants known as the UPOV 1978 convention to those set by the UPOV 1991. Harmonizing the Plant Breeders' Rights Act with the UPOV 1991 will help protect intellectual property and encourage innovation in the development of new crop varieties.

Last June, the Standing Senate Committee on Agriculture and Forestry tabled a report titled *Innovation in Agriculture: The Key to Feeding a Growing Population*. Section 3 of the report spoke on the issues concerning intellectual property. The committee heard from witnesses that Canada's lack of compliance with the International Convention for the Protection of New Varieties of Plants UPOV 1991 created difficulties within the industry. Recommendation 8 of the report goes as follows:

> The Committee recommends that Agriculture and Agri-Food Canada and the Canadian Food Inspection Agency bring the *Plant Breeders Right's Act (1990)* up to the standards of the 1991 Act of the International Convention for the Protection of New Varieties of Plants.

The government has indicated that Bill C-18 will bring Canadian legislation up to par with the UPOV 1991, which will help facilitate trade, promote private investment and protect the intellectual property of plant breeders.

While I understand the need to help Canadian plant breeders protect their intellectual property — and I do understand the need to modernize Canadian legislation — I do have some concerns with some of the amendments proposed to the Plant Breeders' Rights Act.

Bill C-18 extends the scope of plant breeders' rights by amending the existing protection with additional new exclusive rights of the breeder. These include: to produce and reproduce propagating material; to condition propagating material for the purposes of propagating the variety; to export or import propagating material of the variety; and to stock propagating material for the purposes of any activities in which are the exclusive right of the breeders.

Bill C-18 also adds a new section to the Plant Breeders' Rights Act which grants farmers privileges to store, condition, stock and use harvested material, such as seeds from the plant varieties they grow on their own holdings. However, in my opinion, a privilege is not the same as a right. Privileges can be revoked while rights cannot. The choice to use the word "privilege" instead of "right" is of concern and was clearly the most contentious issue in the debates in the other place. By purposely choosing the word "privilege" instead of "right," the government gives itself leeway in the future, through the power of regulations, to modify or refuse to grant that said privilege.

[*Translation*]

Furthermore, when the Agriculture and Agri-Food Committee in the other place was studying this bill, the government voted against amendments that would prevent the minister from making regulations to revoke farmers' privilege. A right outweighs a privilege, and I wouldn't want plant breeders' rights to outweigh a farmer's privilege to harvest and store seeds. This would have a negative impact on Canada's agricultural sector.

It's important to have a balanced approach where we protect plant breeders' rights and at the same time strengthen a farmer's privilege or right to harvest, condition and store seeds for their propagation needs. I wouldn't want the scale to tip in favour of big corporations at the expense of small farms.

[*English*]

Another area of concern is the question of royalties. Bill C-18 adds new provisions to plant breeders' rights in sections 5 to 5.2 of the Plant Breeders' Rights Act that will enable holders of plant breeders' rights to exercise their rights for any harvested material, as well as any other plant variety that is derived from the initial plant variety. The government assures us that these added rights do not mean that corporations will be allowed to ask for royalties at every step of growth from seed to harvested material, but I am not as optimistic as my colleagues on the other side. Plant breeders could potentially generate revenue on a farmer's entire production, not just on the initial seeds that have been sold to the farmer, but through the whole production cycle.

This bill would also allow for incorporation by reference. This bill amends the Feeds Act, the Fertilizers Act, the Seeds Act, the Health of Animals Act and the Plant Protection Act, giving the Governor-in-Council the ability to move significant changes without Parliament's consent. Although I can understand some of the practical elements to this amendment, in a democratic country like Canada, it is always worrisome when a government decides to amend existing laws so that it is able to change them without public input or debates in Parliament.

• (1450)

The government assures us that these amendments are simply for better time efficiency in regard to the approval process of different materials, such as fertilizers, seed, feed and so on. However, documents that are incorporated by reference are not required to be transmitted for registration or publication in the *Canada Gazette*. In fact, the proposed subsection 5.1(4) of the Feeds Act states:

> For greater certainty, a document that is incorporated by reference in a regulation made under subsection 5(1) is not required to be transmitted for registration or published in the *Canada Gazette*.

In my view, this bill gives too much discretionary power to the minister. From now on, the minister may, subject to the regulations, suspend, cancel or review a legislation or licence and exempt someone or something from one or more regulations.

The bill also explicitly allows the minister to consider foreign data and evaluations in submissions. I understand how this may improve efficiency and streamline the submission process. However, I think the government's track record in supporting Canadian scientists speaks for itself. We have all witnessed this government cut funding to public Canadian research and muzzle our scientists. I have personally spoken several times on this matter.

The National Farmers Union, while appearing before the Standing Committee on Agriculture and Agri-Food in the other place, expressed:

> Canada's public science capacity has been severely reduced as a result of federal funding cutbacks. Canadian science should be used to make decisions about products used and sold in Canada and their potential impact on our farms, agricultural ecosystems, economy, environment, animal and human health.

Let me remind honourable senators that 700 research positions at Agriculture and Agri-Food Canada have been eliminated since 2013. I think we should cautiously examine the repercussions this part of Bill C-18 may have on Canadian public research.

Honourable senators, as I said earlier, this is a large and fairly complex bill. I do understand the need to modernize our Canadian legislation and to enhance trade opportunities internationally, but as I explained earlier, I remain apprehensive about some parts of this bill. I believe that Bill C-18 needs to be examined thoroughly in committee. I am looking forward to a thorough examination of this large omnibus bill and hearing from witnesses in the field.

Hon. Joan Fraser (Deputy Leader of the Opposition): Would Senator Tardif take a question?

Senator Tardif: Of course.

Senator Fraser: Some colleagues may recall in the past that I have spoken with grave suspicion, not to mention opposition, about incorporation by reference, which strikes me as a profoundly dangerous tool to give to any government or, more interestingly, the bureaucrats behind any government.

It's bad enough when what is incorporated by reference and what may in the future be incorporated by reference are Canadian documents, Canadian standards set by some non-governmental body, for example. You could, I suppose, argue that Canadians who are concerned with whatever it is that's being incorporated by reference would most likely be aware or would at least find it not that difficult to ascertain if something is being changed, if we were talking about Canadian material being incorporated by reference.

Can you tell us whether in this bill the possibility also exists for incorporation by reference of foreign material? Because that would be much harder for Canadians who were concerned to know about, unless it were published in the *Canada Gazette*, which it won't be.

Senator Tardif: Thank you, Senator Fraser, for your question. The concern you have raised is a very legitimate one. The fact that the minister now will have explicit authority to look at foreign data and evaluations on certain products means, I would think — and I will have to check when the minister appears before the Agriculture and Forestry Committee — that he will have the authority to include that, and these documents could be incorporated by reference.

As I read, documents that are incorporated by reference will not be published in the *Canada Gazette*, and any amendments brought forward will not be publicly debated either in Parliament or by the public at large.

Senator Martin: Question.

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

(On motion of Senator Plett, bill referred to the Standing Senate Committee on Agriculture and Forestry.)

[*Later*]

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Ms. Bessie Vlasis and Ms. Gwyneth Anderson, Co-founders of Bully Free Community Alliance of the York Region. They are the guests of the Honourable Senator Carignan.

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

Hon. Senators: Hear, hear!

APPROPRIATION BILL NO. 4, 2014-15

SECOND READING

Hon. Nicole Eaton moved second reading of Bill C-45, An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2015.

She said: Honourable senators, I rise today in respect of Appropriations Bill No. 4, 2014-15. This bill provides for the release of supply for Supplementary Estimates (B), 2014-15, and now seeks Parliament's approval to spend $2.9 billion in voted expenditures. These expenditures were provided for within the planned spending set out by the Minister of Finance. Supplementary Estimates (B), 2014-15, were tabled in the Senate on November 6, 2014, and referred to the Standing Senate Committee on National Finance for study.

These are the second supplementary estimates for the fiscal year that ends on March 31, 2015. The first, Supplementary Estimates (A), were approved last June.

Last Wednesday, our chair, the Honourable Senator Joseph Day, spoke on behalf of the Standing Senate Committee on National Finance to explain a detailed analysis of our thirteenth report, the report on the Supplementary Estimates (B), 2014-15. We have before the chamber now our fourth appropriation bill, which will allow funds to be released based on the requirements outlined in our Supplementary Estimates (B) report.

As a committee, we study the Main Estimates for the year in addition to three supplementary estimates — (A), (B) and (C) — as funding requirements are adjusted throughout the year.

As a member of the steering committee for the Standing Senate Committee on National Finance, it is my pleasure to provide you with a brief review of the major spending requirements included in Supplementary Estimates (B), 2014-15.

Our committee met with six departments over the course of two meetings in order to review the current requests. Sixty-three departments and/or government organizations have identified additional funding requirements, for a total of $2.9 billion in voted appropriations, which is a 3.3 per cent increase over the Main Estimates.

• (1500)

In addition, an increase of $327.9 million in statutory budgetary expenditures is requested, which represents an increase of 0.2 per cent over the Main Estimates.

The committee heard from Treasury Board of Canada Secretariat, which provided an overview of the key measures in these estimates; Public Works and Government Services Canada; Department of National Defence; Transport Canada; Indian Affairs and Northern Development Canada; and Fisheries and Oceans.

The major voted items in the supplementary estimates come from the departments previously mentioned, more specifically, $652.2 million for the Department of National Defence for the sustainment and operational readiness for the Canadian Armed Forces in support of the ongoing implementation of the Canada First Defence Strategy; $190 million for the Department of National Defence to strengthen the Canadian Forces Service Income Security Insurance Plan Long Term Disability components; and $151.7 million for the Treasury Board Secretariat to transfer funds to federal departments and agencies for salary adjustments. This amount covers retroactive compensation adjustments for 2013-14 and is divided between the core public service, approximately $112 million, and government agencies, approximately $40 million.

There is $148.6 million for VIA Rail Canada Inc. to address operating and capital requirements. This funding will support the rebuilding and enhancement of passenger cars, new signalling systems, track enhancements, station repairs and information technology projects; $136.2 million for Public Works and Government Services for increases in non-discretionary expenses associated with Crown-owned buildings and leased space; and $84.6 million for the Canadian Air Transport Security Authority to implement enhanced non-passenger screening.

There is $80.2 million for nine organizations in order to assess, manage and remediate federal contaminated sites. The officials stated that federal environmental liability for contaminated sites is close to $11 billion, according to the Public Accounts of Canada.

There is $78.8 million for Fisheries and Oceans Canada for investments in the Canadian Coast Guard's fleet renewal under the National Shipbuilding Procurement Strategy. The funds will be used primarily to support the following activities: design and engineering work for non-combat vessels; the Vancouver Shipyards where the non-combat vessels will be built; and refit of the *Louis S. St-Laurent* icebreaker.

There is $75.9 million for Transport Canada to replace the motor vessel *Princess of Acadia*, which provides ferry services between Saint John, New Brunswick, and Digby, Nova Scotia, as announced in the 2013 federal budget; $65 million for Canadian Heritage to provide funding to the Toronto Community Foundation for the Toronto 2015 Sport Legacy Fund established as part of the Pan-Am and Parapan American games to be held in Toronto; and $57.6 million to the Parks Canada Agency to improve highways, bridges and dams in national parks and along historic canals as announced in the 2014 federal budget.

On behalf of members of the committee, I thank our chair, Senator Day, for doing an outstanding job. I thank the members as well for their insightful questions on the bill.

Honourable senators, these are some of the highlights of Appropriations Bill No. 4 that you are now being asked to approve.

[*Translation*]

Hon. Joseph A. Day: Honourable senators, the bill we are discussing, Appropriation Bill No. 4, 2014-15, provides for the release of supply for Supplementary Estimates (B), 2014-15, and seeks Parliament's approval to spend a total of $2.9 billion in voted expenditures.

[*English*]

I would like to congratulate my honourable colleague Senator Eaton for her clear presentation on behalf of the government of Bill C-45. I will not duplicate the fine work she has done in explaining the major expenditures that appear in Bill C-45, but perhaps for a few minutes I can put it in context so honourable senators will understand the process. The process is a little different with respect to this kind of estimate and supply bill than is typically the case when we see a bill going through.

This bill is seeking authorization by the executive branch — that's the government, the Prime Minister and his cabinet — to spend $2.9 billion and is part of the estimates for the year. We call this a supply bill because it is part of the supply cycle. It isn't all of the money for the year that the government is looking for, but it is a portion. Before I explain how this portion fits in overall for the year of supply, let me just read to you from the bill itself. You may or may not have the bill in front of you. If you do, I'm looking at the introductory words, which I find to be quite interesting, and it shows the historical aspect of this particular piece of legislation.

It starts:

> MOST GRACIOUS SOVEREIGN,
>
> Whereas it appears by message from His Excellency the Right Honourable David Johnston, Governor General and Commander-in-Chief of Canada, and the Estimates accompanying that message, that the sums mentioned below are required to defray certain expenses of the

federal public administration, not otherwise provided for, for the financial year ending March 31, 2015, and for other purposes connected with the federal public administration;

May it therefore please Your Majesty, that it may be enacted, and be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, that:

Then it goes on, and there are about four or five paragraphs outlining what the executive is looking for with respect to the administration of the government during the year.

Honourable senators, as I mentioned, this $2.9 billion is only part of what the government is looking for to run the government for the year. Part of the funding for the government comes through these voted appropriations, supply bills, appropriation bills. The other part is in the various statutes that make provision in themselves for funds to flow. The typical split is two thirds-one third, or 60 to 65 per cent in statute and the balance of 35 to 40 per cent in voted appropriations. That is what you are being asked to do, to provide a portion of the voted appropriations for this particular year.

• (1510)

Initially, in March, we looked at interim supply. We got the bill in late March and voted so that as of April 1 of this year we had interim supply. That allowed the government to continue to run its various activities until the end of June. During the latter part of June, we had the opportunity to pass main supply, and at that time we also looked at another supply bill called Supplementary Estimates (A), and the supply bill that flows from that.

This one is Supplementary Estimates (B), and there will be another, traditionally Supplementary Estimates (C). The main supply is what the government knows it's going to need, and we break it down into interim and main so we can look at it, back in the early part of the year. The initiatives that flow from the budget itself and the initiatives implemented because of changes in economic circumstances during the year are reflected in these other supply bills that come along, the supplementary estimates. This is one of those.

This is the second one, Supplementary Estimates (B). Total supply for the year including this but not including Supplementary Estimates (C), which we haven't seen yet, will be approximately $92 billion, if we approve this particular matter. And then we can anticipate a smaller supply in February, just to clean up those new initiatives that weren't caught earlier on. It typically is quite a bit smaller.

That, honourable senators, puts this supply bill, which is the fourth one, as I indicated to you, in context with the others. We refer to what we're voting on now as voted appropriations, contrary to the statutory appropriations.

The importance of this particular matter is that it is fundamental. That's why I read out that first paragraph because it's such an historic request, and it's repeated each time, that same format; it flows from many centuries ago when Parliament finally obtained the authority to control the expenditures of the government. That is what people died for. As parliamentarians — House of Commons, the Senate and the Governor General — that is the most fundamental work that if we didn't do anything else, this is the most important, to approve and oversee expenditures by the executive branch.

I'm so glad that the members on our Finance Committee take their responsibilities in relation to this work very seriously, because it is that.

The Supplementary Estimates (B) report that my honourable colleague Senator Eaton has referred to, we have seen and have debated here, and it has become part of our permanent record. It outlines the major expenditures that Senator Eaton has just gone over, and I need not go over them again. That report reflects our study of the supplementary estimates.

Supplementary estimates are a rather thick document that gives all kinds of detail, and we also get detail on those proposed expenditures from Treasury Board when they come to our committee.

We understand what's in the supplementary estimates. When we receive the bill, like we received this one two days ago, Bill C-45, when we look at the pro forma document — and it is basically that, with two schedules attached to it, which are not in nearly enough detail for us to understand what and why the government wants $2.9 billion — we have done our homework on this by looking at the estimate document, Supplementary Estimates (B).

Having done that, now that we've received this, we understand what's there, and we understand that the two schedules attached are reflective of what's in Supplementary Estimates (B). In fact, the very same schedules are in Supplementary Estimates (B) for that reason.

Honourable senators, we're in a position to deal with this bill based on our report and based on the study, having in mind that this is a matter of confidence. This is fundamental to the government. If we vote down the supply to the government, if it goes back to the House of Commons — we're not a confidence chamber here, but the other chamber is — so it's a more delicate piece of legislation than we would typically see.

That doesn't mean we shouldn't scrutinize it, but it's important to understand that it is very fundamentally important. We will deal with this at second reading now, and it will not need to go to committee. The committee has done its work on this particular matter. Once the second reading of this bill is concluded, we will be in a position to then move it to third reading, unlike other things that we handle in this chamber.

I would ask honourable senators to have in mind the importance of this particular legislation, albeit one of the supplementary estimates as opposed to the Main Estimates for the year, but nonetheless important for the government, and have in mind that we have studied it and reported on it to you, and that report has been adopted by this chamber.

Thank you, honourable senators.

The Hon. the Speaker: Question?

Hon. Jane Cordy: Senator Day, will you take a question? I was listening to you, and I think you are absolutely right — the fundamental job we have in this chamber is — I think your words were — to "approve and oversee expenditures." That's an important point, and our oversight shouldn't be rushed.

I was interested because I had heard, maybe a week ago or a few weeks ago, that $1.1 billion of Veterans Affairs money went back to general revenues from the department because it hadn't been spent by year end. Minister Fantino said at the time not to worry about it; that money was not lost to the department.

Correct me if I am wrong, but it is my understanding that this money is lost to Veterans Affairs. It's gone. It's back in general revenues. It will be used to pay down the deficit so the Conservatives can bring in income splitting for the rich or can buy their ads before the next election on the taxpayers' dollar. My understanding is that money is indeed gone, lost to the veterans of our country. Could you clarify that for me?

Secondly, as you said, we approve and oversee expenditures. Did we not, in this chamber and in the House of Commons, approve that $1.1 billion and say that this $1.1 billion is to be spent by the Department of Veterans Affairs to make things better for our veterans in Canada?

Senator Day: Thank you, Senator Cordy, for your question. You're absolutely right. We in this chamber and the other chamber voted on an amount of money over a number of years for Veterans Affairs. The administrators of Veterans Affairs, the minister and his team, decided not to spend all that money that we had studied, considered and voted on and gave authority to the minister to spend.

So $1.1 billion over a period of years, a cumulative amount, was not spent and went back into general revenue and therefore is not available to the veterans and Veterans Affairs for which we had voted it. It does become a matter of general revenue which can then be used to reduce the deficit, for example. If that was your primary objective as opposed to looking after veterans, then that's what you would do.

• (1520)

If you felt that you wanted the funds another year, you would have to reapply and go through the same process the second time around. There is no guarantee that that money would be available. It's precisely the same thing that we see happening in DND and the huge amount for Department of National Defence that was approved by Parliament but not spent because the masters and the executive branch decided not to allow that money to be spent for equipment or to provide for pensions for the members of the armed forces. For many other purposes that are crying out for funds, it's the exact same situation. We have seen it in many different departments.

Senator Cordy: Thank you very much for that. That was my understanding, that the money is gone, even though we in this body of Parliament had voted that this $1.1 billion be used for veterans. I know that $1.1 billion would certainly have kept the Veterans Affairs offices open across the country. The minister is ultimately responsible for the department, so the minister, if he wasn't, should have been aware that that money should have been spent by his department.

I have another question, and I've asked you this question before: A few years ago, $3.1 billion was lost and Minister Clement said, "Don't worry about it, it's somewhere; we just don't know where it is." If you are saying that the most fundamental job we have in this chamber is approving and overseeing of expenditures, is Minister Clement or anybody else giving us any indication of where this money is? This was $3.1 billion. Again, Veterans Affairs offices could have been kept open across the country, or maybe the money to help veterans with mental health issues could have been spread over 5 years instead of 50 years, when none of us will be around to see that happening.

I wonder if you have heard anything about the missing $3.1 billion.

Senator Day: I recall, Senator Cordy, answering that question previously and I recall a quotation by the minister that "the money is not lost; it's in some of those boxes in my basement that I haven't gotten around to looking through."

Senator Cordy: I wish it was in my basement.

Senator Day: The point that the minister was making is that the money was spent; we just can't tell you how it was spent. But that's our role. Our role as parliamentarians is to know how it's spent. His role as the executive is to be able to tell us how the money has been spent. That has not been resolved, but again those were funds that were voted by Parliament to allow the minister to run his department and, because of poor bookkeeping, they don't know how the money was spent.

We have public accounts that help us at the end of a year; we look at public accounts, which should outline all of that, and the people who are working within the department should be able to tell us. We also have an Officer of Parliament, the Auditor General, who should be looking into and answering those questions for us and providing a report to Parliament.

I have hopes that the Auditor General is putting some of his money that we vote to run that department — there are over 500 people in the Auditor General's office — into looking into some of these recurring questions: Why was the money not spent? What happened to the money that was spent and not accounted for?

Senator Cordy: Senator Cowan asked some excellent questions during Question Period today about openness, accountability and giving parliamentarians the knowledge that we should have to make informed decisions. I would hope that the government, if indeed this isn't just platitudes to us, would be interested in getting to the bottom of where this $3.1 billion is, because, as you

said earlier, we have voted for this money to be spent; now it's gone, supposedly not missing, but we don't know where it is or how it's been spent.

Do you think if a government is to be accountable and open, this would be an issue and that indeed we should know where the money has been spent? We might not agree with it, but at least we should know where it has been spent.

Senator Day: Senator Cordy, I agree wholeheartedly and I think we, as parliamentarians who represent the people of Canada, have a responsibility to know how this money has been spent. We don't need platitudes about accountability. We need to have facts as to where the funds went and we must, in doing our work as parliamentarians, follow up on those issues that are outstanding and that haven't been answered to our satisfaction. We owe that to the people of Canada.

[*Translation*]

Hon. Grant Mitchell: Honourable senators, I would like to say a few things about this bill. I really appreciate the comments from my colleague, Senator Day, but I have several things I would like to add.

[*English*]

I have two categories of comments that I would like to address. One is the question of balancing the budget. It would be wonderful if we had a government that could do that. Now that I have, of course, rebranded and risen completely above partisanship, I'm going to make the empirical point that the former Liberal government gave us nine consecutive surplus budgets and left the government with a surplus of $12 billion. This government, I think, has given us seven consecutive deficit budgets and has yet to actually balance a budget.

It's not the budgets you want to balance; you want to balance the books. That's the focus of my concern. I said it the other day and I will say it again: I don't believe this government will ever actually balance the budget or balance the books, because I think it doesn't understand government and it doesn't know how to manage it.

It was in many respects the same problem we had in Alberta. The government balanced the budget in Alberta because it had a lot of money after unbalancing it, but it never really managed and it didn't manage because — and God rest his soul — Mr. Klein's government didn't fully understand how to manage government. It isn't just a matter of cutting for cutting's sake; it's a much deeper and more profound orientation than that.

I don't believe there is sufficient in this budget bill, in the government's financial planning, to ensure in any way, shape or form that the budget will be balanced. In fact, their claims that it is actually balanced to this point, I think, are way overstated and might even verge on the misleading.

Much of the revenue that has been accounted for in the latest fiscal update is actually one-time revenue. I don't know whether colleagues know, but the embassy building in the city of London, England, was sold for 500 million pounds. I think that works out to about $750 million. That's one time. That's revenue that goes into the books, into revenues this year that the government claims as a source of revenue for balancing the books. That's one time. That won't happen again.

The embassy in Rome — I think, but I don't know for sure — was probably sold for much the same level of income and so you might be counting $1.2 billion, $1.3 billion, or $1.5 billion in simple, one-time revenue incomes from those two cases alone. That's not to mention the other assets that have been sold off, and there are billions of dollars of assets yet to be sold. In fact, a recent analysis has suggested that telling everybody that you've got to sell it is kind of a silly way to sustain its price, when you get around to pricing it and making the deal.

My point is that in this apparent surplus, balanced budget, at least, that was noted by the government in this latest update, there is a lot of one-time revenue that's not going to occur again.

Second, there are a great number of deferred expenses. We haven't bought a helicopter; haven't brought a plane; haven't cut steel on a warship; haven't cut steel on an icebreaker; deferred $1.2 billion worth of expenditures on Veterans Affairs; and haven't bought the armoured vehicles that were budgeted. We have given up something like $2.6 billion a year for a number of years in budgeted capital expenditure in the military alone. Those are deferred expenses. They will bear on future budgets, of course.

• (1530)

It is also interesting to note that I believe one of the reasons why we don't have the revenues to adequately balance the budget is that the infrastructure program that the government keeps advertising so frequently and aggressively, of course, didn't emphasize projects that necessarily created jobs. They emphasized projects that were high profile and perhaps would end up in specific constituencies chosen for whatever reason.

The final reason why I believe that this government won't balance the budget is because the oil is at sub-$70 a barrel. There is some projection that it will go lower. Let's hope it doesn't. The fact of the matter is that this government simply isn't going to have the revenues to balance the budget in the future, certainly not, and it's compounded by the fact that it doesn't like government and therefore doesn't fully understand in any way, I think, how to manage it. That's my first category of concern about this bill: It doesn't really address the issue of how we could balance the budget in a sustainable, structured way.

The second concern I have is with what's happening to the economy more generally. I have alluded to the fact that oil is sub-$70. At those levels, you're getting awfully close to a level at which oil sands oil is not competitive. You will certainly not be building the kinds of projects that have stimulated the economy, because the largest stimulation that comes from oil sands has been the building of the projects and the pipelines to go along with it. Don't get me started on the pipelines, but it's been nine years of this government in place, and it has been unable to build a single pipeline that would diversify our market.

What we're forgetting, what we don't see in this budget, is any focus on how to create an economy of the future. In fact, what we see implicit in this budget and in the government's orientation, over and over and over again, is that dealing with climate change — which is a huge challenge; there is infinite risk in climate change — will hurt the economy, when in fact there's clear evidence that not dealing with climate change embraces infinite risk and that dealing with climate change will, in fact, create huge opportunity to stimulate and catalyze an economy of the future.

As I've said many times, the Second World War caused us to restructure our economy. We didn't ruin our economy by doing that. We created an economy that sustained one of the highest standards of living for the last 60 years, an economy that has been the envy of the world. That's exactly what we could do with great political leadership if we embraced the fact that climate change needs to be dealt with.

Speaking of great political leadership, I want to quote Mr. Manning again. I'm so excited about the fact that he and I converge on this environmental issue, and clearly so is my colleague Senator Greene, who worked for him.

Mr. Manning makes this point in explaining why he joined the advisory board of Canada's Ecofiscal Commission, which you've heard me talk about:

> I joined the Commission because our future prosperity depends on our ability to grow in the context of a healthy environment. We need smarter fiscal policies to get there.

This is a recent statement, so clearly he doesn't think we're there, despite what we hear day after day from the government's talking points.

He's joined in that commission, as I've said, by Steve Williams, the CEO of Suncor; the former premier of B.C., Mike Harcourt; the former premier of Quebec, Jean Charest; the former prime minister of Canada, Paul Martin; the former finance minister who balanced the budget in Alberta, Jim Dinning. Mr. Manning has joined, I would assume, to back up his contention and fulfill his vision for a healthy environment based on smarter fiscal policies to get there.

Eco-fiscal policy corrects market price signals to encourage the economic activities we do want — job creation, investment and innovation — while reducing those we don't want — greenhouse gas emissions and the pollution of our land, air and water.

My concern about this bill is that it's so clear that changes in fiscal policy embracing eco-fiscal policies should be an integral part of this bill if this bill were serious about creating an economy of the future and addressing, literally, the kinds of economic shocks — climate change, $65-per-barrel oil — that are confronting our economy of today.

Eco-fiscal policies offer real incentives for investment in innovative technologies so that we can continue benefiting economically from our natural wealth while also providing better protection to the environment.

I remember a statement made by the former executive director of the Forest Products Association of Canada, who said, in the early 2000s, that the forest industry was focused on remaining competitive. Then their economy fell off the face of the cliff because of the shift to China, because of the problems in the U.S. economy. So from a point at which they felt if they just remained competitive they could sell everything they made, all of a sudden they were in jeopardy of losing their industry entirely.

It's interesting that there has been a sentiment in our oil industry that it could sell everything it produced and that all it needs to do is remain competitive. It's interesting that the government's focus has been simply on what I believe is way too superficial a view of economies of today — simply on remaining competitive.

What the forestry industry quickly decided was that it had to remain adaptable and adaptive to changing circumstances, fundamentally changing so quickly, economically and in many other ways, but certainly in their case economically.

This government, I think, is driven by helping business remain competitive. It's not all bad to remain competitive, by any means, but what I believe is happening is that we're creating an economy, one of the consequences of which is that we're creating jobs that are part-time jobs, paid at minimum wage; we're creating an economy of minimum wage.

If you look at the kinds of jobs this government has created since — it says since 2009, not since 2006, when it started, which would be interesting to know. But, of course, it lost 500,000 jobs in the first three years, so it's not going to mention those. Most of those jobs are low-paying, part-time service jobs without any benefits. This kind of economic policy has hit particularly hard on those who are between 20 and 30, who are well educated. They did everything they were asked to do by their parents and by our society. They've got education, they've got training, and there are no jobs, no real career jobs for them.

What we need to be doing is thinking about how we create a knowledge-based, technology-based, highly futuristic 21st century economy that embraces the strengths that we've got, and I don't think that one of the strengths that Canada wants to base its economy on is having increasing numbers of low-paying, part-time, minimum-wage, non-benefit-associated jobs. That's not the kind of future that I think any of us wants for our children, but I think it's an inevitable effect of a government that is simply focused in the way that it is and that is providing no leadership, no real inspired leadership, about what we can do for our future economy. That's why eco-fiscal policy is so important.

They point out that Canada's natural wealth is fundamental to our prosperity. Absolutely; and our natural wealth is, of course, a source of great pride. Access to clean water is vital to our communities and businesses. Our health and quality of life are tied to the quality of the air we breathe.

Canada's Ecofiscal Commission points out that $228 billion is the estimated health cost of air pollution resulting in illness and premature deaths between 2008 and 2031. The Leader of the Government today referred to coal-fired plants. Yes, eventually coal-fired plants will be phased out, but no coal-fired plant that

was built before 2012, I believe, will be phased out before 40 years. So let's not say that they're doing much on coal-fired plants.

• (1540)

I want to say that the right policies will provide an incentive to invest in innovative and new technologies, while lowering the taxes that stunt growth. This is eco-fiscal policy. They specify that $760 million is the amount that income and business tax cuts have exceeded the pollution-pricing revenue under B.C.'s carbon policy for the five years from 2008 to 2013.

Eco-fiscal policy — the price is what you don't want and relieves the price on what you do want — is the smartest way to get serious because heavy-handed regulation, the kind that this government has opted for because it could be politically surreptitious about it, if I can put it in those terms, is extremely costly.

Canada's Ecofiscal Commission goes on to point out that $800 million is the estimated amount the United States —

The Hon. the Speaker: Are you asking for more time, Senator Mitchell?

Senator Mitchell: Yes, please.

The Hon. the Speaker: Is more time granted to Senator Mitchell? Five more minutes?

Hon. Senators: Agreed.

Senator Mitchell: The $800 million is the estimated amount that the United States saved annually by using pollution pricing instead of regulations to reduce acid rain.

As I say to a conservative ideology, a Conservative government, why wouldn't you want to use pricing mechanisms? Why wouldn't you want to drive it by the market?

By the year 2015, the estimated annual value of global clean tech markets is $816 billion. Of the 65 publicly traded companies on the clean tech index, only a single one of those companies is Canadian. Imagine that.

It's our responsibility and it's our legacy. Just the additional cost will be $87 billion in retro-fits and premature retirement of assets if policy to significantly address Canada's greenhouse emissions is delayed until 2020 — just until 2020.

The commission will address a range of issues: how to modernize our fiscal system without raising taxes; how to build on provincial and municipal leadership, and of course you'd need some federal leadership to co-ordinate that; how to reduce the burden on low-income families, and you can do that with effective eco-fiscal policy; and how to kick-start innovation. That's the focus. The focus that's missing from this bill is how do we kick-start innovation? How do we make an economy of the 21st century? How do we stop looking at climate change as a challenge that will hurt our economy and instead look at it as a catalyst for a 21st century economy that will once again make us the envy of the world?

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

Hon. Senators: Question.

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

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

Some Hon. Senators: Agreed.

Some Hon. Senators: On division.

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

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

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

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Erika and Joy Alexander, the Honourable Lincoln Alexander's grandchildren; Her Excellency Acting High Commissioner Christobelle Reece (Barbados); Her Excellency High Commissioner Janice Miller (Jamaica); and Her Excellency Ambassador Florence Chideya (Zimbabawe). They are the guests of the Honourable Senator Meredith.

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

Hon. Senators: Hear, hear!

BUSINESS OF THE SENATE

The Hon. the Speaker: Is it your pleasure, honourable senators, that the Senate do now adjourn during pleasure to await the arrival of His Excellency the Governor General?

Hon. Senators: Agreed.

(The Senate adjourned during pleasure.)

[*Translation*]

● (1610)

ROYAL ASSENT

His Excellency the Governor General of Canada having come and being seated at the foot of the Throne, and the House of Commons having been summoned, and being come with their Speaker, His Excellency the Governor General was pleased to give the Royal Assent to the following bills:

An Act to enact the Aviation Industry Indemnity Act, to amend the Aeronautics Act, the Canada Marine Act, the Marine Liability Act and the Canada Shipping Act, 2001 and to make consequential amendments to other Acts (Bill C-3, Chapter 29, 2014)

An Act respecting Lincoln Alexander Day (Bill S-213, Chapter 30, 2014)

An Act to amend the Criminal Code, the Canada Evidence Act, the Competition Act and the Mutual Legal Assistance in Criminal Matters Act (Bill C-13, Chapter 31, 2014)

An Act to amend the Copyright Act and the Trade-marks Act and to make consequential amendments to other Acts (Bill C-8, Chapter 32, 2014)

An Act to amend the Eastern Synod of the Evangelical Lutheran Church in Canada Act (Bill S-1001)

The Commons withdrew.

His Excellency the Governor General was pleased to retire.

(The sitting of the Senate was resumed.)

[*English*]

THE SENATE

STATUTES REPEAL ACT—MOTION TO RESOLVE THAT THE ACT AND THE PROVISIONS OF OTHER ACTS NOT BE REPEALED ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Martin, seconded by the Honourable Senator Stewart Olsen:

That, pursuant to section 3 of the *Statutes Repeal Act*, S.C. 2008, c. 20, the Senate resolve that the Act and the provisions of the other Acts listed below, which have not come into force in the period since their adoption, not be repealed:

1. *Canada Grain Act*, R.S., c. G-10:

   -paragraphs (*d*) and (*e*) of the definition "elevator" in section 2 and subsections 55(2) and (3);

2. *Parliamentary Employment and Staff Relations Act*, R.S., c. 33 (2nd Supp):

   -Parts II and III;

3. *Contraventions Act*, S.C. 1992, c. 47:

   -paragraph 8(1)(*d*), sections 9, 10 and 12 to 16, subsections 17(1) to (3), sections 18 and 19, subsection 21(1) and sections 22, 23, 25, 26, 28 to 38, 40, 41, 44 to 47, 50 to 53, 56, 57, 60 to 62, 84 (in respect of the following provisions of the schedule: sections 1, 2.1, 2.2, 3, 4, 5, 7, 7.1, 9 to 12, 14 and 16) and 85;

4. *Agreement on Internal Trade Implementation Act*, S.C. 1996, c. 17:

   -sections 17 and 18;

5. *Canada Marine Act*, S.C. 1998, c. 10:

   -section 140;

6. *An Act to amend the Canada Grain Act and the Agriculture and Agri-Food Administrative Monetary Penalties Act and to repeal the Grain Futures Act*, S.C. 1998, c. 22:

   -subsection 1(3) and sections 5, 9, 13 to 15, 18 to 23 and 26 to 28;

7. *Comprehensive Nuclear Test-Ban Treaty Implementation Act*, S.C. 1998, c. 32;

8. *Preclearance Act*, S.C. 1999, c. 20:

   -section 37;

9. *Public Sector Pension Investment Board Act*, S.C. 1999, c. 34:

   -sections 155, 157, 158 and 160, subsections 161(1) and (4) and section 168;

10. *Modernization of Benefits and Obligations Act*, S.C. 2000, c. 12:

    -sections 89 and 90, subsections 107(1) and (3) and section 109;

11. *Marine Liability Act*, S.C. 2001, c. 6:

    -section 45;

12. *Yukon Act*, S.C. 2002, c. 7:

    -sections 70 to 75 and 77, subsection 117(2) and sections 167, 168, 210, 211, 221, 227, 233 and 283;

13. *An Act to amend the Criminal Code (firearms) and the Firearms Act*, S.C. 2003, c. 8:

    -section 23;

14. *An Act to amend the Canadian Forces Superannuation Act and to make consequential amendments to other Acts*, S.C. 2003, c. 26:

-sections 4 and 5, subsection 13(3), section 21, subsections 26(1) to (3) and sections 30, 32, 34, 36 (with respect to section 81 of the *Canadian Forces Superannuation Act*), 42 and 43;

15. *Assisted Human Reproduction Act*, S.C. 2004, c. 2:

-sections 12 and 45 to 58;

16. *Public Safety Act*, 2002, S.C. 2004, c. 15:

-sections 40, 78, 105 and 106; and

17. *Amendments and Corrections Act*, 2003, S.C. 2004, c. 16:

-sections 10 to 17 and 25 to 27

Hon. Yonah Martin (Deputy Leader of the Government): Question.

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

Some Hon. Senators: Agreed.

The Hon. the Speaker: Senator Moore, do you have a question?

Hon. Wilfred P. Moore: Yes, I do. I am wondering: This is what I was leading to yesterday, colleagues. There are 17 items here that we are asking not be repealed at this time. Can you advise, Deputy Leader: What is the number of statutes that have been repealed as a result of this review?

Senator Martin: Sorry, Your Honour, I just want to get clarification. I had run out of time and Senator Moore had not had a chance to ask that question. At this time, did we not just adopt this motion?

Some Hon. Senators: No.

The Hon. the Speaker: Yes, but I think it's appropriate for a senator to ask a question before we ask the question. I think it's appropriate.

Senator Martin: Senator, would you repeat the question, please?

Senator Moore: Certainly. Thank you. As I mentioned, there are 17 items that you ask not be repealed. I am prepared to vote in support of your motion, but I want to know: How many statutes were looked at and have been repealed under this exercise at this time?

Senator Martin: That is a good question. You didn't get to ask that yesterday, Senator Moore. I don't know what the answer to that is. I just have the list that I explained from each of the ministers. I don't know the answer to that specific question. If you would like, I can take that as notice.

Senator Moore: I would appreciate it, because it would be interesting to know. I expect there have been others that have been repealed as a result of this process, but I would just like to know how we're doing. Are we giving new life to more than we are repealing? I understand the comments from the ministers. I thought they were appropriate, but I'd like to know just what the numbers are and if we are making headway in removing some bills that should be repealed.

Under advisement is satisfactory. Thank you.

The Hon. the Speaker: Question?

Some Hon. Senators: Question.

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

Hon. Senators: Agreed.

(Motion agreed to.)

COPYRIGHT ACT
TRADE-MARKS ACT

BILL TO AMEND—ALLOTMENT OF TIME—
MOTION WITHDRAWN

On Government Business, Motions, Order No. 75, by the Honourable Yonah Martin:

> That, pursuant to rule 7-2, not more than a further six hours of debate be allocated for consideration at third reading stage of Bill C-8, an Act to amend the Copyright Act and the Trade-marks Act and to make consequential amendments to other Acts.

(Motion withdrawn.)

AGRICULTURAL GROWTH ACT

BILL TO AMEND—ALLOTMENT OF TIME—
MOTION WITHDRAWN

On Government Business, Motions, Order No. 76, by the Honourable Yonah Martin:

> That, pursuant to rule 7-2, not more than a further six hours of debate be allocated for consideration at second reading stage of Bill C-18, An Act to amend certain Acts relating to agriculture and agri-food.

(Motion withdrawn.)

POPE JOHN PAUL II DAY BILL

THIRD READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Fortin-Duplessis, seconded by the Honourable Senator Plett, for the third reading of Bill C-266, An Act to establish Pope John Paul II Day.

Hon. Grant Mitchell: Your Honour, colleagues, I just wanted to make a few comments about Pope John Paul II Day. I have listened very intently to this debate, and I congratulate a number of our colleagues on both sides of the debate for outstanding presentations and arguments. Certainly, I appreciated the positive comments of both Senator Cordy and Senator Merchant outlining the great accomplishments of Pope John Paul II. I was also compelled by the comments of Senator Mercer and of Senator Ogilvie, I must say. I'm speaking to the bill as a Catholic, but I am compelled, in particular, by Senator Mercer and by Senator Ogilvie's comments and by my own reservations about this bill on a number of points.

• (1620)

First, I have concerns with bills that create days. We need to coordinate that to some extent. There are more days now than there are days; and there may be more days now than there are minutes in the day. It needs to be organized. Even municipalities have committees that name streets. I have an overall problem with that.

I will say to Senator Ngo that in part my decision to abstain yesterday on his bill, about which I have had some sympathy, was that point, which I failed to make in my comments earlier. I had the other problem also of not having a balanced presentation to committee on it.

In a general sense, I have a concern with just day after day being recognized.

Second, I'm very compelled by the separation of church and state argument, alluded to by Senator Ogilvie, in particular.

Third, and this one is of particular importance to me, I have difficulty with a government institution giving recognition in this way to an institution that in the 21st century still doesn't treat women equally and doesn't recognize gays, lesbians and transgendered people in the way it should. For that reason, as much as one would admire Pope John Paul II, I simply can't support this bill.

Hon. Joan Fraser (Deputy Leader of the Opposition): I move the adjournment in the name of Senator Joyal.

(On motion of Senator Fraser, for Senator Joyal, debate adjourned.)

INDIAN ACT

BILL TO AMEND—THIRD READING—DEBATE SUSPENDED

On the Order:

> Resuming debate on the motion of the Honourable Senator Ngo, seconded by the Honourable Senator Marshall, for the third reading of Bill C-428, An Act to amend the Indian Act (publication of by-laws) and to provide for its replacement.

Hon. Lillian Eva Dyck: Honourable senators, I rise today at third reading of Bill C-428, An Act to amend the Indian Act (publication of bylaws) and to provide for its replacement.

Honourable senators, this is day 8 of third reading. It is with great reluctance that I rise today to speak to this bill. I am quite disappointed that the government has chosen to push this private member's bill forward. It's quite clear to me that it's a move to ensure that it gets passed before we rise for the Christmas break. It discourages me, as a senator, and it sends the wrong message to Canadians about our role as senators in this chamber.

As I mentioned, this is a private member's bill, and it is very poorly written. It does not do what the sponsor of the bill, Mr. Clarke, said it would do. Frankly, it's not worth the paper it's written on. The bill was released by the private member to great fanfare, but it was a balloon full of nothing but empty air.

Our committee, which is supposedly non-partisan, spent quite a long time during clause-by-clause analysis of the bill, but our side was unable to convince the Conservative senators on the other side to see why the bill should at least have been amended. I would say our committee is not non-partisan. It was partisan; and I'm sorry to say that is what happened. The Conservative senators on the other side voted to not allow any amendments. They wanted us to push the bill forward in the chamber; so here I am today, rising at third reading.

The Hon. the Speaker *pro tempore*: Honourable senators, if you insist on carrying on conversations that are not participating in the debate, can you take them outside the chamber? Out of respect for the honourable senator speaking, can we have some basic decorum and respect to ensure that we hear her discourse.

Senator Dyck: Thank you, Your Honour. You're doing an excellent job, and I appreciate that. I know that sometimes they may not wish to hear what I have to say, but it's my job, so here I am.

Bill C-428, the proposed Indian Act amendment and replacement act, is supposed to require band councils to publish their bylaws and to repeal certain outdated provisions of the act. It's supposed to require the Minister of Aboriginal Affairs and Northern Development to report annually to the House of Commons committee responsible for Aboriginal Affairs on the work undertaken by his or her department in collaboration with First Nations and other interested parties to develop new legislation to replace the Indian Act.

As I mentioned before, the private member's bill was brought forward by Mr. Rob Clarke, Member of Parliament for Desnethé—Missinippi—Churchill River in northern Saskatchewan. Clause 2 of the bill is really the meat of the bill, and it requires the minister to report to the House of Commons committee for Aboriginal affairs on the work that his department has done in collaboration with First Nations and other interested parties to develop new legislation to replace the Indian Act. That sounds really good. Unfortunately, it doesn't do what it looks like it says it does.

The rest of the bill has a series of measures to repeal or replace outdated sections of the Indian Act, including repealing sections relating to the sale or barter of produce on reserve, the

elimination of the designation of special reserves, creating the statutory obligation for band councils to publish all bylaws on a website, in the *First Nations Gazette* or in a newspaper that has general circulation on reserves, and repeals references to residential schools. Most of these provisions are minor. They're minuscule. Some of them are almost meaningless. Some are already not in force simply because the department, by policy, is not enforcing those particular clauses of the Indian Act. In reality, it's not doing anything except putting into a piece of legislation what the department is already doing through policy.

There has been criticism that this bill, being a private member's bill, does not fulfill the Crown's obligations to consult and accommodate First Nations on issues related to their Aboriginal and treaty rights. I'll expand on this in a few minutes.

Clauses relating to the repealing of references to residential schools and bylaw publication are duplicated in Bill C-33, the proposed First Nations control of First Nations education act, introduced in April 2014. If Bill C-428 is passed, Bill C-33 already has coordinating amendments in it to take into account which bill comes first. I'm going to go into this again later. It is very odd that this private member's Bill C-428 contains the exact same clauses as the ones found in the government's Bill C-33, the proposed First Nations education act, which as all honourable senators know is a key piece of proposed legislation. This bill was a priority for the government and was extremely important to First Nations because we know that education is a critical factor in getting out of the cycle of poverty.

Senator Cordy: Maybe this is a government bill too.

Senator Dyck: Yes, thank you for that. This is a private member's bill, but it is masquerading. It's being used to carry out the government's agenda, and that's what is discouraging and frustrating and makes me angry because it shouldn't happen. In addition, Bill C-33, the First Nations control of First Nations education act, was put on hold by the minister earlier this year. At this very moment in Winnipeg, it's probably being discussed at the Special Chiefs Assembly.

• (1630)

The other concern in the bill is that the member of Parliament did not include consultation, but he included collaboration. Collaboration has no legal meaning so it's rather weak compared to consultation, which has a constitutional weight behind it.

I'll repeat that a general concern of private members' bills is that they're used to further government objectives without proper scrutiny by Parliament, departments and Justice Canada. I would say that is exactly what has happened here because I am being asked, by negotiations between the leadership, to stand up today when I did not want to do that. I wanted more time to look into the outstanding issues with this bill, so it is not getting the depth of scrutiny that it should have.

Bill C-428, a private member's bill, was passed on division by the Standing Senate Committee on Aboriginal Peoples just a couple of weeks ago. There is nothing in this bill that is urgent and there is precious little in the bill that will actually help First Nations, contrary to the claims of the private member, Mr. Rob Clarke. If there were provisions in the bill that would help First Nations, we on this side of the chamber might have been persuaded to support the passage of this bill unamended, but there weren't any such helpful provisions.

The Conservative senators on our committee voted against amendments to strengthen and improve the bill. I will briefly mention two amendments that would have corrected obvious oversights or mistakes in the bill.

One would have put in a requirement to consult with First Nations on replacing the Indian Act — to consult, not to collaborate. It's really hard or impossible to understand how Mr. Clarke, himself a First Nations man, neglected to include consultation given its importance to First Nations and the constitutional requirement for consultation. It's unbelievable that this could have happened. It clearly was not a mistake; it was by design.

Another amendment would have included the Senate in the parliamentary process whereby the minister reports on the work done to replace the Indian Act through Bill C-428, and that was noticed by Senator Day when I gave my second reading speech. He said, "Oh, there is no mention of the Senate." You're absolutely right.

The amendment that was proposed to include the Senate was rejected by the Conservative senators of the committee.

Senator Fraser: Have they no shame?

Senator Dyck: This is just unbelievable to me. Their primary concern was clearly that they thought the bill would die on the Order Paper of the House of Commons if it were sent back amended.

Their concern was so pronounced that they voted against their own parliamentary rights and privileges as senators to be included in the reporting mechanism of this bill. Now to me that is just insane. Here on the floor of the Senate we have many inquiries to talk about reforming the Senate, to make it better, more efficient, more effective, and what are we doing in this bill? We're leaving senators out completely. Your side and that committee agreed to it. How could you possibly write yourself out of the parliamentary process? That makes absolutely no sense to me.

To get back to the concern, the only way this bill would die on the Order Paper of the House of Commons is if an election was called before the bill is dealt with in the House of Commons. The fixed election date is set for October 2015. Our estimation at the time of clause-by-clause analysis was that the bill would be dealt with in February. I don't see the big concern, unless they call an election before then.

An Hon. Senator: Which we think they will.

Senator Dyck: Who knows? We're only guessing what goes on in your minds because it doesn't make any sense.

It could die on the Order Paper if an election was called before it is dealt with, but again, it makes no sense to write ourselves out as senators of the bill. You're putting the needs of a private

member, a member of Parliament, ahead of your individual roles as senators. The Senate is supposed to be the house of sober second thought. So for members of Parliament who have not necessarily thought through what the impact of their legislation is, we're supposed to provide sound advice for that. And what did we do? We said, "No, go ahead." That is what we get paid for.

It turns out that our sides have two very different understandings of the process and timing by which an amended bill would be handled in the House of Commons. I would have sincerely liked to adjourn the debate for the remainder of my time so I could research this and find out what exactly you have been told. It does not match what we have been told and what we have found in the rules regarding what happens in the House of Commons, if you look at the rules on the web and other places.

That's it, in summary.

We didn't have a huge number of witnesses. We had the member of Parliament himself, Mr. Rob Clarke. We had a couple of people from the Board of St. Kateri Catholic School. We had the chief of the Congress of Aboriginal Peoples. We had Manny Jules and members of the Assembly of First Nations, who also spoke on behalf of the Federation of Saskatchewan Indian Nations. We had Ian Peach, who is a legal expert, and officials from Aboriginal Affairs and Northern Development and the Department of Justice, who we asked to appear so we could ask questions. They appeared reluctantly, and they did answer questions. We also had Mr. Paul Chartrand.

With regard to the individuals from the department, one thing came out that was important and we need to remember, and I should remind the Conservative members of the committee. Mr. Joe Wild, who is Senior Assistant Deputy Minister of Aboriginal Affairs and Northern Development Canada, said that clause 2, which requires the minister to report to the House of Commons on the progress made on replacing the Indian Act, would not do what Mr. Clarke said. The minister had to report, but that didn't mean he had to report on any progress of work undertaken because there was no operative clause in the bill that says the minister must meet with First Nations and the minister must initiate a process to repeal the Indian Act. None of that was there. It was only that the minister must report; and it was "must" report, not "shall" report.

We have gone through this before with other bills where I think Senator Eggleton said they had watered downed the language and they were no longer using the word "shall," which has a strong legal interpretation. In this bill it is just "must."

I'm going to put forth the key observations and go through them in detail. As I've said, the bill will not do what Mr. Clarke says it will do, and the bill essentially incorporates trivial changes. They are mostly meaningless changes. The bill leaves out the Senate in reporting, which the Conservative senators agreed to, and it duplicates portions of Bill C-33, the proposed "First Nations Control of First Nations Education Act."

When I asked Mr. Clarke whether he was a bit concerned that this bill was coming before the other, he made what could be called a boastful interpretation: "Well, my bill got through first." That, for a First Nations man, is not traditional First Nations behaviour. It was not at all. It is what we would call *môniyâw* behaviour, or White man behaviour, and you can be insulted by that if you like. That's Cree for "White man."

There were a number of technical but important mistakes made by Mr. Clarke. For instance, Mr. Clarke, as well as one of the witnesses and the sponsor, Senator Ngo, was reading from the wrong version of the bill. This may seem technical, but anyone who reads our transcripts and then looks at the bill will get thoroughly confused because when we were saying clause 8, we were actually looking at clause 9. It added a lot of confusion for anyone who was trying to make sense of what we do.

• (1640)

In addition, Mr. Clarke told us that he thought the Senate automatically gets reports tabled in the House of Commons, and we as a committee were going to believe him. However, we did check, and I will read from the brief of the law clerk. It says that that is not the case at all. We do not automatically get it, and if we're left out, we have no recourse, no point of privilege.

Another mistake was that he was convinced that his bill forces the government to initiate a process to replace the Indian Act. As I said, it was confirmed by Mr. Joe Wild, senior assistant deputy minister of the department, that the bill does not do that. The intention is there in the preamble, but the preamble has no legal force.

Honourable senators, if you've been here for a year or whatever, you soon find out that's the case. The preamble has no legal force. Why doesn't our member of Parliament know that? He's been over there for some time as well. He's dealt with bills. Surely, he ought to know the preamble has no legal force.

In addition, the word "progress" was not included in the bill, despite the fact that Mr. Clarke said he "was careful to include the word 'progress'" in his bill so that the minister had to report on the progress undertaken. Well, senators, the word "progress" is not in the bill. It's not there. So Mr. Clarke was clearly mistaken again about what was in his bill and what it should do.

Now, recently Mr. Clarke was on Aboriginal People's Television claiming that Aboriginal organizations such as the Assembly of First Nations and the Federation of Saskatchewan Indian Nations take a cut of money designated for child welfare. I mention this because that is totally, absolutely wrong. That is not true. I mention this just to exemplify and amplify the competency of this member of Parliament whom you seemingly are standing behind. There are great doubts about his competency.

It appears that the Assembly of First Nations may be trying to get the Prime Minister to reject him from your caucus, or they may try to sue him for saying falsehoods on public television about the Assembly of First Nations and the Federation of Saskatchewan Indian Nations.

Basically, for me, also a First Nation person, a First Nation woman, it speaks volumes to me, considering that he is also a First Nation person who doesn't seem to get it. He doesn't seem to be on the side of First Nation concerns, and I think that is

terribly wrong. He often self-identifies as a First Nation person, which is fine. I think it's great to be proud of who you are, but he is self-identifying as an excuse for his own self-promotion or as an excuse to take over a conversation as he did on that APTN issue. He said, "I am a First Nation person, let me speak," when he was, in fact, dominating the conversation. I found that offensive.

To go with some of these concerns in more detail, the first one, of course, the concern for all First Nations has been and continues to be that of consultation. When I asked Mr. Clarke what his method of consultation was, he said that he sent letters out to about 600 chiefs and councils on six separate occasions. He had information sessions, national tele-town hall meetings, informational YouTube videos and informal conversations with First Nation members at his constituency office, but he didn't have any formal accounting of the feedback received during this outreach. He did not consider his outreach consultation. He said, "I can't say consultation because that's not what I did. I was going out educating and talking to First Nations." He was educating them. That's insulting to the First Nations. He was educating and talking to First Nations and giving them information to make their judgments.

When pressed by Senator Moore on the details of the feedback, Mr. Clarke guessed that he received 200 responses and that the majority were supportive of his legislation, but he could not provide any concrete examples because he did not actually keep any records, so there you go.

In fact, he considered the committee hearings as part of the consultation process, and we all know, if you've been here for any time at all, that First Nations leaders do not consider the hearings in the House of Commons or here in the Senate as part of the consultation. They want to be consulted before the bill is drafted, before it reaches Parliament Hill. That's what consultation is.

Senator Nancy Greene Raine brought up the topic of consultation. She said, quite rightly so, that we always talk about consultation for every bill we get for First Nations. That's absolutely true, we always do, and yet we always seem to come to a stalemate. The answer is simple, senators. If it is a stalemate, instead of pushing forward a bill with no consultation, you undertake a consultation. You'll never get over the issue until you provide the solution. You at least try to start a consultation. So consultation was not part of the bill.

With respect to parliamentary procedure issues, clause 2 requires the Minister of Aboriginal Affairs and Northern Development to report only to the House of Commons committee dealing with Aboriginal affairs. There is no requirement for the minister to table anything in the Senate. In all other legislation, reports are generally tabled in both houses of Parliament simultaneously, and as the clause stands, there is no avenue by which the report can be tabled in the Senate or any standing Senate committee for review.

Mr. Clarke has indicated he doesn't want the bill amended, and it was quite clear the Conservative senators didn't want the bill amended because they were afraid it was going to die on the Order Paper; therefore, the bill remained unchanged.

Because Mr. Clarke had said he thought the bill would come to us, we on the steering committee met with Michel Bédard, Senate parliamentary counsel. I asked Mr. Bédard to write up what he told us and I presented it to the committee so it would be part of the written record of deliberations on this bill. With regard to the section of his report on the right of the Senate to a report, I will read some excerpts from his document: "Reports that are tabled before the House of Commons may indeed be tabled before the Senate, pursuant to the *Rules of the Senate* or with the consent of the Senate. Reports from the Auditor General, for example, are tabled before the Senate despite the fact that the relevant provisions of the Auditor General Act refer only to the House of Commons. Such a practice, however, does not create a right to the report for the Senate." It does not create a right to the report for the Senate. "Therefore, if no report were to be prepared and tabled, it would be for the House of Commons and not the Senate to raise and dispose of the matter. Clause 2 of Bill C-428 creates an obligation to report only to the House of Commons. If no report were to be tabled, the matter could only be raised as a question of privilege or otherwise in the House and not in the Senate."

So we have written ourselves as senators out of this bill. We have written the Standing Senate Committee on Aboriginal Peoples out of the purview of this bill when it's dealing with the Indian Act. It makes no sense.

That's the end of the quotation from Mr. Bédard's report.

• (1650)

Such a report should be brought to our attention as the Standing Senate Committee on Aboriginal Peoples, because our mandate generally is to examine and report on the federal government's constitutional, treaty, political and legal responsibility to First Nation, Metis and Inuit peoples. So we do play a very big role, but yet we're left out of this bill. Once again, I will say this flies in the face of Senate reform when we're trying to improve the Senate, but here what we're doing is we're throwing the Senate out, considering it unimportant, because the wishes of the private member supersede the role of the chamber of sober second thought, the Senate.

To get back to the effect of clause 2 — I keep repeating this, because it's important to get it into your minds what the problems are with this bill — Mr. Clarke believes that clause 2 would mandate the government to sit down and actually start a process for formal consultation. He claims that this clause initiates progress to eventually replace the Indian Act. Of course, we've heard a lot of people, First Nation chiefs and others, grumble about the Indian Act. He states:

> But I was careful to include the word "progress" in this clause to ensure that my intent was clear.

That's what he said at the committee.

However, clause 2 as currently drafted does not include the word "progress." The word "progress" is not included in the bill anywhere. The clause as written asks for the report to include the work undertaken by the department towards new legislation to replace the Indian Act, and, as I pointed out, the bill actually only

requires the government to report. There is no legal clause that says they must sit down and collaborate and, better yet, consult with First Nations. There is no clause that would make that happen. The preambulatory clauses do not carry a legal force.

That, as I said before, was confirmed by the senior assistant deputy minister and by Mr. Ian Peach, another legal expert. There may have been an intention for that to happen, but there is not a legal obligation.

Just to go back for a minute to consultation, if Mr. Clarke had been serious about consultation, which, honestly, as a First Nation person, I thought he would have been, he could have sat down with well-known First Nation leaders in Saskatchewan, such as Senator Sol Sanderson, a senator with the Federation of Saskatchewan Indian Nations, who is just like a walking encyclopedia. I'm not sure where Sol lives; he might even live in northern Saskatchewan. He could have sat down with Perry Bellegarde and, you know what, he could have sat down with Senator Gerry St. Germain. Now there is a man who understood everything to with Aboriginal peoples. He could have sat down with Senator Patterson, with all the experience he's had. He could have sat down with Senator Sibbeston. He could have sat down with Senator Watt. He could have sat down with me to hash out this consultation aspect, but, no, he didn't do that.

What he did do was quite the opposite. He just forgot about the Senate entirely. To me, that's just outrageous. Not an oversight. It's simply outrageous.

The last clauses in Mr. Clarke's bill deal with removing the sections of the Indian Act that mention residential schools. This, I think, is a good intention. However, again, it bewilders me as to why. The Prime Minister in 2008 stood in the House of Commons and apologized for the residential schools and the ensuing trauma for Aboriginal peoples. He promised that that would be done in 2008. Why is it in Mr. Clarke's bill when it's a government promise? Why has it been downgraded to a backbencher MP when it was a heartfelt apology from our Prime Minister? I do believe it was heartfelt.

That promise was reiterated two years later by then Minister Strahl, Minister of Aboriginal Affairs and Northern Development. At the first national meeting of the Truth and Reconciliation Commission, Minister Strahl said, "Our government will remove from the Indian Act all mention of the residential schools."

So here we are in December 2014. Those actions are in Bill C-33, a government bill. The same actions are in Mr. Clarke's bill, a private member's bill.

Honestly, if you want to respect First Nations people, it should be in a government bill. That gives it the weight of a government initiative and also recognizes the nation-to-nation relationship. Thank you for that. So to me it's almost insulting to have it come from a backbencher member of Parliament rather than from the government.

As I mentioned earlier, one the issues, too, is the mix-up of various versions of Bill C-428, and I won't go through that again. It indicates the lack of attention that Mr. Clarke actually paid to this bill that he couldn't even come to the committee with the right version of the bill. In fact, when I asked him what clauses in the Indian Act refer to residential schools, he couldn't answer. He didn't even know. The research analysts at the front of the room were looking nervous; they were looking it up and saying "Senator, it's clause da-da-da-da," and I said, "Thank you very much," but I wanted Mr. Clarke to answer.

I spent many years as a professor. When you ask someone a question, you expect them to answer, not someone else. This he did not know. He had the wrong version, so he was reading out this stuff that made no sense.

Senator Cordy: It's not his bill, clearly.

Senator Dyck: It's not his bill. Maybe this is not his bill. Why did he pick those sections of the Indian Act that are outdated? There was no explanation why the sections that he wanted repealed would be repealed. In fact, in the original version of the bill, the main intention of the bill was to deal with wills and estates because he was concerned about his own will and estate, but as it turned out, it was way too complicated, and there were unwanted side effects, so all that stuff was taken out.

So his intention really was not to help First Nations. It was really to help himself with his own will and estates. That was the main intention.

An Hon. Senator: Can that be a conflict?

Senator Dyck: Is that a conflict? Absolutely.

The bill as it stands now, as I said, incorporates trivial changes. In fact, as I said before, some of the clauses that are being removed from the Indian Act are not being enforced anyway. The department knows they're outdated and archaic, so they're not going to incorporate them. They just institute a policy.

I turn to the issue of what would have happened to the bill if it was amended. That's the difficult one. I have to admit that I am an idealist, and so I always pursue the ideal goal. On your side, you're perhaps more pragmatic than I am. But despite all the arguments that were put forward at our clause-by-clause analysis — it's a short bill, and we spent the whole two hours going through it and arguing for the inclusion of the Senate, the inclusion of consultation, but it didn't fly. We were unable to convince the Conservative senators on the committee to amend the bill. What came out very clearly was that you on the other side were concerned that the bill would die on the Order Paper, and I'm thinking, well, you've got to take your chances. The bill as it now stands has serious flaws and is not going to help the First Nations anyway. In fact, if anything, it's going to have the opposite effect, because this is going to make people angry. First Nation people are going to be angry at this bill. They're not going to look at it and say, "Gee, thank you so much." It's going to have the opposite effect.

• (1700)

As I said, their main sticking point was that the bill would die on the Order Paper. I had thought that it wouldn't die if there was an election call, but I was wrong. So, if there is an early election call before this bill does come up, it will die on the Order Paper.

But you know what? It's our job to amend it. If there's something wrong with it, it's our job. It will die and someone else could take it up. Maybe he'll be re-elected. He could take it up again. Maybe it could come back in its true form as a government bill.

We heard various things from members on the committee: Well, you know, Mr. Clarke is a nice guy. He's got a good heart. I think his intentions are good. He's a First Nation man. He's elected.

Those things may be true, but that's not relevant to the bill; that's not relevant to the contents of the bill. Maybe he is a nice guy with a big heart, but the bill has serious flaws. It's like me saying, "I gave an exam and that person back there should fail, but he's a nice guy. I'm going to pass him." This guy should have received a failing grade.

An Hon. Senator: Hear, hear.

Senator Dyck: If Mr. Clarke really were interested in helping First Nation people, he should have thought more carefully and consulted First Nation people.

Yes, people say we should get rid of the Indian Act. But you know what? The Indian Act is not the problem. We already know that. If there are outdated and archaic provisions, the government, by policy, doesn't institute them. It's not the Indian Act that's the problem; it's the policy-making powers of Aboriginal Affairs and Northern Development Canada. It's the powers of the department who can decide whatever they want and just do it. They can just decide by policy: We're going to give you *x* number of dollars. We're going to make you do this; we're going to make you do that.

Their policy-making powers are autocratic. They don't get input from anybody, from any First Nation leaders. It's autonomous; they just go ahead and do it. It's a waste; it's a complete waste of time. Go through the Indian Act, which I think must be — I don't know — hundreds of pages long, because it covers everything to do with Indian people, from where you're buried to how you can get an education.

It's a waste of time to go through, as he was saying, to cut out the dead brush. The dead brush is dead. The department is not using it anyway. Why waste valuable time going through the Indian Act? Do you know why the focus is there? To distract us from getting to the real solutions, which is the department itself and the things they do and the powers they have to make decisions that affect every aspect of First Nation people living on reserves. That's the problem, not the Indian Act.

If Mr. Clarke really had wanted to help First Nations, he could have introduced a bill that forces the government to sit down with First Nations and negotiate a mutually acceptable process to fulfill the duty to consult and accommodate First Nations — in other words, to fulfill the Crown's constitutional obligation to First Nation peoples. That bill would have been most helpful, but he would not even include the word "consult." He used the word "collaborate," which has no legal force behind it.

The close-to-final comments I would like to make speak to the issue of the bill dying in the House of Commons. Really, that's what sold senators on that side. That's why they would not accept good amendments that would have improved the bill. They were worried that this bill would die on the Order Paper if an election is called.

Senator Mitchell: But only if it's called in February.

Senator Dyck: Yes. There is a misconception that an amended version of this bill by the Senate would simply lead to the bill dying on the Order Paper in the House of Commons. The only way it would die is if an election is called before the bill reaches the top of the Order of Precedence to be dealt with in the House of Commons. They've got all their standing orders, just like we do.

As outlined in the ninth edition of the *Private Member's Business - Practical Guide*, this key textbook, the following is stated:

> The order for the consideration of Senate amendments to a private Member's bill is placed at the bottom of the Order of Precedence when the message relating to the amendments is received from the Senate. The Standing Orders do not specify any time limit for the consideration of a motion respecting Senate amendments. When the item reaches the top of the Order of Precedence, it is considered during Private Members' Business Hour and, if not disposed of at the end of the hour, it is placed again at the bottom of the Order of Precedence. This process is repeated until the debate ends and the question can be put on the motion.

The placement of a Senate-amended private member's bill, when the message is received from the House of Commons, is that which is similar to when a private member's bill is received from a House of Commons committee that was charged with studying it. In both scenarios, it is placed at the bottom of the Order of Precedence. As the private member's bill is dealt with, items move up in the Order of Precedence. So it would go to the bottom and then it would work its way up to the top.

Last week, on December 2, the Order of Precedence and Notice Paper of the House of Commons listed 17 items. If the bill were amended and passed by the Senate, it would be placed, theoretically, at No. 18, Private Members' Bills, Business, in the House of Commons, and receive one hour each sitting day for consideration. There are generally one or two hours of debate on the items currently on the Order Paper.

If honourable senators do the math, if, at the maximum, all of the 17 current items on the Order of Precedence would take two hours of debate, that is thirty-four hours to be accommodated for before the Senate-amended Bill C-428 would come to the top of the Order of Precedence. This was last week: Starting tomorrow, and assuming the House of Commons maintains the current sitting schedule, hour 34 of Private Members' Business would come up around the first week in March.

When we considered this at our committee, it was earlier; it was February. Now this is a few weeks later. Sometime in the first week of March, approximately —

Senator Mitchell: We're going to be voting sometime in the first week of March.

Senator Dyck: — the House of Commons and the sponsor of the bill, Mr. Clarke, would get their first chance to consider these amendments. Unless senators opposite have some inside information — Could I have five more minutes, please?

The Hon. the Speaker: Is five more minutes granted to Senator Dyck?

Hon. Senators: Agreed.

Senator Dyck: Unless senators opposite on the committee have some inside information — like an early election call; who knows? — about the possibility of Parliament not sitting in March 2015 due to an election call, there is no merit in any of the arguments that this bill will die if amended by the Senate. It can very well be dealt with by the House of Commons before the fixed election date of October 2015.

Frankly, even if Bill C-428 isn't dealt with in the House of Commons and does die on the Order Paper, it would be no loss to any First Nation; it would be no loss at all. That's how bad this bill is.

• (1710)

I will repeat what I said earlier. It would be a travesty to pass Bill C-428 at this tumultuous time. As I said before, the Assembly of First Nations is holding a special assembly in Winnipeg. They're discussing First Nation education. Putting those sections about residential schools into this bill is downgrading it. It's a dishonour to First Nations. It should have come from the Prime Minister. It should be a government bill.

Therefore, the bottom line, the clear message is that the Conservative senators on the committee gave precedence to the re-election of Mr. Clarke over the rights of First Nations to consultation and the rights and privileges of senators to be involved in their parliamentary oversight and reporting included in this bill.

MOTION IN AMENDMENT

Hon. Lillian Eva Dyck: Therefore, honourable senators, I move:

> That Bill C-428 be not now read a third time but that it be amended, in the preamble, on page 1, by replacing line 17 with the following:
>
> "legislation in consultation with the First".
>
> That Bill C-428 be amended on page 1 by adding after line 24 the following:
>
> "1.1 For greater certainty, nothing in this Act is to be construed so as to abrogate or derogate from the Aboriginal and treaty rights of Aboriginal Peoples of Canada that are recognized and affirmed by section 35 of the *Constitution Act, 1982*"."
>
> That Bill C-428 be amended in clause 2, on page 2, by replacing line 5 with the following:
>
> "And Senate committees responsible for Aboriginal affairs on"
>
> That Bill C-428 be amended in clause 4 on page 2 by deleting line 17 to 24.
>
> That Bill C-428 be amended in clause 14, on page 4, by deleting lines 8 to 12.
>
> That Bill C-428 be amended in clause 15, on page 4, by deleting lines 13 to 15.
>
> That Bill C-428 be amended in clause 16, on page 4, by deleting lines 16 to 20.
>
> That Bill C-428 be amended in clause 17, on page 4, by deleting lines 21 to 29.
>
> That Bill C-428 be amended in clause 18,
>
> (*a*) on page 4, by deleting lines 30 to 36; and
>
> (*b*) on page 5, by deleting lines 1 to 4.

Some Hon. Senators: Hear, hear.

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

Some Hon. Senators: Question.

[*Translation*]

Hon. Ghislain Maltais: Honourable senators, the interpreter does not have the French version of the amendment. Therefore, before we debate it, could we read it?

The Hon. the Speaker: Good question.

Senator Maltais: This is a bilingual country.

The Hon. the Speaker: Yes. When we have the French copies, they will be distributed.

[*English*]

While the French copies are being made, does anybody else want to talk on debate, on the amendment?

Senator Day: I don't think we should proceed until we have both English and French.

Hon. Joan Fraser (Deputy Leader of the Opposition): I think there is one point that everybody understood that has been very distressing and that is addressed in the amendments presented by my colleague: the fact that in recent years this chamber has not been insisting on its proper parliamentary rights. Again and again we've seen this come up. It's been familiar for many years to have the House of Commons send things to us that omit the Senate's duty and right to be informed. But normally, we used to amend those things. We would insist on our right to be fully informed, but that no longer seems to matter to some of our colleagues. They don't mind being left out. You know, if you're willing to lie down and behave like a second-class chamber, it's not much wonder if people start to treat you as if you were a second-class chamber and think of you as if you were a second-class chamber.

Some Hon. Senators: Hear, hear.

The Hon. the Speaker: Continuing debate.

Hon. Dennis Glen Patterson: Honourable senators, with reference to this amendment, I want to make some brief comments. I begin by expressing my respect for the right of the honourable critic of the bill to give forceful criticisms on this legislation.

However, honourable senators, one argument and tactic, which also came up in debate on this bill in our committee, impels me to comment. It is one thing to make comments on the merits and issues, but I do not think it is in keeping with the dignity of this chamber, nor is it in keeping with the Charter of Rights and Freedoms, nor is it in keeping with our own rules in this chamber, particularly rule 6-13(1), which says personal speeches are out of order, to make comments on a bill based on the race or ethnic status or the characteristics of any member of Parliament. I would like to raise that objection to the comments we have heard today.

The Hon. the Speaker: Are you making a point or just alerting us? Is that a point of order?

Senator Patterson: It is not a point of order, Your Honour, just some observations on the arguments made in favour of the amendment, which I felt were demeaning to the honourable senator and this chamber. Thank you.

The Hon. the Speaker: On debate.

Some Hon. Senators: Question.

The Hon. the Speaker: To be fair to everyone, I think it's appropriate that both copies, in French, be circulated to those who wish to read it in French. I will suspend the discussion on this item and we will move on to the next one. We will have copies distributed and then we will come back to that.

(Debate suspended.)

• (1720)

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

FIFTH REPORT OF COMMITTEE—MOTIONS IN AMENDMENT AND SUBAMENDMENT—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator White, seconded by the Honourable Senator Frum, for the adoption of the fifth report of the Standing Committee on Rules, Procedures and the Rights of Parliament (amendments to the *Rules of the Senate*), presented in the Senate on June 11, 2014;

And on the motion in amendment of the Honourable Senator Cowan, seconded by the Honourable Senator Fraser, that the report not now be adopted, but that it be amended by:

1. Replacing paragraph 1.(j) with the following:

   "That an item of Other Business that is not a Commons Public Bill be not further adjourned; or";

2. Replacing the main heading before new rule 6-13 with the following:

   "Terminating Debate on an Item of Other Business that is not a Commons Public Bill";

3. Replacing the sub heading before new rule 6-13 with the following:

   "Notice of motion that item of Other Business that is not a Commons Public Bill be not further adjourned";

4. In paragraph 2.6-13 (1), adding immediately following the words "Other Business", the words "that is not a Commons Public Bill";

5. In the first clause of Paragraph 2.6-13 (3), adding immediately following the words "Other Business", the words "that is not a Commons Public Bill";

6. In the first clause of paragraph 2.6-13 (5), adding immediately following the words "Other Business", the words "that is not a Commons Public Bill"

7. In paragraph 2.6-13 (7) (c), adding immediately following the words "Other Business" the words "that is not a Commons Public Bill";

8. And replacing the last line of paragraph 2.6-13(7) with the following:

"This process shall continue until the conclusion of debate on the item of Other Business that is not a Commons Public Bill".

And on the subamendment of the Honourable Senator Mitchell, seconded by the Honourable Senator Day, that the amendment be not now adopted but that it be amended by adding immediately after paragraph 8 the following:

9. And that the rule changes contained in this report take effect from the date that the Senate begins regularly to provide live audio-visual broadcasting of its daily proceedings.

Hon. Yonah Martin (Deputy Leader of the Government): Honourable senators, this item is at day 15, so, if I may, I adjourn for the balance of my time.

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

Hon. Senators: Agreed.

(On motion of Senator Martin, debate adjourned.)

THE SENATE

MOTION TO URGE THE GOVERNMENT OF VENEZUELA TO IMMEDIATELY END ALL UNLAWFUL ACTS OF VIOLENCE AND REPRESSION AGAINST CIVILIANS—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Andreychuk, seconded by the Honourable Senator Johnson:

That the Senate of Canada take note of the ongoing tensions in the Bolivarian Republic of Venezuela, and that it urge the Government of Venezuela to:

1. immediately end all unlawful acts of violence and repression against civilians, including the activities of armed civilian groups, and

2. commit to meaningful and inclusive dialogue centred on the need to:

(*a*) restore the rule of law and constitutionalism, including the independence of the judiciary and other state institutions;

(*b*) respect and uphold international human rights obligations, including the freedoms of expression and the press; and,

(*c*) take swift and appropriate measures to curb inflation, corruption and lawlessness, and to ensure the safety and wellbeing of all Venezuelans.

That the Senate of Canada further encourage all parties and parliamentarians in Venezuela to:

1. encourage their supporters to refrain from violence and the destruction of public and private property; and,

2. commit to dialogue aimed at achieving a political solution to the current crisis and its causes.

Hon. Vernon White: Your honour, might I adjourn this item in my name?

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

Hon. Senators: Agreed.

(On motion of Senator White, debate adjourned.)

LEGISLATIVE ROLE—INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Nolin, calling the attention of the Senate to its legislative role.

Hon. A. Raynell Andreychuk: This item is standing in Senator Martin's name. I've had a conversation with her, and I would like to take this inquiry and adjourn it in my name.

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

(On motion of Senator Andreychuk, debate adjourned.)

ROLE IN PROTECTING MINORITIES—INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Nolin calling the attention of the Senate to its role in protecting minorities.

An Hon. Senator: Question.

(On motion of Senator Maltais, debate adjourned.)

ABORIGINAL PEOPLES

COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY OF FEDERAL GOVERNMENT'S RESPONSIBILITIES TO FIRST NATIONS, INUIT AND METIS PEOPLES

Hon. Dennis Glen Patterson, pursuant to notice of December 4, 2014, moved:

> That notwithstanding the order of the Senate adopted on Thursday, November 21, 2013, the date for the final report of the Standing Senate Committee on Aboriginal Peoples on the federal government's constitutional, treaty, political and legal responsibilities to First Nations, Inuit and Métis peoples be extended from December 31, 2014 to September 30, 2015.

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

Hon. Senators: Agreed.

(Motion agreed to.)

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY OF PRESCRIPTION PHARMACEUTICALS

Hon. Kelvin Kenneth Ogilvie, pursuant to notice of December 4, 2014, moved:

> That notwithstanding the Order of the Senate adopted on Tuesday, November 19, 2013, the date for the final report of the Standing Senate Committee on Social Affairs, Science and Technology on prescription pharmaceuticals in Canada, be extended from December 30, 2014 to April 30, 2015 and that the date until which the committee retains powers to allow it to publicize its findings be extended from March 31, 2015 to July 31, 2015.

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

Hon. Senators: Agreed.

(Motion agreed to.)

• (1730)

INDIAN ACT

BILL TO AMEND—THIRD READING—DEBATE CONTINUED

Leave having been given to revert to Other Business, Commons Public Bills, Third Reading, Order No. 3:

On the Order:

> Resuming debate on the motion of the Honourable Senator Ngo, seconded by the Honourable Senator Marshall, for the third reading of Bill C-428, An Act to amend the Indian Act (publication of by-laws) and to provide for its replacement;
>
> And on the motion in amendment of the Honourable Senator Dyck, seconded by the Honourable Senator Mitchell, that Bill C-428 be not now read a third time but that it be amended, in the preamble, on page 1, by replacing line 17 with the following:
>
> "legislation in consultation with the First".
>
> That Bill C-428 be amended on page 1 by adding after line 24 the following:
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> That Bill C-428 be amended in clause 18,
>
> (*a*) on page 4, by deleting lines 30 to 36; and
>
> (*b*) on page 5, by deleting lines 1 to 4.

Hon. Anne C. Cools: Honourable senators, some of us would like an opportunity to look at the issues more fully and to speak to them. I am of the deep opinion that Senator Dyck has raised some very important questions. I would like the opportunity to read the debate and to join in the debate.

I found from a cursory look, because I have not been following the matter that closely, that Bill C-428 calls itself "An Act to amend the Indian Act (publication of by-laws) and to provide for its replacement."

Honourable senators, this is an extremely large and serious endeavour. I share Senator Dyck's concerns about an issue of this magnitude being moved in these chambers as a private member's bill. I am not an expert in the matter of Aboriginal affairs, but I know that the question of replacing the Indian Act should be well canvassed and debated for quite some time.

Essentially, I do not want to use up too much of senators' time, so I simply ask to take the adjournment in order that I may be allowed to speak in a more fulsome and informed way to bring forth my thoughts on the matter at a later time.

The Hon. the Speaker: It is moved by the Honourable Senator Cools, seconded by the Honourable Senator Dyck, that further debate be adjourned to the next sitting of the Senate. Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: No.

The Hon. the Speaker: Those in favour of the motion will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: Those against the motion will please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the nays have it.

And two honourable senators having risen:

The Hon. the Speaker: According to the whips, the vote will be in 30 minutes at 6:05 p.m.

Call in the senators.

• (1800)

I believe the whips have a statement they wish to make.

Hon. Elizabeth (Beth) Marshall: The opposition whip and I have reached an agreement that there will not be a standing vote this evening.

Hon. Jim Munson: We are in total agreement that there will not be a standing vote tonight.

The Hon. the Speaker: Do we have the agreement of the chamber that we will not have a vote tonight?

Hon. Senators: Agreed.

The Hon. the Speaker: We now return to the adjournment motion as moved by Senator Cools, seconded by Senator Dyck, that further debate be adjourned until the next sitting of the Senate.

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

Hon. Senators: Agreed.

(On motion of Senator Cools, debate adjourned.)

(The Senate adjourned until Wednesday, December 10, 2014, at 1:30 p.m.)

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