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CANADA

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(HANSARD)

Tuesday, April 30, 2013

The Honourable NOËL A. KINSELLA
Speaker

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# THE SENATE

**Tuesday, April 30, 2013**

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

Prayers.

## VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I wish to draw your attention to the presence in the gallery of Mr. Brad Diggens, Chair of the Mechanical Contractors Association of Canada; and Mr. John Hammil, Chair of the Canadian Institute of Plumbing and Heating. They are the guests of the Honourable Senator Plett.

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

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

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[*Translation*]

# SENATORS' STATEMENTS

## THE HONOURABLE DONALD NEIL PLETT

**Hon. Percy Mockler:** Honourable senators, it is an honour for me to speak today.

[*English*]

Honourable senators, I believe it is truly fitting to recognize and congratulate one of our parliamentarians sitting in this great chamber, the Senate of Canada. It is worthwhile to do this today, especially when we have this inaugural day on the Hill with the Canadian Institute of Plumbing and Heating and the Mechanical Contractors Association of Canada.

Honourable senators, the cover story of the March/April 2013 *Mechanical Business* magazine entitled "In the House with Don Plett the plumber's politician" makes a good read.

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

**Senator Mockler:** Honourable senators, to the CIPH and the MCAC membership, there is no doubt in my mind that Senator Plett continues to sensitize the operation of government both provincially and federally in order to create a positive and standing awareness of the trade and to safeguard Canadians from coast to coast to coast.

From his humble Mennonite beginnings, no one can dispute the fact that his great-grandfather David Plett, his grandfather Cornelius Plett, and his father Archie influenced Senator Plett's upbringing. No doubt in my mind, it developed his strength of character.

The history of the Plett family began in 1874 when David Plett immigrated to Canada. Don was introduced to the plumbing trade in 1957, when his father bought a small plumbing company in Landmark, Manitoba. In 1987, Senator Plett took over the family business. Landmark Mechanical is now in the hands of his two able sons, Howard and Kevin Plett, since Don removed himself from the company in 2007.

Honourable senators, in the business community and the world of politics, Senator Don Plett is synonymous with friendship and loyalty. He is a man of principle and is always committed to making our country a better place to live, work, raise our children and reach out to the most vulnerable.

I remember what he once told me about our political party, and I will quote him in this great chamber today. He said, "Percy, I just felt in order to form government we had to get every Conservative in the country to be singing from the same song sheet."

Well, Senator Plett, no one can deny your plumbing skill at connecting the pipes of those political parties. You have done a great political plumbing job in every area of Canada regardless of where it is. Where I come from, we say, "What a great job, thumbs up."

There is no doubt, Senator Plett, as you sponsor this day on the Hill, that the members of your group, CIPH and MCAC, will have a strong message: Every house needs a plumber.

## NUYUMBALEES CULTURAL CENTRE

**Hon. Mobina S. B. Jaffer:** Honourable senators, on Saturday, April 27, I was warmly welcomed by the emcee Dan Smith, who is with the First Nations Summit, to the Nuyumbalees Cultural Centre's dinner and art auction on the Quinsam Reserve, in Campbell River.

This annual event, which was very well organized by Jodi Simkin, provides much needed funds to support the operation of the cultural centre and receives generous support from Tom Pallen and Derrick Pallen, prominent businessmen in Campbell River.

More importantly, however, it offers the opportunity for guests to see first-hand how the cultural and artistic traditions passed from generation to generation continue to thrive and evolve through the hands of the artisans whose work was on display.

Nuyumbalees Cultural Centre is home to the Sacred Potlatch Collection, which was repatriated from the federal government in 1975. It is a source of great pride amongst the Laich-Kwil-Tach peoples and represents what is possible with collaboration, determination and perseverance, as my host, Chief Ralph Dick, explained to me throughout the event.

Although located in Cape Mudge, Nuyumbalees represents 15 First Nations whose territories span from the northern tip of Vancouver Island through to the Comox Valley.

To see the Potlatch Collection returned to the community is to see the possibilities for the future. Youth here are inspired to learn and embrace the traditions of their elders, with an enthusiasm for cultural identity and expression that is unprecedented. They recognize that through language, cultural traditions are defined and that without a comprehensive understanding, those teachings are compromised.

With fewer than one dozen fluent speakers in the community, there is an urgent need to capture language and traditions from the elders. It simply cannot wait any longer — these elders are aging and the legacy they will leave behind is jeopardized if we do not respond to the call for action.

Nuyumbalees Cultural Centre has ambitious plans for the coming year that focus on meaningful and respectful opportunities for learners of all ages to participate in language, culture and arts programs. By ensuring that the tools necessary to facilitate language and cultural revitalization are available to the community, they ensure that traditions that define them, at least in part, are safeguarded for future generations. The centre promotes strong cultural identity as the foundation for building inclusive, healthy and prosperous communities.

Nuyumbalees' vision for the teaching of language and traditions speaks to the need for healing and education, not only for children and youth but also for the entire community. They are committed to supporting the cultural revitalization that is just beginning to take shape.

We should embrace the opportunity to be part of this journey and demonstrate, with great abandon, what is possible when we work together for the common good.

[*Translation*]

• (1410)

## NATIONAL VICTIMS OF CRIME AWARENESS WEEK

**Hon. Pierre-Hugues Boisvenu:** Honourable senators, last week was the eighth National Victims of Crime Awareness Week in Canada. Never before have so many victims been involved in thinking about and discussing the major challenges related to the recognition of their rights.

Let me tell you about some of the week's important events. On April 18 and 19, in Ottawa, the Office of the Federal Ombudsman for Victims of Crime brought together about 200 victims, victims groups and international experts to talk about the progress being made with regard to victims' rights and to create a Canadian network of victims' groups. On April 22, Minister Rob Nicholson and Minister Vic Toews met with approximately 20 victim support agencies in order to launch the consultation process on the Canadian victims' bill of rights.

For the first time, representatives of seven provinces and territories attended such a meeting as observers. Victims' groups were asked to define which fundamental rights they wanted to see incorporated into such a bill of rights under the following four main headings: the right to information, the right to protection, the right to participation and the right to restitution.

Finally, last weekend, from April 26 to 28, Canada's first forum organized by victims for victims was held in Quebec City. The government provided financial support for this forum through the federal Victims Fund. Under the devoted and effective leadership of Marc Bellmare, a lawyer dedicated to the cause of victims of crime, the Association of Families of Persons Assassinated or Disappeared brought together close to 130 victims and family members of victims. Specialists in the field led discussions in four workshops on the following subjects: victims and the police, victims and parole, victims and compensation, and the victims' bill of rights. Victims and their families unanimously passed 25 resolutions that will make up AFPAD's new five-year roadmap.

Allow me to share some of these resolutions: that victims have access to legal support during legal proceedings at all levels, that the position of ombudsman for victims of crime be created in Quebec, that the various administrative deadlines that victims must meet in order to receive help or to appeal bureaucratic decisions be extended, and that all governments be called upon to review the various victim compensation programs.

As you can see, this forum and the other activities involving hundreds and even thousands of victims in Quebec and across Canada produced extremely positive results. Victims want to be heard. They want to participate in discussions that affect them and they believe that the time for silence is over. They now know that the real instigators of change in our justice system are the victims themselves.

Honourable senators, I would like to thank you for supporting the cause of victims of crime.

[*English*]

## PEACEKEEPING OPERATIONS

**Hon. Roméo Antonius Dallaire:** Honourable senators, I would like to bring you back a little farther than CNN history, which is last week, to World War II and the end of World War II. At the declaration of peace at the end of World War II, countries like Holland had absolutely no infrastructure remaining. Canada was the third largest producer of equipment, including military equipment, in the world. Instead of bringing all that equipment back and creating an enormous burden in an environment of overproduction, the Government of Canada decided to give all that equipment to the Dutch and also to the Belgians in order to help them rebuild their economies.

Although we brought tanks and guns back home, we left all the trucks, bulldozers, Bailey bridges and the like, and hundreds of millions of spare parts to sustain that equipment. At the end of World War II, for nearly a year, we also left 40,000 troops to put all that equipment back into shape, inventory all the equipment and have it distributed.

Honourable senators, I raise this today because I was born during that time in Holland, my mother being a Dutch war bride, and today there is quite an event going on in Holland. I will read the following from a media report:

> "Some moments ago I abdicated from the throne. I am happy and thankful to present to you your new king," said Beatrix, 75, who now takes the title of princess.

After 120 years of queens, the new king is King Willem-Alexander. It was interesting, as my wife noted because she is there at this moment, to see the reaction of Prince Charles, sitting in the second row, who looked upon Willem-Alexander with envy.

Honourable senators, I raise the subject Holland for a second reason. Holland is an extremely loyal supporter of the UN. There are currently over 100,000 UN peacekeepers in the world, and another 16,000 will be added for the mission in Mali. Canada currently has 45 peacekeepers in the world. The operations of the United Nations, no matter how flawed, understaffed or ill-equipped because we do not want to give them the equipment or the staff, are an essential expression of human concern and needed national and international support.

Raging conflicts overseas impact global immigration, refugee flows and national diasporas whose relatives are stuck in conflict zones. Wars also deprive children of education, perpetuating poverty and economic dislocation even as the young are manipulated into fighting as child soldiers. There is a strong humanitarian imperative to support UN operations. It is ethically impossible to stand by as people are slaughtered and war-affected children are murdered or orphaned or forced to murder.

The UN's peace operations, with their 21st century mandates to protect civilians and support human rights, are an expression of this humanitarian imperative, yet these peace operations remain poorly equipped to do the job. Among the many needed capabilities are air power and strategic planning and command and control capabilities.

As NATO's combat mission in Afghanistan comes to a close, there is hope, and certainly I hope, that enlightened Western countries like ours may once again re-engage in UN peace support operations — peacemaking operations — and help furnish the necessary powers and capabilities to permit those missions to be effective and to protect millions of human beings on this planet.

## VIETNAM WAR

### COMMEMORATION OF THE FALL OF SAIGON

**Hon. Thanh Hai Ngo:** Honourable senators, it gives me great pleasure to bring to this chamber's attention an occasion of great importance to the Vietnamese-Canadian community.

April 30, 1975, marks the day that South Vietnam fell to the north communist army. It is also what we call "Black April" day. It is when we commemorate the courage and the heroism of those who fought for democracy, human rights and freedom and dedicate ourselves to restoring those fundamental values to Vietnam. I had the pleasure of commemorating this memorable date at events in Toronto on April 27 and in Montreal on April 28.

After the Vietnam War, 65,000 South Vietnamese were executed, and 1 million were sent to prison and re-education camps where an estimated 165,000 died because of retribution from the north communist regime. We had to flee, abandon our houses and leave our friends, our families and our country of origin after the fall of Saigon.

An estimated 1.5 million people fled Vietnam as refugees and boat people. They had to navigate not only through deadly storms but also through diseases and starvation. The primary cause of death for boat people refugees was drowning, though many were attacked by pirates and murdered or sold into slavery and prostitution. According to the United Nations High Commission for Refugees, 250,000 perished in the seas looking for brighter futures.

Honourable senators, some countries turned the boat people away even if they did manage to land, so the refugees had to travel further and settle in the United States, United Kingdom, France and Australia. The Vietnamese diaspora across the globe now amounts to approximately 3.5 million.

Canada was among the countries that welcomed us with open arms. Under the leadership of Prime Minister Joe Clark, Canada accepted boat loads of 137,000 Vietnamese refugees. Since then, Vietnamese-Canadians have more than doubled in numbers and have become an important part of the Canadian fabric.

This is how our story started here, with a search for better opportunities, a safer society and a brighter future for our children.

• (1420)

[*Translation*]

On April 30, we commemorate the millions who perished and honour the courage of the veterans, who made it possible for us to have a strong and united community in Canada today. Since coming to Canada, we have constantly shown that we are hard-working Canadians, capable of becoming an integral part of Canadian society. The openness of the people, the opportunities, and the democratic values inspired us to make our home here. These are the same values that we wish to promote in Vietnam and around the world.

Honourable senators, as a result of the many sacrifices made, we now live in a great country where we can fight for justice, human rights and democracy in Vietnam.

[*English*]

## THE LATE GEORGE JONES

**Hon. Wilfred P. Moore:** Honourable senators, I rise today to pay tribute to country singer George Glenn Jones, late of Nashville, Tennessee. Born in a homemade house of logs in Saratoga, Texas, on September 12, 1931, he was the youngest of eight children of George Washington Jones and Clara Jones. George was born with a broken arm and a big thirst. He departed this life at Vanderbilt University Medical Center in Nashville last Friday, April 26, 2013, at 81 years of age.

George Jones began singing in church. When he was 11, his father bought him a Gene Autry guitar. He first sang for pay by accident; he had taken the bus to nearby Beaumont, gone to Pearl Street, gotten on a shoeshine stand in front of an arcade and begun to play and sing. People put coins in a cup near his feet, and, after two hours, he had more than $24, enough to feed his family for a week or more in 1942. However, they never saw a cent. He stepped into that arcade and blew it all. That was a portent of George's life until 1982, when, with the help, love and strength of his fourth wife, Nancy, he ceased using cocaine and got sober.

In his 1996 autobiography, *I Lived to Tell it All*, George candidly wrote about the troubled journey that was his life: "a journey across a sea of whiskey and a mountain of cocaine, in a vehicle of self-destruction."

He went on to say that he was once dying of terminal restlessness and could never understand how a supposedly good singer could be such a troubled person. He wrote, "My talent, though it brought me fame and fortune, never brought me peace of mind."

Indeed, because of his consuming habits, he would fail to appear for some concerts, earning the nickname "No Show Jones."

Upon his discharge from the Marine Corps in 1954, he cut his first record, an original fittingly called "No Money in This Deal." In 1955, he had his first hit with "Why Baby Why." George has had at least one hit in every decade since. He was a tireless artist, who recorded over 150 albums.

In 1981, he won his first Grammy award for "He Stopped Loving Her Today," a ballad that often appears on surveys as the most popular country song of all time. It won the Country Music Association's Song of the Year Award an unprecedented two years in a row. He won again, in 1999, with "Choices." In 1992 he was elected to the Country Music Hall of Fame and in 2008 was among the artists honoured in Washington at the Kennedy Center.

George last played in Nova Scotia on April 12, 2008. My friend Tom Faulkner and I had a chance to spend some time with George backstage before he raised the roof of the Halifax Metro Centre.

Despite his battles with alcoholism and drug addiction, brawls, accidents and close encounters with death, George's expressive baritone voice never left him. As Keith Richards said recently, George's voice "needed neither explanation nor context nor country music fandom to appreciate; you [just] loved the sound of it."

As George Jones said in 1991:

> My fans and real country music fans know I am not a phony. I just sing it the way it is and put feeling in it if I can and try to live the song.

You were no phony, George. You were the real deal, and we extend our heartfelt sympathy to your spouse, Nancy, and to your extended family. Yes, I wonder — who's gonna fill your shoes?

## THE LATE MORLEY BYRON BURSEY

**Hon. David M. Wells:** Honourable senators, I rise today to pay tribute to a great Newfoundlander and Canadian who sadly passed away on April 21, 2013, in St. John's, Newfoundland, at the age of 101. Morley Byron Bursey was born in Old Perlican on New Year's Day, 1912. Mr. Bursey was educated at the Methodist College and Bishop Feild College in St. John's and completed his studies at McGill University in Montreal. Mr. Bursey was one of Newfoundland's most distinguished citizens, having been a member of the Commission of Government in the 1930s, after which he represented Newfoundland in Jamaica and New York.

During the war, he represented the British Empire at the Allied Food Commission, and he returned to St. John's as a member of the Newfoundland Fisheries Board in 1946. Shortly thereafter, he was again called upon for foreign service and took up an appointment in New York. Mr. Bursey was well versed in Canada's fisheries on both coasts. He was known to the Trade Commissioner Service of the Canadian government as their first fisheries expert. Upon Newfoundland's joining Canada in 1949, he transferred to the Canadian Diplomatic Service, where, for the first 27 years, he represented Canada in New York, Chicago, Detroit, the Dominican Republic, Ghana, Norway, Argentina, Greece, Turkey and Sweden. He served Canada in the varied positions of commercial councillor, consul general, high commissioner and ambassador.

After his retirement in 1976, he began a 14-year second career, representing the Canadian auto parts industry as the executive director of the Automotive Parts Manufacturers' Association. In this capacity, he was heavily involved in the framing of the automotive portion of NAFTA and the growth of the Japanese automotive manufacturing industry in Canada. He continued to represent the Canadian automotive parts industry as the association's honorary executive director until his death.

A proud member of the McGill University hockey team, Mr. Bursey was also the longest-serving member of the Whiteway Masonic Lodge.

An avid golfer and sailor, he will be remembered by many in Norway and Sweden for building significant goodwill through his volunteer activities at both the Royal Swedish and the Norwegian Yacht Clubs.

Mr. Bursey will be deeply missed by his family and friends. Honourable senators, we recognize Mr. Morley Bursey for his countless contributions to Newfoundland and Labrador and to Canada.

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[*Translation*]

# ROUTINE PROCEEDINGS

## AUDITOR GENERAL

### SPRING 2013 REPORT AND ADDENDUM TABLED

**The Hon. the Speaker:** Honourable senators, I have the honour to table, in both official languages, the Spring 2013 report of the Auditor General of Canada, as well as an addendum that contains copies of environmental petitions under the Auditor General Act.

[*English*]

## MEDICAL DEVICES REGISTRY BILL

### TWENTY-THIRD REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE PRESENTED

**Hon. Kelvin Kenneth Ogilvie**, Chair of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Tuesday, April 30, 2013

The Standing Senate Committee on Social Affairs, Science and Technology has the honour to present its

TWENTY-THIRD REPORT

Your committee, to which was referred Bill S-202, An Act to establish and maintain a national registry of medical devices, has, in obedience to the order of reference of Wednesday, November 2, 2011, examined the said bill and now reports as follows:

Your committee recommends that this bill not be proceeded with further in the Senate for the reasons that follow.

Your committee has heard that Health Canada currently has the necessary authorities in place to adequately regulate medical devices through the Medical Devices Regulations under the Food and Drugs Act. Also, your Committee heard that Canada's pre-market evaluation requirements are rigorous and comprehensive in comparison to regulators in other jurisdictions.

Your committee heard that the safety of medical devices in Canada is a shared responsibility. Any requirement for physicians or health care providers to maintain or provide patient information to a national registry goes beyond the federal role.

Your committee also heard that a national medical devices registry containing names and addresses of patients, as proposed in Bill S-202, would pose significant privacy concerns. While the voluntary nature of the disclosure addresses some of the privacy concerns, it would at the same time greatly limit the impact and effectiveness of the proposed registry.

Your committee believes that the implementation of Bill S-202 would represent a significant cost to the Canadian taxpayer and that those costs would outweigh the benefits of the proposed registry.

As an alternative, your committee believes that a comprehensive national integrated electronic health records system would be a more useful vehicle for capturing, maintaining and monitoring patient data, including that related to medical devices, to achieve the goals set out in Bill S-202.

Respectfully submitted,

KELVIN K. OGILVIE
*Chair*

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

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

• (1430)

## CONFLICT OF INTEREST FOR SENATORS

### BUDGET—FIFTH REPORT OF COMMITTEE PRESENTED

**Hon. A. Raynell Andreychuk,** Chair of the Standing Committee on the Conflict of Interest for Senators, presented the following report:

Tuesday, April 30, 2013

The Standing Committee on Conflict of Interest for Senators has the honour to present its

FIFTH REPORT

Your committee, which is authorized on its own initiative, pursuant to rule 12-7(16) to exercise general direction over the Senate Ethics Officer; and to be responsible for all matters relating to the *Conflict of Interest Code for Senators*, including all forms involving senators that are used in its administration, subject to the general jurisdiction of the Senate, respectfully requests funds for the fiscal year ending March 31, 2014.

Pursuant to Chapter 3:06, section 2(1)(c) of the *Senate Administrative Rules*, the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that committee are appended to this report.

Respectfully submitted,

RAYNELL ANDREYCHUK
*Chair*

(*For text of budget, see today's* Journals of the Senate, *Appendix, p. 2202.*)

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

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

# QUESTION PERIOD

## HUMAN RESOURCES AND SKILLS DEVELOPMENT

### EMPLOYMENT INSURANCE

**Hon. James S. Cowan (Leader of the Opposition):** Honourable senators, my question is directed to the Leader of the Government in the Senate. It is on a topic that I and a number of my colleagues on this side have pressed her about on many occasions since the announcement made last year with respect to the proposed changes to Employment Insurance. The new rules, as we have explained to the leader on many occasions, have a particularly adverse effect in parts of Quebec and Atlantic Canada which are dependent on EI because of the seasonal nature of their economy.

Yesterday, the four Atlantic premiers — two Conservatives, one Liberal and one New Democrat — met in Nova Scotia to talk about issues of common concern. At the very top of their list was this issue of EI and the adverse effect which the proposed changes have had on workers and on the economy of our provinces.

Premier Dexter of Nova Scotia suggested that these changes were hurting business and workers. As he said, "The workers leave because their jobs here are seasonal and they don't come back." Then he added — and this is an interesting twist — that that erosion has actually given rise to the need for temporary foreign workers. This, as honourable senators know, is a program that has also ruffled the feathers of Canadian workers following a series of changes made by the government last year.

Premier Dunderdale, the Progressive Conservative Premier of Newfoundland and Labrador, said that the change to EI "requires some kind of reversal or intervention."

We have four Atlantic premiers representing three political parties who got together. They put their political considerations aside and came together to ask the federal government for two things: first, to suspend its changes to EI; and, second, to conduct a study of the impact of those changes on Atlantic Canada.

Given the unintended consequences that the premiers have drawn to the government's attention and the unanimous request of those four Atlantic premiers, will this government agree that further consultation is required? Will it suspend the changes that were introduced last year, and will it listen to the Atlantic premiers who are standing up for seasonal workers in Atlantic Canada and for the Atlantic Canadian economy, which is being adversely impacted by the changes imposed by the government?

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, I thank the honourable senator for the question. The government, of course, wants to ensure that EI is there for those people who paid into the system, who are without work and who need to access the Employment Insurance fund. That is the primary responsibility of the fund, namely to be there for people when they need it.

Our government's top priority, as I have indicated many times and as has been indicated in all our budgets but most recently in Budget 2013, is jobs, growth and long-term prosperity. The cornerstone of our Economic Action Plan 2013 is, of course, skills training and job creation through measures like the Canada Job Grant.

There are many programs now that the government is working on in partnership with the provincial and territorial governments and industry. Senator Cowan did mention the Temporary Foreign Worker Program. Changes to that program have been under way for some time and were announced yesterday.

Obviously, the priority of the government is to ensure that the interests of Canadian workers come first in all cases.

**Senator Cowan:** Honourable senators, I do not think the leader would find any disagreement with any of the Atlantic premiers on those basic premises. Every one of us would like to do everything we can to achieve those objectives. However, what is missing is an understanding and appreciation of the impact and the significance of seasonal industries in parts of Quebec and Atlantic Canada.

The premiers are saying that those changes announced by the government last year did not take into account the seasonal aspects of those industries. They have asked repeatedly for studies to be done by the government to indicate what impact the changes would have. They have received no such studies, so the logical assumption is that there were no studies undertaken with respect to the impact on seasonal industries in Atlantic Canada and in parts of Quebec.

The simple request of the governments of Atlantic Canada is that these changes be suspended and that the studies, which should have preceded the changes, take place now before they are implemented. Will the government commit to do that?

**Senator LeBreton:** Honourable senators, I answered that question with the first thing I said in response to Senator Cowan's previous question. The EI system is designed to assist those who need it. That has not changed. People pay into the EI program and it is there for those who need it. Obviously, people who, through no fault of their own, find themselves unemployed still have full access to the EI system.

I, personally, find the concerns that Senator Cowan refers to puzzling because nothing has changed with regard to the accessibility of the EI fund to assist those who are in need of the assistance of the fund either through no fault of their own or because they are out of work.

• (1440)

**Senator Cowan:** To be clear, is the position of the government that it will not suspend the operation of these changes and will not conduct any studies? Is that the message that the leader wants to have transmitted to the four Atlantic premiers representing three political parties in Atlantic Canada? Is that the position?

**Senator LeBreton:** The position of our government, and we hope it is also the position of the governments of the four Atlantic provinces, is to make jobs, prosperity and long-term growth their main focus of activity, and we are working with them. That is the cornerstone of our Economic Action Plan. We have initiated many programs. Significant funds were transferred to the provinces to support these programs, so our message to the four provincial governments is to work with us in ensuring that their top priority, like ours, is jobs, the economy and long-term prosperity.

**Senator Cowan:** Therefore, the answer is no.

[*Translation*]

**Hon. Jean-Claude Rivest:** Honourable senators, I have another question for the Leader of the Government in the Senate. I understand her explanation of this extremely important issue.

As the Leader of the Opposition pointed out, the Atlantic premiers have been expressing their concerns ever since this reform was announced. A large demonstration was held in Quebec this past weekend. The Leader of the Government provided some lovely explanations; however, as we all know, we live in a country in which the federal Government of Canada has a certain responsibility, but the provinces have responsibilities as well. The provincial governments are responsible for regional development. Could the Leader of the Government in the Senate explain why the Prime Minister of Canada will not meet with his provincial counterparts and instead sits alone in his ivory tour and dismisses the legitimate concerns of premiers who were elected — like him — and of the public, which could suffer greatly as a result of his government's measures?

[*English*]

**Senator LeBreton:** I sawthe newscast, honourable senators. The answer is the same. We have an Employment Insurance system. It has been paid into and put in place to assist those workers who, through no fault of their own, find themselves unemployed. That system is in place to assist these people. That was the case in the past, that is the case at the moment and that will be the case in the future.

With regard to various meetings between provincial authorities and federal government authorities, all ministers of the government meet regularly with provincial and territorial counterparts.

[*Translation*]

**Hon. Céline Hervieux-Payette:** Honourable senators, I also have a supplementary question for the Leader of the Government in the Senate.

The honourable senator just mentioned that this past weekend, a large number of workers in Quebec took to the streets to tell the Prime Minister that his measures do not work with regional and local economies.

This demonstration was held in Montreal, which is not a regional economy, but Montrealers support people from the Gaspé, northern Quebec, the Eastern Townships and the lower St. Lawrence.

Employment insurance is funded by workers and employers, yet the government jumps in and claims any surplus. If there is ever a deficit, the government jumps in then as well, of course.

My question for the Leader of the Government in the Senate is the following: how is it that the very people who contribute to this fund are not being consulted? How were workers and employers consulted to come to such an agreement?

I do not think there was any consultation, either with provincial premiers or with the people who use the employment insurance system. Who did the Prime Minister consult about these measures?

[*English*]

**Senator LeBreton:** It was the previous government that completely emptied the coffers in the Employment Insurance fund and used that money to pay down the deficit.

The fact is — as I just repeated, and my answer will be the same — the Employment Insurance fund has a specific purpose. Employees and employers pay into it. It is there to assist Canadian workers, no matter where they live in the country, who, through no fault of their own, find themselves unemployed. The fund is there to directly assist those individuals. It was there in the past, it is there now and it will be there in the future.

As I pointed out to Senator Cowan, we are now taking measures, as a result of the budget, to ensure that people are properly trained for the jobs that are available. We will do everything we can to assist workers to find suitable work in the area in which they live.

**Hon. Terry M. Mercer:** Honourable senators, I have a supplementary question. I think the minister has to understand that these changes are fundamentally altering what is happening in rural Atlantic Canada and eastern Quebec. It is changing attitudes where people are working in jobs that are only seasonal. For example, if one owned a motel in a small, rural, Cape Breton

village and employed a couple of people over the summer to help maintain it, at the end of the season there would be no choice but to lay those people off and they would qualify for EI. However, the government has imposed new rules stating that those people who are always seeking work and trying to better themselves have to go 100 kilometres away, and they have to take a job that would pay less than they earned before.

With respect to the premiers, this is a strange group of people who met in White Point Lodge yesterday — two Progressive Conservative premiers, a New Democrat and a Liberal. They all got together and agreed on one thing, namely, that this is an attack on rural Atlantic Canada and an attack on seasonal workers. This will change the face of Atlantic Canada if you do not stop it now.

**Senator LeBreton:** Honourable senators, again, EI is there for people who, through no fault of their own, find themselves without work. Great efforts are being made now by HRSDC to connect people to available jobs, but the EI fund is there for people who need it. I dare say it does not matter in what part of the country one resides. If there is available work, people obviously want to access those available jobs. If jobs are not available for them, the EI fund is there to assist them, as was the case in the past, as it is the case now and as it will be in the future.

**Senator Cowan:** The leader seems to distinguish between seasonal and other workers. Seasonal workers are part of that workforce, and the EI program is there to protect them as well. She keeps talking about people who through no fault of their own are out of work. Seasonal workers are through no fault of their own out of work. It is not their choice. If they had an opportunity to have year-round employment, they would take it. They do not choose seasonal work over full-time work. They choose seasonal work because that is the only work available in those communities in which they live. The logical consequence of the programs that the leader is continuing to promote is that those people will be forced to leave those communities, and that will have a devastating effect on the whole of Atlantic Canada and eastern Quebec.

That is the point. This program may suit workers in other parts of the country, but it adversely and unfairly impacts seasonal workers who do not choose to be seasonal workers. They are seasonal workers because that is the only reasonable employment available to them. That is their choice, so that program ought to be there to protect them every bit as much as other kinds of workers elsewhere in the country.

**Senator LeBreton:** Obviously, honourable senators, if seasonal workers find themselves without work, it is through no fault of their own; the season ends. The EI fund is in place to assist those seasonal workers, for example, at the onset of winter when the apple crop is off the trees. Through no fault of their own, the season ends, and as was the case in the past and is now and will be in future, the EI fund is there to assist them.

• (1450)

**Senator Cowan:** If the EI program is not there to help those workers who, through no fault of their own, to use the leader's phrase, are out of work when the season ends, what program does the government have in place to help those people?

**Senator LeBreton:** We have a program called Employment Insurance.

**Hon. Roméo Antonius Dallaire:** Honourable senators, I will speak French because I am not sure I can translate the sometimes flippant words in response to something so fundamental.

[*Translation*]

I represent the Gulf senatorial designation, which includes residents of Gaspé and the Magdalen Islands. Recently, I went to the Magdalen Islands to give a Jubilee medal to Emmanuel Aucoin, executive director of Groupe CTMA.

I had the opportunity to talk with Magdalen Islands officials, who told me about the impact of the new employment insurance policy introduced by the leader of the government's party. Magdalen Islanders are lobster fishers who can fish only during a certain window of time. After that window, ice shuts down all fishing activity. By that time, the lobsters have gone away anyway and the season is over.

These people wonder whether the federal government has something against lobster. Essentially, the government is telling lobster fishers that they can go ahead and fish for lobster, but after the season ends, they have to sort their problems out on their own. This is because the new employment insurance program forces workers to accept work within 100 kilometres of their home.

For these people, any point 100 kilometres away from home is in the ocean. If they cannot find work in the Magdalen Islands and have to accept work within 100 kilometres of home, they will be in the middle of the ocean, but they cannot launch their boats because of the ice. Their hands are tied.

My question for the leader comes from these people, who are mostly Acadian. They know a thing or two about deportation, be it open and transparent deportation, or hypocritical and subversive deportation.

These people tell me that, because of the system, young Magdalen Islanders will be forced to leave home, which could contribute to a second Acadian deportation.

Senator Nolin, do not say that it is not true, because you know that it is.

Is the leader aware of the problems that her government is creating with this reform?

These people believe that the government wants to move Magdalen Islanders to Alberta because that is where the jobs are.

Does the leader support this reform, which could contribute to depopulating Gaspé and the Magdalen Islands?

[*English*]

**Senator LeBreton:** Honourable senators, I never thought I would be confronted with a question dealing with history of the expulsion of Acadians, of which my husband's family was a part. Of course, several senators on this side of the aisle are in the same

situation. My husband's family were Acadians from New Brunswick. If one looks in New Brunswick, there are many LeBretons there.

In any event, my answer is the same as I have given to Senator Dallaire's colleagues. The government has a program in place called Employment Insurance to assist people who find themselves without work. We are also working very hard with communities, provinces and territories on job training and new skills. We are also now participating in the new Canada Job Grant Program.

**Hon. Jane Cordy:** Honourable senators, Senator Cowan asked the leader a question about EI and whether there would be further consultation with premiers of the Atlantic provinces. I would like to let Senator Cowan know that there never was consultation with the Atlantic premiers before these changes came into being. I suppose one would ask if there would be new consultations.

The Atlantic premiers are obviously very concerned about the changes. In the last by-election in New Brunswick, which the Progressive Conservatives were expected to win and in fact came in third, the Progressive Conservatives lost the deposit because people were so annoyed. Senator Alward — I do not mean "senator." Perhaps that is in the works for when he loses the next election. Premier Alward yesterday said that what is alarming is the fact that the federal government did not do any background work, any economic impact assessments of what these changes would mean. Were assessments done? Were studies done before these background checks were brought in? If studies were done, would the leader table them in the Senate?

**Senator LeBreton:** Honourable senators, our government's priority is the long-term prosperity of the country, jobs and growth. Obviously we want Canadians to fully participate in the economic well-being of the country, including and most importantly, having a good job.

There are many new programs connecting people with available jobs. However, for those who are unable to find work through no fault of their own, the EI fund is there, was there and will be there for them to access.

**Senator Cordy:** That was a great answer except it was not an answer to the question I asked.

Honourable senators, the four provincial premiers of Atlantic Canada are committed to releasing initial results of their own EI regional impact study in July at meetings scheduled in Ontario. Was Premier Alward correct that there was no background work and no economic impact assessment of what the changes would mean to Atlantic Canada?

**Senator LeBreton:** First, I noted that they are working on a report that they say they will release in the summer. I am sure that my colleagues in the government will be very interested in hearing the results of that report.

**Senator Cordy:** My question the last two times was: Did the federal government do any assessment, any background work, before making these changes to EI as to what the effect would be on Atlantic Canada?

**Senator LeBreton:** Honourable senators, my answer is: I was not the minister in the room so I cannot answer that.

**Hon. Wilfred P. Moore:** Honourable senators, if the leader was not the minister in the room, where was she in terms of trying to ensure that people who are seasonal workers in the area that she represents were covered and thought of and provided for in this legislation?

**Senator LeBreton:** Honourable senators, the policy with regard to Canada's unemployed is the same whether it is in Atlantic Canada, in my region of Ontario, Western Canada, Northern Canada or wherever. The fact is that we have an Employment Insurance fund to which people contribute, both employees and employers. That fund is there to assist people when they need it. Nothing has changed. That fund is still there to assist them when they need it.

**Senator Moore:** Honourable senators, did the leader canvass the people in her region to let them know what the intended rule changes would be and ask them for their thoughts before it was brought in?

**Senator LeBreton:** That question does not exactly relate to my position as Leader of the Government in the Senate. Obviously, all honourable senators are interested in the well-being of our fellow Canadians. We all want Canadians to have good jobs. That is the aim of this government. We have very serious shortages around the country where we are lacking in skilled trades. The government is now working very hard to ensure that people learn these skills in order to access these well-paying jobs in the country.

• (1500)

**Senator Cordy:** Honourable senators, I have a supplementary question. I know the government did not consult with the four Atlantic premiers. In response to that, she said at the time that she consulted with her caucus members — Conservative members of Parliament and senators.

In light of the changes that were made and were put in the budget, which the Conservatives voted unanimously in favour of, are we to assume that all the Atlantic Conservative MPs and senators are in favour of all the changes that have been brought in by this government?

**Senator LeBreton:** If the honourable senator claims she knew what the minister did in consultation, why is she asking me what the minister did in consultation?

The fact is, again, the Employment Insurance fund is there for a purpose. It serves its purpose very well, and it assists those Canadians who require assistance if they find themselves in the unfortunate situation where they cannot find work.

[*Translation*]

**Senator Dallaire:** Honourable senators, I would like to conclude my remarks. Unlike the honourable senator, I represent a specific Senate division that covers the Gulf of St. Lawrence and the Magdalen Islands.

The new Employment Insurance policy requires Canadians to acquire skills so that they can get a job outside their region if they cannot find one in their home region. Does this mean that the leader agrees with the fact that, in order to meet that requirement, the policy ultimately forces people to move to places where there are jobs? Is that the goal of the full employment policy in Canada?

[*English*]

**Senator LeBreton:** Absolutely not, honourable senators. Obviously, there are skills shortages across the country. We live in a free country and people are free to move if they wish. If they do not wish to move, that, of course, is their personal choice.

On the issue of up-to-date data, there is a report on HRSDC's website where the government regularly monitors access to Employment Insurance which indicates trends in the various regions of the country.

[*Translation*]

**Senator Dallaire:** This same government made budget cuts and closed the HRSDC office in the Magdalen Islands in order to help people.

The government will continue to look for jobs for these people in places where industries do not want to set up shop, which means that they will ultimately have to move. Does the leader agree with the fact that people will one day have to move to places where there are jobs? Is that really this government's plan?

[*English*]

**Senator LeBreton:** Honourable senators, I absolutely will not agree. As I mentioned before, this is a free country and people are free to make the choices they wish to make.

The fact of the matter is that we live in a new era. We have several agencies through which people can access the government, such as Service Canada, other offices, the Internet, by mail and by telephone. Obviously, people who live in the honourable senator's area have many opportunities to access the system.

Again, the Employment Insurance system is there for people who need it when they find themselves without work.

[*Translation*]

## DELAYED ANSWER TO ORAL QUESTION

**Hon. Claude Carignan (Deputy Leader of the Government):** Honourable senators, I have the honour to table, in both official languages, an answer to the oral question raised by the Honourable Senator Mercer on April 18, 2013, concerning the Canadian Agricultural Adaptation Program.

## AGRICULTURE AND AGRI-FOOD

### CANADIAN AGRICULTURAL ADAPTATION PROGRAM

*(Response to question raised by Hon. Terry M. Mercer on April 18, 2013)*

As part of the Government of Canada's 2012 Budget, Agriculture and Agri-Food Canada (AAFC), along with all other federal departments, carefully reviewed all of its operations and programming to identify efficiencies. The current Canadian Agricultural Adaptation Program (CAAP) will expire as of March 31, 2014.

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

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

April 1, 2013 marked the official launch of the Growing Forward 2 (GF2) policy framework for Canada's agricultural and agri-food sector. GF2 is a $3 billion investment in innovation, competitiveness and market development. GF2 programs focus on strategic initiatives to ensure Canadian producers and processors have the tools and resources they need to continue to innovate and capitalize on emerging market opportunities.

Together, these programs aim to accelerate the pace of innovation, improve competitiveness in domestic and international markets, and help the sector adapt to emerging global and domestic opportunities, as well as enhance business and entrepreneurial capacity.

- The AgriInnovation Program makes investments in projects that aim to develop and commercialize new products and technologies;

- The AgriMarketing Program helps to ensure industry has the capacity to develop assurance systems, such as food safety and traceability, to meet consumer and market demands. It also ensures industry can access and maintain new markets through branding and promotional activities;

- The AgriCompetitiveness Program makes targeted investments in key areas that strengthen the agriculture and agri-food industry's capacity to adapt and be profitable in domestic and global markets.

[*English*]

# ORDERS OF THE DAY

## CRIMINAL CODE

### BILL TO AMEND—THIRD READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Boisvenu, seconded by the Honourable Senator Meredith, for the third reading of Bill C-37, An Act to amend the Criminal Code.

**Hon. Marie-P. Charette-Poulin:** Honourable senators, when I spoke to Bill C-37 at second reading, I outlined my reasons for opposing the proposed amendments to the Criminal Code. I spoke out against the removal of judicial discretion to waive the victim surcharge in cases where it would cause undue hardship for vulnerable and marginalized offenders. I drew your attention to the effects this, along with a doubling of the surcharge, would have on these offenders, many of whom are women, Aboriginals and Canadians with a mental illness. I recommended a different approach to assisting victims of crime.

Testimony given during the study of Bill C-37 by the Standing Senate Committee on Legal and Constitutional Affairs has provided additional food for thought. It has served to reinforce my belief that the amendments to the Criminal Code proposed in this bill will not help victims of crime, as the government suggests they will.

At the outset, honourable senators, I would like to reiterate that my opposition to Bill C-37 in my remarks today should not be viewed as anti-victim. Nothing is further from the truth.

Steve Sullivan, Canada's first Federal Ombudsman for Victims of Crime, who incidentally sees Bill C-37 as a positive step, had this to say recently:

> In reality, despite what the Tory government says about being the champions of victims, they can thank the Liberal government for laying a lot of the foundation they have built upon. Thirteen years of Liberal government saw the strengthening of Victim Impact Statement provisions in the Criminal Code, not once but twice, and expanded their use to parole hearings and mental health review board hearings. The Victim Fund the Tories expanded was created under the Liberals, making Canada one of the few jurisdictions in the world that funds victims to attend parole hearings. Under the Liberal watch, victims were included in the Criminal Code's objectives for sentencing and laws aimed at protecting vulnerable victims were strengthened.

I am pleased by the diversity of perspectives that were offered by the witnesses who appeared before the Senate committee. Some of the groups work on behalf of victims and their families; others work with both victims and offenders, as in the case of the John Howard Society. Several oppose the passage of Bill C-37 into law.

The Canadian Bar Association, for example, voiced its support in principle for victim surcharges, but it opposes Bill C-37 because of the doubling of the amount of victim surcharges and the removal of judges' discretion in imposing them.

However, as Catherine Latimer, Executive Director of the John Howard Society, pointed out in committee:

> I think we all share an interest in ensuring that there is adequate funding for victim services . . .

I share that interest, but I have serious concerns with the changes proposed in Bill C-37, particularly with respect to the removal of a judge's ability to exercise discretion to waive the victim surcharge in cases where it will cause undue hardship.

The government says that this amendment to the Criminal Code is necessary because the judiciary has chosen in many cases to ignore the current law and is far too lax in its application of the surcharge. During the committee hearings, the Minister of Justice and several other witnesses pointed to a seven-year-old study undertaken by the Department of Justice. It looked at the rates of imposition and collection of the victim surcharge in New Brunswick.

• (1510)

This study stated:

> . . . it appears that mere assertions of an inability to pay by offenders or perceptions by judges that the offender cannot pay are sufficient to prove undue hardship . . . .

The government's response to what it perceives to be a failing on the part of the judiciary to impose the surcharge in more cases is to remove its discretionary power to waive the surcharge in cases of undue hardship. I find this response to be more than just a little extreme. It is unfair, and I agree with Senator Baker, who said at committee:

> We cannot make the broad stroke saying the judges are just disobeying the law.

Senator Baker and Mr. Ian Carter, partner at Bayne Sellar Boxall, who represented the Canadian Bar Association at the hearings, provided insight into what actually happens during the

sentencing process. Senator Baker highlighted the heavy workload faced daily by judges. Mr. Carter, a practising lawyer, described what happens in Ottawa courtrooms, where he appears almost daily.

Honourable senators, this is what Mr. Carter described:

> In my experience, in most cases where it is waived, there is an explanation. Most judges give an explanation. Now, in many cases, it is brief. I am not going to pretend it is a long treatise. The reality is that in plea courts, you have 40 or 50 people waiting in line. They are overtaxed. If a trial collapses in another courtroom, another judge becomes available and tries to take some of that. Some clients would sit around all day and not get reached. There is a recognition that things have to move. There is what is in the Criminal Code and the procedures set out, and then there is the reality of how quickly it has to move once you are in court.

What seems ironic is that the government does not trust the judiciary's ability to distinguish between offenders who have the ability to pay the surcharge from those for whom the payment represents undue hardship, yet they are continuing to allow judges to increase the surcharge:

> . . . if the court believes it is appropriate and if they believe that the offender has the ability to pay. That is currently in the Criminal Code surcharge provisions, and this bill will not change that at all.

Those are the words of Ms. Arnott, one of the minister's officials.

Here is another interesting fact: Senator Joyal was able to determine in committee that while the onus of administering the funds that flow from the surcharge is on the provinces and territories, the removal of judicial discretion was not requested by them, nor was it their decision. This leads us to the issue of how much administrative costs will increase should Bill C-37 pass.

Honourable senators, I spoke at length at second reading about the serious problems associated with removing judicial discretion and by making the victim surcharge mandatory. It really comes down to this: The one-size-fits-all approach is, in reality, one size fits only some. It is fundamentally unfair to demand that vulnerable and marginalized offenders, some of whom are already victims themselves, pay a mandatory surcharge when they do not have the means to do so.

Ms. Jo-Anne Wemmers, a professor in the department of criminology at the University of Montreal, told the committee that if there was any chance that we might be victimizing the most vulnerable population, then perhaps we should explore other avenues.

What it all comes down to is whether or not Bill C-37 will be able to achieve its objectives. Will it actually benefit victims of crime? Will it increase offenders' accountability? Will it serve as a deterrent for offenders? Senator Dagenais told us that is the intent of the bill. No evidence was presented to support this in committee.

Will victims find comfort in knowing that surcharges have been paid into a fund? Honourable senators should understand that these surcharges do not go directly to the victims themselves.

Catherine Latimer of the John Howard Society told the committee that there are other programs, for example restorative justice programs, that have proven to be successful in making offenders more aware of how they have hurt their victims while also helping victims and leading to a reduction in recidivism. She contends that surcharges fail to make offenders more accountable because they are not linked to the degree of harm experienced by the victim.

The government claims that by making the victim surcharge mandatory and by doubling it, more money will flow into victims' services funds. However, there was considerable evidence presented at the hearings that calls into question how much money will in fact be generated by these new measures.

Senator Fraser asked the Minister of Justice whether he had a sense of how much money will be raised. The minister said, "I do not have a study on that . . ."

The uncertainty of the level of funding presents great difficulties for organizations that rely on the monies that flow from the surcharge. Ms. Wemmers, who has served in the victim support field in Quebec, attested to this fact, saying that it is difficult to manage victims' support services not knowing how much money will be available year to year.

Catherine Latimer agreed that there is a need for a reliable source of funds for victims' services. She said:

> . . . it is hard to believe that the imposition of a surcharge or a tax on a largely poor and marginalized group will produce the funds required. A serious costing of this regime needs to be done.

The committee also learned that while Bill C-37 will serve to make the surcharge mandatory, offenders will be able to proceed to a second hearing, where a judge will be able to waive payment if undue hardship is shown. At the end of the day, and after considerable effort and expense, the surcharge can be waived. Valuable court time will have been wasted. Additional costs will have been incurred and no money will be going into the victims' services fund. Yes, one has to wonder how the government expects to raise more monies from the surcharge by doubling it when the majority of offenders cannot afford to pay it at its current level.

Another change proposed in Bill C-37 will allow for an offender to make use of a Fine Option Program when direct payment of the surcharge is not possible. The problem here is that while the offender's debt would be satisfied, again no money would flow into the victim services fund.

Glen Abernethy, Minister of Justice for the Northwest Territories, stated in his written submission to the committee that "Increasing the victims' surcharge, making it mandatory and opening access to the Fine Option Program could lead to increased pressure on an already stressed program."

Honourable senators, I spoke earlier of the administrative costs related to Bill C-37. How much would they increase with these amendments to the Criminal Code? Senator Fraser did not receive a response from the Minister of Justice when she asked him whether there would be extra costs for the provinces and territories in administering what will be a compulsory, one-size-fits-all bill. There would, for example, be increased court costs because of the large number of offenders who would be unable to pay the surcharge and would have to go to a second hearing in order to have it waived.

• (1520)

It was pointed out in the committee's hearings that there is a finite pot of money that could be raised by imposing a surcharge, and if we are successful in reducing the number of victims of crimes in Canada, we will be reducing the size of that pot.

Ms. Wemmers, a professor at the University of Montreal, places the onus squarely on the shoulders of government to provide sufficient funding for victims' services. She told the committee that:

> . . . the government has a responsibility to ensure that it is systematic funding and not something dependent on the level of crime, which we hope will decrease rather than increase.

Ms. Wemmers also told the committee that the Netherlands supports some of the strongest victims' rights in the Western world. Senator Fraser asked her why they did not go with a surcharge, as they had initially intended. Ms. Wemmers' response is important:

> At the end of the day they felt that justice had a responsibility toward victims, not just a tax imposed on the offenders. The government as a state had a responsibility in terms of solidarity and recognition of justice's role toward victims and that it should be expressed in having victims as a line in the budget. You could develop long-term policy on that, look at the needs and then grow accordingly. At the end of the day, it was decided that it would be something incorporated within justice's budgets as a constant post.

Heidi Illingworth, Executive Director of the Canadian Resource Centre for Victims of Crime, agreed:

> Ultimately, I would love to see, as Professor Wemmers highlighted in regard to the Netherlands, our federal and provincial governments make victim services an important part of their justice budgets.

Honourable senators, I find Bill C-37 to be a flawed piece of legislation, which I cannot support. I believe there are better ways of helping victims of crime that would also respect the need for balance in our justice system.

**Hon. Mobina S. B. Jaffer:** Honourable senators, I rise to speak at third reading of Bill C-37, An Act to amend the Criminal Code.



This bill amends the Criminal Code to change the rules concerning mandatory surcharges. The purpose of the bill is to double victim surcharge amounts and to make them mandatory for all offenders convicted of a criminal offence.

The bill amends section 737(5) of the Criminal Code to eliminate judicial discretion; section 737(2) of the Code to increase the victim surcharge from 15 per cent to 30 per cent of a fine imposed by the court; section 737(2) of the Code to increase the victim surcharge from $50 to $100 for offences punishable by summary conviction; and section 737(2) of the Code to increase the victim surcharge from $100 to $200 for offences punishable by indictment if no fine is imposed by the court.

I want to share with you what Ian Carter, a lawyer who practises in Ottawa, told the Standing Senate Committee on Legal and Constitutional Affairs. Mr. Carter very eloquently described the impact that this bill will have on marginalized people. He said:

> I appear at the Ottawa courthouse at 161 Elgin Street on almost a daily basis. To highlight the [Canadian Bar Association's] position with respect to this proposed legislation, I thought I would offer two contrasting examples of what is good about the legislation and what we view as potentially problematic.

Mr. Carter continued:

> I have based these examples loosely on individuals I have encountered within the criminal justice system.
>
> First, take the example of an individual pleading guilty to an impaired driving charge. That is a common occurrence you will see in any court across this country on a daily basis. In this scenario, we will call him Richard. Richard is a bank manager and has never been in trouble with the law before. He is remorseful about his actions, willing to accept his punishment and move on with his life. He will come to guilty plea court in the basement of the Elgin Street courthouse and wait his turn to be sentenced, along with 30 or 40 other people either waiting in the gallery or in custody at the jail facilities at the court building also waiting their turn to be sentenced. The sentence has been agreed on in advance between Crown and defence lawyers, as is often the case. It will be a $1,200 fine and a 12-month driving prohibition.
>
> Since it is a joint position between counsel and there is a long list of people waiting to plead guilty and court resources are limited, very little information about Richard will be placed before the court. There is enough information there for the judge to know that Richard can pay the victim fine surcharge, so it will be ordered, albeit without much fanfare.
>
> Given the speed with which proceedings must move and the long queue of individuals waiting to plead guilty that day, Richard will have little understanding of what the victim surcharge is or where the money goes. It is the mere fact of his conviction, the larger fine and the driving prohibition that will have the biggest impact on his behaviour in the future.

> Nevertheless, Richard can afford to pay, and the money goes to a good cause. It will help victims, even if they are not directly involved in his case. That is why the CBA supports the victim crime surcharge in principle. In this scenario, it simply makes sense.

Honourable senators, here Mr. Carter paused, before continuing with his story. He stated:

> In contrast, a woman waits her turn at the back of the courtroom. We will call her Joanne. She will be pleading guilty to communicating for the purpose of prostitution, having been picked up in the most recent police sweep of the market. She is a young, Aboriginal woman raised in extreme poverty who has been subjected to repeated abuse at the hands of her father. She is missing her front teeth from when her father kicked her in the face while she was still a young girl. She sits with her two young children, four and two years old, at the back of the courtroom because she has no one to care for them when she comes to court. Her [children's] father is not in the picture. She has turned to prostitution to make ends meet. She cannot afford a lawyer and will not qualify for legal aid because she is not facing a jail sentence. Instead, she will be represented by an overworked duty counsel at the courthouse.
>
> The judge that morning is sympathetic. She will be giving her a conditional discharge so that she is not saddled with a criminal record for the rest of her life. This judge has seen hundreds if not thousands of Joannes over the span of her time on the bench. She knows, in her experience, that the mandatory fine will be onerous for Joanne. It will be punitive and unnecessary given the victimless nature of the crime. In fact, Joanne herself has been the victim of a crime many times before. The judge also knows that Joanne may turn to prostitution as a way to pay for it. In other such cases, she has waived the victim fine surcharge. Under the new legislation, she has no choice; it must be imposed.
>
> We need to be honest about this now-mandatory surcharge. It is a flat tax imposed on a member of society who is least able to pay for it. The resources that will now be deployed to collect the surcharge will far outweigh any benefit to be had from having made it in the first place. Joanne does not drive, so her licence cannot be removed, and there is no Fine Option Program here in Ontario. The only option to collect is the warrant of committal. Our finite judicial resources are wasted hauling Joanne before the courts yet again, only to have her demonstrate what was obvious at the time of her original sentencing, that she cannot pay the fine. She must do this in order to avoid going to jail. All of this could have been avoided if only the sentencing judge, aware of all of Joanne's circumstances, had had the discretion to waive the surcharge in the first place.
>
> The reality of our criminal justice system is that there are far more Joannes than there are Richards. It is for that reason that the CBA supports the victim fine surcharge but opposes making it mandatory in all cases irrespective of individual circumstances.

Honourable senators, I am very concerned by this mandatory surcharge. There are several reasons for my concern.

• (1530)

Reason number 1: It implements a one-size-fits-all approach, where everyone has to pay a monetary fine irrespective of their means. This disregards the sentencing principles in the Criminal Code and, more importantly, principles that we all have subscribed to as part of our criminal justice system: deterrence, separating, desisting, reparation and a sense of responsibility.

[*Translation*]

Reason number 2: warrant for the committal. The courts have clearly established that a warrant for the committal must not be issued in cases of failure to pay a fine, unless the offender refuses to pay the fine without reasonable excuse.

The Supreme Court of Canada, in *R. v. Wu* in 2003, has held that a genuine inability to pay is a reasonable excuse.

[*English*]

A person should not be sent to jail because they cannot pay a fine.

Reason number 3: Fine option programs do not exist in every province. Fine option programs allow a person who is unable to pay the mandatory surcharge to obtain the money they need to pay the surcharge. Unfortunately, fine option programs exist in only seven provinces.

[*Translation*]

Reason number 4: The bill removes judges' discretion, which is an essential safeguard in ensuring justice, because penalties are tailored to individual offenders and offences. It is wrong to remove judges' discretionary power.

[*English*]

This bill takes away from judges the right to consider undue hardship. That is just wrong.

Catherine Latimer of the John Howard Society of Canada stated:

> . . . removing the discretion of the judiciary to waive the surcharge where it would result in financial hardship . . . could really lead to harsh consequences for the poor, the mentally ill and the marginalized. While it might be possible to participate in fine option programs, they are not universally available and many people, owing to senility . . . or mental health issues, cannot complete or participate in fine option programs.
>
> I should also point out that if a judge is looking to impose a fine, the fundamental principles of justice suggest that they must look at the ability of the person to pay and the availability of fine option programs before they are able to

> impose a monetary penalty for the person; but the surcharge program circumvents those particular safeguards and allows fines to be imposed on people who the judge may know at first instance are unable to pay for those.
>
> The process would be that the fine would be imposed and the person, if they defaulted, would be subject to imprisonment. They would then need to reappear before a court and argue on the basis of a Supreme Court of Canada decision in *R. v. Wu* that it would be inappropriate for them to be imprisoned. This would take two appearances before crowded courts for the poor when one might have sufficed, and it subjects them to possible remand and custody.

Reason number 5: Clogging the court system. Ignoring undue hardship — which may prevent a person from being able to pay the fine — will then require that person to return to court for a warrant of committal, so that they can apply for a waiver of the fine. This added court hearing would not be needed if the judge were allowed to exercise her discretion in the first place and avoid further overcrowding of the courts. If mandatory surcharges are implemented, judges are forbidden from exercising their discretion.

Reason number 6: Bill C-37 does not comply with section 12 of the Canadian Charter of Rights and Freedoms. Section 12 of the Charter sets out the fundamental principle of justice, which requires that sentences are tailored to individual offenders and offences.

Senator Joyal stated in committee:

> We hear from the Department of Justice the same answer through the years, and bills continue to be challenged in court. Moreover, a person from your own department who was responsible for doing that kind of evaluation is in court to challenge the department on that very ground. . . . there is an expression in French that says we have to take it *avec des pincettes*, which means that we have to take it not necessarily for all the weight of its meaning. How can we be assured that those studies are conducted seriously and that we can satisfy ourselves as legislators that when you come forward with such a proposal, it accords with the levels of scrutiny that the Charter will impose upon it?

[*Translation*]

Reason number 7: The bill will continue to violate Section 12 of the Canadian Charter of Rights and Freedoms, because it will constitute cruel and unusual punishment. In his testimony, Mr. Carter said:

> If a claimant can prove, taking into consideration the particular circumstances of each case, that this constitutes cruel and unusual punishment in the sense that it exceeds what the individual could have originally expected to be sentenced to and creates very strict limitations or problems, in this case, yes, it could be considered a violation of section 12.

[*English*]

Reason number 8: The bill ignores the need for proportionality. The fundamental principle of sentencing in section 718.1 of the Criminal Code is that the sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender. If one removes the discretion of the judge and does not let him consider undue hardship, then the principle of proportionality will not be taken into account.

Catherine Latimer of the John Howard Society of Canada stated:

> The second major concern relates to the disproportionate nature of some of these penalties. A sentence is intended to reflect the proportionate penalty relative to the seriousness of the offence and the degree of responsibility of the offenders. Victim surcharges are regarded as additional penalties imposed on convicted offenders, and these add-on penalties may well make the initial penalty disproportionate to the seriousness of the offence. These fixed surcharges cannot be calibrated to the seriousness of the offence or the offender's ability to pay, and they will have a particularly harsh effect on the poor and marginalized.

[*Translation*]

Reason number 9: The bill will not make offenders any more accountable to victims. It does not promote programs like restorative justice. Catherine Latimer of the John Howard Society of Canada said:

> Many programs, like restorative justice, succeed in making offenders more aware of the impact of their crimes on victims, help victims and lead to a reduction of recidivism. It is unlikely that a surcharge, per say, will make the offender more accountable to his victim. The surcharges are not linked to the degree of harm experienced by the victim. In fact, they are applied in victimless crimes where the offender self-harms by the offence, such as through drug use.
>
> The failure to link the surcharge to the circumstances of the victim will not serve to make the offender more accountable to his or her victim. It could likely build cynicism, which is the opposite of the stated policy intent.

[*English*]

Reason number 10: This bill will not follow the *Gladue* principle, which the Supreme Court of Canada —

**The Hon. the Speaker:** The honourable senator's 15 minutes has expired. Is she asking for more time?

**Senator Jaffer:** May I have five more minutes?

**Hon. Senators:** Agreed.

**Senator Jaffer:** This bill will not follow the *Gladue* principle, which the Supreme Court of Canada has established must be taken into account when sentencing Aboriginal peoples. As Minister Nicholson stated, "This bill applies to all individuals convicted of a criminal offence committed in this country."

Honourable senators, last weekend, I met an amazing human being, Mr. William Sandhu. Mr. Sandhu has practised law in British Columbia for 30 years. He is a former judge and a member of the Kellogg College, University of Oxford. He has had a distinguished career in criminal trials, human rights and community leadership in British Columbia. He has worked in trial courts, predominantly in criminal law, including 11 years on the bench in the interior and northern regions of British Columbia. He shared his perspective on the impact that Bill C-37 would have on certain Aboriginal people in Canada. He wrote:

> Many of the persons who come before the criminal courts live with poverty, addiction or disabilities. This may include those with mental health needs, Fetal Alcohol Syndrome Disorder, and especially Aboriginal persons, who are disproportionately over-represented among Canada's prison and criminal justice population.

• (1540)

> Certain racial groups are also overrepresented in our criminal justice system.
>
> Bill C-37 only further compounds criminalization and the serious challenges facing these groups because they do not have the ability to pay the mandatory surcharge.
>
> Some provinces do not have Fine Option Programs.
>
> That generally only leaves the option of a warrant of committal.
>
> In remote and isolated communities, there may not be a court sitting for weeks or hundreds of kilometres away in a larger centre.
>
> Upon arrest for non-payment, a person may be held in custody for several days before they can appear before a judge and seek release on bail.

Mr. Sundhu continued:

> This type of situation is not only very expensive and bureaucratic . . . it can also create huge consequences for affected persons — disruption and ministry removal of children from single parents because their sole caregiver has been arrested, lost their home, lost their job, lost their ability to provide food derived from hunting and fishing for families.
>
> For example, if you are arrested on Haida Gwaii, the sheriff will fly from Prince Rupert on the mainland to collect the arrested person, fly the arrested person back to Prince Rupert and then transport them 800 kilometres, if they are denied bail or imprisoned, to Prince George where the nearest provincial jail is located.
>
> Upon release, the person must then make their way back to Prince Rupert and catch the ferry that departs back to Haida Gwaii twice a week.
>
> That person, often a woman, must make this trip back to her reserve via the "Highway of Tears" — where many Aboriginal women have gone missing over the years.
>
> Warrants of committal can and have profound consequences.
>
> "Trust us" does not resonate with Aboriginal Canadians and for good historical reason.
>
> Some criminal justice experts might also question the wisdom of Fine Option Programs.
>
> Such programs, even if available, may be too much for a person with mental illness or an aboriginal single parent struggling to keep his or her head above water — if they already struggle for example with disabilities, addiction, obtaining suitable shelter, illiteracy, language problems, counseling and treatment programs.
>
> For many such persons daily life is already a struggle.
>
> Perhaps, at its most basic the removal of judicial discretion to waive victim surcharges will force some persons to choose between food or fines — when it comes to survival for them or their families.
>
> Do their children eat or do they pay the mandatory surcharge to avoid further sanctions or arrest?
>
> For example, in British Columbia's north-west, on the Haida Gwaii, some Aboriginal persons must survive on monthly government income assistance of only $265 per month, after a modest housing allowance.
>
> Due to it being a series of islands and its geographic isolation, the cost of transport makes food very expensive.
>
> For example, a two-litre carton of orange juice retails at $7.59.
>
> Most persons survive by hunting and fishing.
>
> Poverty and lack of employment are very real problems.
>
> Forcing a single parent or two-person headed family living in poverty to pay a mandatory surcharge will force the family and children into hunger and even more desperate circumstances.
>
> The impact of this legislation on aboriginal, poor and vulnerable persons and families will create manifold problems and costs elsewhere.
>
> It will cause extreme hardship and it is unjust.
>
> Choices will come down to food or fine, a pair of boots for a child or a fine, and so forth. One hundred dollars may not [seem] like much, to some Canadians or legislators, but it means a great deal to a poor person or an Aboriginal parent on Haida Gwaii.

Honourable senators, Bill C-37 is not about seeking justice. It is about arbitrarily disbursing disproportionate punishments. Fairness and sameness are not interchangeable concepts. If we pass this bill, we are rejecting compassion, proportionality, restorative justice, common sense and fairness.

This bill is really wrong, and I ask that honourable senators vote against it.

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

**Some Hon. Senators:** Question.

**The Hon. the Speaker:** It was moved by the Honourable Senator Boisvenu, seconded by the Honourable Senator Meredith, that Bill C-37, an Act to amend the Criminal Code, be read a third time.

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

**Hon. Senators:** Agreed.

**Some Hon. Senators:** On division.

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

## CANADA NATIONAL PARKS ACT
## CANADA-NOVA SCOTIA OFFSHORE PETROLEUM RESOURCES ACCORD IMPLEMENTATION ACT
## CANADA SHIPPING ACT, 2001

### BILL TO AMEND—NINTH REPORT OF ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES COMMITTEE ADOPTED

The Senate proceeded to consideration of the ninth report of the Standing Senate Committee on Energy, the Environment and Natural Resources (Bill S-15, An Act to amend the Canada National Parks Act and the Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act and to make consequential amendments to the Canada Shipping Act, 2001, with an amendment), presented in the Senate on April 25, 2013.

**Hon. Donald Neil Plett** moved the adoption of the report.

He said: Honourable senators, it is my pleasure to speak to the ninth report of Standing Senate Committee on Energy, the Environment and Natural Resources. During its study of Bill S-15, an Act to amend the Canada National Parks Act and the Canada Nova Scotia Offshore Petroleum Resources Accord Implementation Act and to make consequential amendments to the Canada Shipping Act, 2001, the committee agreed to amend clause 13. I would like to provide a brief explanation of why this decision was taken.

As originally drafted, clause 13 of Bill S-15 proposed to amend subsection 4(1) of the Canada National Parks Act for two reasons: first, to correct the discrepancies between the English and French versions and, second, to address a concern raised by the Standing Joint Committee for the Scrutiny of Regulations.

During testimony before the committee, however, we heard that this change, despite its good intentions, could lead to potential misinterpretation. To remedy this situation, the sponsor of the bill, Senator MacDonald, presented an amendment that proposed much clearer wording while still accomplishing the two original goals.

The first part of the amendment restores the original English version of subsection 4(1) of the Canada National Parks Act and amends the French version to make it align with the English. In other words, the current English version of subsection 4(1) of the Canada National Parks Act remains as is, while the French is adjusted to match.

The second part of the amendment addresses in a more direct way the concerns raised by the Standing Joint Committee for the Scrutiny of Regulations. The standing joint committee has argued that the wording "subject to this act and the regulations" in subsection 4(1) of the act restricts the ability of the minister to set fees in national parks under the Parks Canada Agency Act. To address this issue squarely, the committee agreed to add a new subsection 4(1.1) to the Canada National Parks Act. This new subsection clarifies that the minister's authority for setting fees under the Parks Canada Agency Act will apply in national parks.

Honourable senators, I would like to take a moment to thank all who participated in our deliberations. I especially thank the members of the committee for their thoughtful consideration of the bill and for the spirit of cooperation that they bring to the table.

Given the widespread support the bill enjoys, I would like to request that we adopt the report now.

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

**Some Hon. Senators:** Question.

**The Hon. the Speaker:** It was moved by the Honourable Senator Neufeld, seconded by the Honourable Senator Martin, that this report be adopted.

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

**Hon. Senators:** Agreed.

(Motion agreed to and report adopted.)

**The Hon. the Speaker:** Honourable senators, we have adopted the report, which in effect was the adopting of an amendment. The bill has been amended by the report. Therefore, the bill is to be adopted at third reading as amended.

Therefore, the question I should put to the house is this: Honourable senators, when shall the bill, as amended, be read the third time? Will it be read now?

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

• (1550)

## CRIMINAL CODE

### BILL TO AMEND—THIRD READING—DEBATE ADJOURNED

**Hon. Donald Neil Plett** moved third reading of Bill C-309, An Act to amend the Criminal Code (concealment of identity).

He said: Honourable senators, it is my pleasure to rise today to speak to Bill C-309, which proposes to establish the preventing persons from concealing their identity during riots and unlawful assemblies act. The bill was introduced in the other place by my friend and Member of Parliament for Wild Rose, Alberta, Mr. Blake Richards.

As honourable senators know, this bill will amend sections 65 and 66 of the Criminal Code of Canada and will create two new Criminal Code offences. The first will make it an indictable offence to wear a mask or conceal one's identity during a riot without lawful excuse. The maximum penalty for this will be 10 years in prison. The second is a hybrid offence that will make it illegal to wear a mask or to conceal one's identity without lawful excuse while participating in an unlawful assembly. The maximum penalty for this will be five years in prison. On summary conviction, the maximum penalty would be six months in prison and/or a maximum fine of $5,000.

I had the privilege of sitting on the Standing Senate Committee on Legal and Constitutional Affairs while we studied Bill C-309. I would like to thank the Chair of the Legal Committee, Senator Bob Runciman, and all members on both sides for their cooperation and interest in this important proposed legislation.

At committee, we heard from legal professionals, chiefs of police and business owners whose businesses had suffered as a result of rioting in their respective cities.

Honourable senators, I could not help but notice that it was the defence attorneys who were particularly critical of this bill, including some who had defended Toronto's G20 rioters in court. However, all representatives of law enforcement that we heard from were strongly supportive. Police chiefs in the major cities of Calgary, Toronto, Vancouver and Victoria all expressed their support for the measures in this bill and their hope that it will pass into law.

Let me address some of the criticisms that we heard while the bill was before the committee.

The most common misconception was that the bill was unnecessary and redundant. The argument was that, because it is an indictable offence to participate in a riot and section 351(2) penalizes disguise with intent to commit an indictable offence, what Bill C-309 seeks to accomplish is already covered. However, as police stated, it is nearly impossible to use the existing law to charge rioters as it was written specifically for property offences such as armed robbery.

Additionally, this proposed legislation fills a gap in the existing Criminal Code when it comes to unlawful assemblies. Currently, it is an indictable offence to engage in a riot, but only a summary conviction to participate in an unlawful assembly. An unlawful assembly is much broader and applies to any group of three or more people who provoke fear or have intentions of disturbing the peace tumultuously. The Criminal Code prohibits the concealment of identity while committing an indictable offence.

Honourable senators, the gap that this bill fills is clear. Currently, the police have no power to arrest individuals taking part in an unlawful assembly while concealing their identity. It gives the police no power to deal pre-emptively with people who conceal their identities while a situation is unfolding.

I was pleased to see honourable senators opposite, Senator Baker and Senator Joyal, acknowledge that the bill is not redundant as they pointed out the ability of police to make arrests pre-emptively under this proposed legislation.

Bill C-309 will give police proactive rather than reactive powers to deal with riots and unlawful assemblies. The ability to demand individuals in a riot to unmask and to detain and charge them if they do not unmask will allow police to remove masked individuals from the scene and prevent them from instigating criminal acts or engaging in them. It will also enable police to more quickly and efficiently identify rioters to pursue charges against them if these individuals are prevented by law from covering their faces.

Honourable senators, deterrence is the main objective of this bill. Those who are unable to conceal their identities are less likely to engage in public criminality for fear of a greater likelihood of being identified and subjected to prosecution. As we saw with the Vancouver riots, police documented 15,000 criminal acts but have been able to lay very few charges because they could not identify the people involved.

Mr. Jim Chu, Chief Constable, Vancouver Police Department, told the committee that, had this law been in place during the Stanley Cup riots, without question they would have been able to make more arrests and lay more charges. Chief Chu told the committee:

> . . . through the video evidence we had about 80 people who wore face coverings during part of the event. Later on, we caught them without the face covering. Through our investigative techniques, we were able to satisfy ourselves that those were the people in both the situations.

If this law had been this place, some of the devastating damage caused by the Black Bloc in Vancouver could have been prevented if the police had been able to make arrests on opening night while the masked rioters were trying to provoke and incite violence.

Chief Chu also said:

> If I were to replay that movie in my mind, one tool we could have used was to say it was an unlawful assembly, you are now masked during an unlawful assembly and we believe on reasonable and probable grounds you are going to commit

> the offence of unlawful assembly so we are going to arrest you before y4ou smash the windows and before you attack passersby in downtown Vancouver.

Another criticism we heard in the committee was that this proposed legislation would have a chilling effect on legitimate and peaceful protesters for fear that they would be targeted by overzealous police officers. One witness from the Canadian Civil Liberties Association even went so far as to imply that creating a chilling effect was the motivation for the government in introducing this proposed legislation. This argument, honourable senators, is hogwash.

Honourable senators, this proposed legislation was created with peaceful protesters in mind. We believe that this bill will encourage legitimate protest. This provision will protect peaceful protesters from the dangerous rioters who continue to exhibit violent behaviour. Personally knowing that law enforcement officials have the tools in their hands to keep the assembly safe and act pre-emptively, I would be encouraged, as a peaceful protester, to get involved.

With regard to the claim that lawful protesters wearing masks would be targeted by overzealous police, it is unreasonable to think that police, in the emergency situation of a riot, would focus their limited resources on peaceful protesters. Chief Chu pointed out that the police do not take issue with legitimate protesters in lawful protests, but rather with the criminals who hijack or specifically use protests as a guise to commit criminal acts.

Another criticism brought forward at committee was that this bill will somehow curtail freedom of expression. This proposed legislation has a specific exemption for those who have a lawful excuse for wearing face coverings, for example, religious or medical reasons. Furthermore, as I stated at second reading, the main reason masks and disguises are worn during a riot or unlawful assembly is for the purpose of concealing one's identity while committing a crime or conducting intimidation.

• (1600)

As my colleague Senator Vernon White, former chief of police in Ottawa, pointed out:

> . . . here in Ottawa we have hundreds of protests and demonstrations every year. In the five years I was here as chief, I do not recall one person who wore a mask while protesting for legitimate reasons — not one.

These are not honest protesters looking to exercise their democratic freedoms, but rather criminals looking to incite chaos.

Honourable senators, there are two elements of the law. There is the creation of laws which we, as parliamentarians, are responsible for. More important, we need to be mindful of the application of the law. If the legislation in place does not allow law enforcement officials to properly fulfill their duties, they have an obligation to act accordingly. It is our responsibility, and I am sure all honourable senators would agree, to give our police officers the tools they need to keep our streets safe and to prevent unnecessary damage and violence from occurring, as we have seen in Toronto and in Vancouver.

Honourable senators, I will end with a quote from our colleague Mr. Blake Richards, who first introduced this bill in the other place on October 3, 2011:

> The masked criminals who worked the riots arrive at the scene well prepared. They are armed. They are motivated. We equip and train our police to enforce our laws and to keep our streets safe, yet we know that one key tool is missing from their tool kit, a tool that would help police prevent, de-escalate and control riots, a tool that would spell the difference between legal, orderly expression and total destruction of a neighbourhood, a tool that would protect our nation's citizens, emergency service workers, private businesses and public property, a tool that would protect lawful demonstrators' ability to voice their beliefs, a tool that would prevent violence on Canadian streets.

Honourable senators, let us give our police that tool. Let us do it now. Let us do it today.

**Hon. Roméo Antonius Dallaire:** Will the Honourable Senator Plett accept a question?

**Senator Plett:** Certainly, yes.

**Senator Dallaire:** I was not in attendance at the committee and I wish only for information, if I may. What was the analysis done with regard to gas masks carried by potentially non-violent protesters who want to protect themselves, in case the situation gets out of hand and they wish to protect themselves against the use of this tool that the police may use in a protest?

**Senator Plett:** The answer from Chief Chu was that once it is an unlawful demonstration you leave the area.

**Senator Dallaire:** The honourable senator is not telling me I am a dummy here, because I have been in the midst of these things before, on the good side maybe, and I have seen large-scale protests and the difficulty people have getting out of a place which may be cordoned off. There are a lot of people who could end up in a difficult scenario.

It is one thing for the bad guys to be wearing gas masks, but the people who are protesting and concerned about maybe an excess use of force and that gas may be used, or that even the bad guys want to use it themselves to create havoc, will they be subject to potential arrest because they are wearing that system?

**Senator Plett:** Again, senator, as I said, clearly, once the police declare an unlawful assembly you are required, if you are concealing your identity, to either uncover that mask or leave the area. I will use a personal illustration, if I could.

My son and his wife happened to be at the Montreal demonstrations last year because they were in Montreal for the Grand Prix. They went into this assembly. When the gas started

flowing, they got out of there. They were not wearing masks, but they got out of there. You can get out; they did.

(On motion of Senator Jaffer, debate adjourned.)

## RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

### SEVENTH REPORT OF COMMITTEE—ORDER STANDS

On the Order:

> Resuming debate on the motion of the Honourable Senator Smith, P.C. (Cobourg), seconded by the Honourable Senator Comeau, for the adoption of the seventh 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 March 19, 2013.

**Hon. David P. Smith:** Honourable senators, I have a question on house business for Senator Carignan. In my capacity as both a member and as chair of the Rules Committee, which adopted this report unanimously with the support of all senators from both sides, without any partisan perspectives and the approval of the leadership of both sides, when does the honourable senator intend to deal with this report, which is being held in his name? If anyone wishes to speak to it or vote against it that is no problem, but when does he propose to deal with this report on which we spent countless hours and agreed to unanimously? Can we deal with it before it withers on the vine come prorogation?

[*Translation*]

**Hon. Claude Carignan (Deputy Leader of the Government):** Soon, honourable senators.

(Order stands.)

[*English*]

### SIXTH REPORT OF COMMITTEE—ORDER STANDS

On the Order:

> Resuming debate on the motion of the Honourable Senator Smith, P.C. (Cobourg), seconded by the Honourable Senator Comeau, for the adoption of the sixth 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 March 6, 2013.

**Hon. David P. Smith:** Honourable senators, on a question of house business, this is again another report adopted unanimously by the Rules Committee. Senator Carignan has been holding it in his name and, again, we are concerned over the countless hours we spent if it just withers on the vine.

• (1610)

Can the honourable senator tell us when he intends to deal with this report, which was approved with no partisan perspective?

[*Translation*]

**Hon. Claude Carignan (Deputy Leader of the Government):** When I am ready.

(Order stands.)

[*English*]

### FIFTH REPORT OF COMMITTEE—ORDER STANDS

On the Order:

> Resuming debate on the motion of the Honourable Senator Smith, P.C. (Cobourg), seconded by the Honourable Senator Fraser, for the adoption of the fifth report of the Standing Committee on Rules, Procedures and the Rights of Parliament (Amendment to the *Rules of the Senate*), presented in the Senate on March 5, 2013.

**Hon. David P. Smith:** Honourable senators, once again, as Chair of the Standing Committee on Rules, Procedures and the Rights of Parliament, I know that this is another report that we spent countless hours on, in good faith, with no partisanship, 100 per cent support on both sides and the approval of the leadership of both sides. Can the honourable senator tell us when he is prepared to deal with this?

[*Translation*]

**Hon. Claude Carignan (Deputy Leader of the Government):** Soon.

(Order stands.)

[*English*]

### MOTION TO AUTHORIZE COMMITTEE TO STUDY CASE OF PRIVILEGE RELATING TO THE ACTIONS OF THE PARLIAMENTARY BUDGET OFFICER— MOTION TO REFER TO COMMITTEE OF THE WHOLE—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion, as amended, of the Honourable Senator Cools, seconded by the Honourable Senator Comeau:
>
> That this case of privilege, relating to the actions of the Parliamentary Budget Officer, be referred to the Standing Committee on Rules, Procedures and the Rights of Parliament for consideration, in particular with respect to the consequences for the Senate, for the Senate Speaker, for the Parliament of Canada and for the country's international relations;

> And on the motion of the Honourable Senator Tardif, seconded by the Honourable Senator Cowan, that the question be referred to a Committee of the Whole for consideration.

**Hon. Anne C. Cools:** Honourable senators, I rise to speak to Senator Tardif's alleged amendment. I speak in opposition to this on substantive, moral and parliamentary grounds. I shall state them.

Honourable senators, this motion pretends to amend my February 28 motion, a rule 13-7 urgent question of privilege. On March 19, speaking to my interrupted Point of Order, the opposition deputy leader first claimed that her March 7 motion was an amendment. She said:

> There may be no precedent for such a motion, but there is no prohibition against moving any such motion.

She is correct that there is no precedent but incorrect that there is no prohibition. Her motion is prohibited by the Lex, called the Law of Parliament.

Honourable senators, I would like to thank the His Honour the Speaker, Senator Kinsella, for his analysis delivered April 16:

> Trusting that this analysis has been helpful to the chamber, debate can continue on the motion.

It was helpful. I thank him for his fitting reluctance and refusal to arrest this debate. Our Speaker, constitutionally different from the Commons Speaker, has few powers over debates and proceedings. He embodies the queen's presence here, the Royal house, the house of the Parliaments. One of my objections to the former Parliamentary Budget Officer, Mr. Page's, actions was his subjection of the Senate Speaker, the fourth highest office in Canada, to the Federal Court. Most senators understand the gravity of this challenge to the Speaker's office, to the Senate, to Parliament and to our Constitution.

Honourable senators, in his April 16 ruling, Speaker Kinsella said:

> . . . "In situations where the analysis is ambiguous, several Senate Speakers have expressed a preference for presuming a matter to be in order, unless and until the contrary position is established. This bias in favour of allowing debate, except where a matter is clearly out of order, is fundamental. . . ." Senator Tardif has outlined how her motion can be seen as fitting into the general framework of the Rules. As such, there is a reasonable basis to allow debate to continue, so that the Senate itself can decide how best to proceed.

Continued debate is desirable where there is a lack of clarity. Unlike in the Commons, senators, not our Speaker, have charge of our proceedings. I thank His Honour again for upholding this ancient and abiding principle. In declining to rule this motion out of order, he has invited senators to debate and resolve the problem presented by it. I thank him for noting my willingness to withdraw my objection to her alleged amendment if it were proven or ruled that it is an amendment. Neither is the case. My objections stand, therefore.

Honourable senators, I note that, when the opposition deputy leader moved it on March 7, neither she, nor anyone else, called it an amendment. Given the rules against coexisting motions before the house, I later checked the record and double-checked the exceptions to the rule. My doubts confirmed, I raised a Point of Order at the next sitting, March 19. In her prepared response to my truncated Point of Order, the deputy leader claimed that her motion was an amendment, a confounding claim, contrary to her previous remarks.

Honourable senators, Beauchesne's Rules & Forms of the House of Commons of Canada, 6th edition, paragraph 569.(1), page 175, informs us that:

> A motion may be amended by: (a) leaving out certain words, (b) leaving out certain words in order to insert other words, (c) inserting or adding other words.

Amendments are unmistakably clear, honourable senators, with no doubt, and easily identified by their motion form. A motion to amend clearly advises the house of the sponsor's intent to amend. It begins with the sponsor's statement in the well-known words "I move that the motion be amended by," followed by the precise deletions and additions proposed. The house must debate and vote solely on the amendment, which corrects the main motion to include its additions and deletions. If voted on and accepted, the proposed additions and deletions are joined and merged into the main motion. I note that the main motion must be in the exact words that will be the house order on adoption of the main motion. This alleged amendment, by its nature, is not an amendment at all. It neither adds words to nor deletes words from the main motion. It can never merge into and become part of the main motion, the future house order. In fact, it ousts and replaces the 13-7 main motion. Her motion is not an amending motion, as she now claims. Though permitted without notice, it is a parasitic motion that takes possession of the main motion, making it non-viable. On March 7, she said:

> . . . honourable senators, pursuant to rules 5-7(b) and 6-8(b), I move: That this motion be not now adopted but that it be referred to a Committee of the Whole for consideration.

Honourable senators, no amending motion begins with the words "that the motion be not now adopted." Amendments cannot negative the main motion then resurrect it immediately for referral to a new committee. Her separate motion cannot be transformed into an amendment by her claim, made days later, on March 19. Her motion now is exactly as she moved it then, a separate motion with no amending power. No separate motion, as moved, can be later transformed into an amendment by words or whims. Honourable senators, in this place, we do parliamentary process; we do not do parliamentary voodoo. Things are not simply transformed by claims.

Honourable senators, it is well-established law that motions to commit, that is, referrals to committee, are separate motions, not amendments. In nature and form, motions to refer to committees

are not amending motions capable of merging with the main motion. On this, Arthur Beauchesne, in his fourth edition, informs us:

> It is not an amendment to a motion to move that the question go to a Committee.

I want to repeat that:

> It is not an amendment to a motion to move that the question go to a Committee.

These words were stated on March 26, 1926, in the Commons, by Arthur Meighen, a great parliamentary authority. His exact words were:

> It is not an amendment to a motion to move that the motion go to a committee.

It is crystal clear. That day, the Commons Speaker had ruled a member's proposed amendment out of order because a motion to refer to a committee is not an amendment. This is well-established law. This is recorded in Beauchesne's sixth edition, at paragraph 576 under *Inadmissible Amendments*. Motions that commit or recommit things to committees are not amendments. They are separate motions called subsidiary motions.

Honourable senators, rules 5-7(b) and 6-8(b), on which the Deputy Leader of the Opposition based her motion, are for subsidiary motions. Although now reinvented as an amendment, her initial March 7 motion was an improper application of a subsidiary motion. This motion type is defined in the *House of Commons Procedure and Practice*, by O'Brien and Bosc, at page 532.

• (1620)

> Subsidiary motions . . . are procedural in nature; each is dependent on an existing order of the House ,and is used to move forward a question then before the House. For example, motions for the second and third readings of bills, and motions to commit (i.e., to refer a matter to a Committee of the Whole or to another committee) are subsidiary motions which are debatable . . . . Like privileged motions, they may be moved without notice.

Keep in mind, honourable senators, the term subsidiary motions.

Honourable senators, we use subsidiary motions here several times a day, to move bills through their several stages of proceedings. This alleged amendment is the subsidiary motion used mostly to commit bills immediately after second reading vote or to recommit before third reading. This motion type is moved only after the adoption of second reading of the bill. Then and only then the Speaker asks, "when shall this bill be read the third time?" The sponsor responds, "that the bill be not now read the third time" but that it be referred to committee. An alternative phrase is, "that the bill be not now adopted" a third time but that it be referred to committee. This separate subsidiary motion, moved after second reading completion, is used only at that very point in the bill's progress through its many stages. I stress: It is the bill that moves through multiple stages, not the motion. I want to make that clear. It is very misunderstood. It is the bill that moves through multiple stages, not the main motion. The bill is referred to committee, not the motion for third reading, as the Deputy Leader of the Opposition has claimed. Subsidiary motions are reserved for multi-stage proceedings that require many motions, mostly bills. We used them for reports as well. Remember, multi-stage proceedings need days-long intervals between stages and could never be used to treat urgent questions of privilege. My rule 13 motion is a single-stage proceeding, so ordered by rule 13-7(1).

Honourable senators, the Deputy Leader of the Opposition is familiar with subsidiary motions. She moved one on March 22, 2011, on Bill C-232, about bilingual judges. Immediately after the vote on the motion for its second reading, the Speaker asked "when shall this bill be read the third time?" *Journals of the Senate* at page 1356 records:

> The Honourable Senator Tardif moved, . . . that the bill be referred to the Standing Senate Committee on Legal and Constitutional Affairs.

Clearly, it was the bill that she referred to committee, not the main motion for third reading. Her motion was no amendment then but a separate subsidiary motion moved without notice. Just as she could not then convert her motion to an amending motion, she cannot now convert this motion now before us to an amending motion. As I say, it is not voodoo. Her current alleged amendment is an improper application of a subsidiary motion to the rule 13 motion moved by myself for urgent questions of privilege. She is attempting to convert a rule 13 single-stage proceeding to a multi-stage one, to add an unauthorized stage to this urgent rule 13-7(1) proceeding, obviously for purposes of delay. If her motion now before us is an amendment, then rule 13-7(1) would be rendered useless, a mockery and a dead rule, made so by its very champions because such a so-called amendment will make rule 13 unworkable since all senators could move similar and identical motions forever. It would be unworkable. It is so obvious. I do not see how it could ever have become so muddied and unclear.

Honourable senators, on March 19, the Deputy Leader of the Opposition, to support her new claim, cited a case of what she thought was an amendment motion. She said:

> On June 15, 1998, Bill C-6 was being debated at third reading. Senator Kinsella moved an amendment that the bill be not now read a third time but that it be referred to a Committee of the Whole for further consideration. No objection was raised to Senator Kinsella's motion because it was in order to refer the question thus before the Senate, which was third reading of Bill C-6, to a Committee of the Whole for further consideration.

Honourable senators, Senator Kinsella did not refer the main motion for third reading to committee. He referred the bill to a committee. The Honourable Deputy Leader of the Opposition does not grasp the difference. He referred the bill. This difference is crucial. I shall quote Senator Kinsella. He said:

> I move that Bill C-6 . . . , be not now read the third time but that it be referred to a Committee of the Whole for further consideration.

I repeat: He referred the bill, not the main motion, to committee. He never used the word "amend," nor did he add or delete words, nor did his proposal merge with the main motion for third reading of Bill C-6. Not an amendment, his was a subsidiary motion to commit or recommit bills without notice. We use them every day. When adopted as amended, Senator Kinsella's proposal did not merge with the main motion for third reading. Senator Kinsella's motion and the Deputy Leader of the Opposition's motion are identical in form; however, hers is not a proper application of a subsidiary motion while his was.

Honourable senators, the Deputy Leader of the Opposition has made it clear that had she wanted to amend my motion she could have done so by rule 13 without resorting to any other rules. Instead, she stepped outside of rule 13 to move her motion by rules 5-7(b) and 6-8(b).

**The Hon. the Speaker:** I regret to inform honourable senators that Senator Cools' time has expired.

**Senator Cools:** May I have leave to continue, please?

**The Hon. the Speaker:** Is leave granted?

**Hon. Claudette Tardif (Deputy Leader of the Opposition):** As the time for debate on this motion is limited to three hours, Your Honour, I would accept that Senator Cools be given five minutes more if we accept to extend the three-hour limit to three hours and five minutes.

**Some Hon. Senators:** Agreed.

**The Hon. the Speaker:** I take it that unanimous consent is not given for an additional five minutes? It is either granted or not granted. Is there unanimous consent for Senator Cools to have five more minutes?

**Senator Tardif:** No.

**Some Hon. Senators:** Agreed.

**Senator Tardif:** Your Honour, I said that I would give consent for the five minutes extra if consent could be given to extend the time for debate to three hours and five minutes.

**The Hon. the Speaker:** That would require a change of the rules.

**Senator Tardif:** Then no, I do not give consent.

**The Hon. the Speaker:** Continuing debate.

**Hon. Gerald J. Comeau:** I had wanted to move adjournment on this item, if I could.

**Hon. Wilfred P. Moore:** I had risen before Senator Comeau.

**Senator Cools:** This is not very parliamentary.

**The Hon. the Speaker:** Honourable senators, at this point, Senator Cools has exhausted her 15 minutes. Unanimous consent has not been granted for an extra five minutes. We usually go back and forth. I have indication from both sides they wish to move the adjournment, and I think I will follow tradition and move to this side having Senator Comeau moving the adjournment of the debate.

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

**Hon. Senators:** Agreed.

(On motion of Senator Comeau, debate adjourned.)

• (1630)

## LITERACY

### INQUIRY—ORDER STANDS

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Callbeck, calling the attention of the Senate to the importance of literacy, given that more than ever Canada requires increased knowledge and skills in order to maintain its global competitiveness and to increase its ability to respond to changing labour markets.

**Hon. Catherine S. Callbeck:** Honourable senators, this item stands in the name of Senator Lang. I have spoken with him and he does not wish to speak on this inquiry. I introduced the inquiry, and if no one else wants to speak on it, I would like to adjourn it in my name for the remainder of my time.

**The Hon. the Speaker:** Honourable senators, if Senator Callbeck takes the adjournment of the debate, the Speaker is obliged to advise the house that obviously constitutes the last speech, and as she is the proponent of the inquiry it will have the effect of concluding the debate. Perhaps what I should do is ask whether any other senator wishes to speak to this inquiry.

[*Translation*]

**Hon. Claude Carignan (Deputy Leader of the Government):** Honourable senators, I must check with Senator Lang because it seems to me that he might like to speak to this issue. As well, since this motion is at day 14, I wish to move the adjournment in his name.

(Order stands.)

[*English*]

## BANKING, TRADE AND COMMERCE

### MOTION TO AUTHORIZE COMMITTEE TO STUDY THE ABILITY OF INDIVIDUALS TO ESTABLISH A REGISTERED DISABILITY SAVINGS PLAN—DEBATE ADJOURNED

**Hon. Irving Gerstein,** pursuant to notice of April 25, 2013, moved:

> That the Standing Senate Committee on Banking, Trade and Commerce be authorized to examine and report on the ability of individuals to establish a registered disability

savings plan (RDSP), with particular emphasis on legal representation and the ability of individuals to enter into a contract; and

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

He said: Honourable senators, I rise today to seek the Senate's approval to undertake a study on the implementation of Registered Disability Savings Plans, in particular, issues dealing with legal representation and the ability of individuals to enter into contracts. Introduced in Budget 2007, RDSPs are tax-assisted savings vehicles to assist in ensuring the long-term financial security of Canadians with disabilities. Similar to RRSPs, Registered Disability Savings Plans permit family members and guardians to contribute funds tax free if the contributor has the consent of the beneficiary.

What is at issue, and the reason for this study, is the ability of a mentally disabled individual to give the required consent. Unfortunately, a majority of the provinces have not updated their relevant contract laws. In some instances, mentally disabled individuals have to be declared legally incompetent, which can be a long and expensive process, before family members or guardians can establish an RDSP.

At the request of the Minister of Finance, the Banking Committee unanimously agreed to study the issue. The committee intends to hear from the Department of Finance, disability advocacy groups, plan managers and provincial and territorial governments.

**Hon. Serge Joyal:** Would the honourable senator accept a question?

**Senator Gerstein:** Yes.

**Senator Joyal:** I read in the motion that the committee intends to report on June 30, 2013, which is two months from today. Is that enough time to be able to conclude with a report after all the witnesses you have mentioned you would like to hear?

**Senator Gerstein:** Yes, it is the feeling of the committee that we will be able to have a review and report at that time.

(On motion of Senator Tardif, debate adjourned.)

## YOUTH UNEMPLOYMENT

### INQUIRY—DEBATE ADJOURNED

**Hon. Catherine S. Callbeck** rose pursuant to notice of March 5, 2013:

That she will call the attention of the Senate to the need to address the high rate of youth unemployment in Canada which has remained consistently high for more than two years.

She said: Honourable senators, during the last recession, nearly half a million Canadians lost their jobs, our unemployment rates rose to a level unseen in about two decades, the country's economy suffered and unemployed Canadians struggled to make ends meet. The national unemployment rate reached a high of 8.7 per cent, rising more than 2.5 per cent in just one year, but fortunately for many the unemployment rate has declined somewhat.

However, for some, namely young people, the road to recovery has been especially rocky. Unemployment among those aged 15 to 24 years old has remained consistently at about 14 per cent for the last two years, twice the national average.

On March 6, the C.D. Howe Institute released a new E-Brief report on skills and the labour market, which stated:

Younger Canadians suffer disproportionately from the impacts of recessions, with those in the 15- to 24-year-old age group historically bearing the brunt of increases in unemployment rates.

This is why I have introduced this inquiry. The federal government needs to address the high rate of youth unemployment in Canada. There are significant consequences both to our national economy and to the personal prospects of a generation of Canadians. The lack of jobs is costing them and our country now, and it will continue to do so well into the future.

In January, TD Economics released a new report that assessed the long-term costs of youth unemployment. The report estimated that it will take three more years to recoup all the jobs for young people that were lost since the recession began. Over those three years, our GDP will be reduced by 0.6 per cent as a direct result of the increase in youth unemployment. To put it in dollar terms, youth unemployment will cost the country nearly $11 billion in lost wages over the next three years.

The impact goes further. The TD report explains:

Being unemployed at a young age can have a long-lasting impact on an individual's career prospects. Economic research indicates that a period of unemployment at the time of entry into the labor market is associated with persistently lower wages many years thereafter.

It is hard to believe, but this impact can last for quite some time. As such, TD has also estimated the loss over the next 18 years: The GDP will be reduced by another 0.7 per cent, or an additional $13 billion.

The chronically high youth unemployment rate has caused many to turn to unpaid internships — young people working for free in the hope of gaining experience and getting their foot in the door. These can be helpful to young people to broaden their resumés, but also to the employers, including businesses and non-profit organizations. Unfortunately, in situations where young people are desperate to find a job — any job — the potential for

abuse increases. Not only can the intern be negatively affected, but the increased use of unpaid interns can replace paid jobs, the very jobs that many young people are looking for.

In her column on March 11, Carol Goar of the *Toronto Star* said:

> In the past five years, unpaid internships have undercut temporary work, casual work and part-time work to set a new low in the Canadian labour market.

There are currently no statistics on interns, according to the Canadian Intern Association. This advocacy organization, run entirely by volunteers, is a means to prevent the exploitation of young people, as well as to improve the relationship between interns and employers. Until it was set up last May, there was no voice for Canadian interns.

It is disturbing in this day and age that there is a lack of clarity in provincial legislation to govern the use and treatment of interns. The employment standards legislation in many provinces defines an employee as someone who is paid, so unpaid interns would not qualify.

• (1640)

However, things are changing. On March 11, the Province of Ontario clarified how the Employment Standards Act in that province does apply to interns. Interns are considered employees under the ESA and are therefore entitled to the minimum wage.

There are exceptions, such as when a person is receiving training, but these must meet very specific guidelines. For example, the training must be similar to that which is given in a vocational school and the employer must receive little, if any, benefit from the activity of the intern while he or she is being trained.

I am glad to see clarifications like this and I hope other provinces, where there is uncertainty about the treatment of unpaid interns, follow suit.

The federal government has said many times that it has taken action to address the issue of youth unemployment, but clearly those initiatives are not working, because the unemployment rate for youth has remained constant at 14 per cent for more than two years. A number of possible solutions for youth unemployment have been put forward in recent months, and I believe that the government must consider them all in order to get more young people working. Let me mention three of them.

Education and training are ways to make this happen. A recent editorial in one of Prince Edward Island's daily newspapers, the *Journal-Pioneer*, said:

> Anything to encourage training and education will increase the chances of landing that all-important first job. That's likely to improve the situation for young Canadians much more than EI changes ever could.

The TD Economics report I mentioned earlier called on the government to create more policies that focus on training and that make it easier for youth to pursue educational opportunities. The C.D. Howe report recommended that education and skills training should remain a key priority for the federal and provincial governments, with particular emphasis on youth and long-term employment.

The Standing Senate Committee on Social Affairs, Science and Technology also put forward 22 recommendations that would help eliminate the barriers that keep young people from pursuing post-secondary education in the first place. The committee's report, which was released in December 2011, contained a number of recommendations that would directly assist our labour market, such as a strategy to promote technical training in the trades, developing tools to create jobs for apprentices and qualified journeypersons, and creating a national strategy for post-secondary education.

I am sad to say that the government did not address any of these recommendations in its response to the committee's report and did not indicate any intention to implement any of them. I urge the government to reconsider these recommendations in light of the hundreds of thousands of young Canadians currently looking for work.

The issue of labour mobility is also mentioned repeatedly. Individuals in the regulated professions and skilled trades, which make up about 11 per cent of the workforce, are not always able to move from province to province because their credentials may not be transferable. Both TD Economics and the C.D. Howe report advocate that labour mobility must be improved to address youth unemployment. The C.D. Howe report also proposes the federal government take a leadership role in encouraging professional bodies to mutual recognition of certifications.

While we know that professional bodies are under the jurisdiction of provincial governments, there is no reason why the federal government cannot take a coordinating role. The federal government has actually already waded into the pool of credential recognition with its Foreign Credentials Referral Office. Why should it not do the same for young people trying to enter the labour market?

The government has long been touting its hiring tax credit as a bid to increase employment. It could easily encourage employers to hire young Canadians through a hiring tax credit dedicated to youth.

The Canada Summer Jobs program could be expanded to ensure that employers willing to hire youth are better able to do so. This program provides funding to help create summer job opportunities for students between the ages of 15 and 30. It is designed to focus on local priorities and creates benefits for students, employers and their communities. However, the current program allows for the hiring of just 37,000 students across the country — a fraction of the nearly 1.8 million post-secondary students in Canada, not to mention the 1 million more high school students.

There are benefits for both the employer and the students with this program. The employer gains a valuable employee. The student earns an income to help pay tuition and gains valuable work experience that will allow them to succeed after graduation.

These are just a few of the ideas that could help address Canada's persistent high rate of youth unemployment. I would welcome hearing ideas from other honourable senators.

Honourable senators, we must recognize the importance of an increased participation of young Canadians in our workforce to the whole country's economic and societal goals. This is a problem that needs correction immediately.

A recent article by *Maclean's* magazine called young people "the new underclass," and many Canadian youth wonder if they will ever get ahead. What will be the impact on our communities, our social programs and our country's long-term success if we have many in a whole generation who are left out of the labour force?

Ensuring that young people have jobs is essential to the success of our nation. Even if we recoup the jobs lost since the recession, we will still have a long way to go to bring youth unemployment rates in line with those of older workers. However, by addressing chronic youth unemployment here and now, we will increase our chances for success. We must work together to make that happen — all levels of government and the private sector — and develop and implement positive solutions that will benefit all of us.

(On motion of Senator Bellemare, debate adjourned.)

(The Senate adjourned until Wednesday, May 1, 2013, at 1:30 p.m.)

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