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OFFICIAL REPORT
(HANSARD)

Wednesday, June 19, 2013

The Honourable NOËL A. KINSELLA
Speaker

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

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THE SENATE

Wednesday, June 19, 2013

The Senate met at 1:30 p.m., the Speaker in the chair.

Prayers.

[Translation]

ROYAL ASSENT

NOTICE

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

RIDEAU HALL

June 19, 2013

Mr. Speaker,

I have the honour to inform you that the Right Honourable David Johnston, Governor General of Canada, will proceed to the Senate Chamber today, the 19th day of June, 2013, at 4:00 p.m., for the purpose of giving Royal Assent to certain bills of law.

Yours sincerely,

Stephen Wallace
Secretary to the Governor General

The Honourable
The Speaker of the Senate
Ottawa

[English]

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, before proceeding further, I call your attention to the presence in the gallery of His Excellency, the Ambassador of the Republic of Korea, Ambassador Cho Hee-yong, who is accompanied by his wife, Yang Lee.

Your Excellency, on behalf of all honourable senators, I welcome you to the Senate of Canada.

Hon. Senators: Hear, hear.

[Translation]

SENATORS' STATEMENTS

TRIBUTES

THE HONOURABLE PIERRE DE BANÉ, P.C.

The Hon. the Speaker: Honourable senators, I received a notice from the Leader of the Opposition, who requests, pursuant to rule 4-3 (1), that the time provided for the consideration of Senators'

Statements be extended today for the purpose of paying tribute to the Honourable Senator Pierre De Bané, P.C., who will be retiring from the Senate on August 2, 2013.

I would remind honourable senators that, pursuant to our rules, each senator will be allowed three minutes and may speak only once.

Is it agreed that we will continue our tributes to Senator De Bané, P.C., under Senators' Statements?

Hon. Senators: Agreed.

The Hon. the Speaker: We will, therefore, have the balance of the 30 minutes for these tributes, which does not include the time allotted for Senator De Bané's response. Any time remaining after tributes can be used for other statements.

[English]

Hon. James S. Cowan (Leader of the Opposition): Honourable senators, in rising to speak about my friend Pierre De Bané, it occurred to me that perhaps the most significant thing to know about him is not his long list of accomplishments, his status as a member of the Privy Council and Queen's Counsel — but rather that as a child he was a refugee. He escaped war in his homeland, an area of the world at that time not even called a country but a "geopolitical entity."

Honourable senators, I have remarked before on the importance of where one comes from — the imprint left by our beginnings. In the case of Senator De Bané, these challenging beginnings laid the foundation for what became a truly remarkable life.

Senator De Bané's family and faith have always been central to his life. He was raised in a family where loyalty and love sustain them to this day, a family grounded in values based on respect for the inherent dignity of every human being. His family left behind limited prospects, limited human rights and limited government capacity for the limitless promise of Canada. The appreciation he held for his family's change in circumstance has never left him.

By the age of 24 he was teaching at the Faculty of Law at Université Laval. His professional reputation soon drew the attention of another francophone lawyer. When Pierre De Bané met Pierre Elliott Trudeau, the two Pierres spent a long night discussing their ideas of what could be achieved in Ottawa — how to bring Canada's cultural and intellectual diversity to the forefront of politics in Canada.

By the age of 29 he was sitting in the other place as the elected member for Matane. He sat as an elected member in the other place for 16 years, serving as Minister of Fisheries and Oceans, Minister of External Relations, Minister of Regional Economic Expansion, Minister of Supply and Services, and Receiver General of Canada. He also served as parliamentary secretary to the Minister of Urban Affairs, the Minister of Consumer and Corporate Affairs, and the Secretary of State for External Affairs,

and he was awarded a doctorate of science *honoris causa* for his career achievements.

Senator De Bané's life's work was protecting the best interests of Canadians, as well as those in other parts of the world who, like his family, found themselves in difficult circumstances.

He was passionate about using Parliament as a forum to minimize differences and maximize our commonalities, and it is his empathy for others that gained him friends from both sides of the House of Commons and the Senate.

Perhaps the only person he holds in higher esteem than Mr. Trudeau is his accomplished wife, Elisabeth. I believe he would say that his love for her, his son Jean-Manuel and his five grandchildren is his true legacy.

Pierre, I know I speak for all your colleagues here in thanking you for your many years of service to Canadians. I wish you and Elisabeth a very long, healthy and happy future.

• (1340)

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, I rise today to bid farewell to our colleague, the Honourable Senator Pierre De Bané, who has served in the Parliament of Canada for 45 years as a member of both the House of Commons and the Senate.

Senator De Bané is taking his leave of this place in early August, and I know all senators want to acknowledge his lifetime commitment to public service. As Senator Cowan has said, Senator De Bané was born in Haifa and came to Canada as a child and went on to study law, including at Laval University where our colleague studied alongside a fellow student who would also go on to achieve great success in politics, the Right Honourable Brian Mulroney, who considers Senator De Bané a long, true and loyal friend.

In 1968, in the riding of Matane, Quebec, Pierre De Bané became the first Canadian of Arab descent elected to the House of Commons and subsequently won re-election four more times: a truly impressive achievement. As honourable senators know, the election of 1968 was when I was trudging around the country with Robert L. Stanfield in the midst of so-called "Trudeaumania." That election night, one of the big news stories was the election of Canada's first Arab-Canadian member of Parliament.

As Senator Cowan has mentioned, during his 16 years as a member of Parliament Pierre De Bané served as a minister of the Crown in a variety of portfolios, including supply and services, Receiver General of Canada, regional economic development, external relations and fisheries and oceans. On his last day in office, June 29, 1984, and before turning the government over to John Turner, Prime Minister Pierre Elliott Trudeau appointed Pierre De Bané to the Senate. Since that time, Senator De Bané has been an active participant in the debates in this chamber and in committee, most recently as a member of the Standing Senate Committee on Official Languages and on the Standing Senate Committee on Foreign Affairs and International Trade.

Honourable senators would no doubt agree that Senator De Bané has brought great passion and the strength of his convictions to his work in the Senate. In recent years we all

applauded him as he garnered attention for his criticism of Radio-Canada's coverage of francophone communities outside Quebec in its nightly newscasts. I have no doubt that his comments are born out of a true desire to ensure the state broadcaster fulfills its mandate to reflect Canada and its regions to national and regional audiences.

For that, Senator De Bané, you are to be applauded. Although you are leaving this place, I am certain you will continue to be a strong advocate on many issues, known to all of us as very close to your heart.

On behalf of all Conservative senators, and myself personally, I extend my very best wishes to Senator De Bané and his family for a very happy retirement and a long, healthy life.

Hon. David P. Smith: Honourable senators, I also rise to pay tribute to our colleague Senator De Bané. We first met shortly after he was elected in 1968 because, believe it or not, I was working on Parliament Hill. At that time I was the executive assistant to John Turner. That was a long time ago.

We really got to know each other well after the 1980 election, when we were caucus and then cabinet colleagues.

Honourable senators have heard Pierre was born in Haifa, which was then in Palestine and now in Israel. I have been there several times, and it is a beautiful city on the Mediterranean. He came to Canada when he was 12.

I honestly believe his Middle Eastern background has given him very savvy insights. I will repeat that phrase: very savvy insights into the ongoing turmoil, tensions and trouble in the Middle East that are always helpful in understanding the situation there.

I also, quite frankly, regard Senator De Bané as a role model, as a young immigrant to Canada many years ago who has had a very successful and meaningful career in the Senate, in the service of making democracy work in this country and spending 45 years on the Hill in both houses of Parliament.

He had a great education at Laval and Ottawa, and was even in the seminary for a while but became a lawyer rather than a priest. Speaking as a fellow lawyer and fellow QC, I still regard most lawyers quite positively, but I concede not everyone has that view. It is the individual that matters.

He was first elected in 1968, only a few weeks before he turned 30. For someone who came to this country at the age of 12, that is something.

Honourable senators, I did a little research. In 1968, Pierre won 53.9 per cent of the vote — I would settle for that anytime — but he became increasingly popular. In the 1979 election, he won 73.5 per cent. Then, in 1980, his last election — I want you to stay humble, brother — he won 77.8 per cent. That tells us what his constituents thought of him.

Honourable senators have heard about the parliamentary secretary positions and the five cabinet portfolios he held while in the House of Commons. I remember him best when he was Minister of Fisheries and Oceans. However, when I think of Pierre, I think of someone who is very accomplished,

hard-working, with savvy political instincts, but he is also someone who is genuinely and truly modest and humble. That is refreshing. He loves Canada passionately and it oozes out of him every day and that love is genuine.

Pierre, you will be truly missed. Many of your insights are pearls of wisdom, but they are also common sense. To you and Elisabeth — I have to tell you, she is still better looking than you; I hope you do not mind me saying that — your family and your son, I wish you all the best. You have served the Senate, the House of Commons, Canada and democracy well. I wish you all the best in the next chapters of your life.

Some Hon. Senators: Hear, hear.

[Translation]

Hon. Andrée Champagne: Honourable senators, while writing these few lines to add to your tributes to Senator Pierre De Bané, I found myself thinking about how all of you, who have known him for decades, would talk about the many files he had to familiarize himself with — from International Affairs to Fisheries and Oceans — during his long career as an MP, minister and senator.

I had the opportunity to work with him on the Standing Senate Committee on Official Languages and in connection with the international Francophonie. I have only wonderful memories of those days.

After the 2006 election, when we returned to Parliament, with his usual kindness, politeness and elegance he crossed the hall separating our offices and came to jog my memory about one of the statutes of the Canadian Branch of the Assemblée parlementaire de la Francophonie. Between 1993 and 2006 I had completely forgotten about the statute that states that the position of president must be occupied ex officio by an MP or senator who is a member of the governing party.

He informed me that, at the general meeting to be held in the following weeks, it would be his duty and pleasure to move that I be elected to that position, which he had held for many years.

Fortunately for me, he would remain a member of the Executive Committee as past president and also as chair of the Parliamentary Affairs Committee of the APF. Since then, I have been able to count on his support and especially on his wise counsel at all times.

At the APF, members rotate through positions and, in less than one month, I will become the next international president. However, his departure and his absence will make life much more difficult for me, because Pierre De Bané is Canada's corporate memory at the APF.

• (1350)

As the saying goes, you can't know where you're going until you know where you've been. I will miss Senator De Bané a lot.

At the Standing Senate Committee on Official Languages, we often shared a similar point of view, especially when we studied CBC/Radio Canada's duties under the Official Languages Act.

We will miss him a lot when we are trying to find the best ways to help Canadians, especially young Canadians, learn both of our official languages.

How can we inspire new Canadians to be curious about and to learn both of our country's official languages? When new Canadians arrive from other countries, can they truly learn to speak both French and English well? Do you want living proof of that? A child of Lebanese origin, born in Palestine, arrived in Canada as a small boy. He spent a few years at a French school in his country of origin and also spoke Arabic, which he lost over the years because there were few opportunities to use it. However, as an adult, his language is polished and his vocabulary is impressive in both official languages. Pierre De Bané is an excellent example of how this is possible.

I find it very unfortunate that this man, who embodies various cultures, will no longer be a part of our delegation in Abidjan at the APF general assembly in two weeks. We will also miss him in the Senate when we return. Senator De Bané, we have so much respect for you and will miss you here. I can only hope to be able to read some of your writing in the future. All of your memories would certainly make for a page-turner.

I take comfort in the fact that you have always been good at responding to emails and phone calls. With Jean-Manuel and his children and your wonderful Elisabeth at your side, I hope that you will stop by to visit us from time to time.

I hope that this new stage in your life that you are about to take will be a wonderful journey. You have earned it. Thank you for everything.

Hon. Jean-Claude Rivest: Honourable senators, I would first like to greet his life partner, his wife Elisabeth.

Pierre De Bané belongs to a generation of Quebec politicians who — and this is very significant for Canada — had to face one of the biggest challenges Canada has ever known when the emerging sovereignist movement in Quebec plunged the Liberal parties of Canada and Quebec into a fight to save Canadian unity.

I would like to take this opportunity today to pay tribute to Pierre De Bané, who was one of the key figures in this long, difficult and sometimes dangerous struggle for national unity. I want to thank him.

I had the opportunity to participate in this extremely important debate as a member of the Liberal Party of Quebec, as did Pierre De Bané as a member of the Liberal Party of Canada. We discussed this issue, and God knows we had our differences. The Liberal Party of Quebec had to face the sovereignist movement in the National Assembly and, at the same time, we had to tread carefully and stay informed of what our friends and cousins in the Liberal Party of Canada were doing. However, essentially we had the same goal of saving national unity, and Pierre De Bané contributed to that.

Moreover, honourable senators, Pierre De Bané left an indelible mark on Matane and the Gaspé. Simply visit this region and talk about MP Pierre De Bané to the people living there and you will

find that they, like us here today, will never forget him. Recently, Pierre reminded me that one of his major accomplishments as fisheries minister was not only supporting the fishing industry, but also creating research centres that offer a very promising future for the Gaspé region.

As Minister of Regional Economic Expansion, he helped the northern part of the Gaspé region. There were some epic debates between him and his friend Gérard D. Lévesque, who at the time represented the Baie-des-Chaleurs area and was running the show in the Gaspé. Federal funding was shared equally between the northern and southern parts of the Gaspé thanks to the action taken by our friend Pierre De Bané.

Honourable senators, I would also like to point out Pierre De Bané's passion for and commitment and dedication to the French language in Quebec, as well as in the Canadian and international Francophonie. Very few parliamentarians in the Senate or the House of Commons have contributed as much to its growth. Pierre De Bané also showed great determination and commitment in making sure our country's personality was reflected in our foreign policy, and he did so in a wonderful, engaging and meaningful way.

We will all miss Pierre, a great Quebecer, a great Canadian, and an optimistic man who is a friend to everyone. Thank you.

Hon. Mobina S. B. Jaffer: Honourable senators, it is a great privilege for me to pay tribute to a passionate defender of minority rights, a kind and gentle man, and an outstanding parliamentarian: Senator Pierre De Bané.

I will do my best to deliver a worthy tribute in French this afternoon. As you know, when I first arrived in the Senate, I did not speak French well. Through your encouragement and inspiration, I am proud to recognize you in the language of Molière.

Honourable senators, with more than 44 years of service in the two houses, he is the dean of parliamentarians. In 1968, Pierre De Bané became the first person of Arab descent to be elected to the House of Commons of Canada, where he represented the people of Matapédia-Matane for 16 years.

The Université de Moncton awarded Senator De Bané its highest honour, *doctor honoris causa*, in Administration Science in recognition of his enormous contribution to Canadian society.

Senator De Bané is a very gentle and sincere man, but he can be equally fierce and passionate when it comes to defending language rights, as anyone who has seen him in action can attest. His passion for language rights is matched only by his passion for a united Canada that finds strength in its diversity and is recognized worldwide for its defence of individual rights and freedoms.

Senator De Bané, I will greatly miss your wisdom and presence in the Senate, but I am delighted to know that our friendship will live on for a long time.

[English]

You have been my mentor, my adviser and my friend. You are a person who has always encouraged me to overcome whatever I have faced. You have always been there to make me do more

work and to encourage me. For this, senator, I will always miss you, and I thank you for all you have done for me.

[Translation]

I would like to express my best wishes to you, Elisabeth and your entire family. I hope that you enjoy your retirement together. Thank you.

• (1400)

Hon. Pierre Claude Nolin: Honourable senators, I would like to follow up on the Honourable Senator Rivest's remarks.

Let us go back to 1976. At that time I was a student in the third year of law school at the University of Ottawa. My involvement in politics did not extend beyond my riding although, being a student at the University of Ottawa, I had some contact with Mr. Clark and his wife. In 1976, the Conservatives held a memorable convention, the Bourassa provincial government suffered major setbacks, and Quebec's independence movement was on the rise and thriving under Mr. Lévesque's leadership. This is when I first spoke with two of our colleagues, Senator De Bané and Senator Joyal, whom I had met before. They did not know it at the time, but you will see a bit later in my speech how things tend to come full circle.

One evening, I was watching the news during the air traffic control crisis. For those who are not familiar with this conflict, in the aviation world everything was done in English — everything. When I say everything, note that even within the control tower, air traffic controllers had to speak in English at all times. Then, air traffic controllers in Quebec decided to defy the system and began to communicate in French.

Guess who decided to take up this cause: yes, two of our colleagues, Senator De Bané and Senator Joyal. The senators decided to defend the air traffic controllers and were obviously successful in persuading the Trudeau government to recognize the demands of the "gens de l'air", an association representing francophone interests in aviation. However, the battle had just begun, because the Canadian Air Line Pilots Association, which was anglophone — and still is, for that matter — decided to challenge the government and force it to reconsider its position.

Back then, I was an impressionable young student. I went home on the weekend and told my father — whose family had been Conservative for generations — that I had been impressed by two young Liberals I had seen on the news. He told me not to worry, said it would pass, but what he did not know was that one day, I would be working with those two young Liberals.

When Senator De Bané asked me whether I would say a few words to mark his retirement, I said yes and I told him what I planned to tell you.

Pierre, you and Senator Joyal took a stand during a difficult time in Quebec's history. There must have been tremendous pressure on you not to do what you did. I am sure that some in Mr. Bourassa's government must have looked upon you with disfavour for getting involved in what they considered their business and adding grist to Mr. Lévesque's mill.

Those in the business of critical interpretation, analysis and history will decide whether ultimately, you played a part in the

[Senator Rivest]

election of Mr. Lévesque's first government. We shall see, but I wanted to recognize an achievement that really impressed me, even as a young Conservative. I think it was worth mentioning.

I wish you a happy retirement. This is hardly the end. After all, 75 is just the start of chapter two. Good luck with all of your future undertakings, Pierre.

Hon. Percy Mockler: Honourable senators, it is with great emotion and affection that we bid farewell to a friend and a great friend of Acadia, Senator Pierre De Bané. It is a pleasure to pay tribute to the dean of Parliament — 45 great years of public life — and to thank him on behalf of New Brunswick's Brayons and Acadians for his devotion to his country, his province and especially francophone communities outside Quebec.

Honourable senators, I will now refer to him informally. When little Pierre left Lebanon at age 9 and arrived in Halifax with his family, his dad told him it was easier to get to heaven than to get to Canada and stay here.

Nonetheless, not to be discouraged, Pierre made the difficult crossing to his new country. Pierre De Bané soon decided to make his new country a land of opportunity in every aspect, both financially and socially.

He was the first person of Arab descent to be elected to the Canadian House of Commons in 1968. At his last election before being appointed to the Senate in 1984, he received nearly 80 per cent of the vote, which is quite an achievement. This is a testament to how attentive and committed he was to his constituents, and speaks to his humility and integrity.

Pierre, you are an exemplary mentor. Senator De Bané received an honorary doctorate from the Université de Moncton. Over the years he became a good friend to a number of Acadian parliamentarians including: Jean Gauvin, Omer Léger, Jean-Maurice Simard, Jean-Pierre Ouellette and Fernand Dubé. In 1986, I heard former Senator and Premier Richard Hatfield say that Senator Pierre De Bané in Ottawa was and always would be a good friend to Acadia.

Honourable senators, Pierre is loyal and has good work habits. He fought hard to the very end last December to try to convince Société Radio-Canada to better serve all of Canada's francophone communities. In his response, the president of Radio-Canada claimed that:

The crown corporation was fulfilling its mandate as a Canadian broadcaster.

This was Pierre's frank, candid and honest response:

I reject the assertion that Radio-Canada reflects what is really happening in Canada. That is such a mistruth that it is laughable.

He is a maverick and a tough advocate for our minorities. Senator De Bané, enjoy your well-deserved retirement with your family. Thank you for your immense contribution to making Canada the best country in the world in which to live.

In closing, as la Sagouine might say:

You have earned your laurels, Pierre, and we thank you.

Hon. Maria Chaput: Honourable senators, it is with some sadness that I rise today to pay tribute to a very dear friend and a great man, the Honourable Senator Pierre De Bané.

As all of you know, Senator De Bané devoted his long and distinguished career to serving Canada and Canadians. With almost 45 years of service in both chambers, he is the dean of the Parliament of Canada.

Today, I especially want to pay tribute to a colleague who, after so many years, has lost none of his passion, spirit and honesty.

I want to pay tribute to a senator who would come to every meeting of the Official Languages Committee, which I chaired, with questions that were well prepared and very instructive, although they were not always the shortest of questions.

I had the great pleasure of having many discussions with Senator De Bané during my career in the Senate, and every time I went away having learned something. I am eternally grateful for his great desire to share his knowledge, experience and wisdom.

I want to applaud his deep understanding of the reality of official language minority communities.

• (1410)

As a Franco-Manitoban, I always knew that I had an important ally in this man who was always prepared to go to battle to protect our rights and our interests. My community thanks you, Senator De Bané.

Lastly I want to commend him for his dedication to our Canadian institutions, and I have to mention our honourable colleague's special relationship with CBC/Radio-Canada. I am sure that Senator De Bané's questions in committee made some CBC/Radio-Canada bosses sweat or gave them the chills. It was obvious how important public television was to him when he made his passionate pleas for it to be more representative and more Canadian. I thank the senator for never giving up and for doing this for all Canadians.

I am saddened but also very grateful as I wish you, Senator De Bané, a well-deserved retirement and many years of happiness, surrounded by your family and many friends. The Senate will forever be enriched because of the work you did.

Hon. Jacques Demers: Honourable senators, my tribute will no doubt be a little different than the ones given by my colleagues, who made wonderful speeches.

I thank your family for giving me an opportunity to talk about you. You are a model of perseverance and a man everyone looks up to. I have always believed that people follow winners. With winners you create more winners.

We spent a little time together this winter with your grandson, whom you love so much. I am not sure if he is here today. He was very proud to be with us. We took pictures with some of your friends.

Knowing you as I do, I am convinced that it would be difficult to find men and women today who are as honest as you are and for whom doing their job does not seem like work. It comes naturally to you.

We became friends talking about hockey every once in a while. During your career, one of your accomplishments was to open the door to immigrants. We often hesitate or wonder if those immigrants are coming here to take our jobs. You invited them in and were a model for them.

As Senator Smith said, you got 77 per cent of the vote, and I probably would have only managed 27 per cent.

You have worked very hard. Coming from another country, you had to adapt and learn the language, but nothing stopped you.

I remember last year, when a *Globe and Mail* journalist criticized me, saying that I did not belong in the Senate. As a hockey coach, especially for the Canadiens, I am used to being on the receiving end of barbs and criticism. That criticism kept me from sleeping for three or four nights. I have relatively thick skin, but those statements felt like an attack; they really affected me. When I arrived in the Senate, I did not feel very welcome. However, I took ownership of the situation.

When we were looking for support from our colleagues, our Liberal friends signed on. Not all of the Conservatives did. You got 67 per cent. That touched me and restored my confidence. I said to myself, "Jacques, you belong here."

Senator, you said two things that really touched me. You said: "Jacques Demers is a good Quebecer and a very good Canadian. He could not have accomplished what he did in the NHL if he were not an intelligent man with great leadership skills."

Thank you very much for that. You changed my life in a number of ways. I will be 69 years old next month. It is thanks to people like you that Canadians are listening to what others have to say. I marvelled at the comments you made yesterday about Radio-Canada.

Today, your fellow senators are losing a top-notch, extraordinary man. The Senate is losing a wonderful, upright man who was always very honest in all his dealings.

Hon. Dennis Dawson: Honourable senators, I have been a senator for nine years. Pierre and I worked in the House of Commons together for seven years. Let us take a little trip down memory lane.

In 1970, Pierre was visiting CEGEPs across Quebec as a young Liberal MP. I had the opportunity to see him back then. Unlike

Pierre Claude's father, my father was a Liberal, so I did not have a very difficult time looking up to him.

I had no trouble understanding that Mr. De Bané and Mr. Joyal, back when they were young MPs, were entitled to opposing views. Senator Demers, I encourage you to seek out those opposing opinions because they are very important in a parliament.

I found opposing views very encouraging. I told myself that, if people like Pierre De Bané could come to the Parliament of Canada and stand up for the interests of Quebec and be criticized by his colleagues for being too Quebec-oriented and standing up too strongly for Quebec's interests, then there was a place for me in the Liberal Party.

Senator Pierre Claude Nolin will recall that the "gens de l'air" conflict occurred in 1976. I was working with my friend, Senator Rivest, in the Liberal Party of Quebec. Once again, two members of Parliament in Ottawa stood up for the linguistic interests of Quebec francophones. Most of the "gens de l'air" came from the Quebec City airport, rather than from Montreal. On this occasion, I saw, once again, that the Liberal Party of Canada respected the right of dissent. I thought there might be a place for me in the party.

I again had the opportunity to see Pierre De Bané and Serge Joyal go door-to-door when a by-election was held, and that convinced me to join the Liberal Party of Canada and go on from there. Also, it was at this time that 10 or so MPs joined the Liberal caucus, between 1979 and 1980. They were all younger than Pierre. The notion of a young member had more or less disappeared because there were 10 of us under 30. Pierre was always with Serge. We were encouraged to say that we wanted to be loyal members of a caucus of 74 MPs, but we also wanted to have the right to dissent from time to time. Pierre showed he could go his own way.

We spoke of the "gens de l'air." I would like to talk about Opération Dignité. In the Gaspé region, Pierre broke ranks with the government and the party to defend the interests of his constituents by supporting the people of Opération Dignité, even though this was not a popular position within his party. This is the kind of independence that makes me admire Pierre.

To be perfectly honest, Pierre and I have not always seen eye to eye. Indeed, it is not unusual, in a 74-member caucus, for there to be a certain amount of dissent. Nevertheless, I stand today to pay tribute to a man who assured every Quebecer who believes in the future of the Liberal Party that the best is yet to come.

Elisabeth, please be patient. You have shared your husband with us for a few years. From now on he is all yours. I hope your patience will help you to keep living the wonderful life you have shared since I first met you both.

[English]

Hon. Anne C. Cools: Honourable senators, our dear and beloved Senator Pierre De Bané today begins the rite of passage that is called retirement.

As a public woman, I share with this public man a devotion to public service. I also share with him a deep and abiding affection for Pierre Elliott Trudeau, who brought us both to this place, to the Senate.

Senator De Bané enjoys the distinction of not only serving in the cabinet under Prime Minister Pierre Elliott Trudeau but also being his special assistant in 1967 while he was Minister of Justice. Mr. Trudeau's words "just society" still resonate in this country. Senator De Bané and I both attended the funeral of the Right Honourable Pierre Trudeau in Montreal, on October 3, 2000.

Today is the first day of the rest of his life.

After World War I, the Allies at the peace conferences detached the Arab portions of the Ottoman Empire. Until then, the area that is today Jordan, Lebanon, Palestine, Israel and modern Syria had all been Syria, called Greater Syria by some.

The Allies described this as the "partition of Syria." Many of the Christian Arabs, and non-Christian Arabs, who came to the New World and to the West Indies are still called the Syrians to this day. Their travel documents describing them thus.

• (1420)

Honourable senators, Senator De Bané was born in Haifa, Palestine, in 1938. He was afflicted not by the apocalyptic situation of the Syrians in the Great War, but by that of the Second World War. As a child of 10, he was one of the Christian Arab refugees who fled Palestine on May 14, 1948. He is a Melkite Christian, the Christians of antiquity who had received Jesus Christ. Their liturgies and chants are glorious. The priest at Senator De Bané's church, Sts. Peter and Paul, speaks Aramaic, the language of Christ, the then vernacular. Aramaic took its name from Aram, the son of Shem, and father of Uz, who was founder of Damascus, the oldest city in the world. Aram is a biblical name for Syria.

Senator De Bané shares with Mr. Trudeau, and with me, a love of ancient and modern Christian mysticism and contemplation. Thomas Merton, an American contemplative writer and Trappist Monk who was well-loved and well-read by Pierre Elliott Trudeau, in his 1972 book, *Seeds of Contemplation*, at page 37, states:

This then is what it means to seek God perfectly: to withdraw from illusion and pleasure, from worldly anxieties and desires... to entertain silence in my heart and listen for the voice of God;... to love all men as myself... to have a will that is always ready to fold back within itself and draw all the powers of the soul down from its deepest center to rest in silent expectancy for the coming of God;... to gather all that I am, and have and all that I can possibly suffer or do or be, and abandon them all to God in the resignation of a perfect love and blind faith and pure trust in God, to do His will.

Honourable senators, I wish to bid Senator De Bané goodbye. I would also like to wish him and his most loved and beloved wife Elisabeth and their entire family, a very happy and long retirement. Au revoir.

[Translation]

Hon. Suzanne Fortin-Duplessis: Honourable senators, it is with great joy and much sadness that I rise today to pay tribute to our colleague, Senator Pierre De Bané, and commend him on his rich parliamentary career. With perseverance, intelligence and considerable wisdom, this great man was able to enhance Canada's social debate for over 44 years.

He and I both sat in the other place, but it is only in these last few years that we have gotten to know and appreciate each other, as we both serve on the same committees.

Dear colleague, what strikes and impresses me most about you is the respect and courtesy with which you treat your colleagues. The sincerity of your smile is a source of inspiration that reinforces our belief in the ability we have to transcend party politics in the interest of the common good. Be it in the Senate chamber or in committee, the questions you ask are always dignified and respectful, even on issues you feel very strongly about. You illustrated that quite well yesterday, when you described Radio-Canada's failings. Your tenacity and your thoroughness were manifest to all.

Someone told you recently that you would not know what to do with yourself at the end of your 30-year tenure in the Senate. To that, I say poppycock. Rest assured that people of value are never idle for long. You will be sought out and asked to get involved in all sorts of endeavours. Soon enough, you will not have a single moment to yourself.

I would also like to salute Elisabeth, your wife, who must be overjoyed at the prospect of this new beginning.

In closing, I would like to thank you for your extraordinary contribution to our country. Simply put: mission accomplished. I wish you a wonderful retirement, long life, health and happiness. We will miss you, dear colleague.

Hon. Claudette Tardif (Deputy Leader of the Opposition): Honourable senators, I am pleased to have this opportunity to pay tribute to our colleague, Senator Pierre De Bané.

I would like to focus on your long and extraordinary parliamentary career: 45 years of public life. Your significant contribution to our country, to Canadian citizens and to the Liberal Party of Canada is widely acknowledged and, I must say, very inspiring. The Senate has benefited greatly from your experience, your wisdom and your extensive knowledge. Your dedication to spreading values of peace and justice has helped strengthen democracy in our society and our parliamentary institutions.

Personally, I deeply appreciate your sincere support for and your meaningful contributions to Canada's linguistic duality and the language rights of francophones in minority communities. I was especially touched by your commitment, perseverance, energy and passion as a member of the Standing Senate Committee on Official Languages. You deserve our gratitude for helping to move Canada's linguistic duality forward.

I would like to pay tribute to your many achievements both nationally and internationally, and I wish you a very happy retirement with your wife, Elisabeth, your family and your many friends.

[English]

The Hon. the Speaker: Honourable senators, I have many other names of senators who would like to speak, but even by my watch, we have exceeded 30 minutes. It is my great honour to call upon the Honourable Senator De Bané.

Hon. Senators: Hear, hear!

[Translation]

Hon. Pierre De Bané: Honourable senators, esteemed colleagues, dear friends, this is sure to be the last time I have the honour of rising in this House, which has been my professional home for nearly 30 years. I would like to take this opportunity to reflect on my 45 years as a parliamentarian, on my life, my work and the relationships I have forged over the years. It is time to draw the curtain, leave the stage and contemplate the end of an era that will live on in my memory until I draw my last breath.

• (1430)

Looking back on my three decades as a senator, I feel great satisfaction with the first-rate work we have done in the Senate, the friendships I have enjoyed with senators on both sides of the chamber and my independent colleagues, the initiatives I had the privilege to play a role in or even lead and, finally, the wealth and energy of this country that we all serve.

I want to thank you, honourable senators, for the kindness you have always shown my wife, Elisabeth, and me. I am also grateful for your advice and help on a number of issues, both small and large.

I also appreciate the wisdom you bring to managing the nation's business. This is how we contribute to Canada's progress. Distinguished colleagues, this is my farewell speech, my last opportunity to convey the message I have been trying to share with Canadians for many years.

Summarizing, in just a few minutes, what I have spent a lifetime trying to understand and to express is not an easy task. I have learned much from you, honourable senators, as well as from hundreds of colleagues, knowledgeable and dedicated public servants, friends, thousands of Canadians I met in my Canadian travels, and former colleagues who are here today. I want to thank the Speaker, who agreed to welcome them all to the reception he will be hosting later.

My thoughts also go to Raymond Fournier, Donald Fitzpatrick, Anne Allard and two people who could not be here today: Claude Canuel, my chief of staff when I was a cabinet minister, who is now Mayor of Matane, and Thierry Viellard, a Canadian citizen who is currently in France.

Looking back, I am amazed at my lot in life as the first person of Middle-Eastern descent to have a seat in the House of Commons. Like thousands of other immigrants, I landed on

Canadian soil at Pier 21 in Halifax. Joseph, the oldest in the family and a brilliant student, completed his petroleum engineering degree in Paris. On the advice of my father, he was the first to come to Canada, arriving by plane in 1950. He moved to Alberta where, three years earlier, the Leduc well had been discovered.

His work sent him to Houston. After living in the United States with his family for a number of years, he returned to Canada and worked at the National Energy Board. He has a PhD in computer science from the University of Waterloo, taught at MIT in Boston and became the founder and first dean of the school of management at the University of Ottawa.

I want to take this opportunity to express my sincere affection for him, his wife Suzanne, their children, Daniel, Marc, Jeannine, Paul and Philippe, and their families.

My younger brother Paul and I arrived in Halifax with my father a year later. Paul died a few years ago. I want to acknowledge his beloved daughters Marie and Judith. Judith is here today with her son Nicolas, whom I welcome in particular.

We entered Canada as British subjects because my father was an accountant for the Palestinian railway company, which was administered by the United Kingdom at the time. My sisters Thérèse and Roseline arrived next from Egypt and finally, my big brother Michel, who took care of us in Lebanon, was the last to arrive in Canada. Roseline and Michel have since passed away.

My father was so proud to arrive in Canada. I still remember, as if it were yesterday, what he told us when we landed in Halifax: "It is easier to get into heaven than Canada." He said that, every single day, he wanted to kiss the ground of this blessed land to thank God for the chance to be in Canada. I did not inherit my father's eloquence, but I certainly share his feelings.

I had the honour to attend one of Canada's most prestigious universities, Université Laval. Several of my classmates went on to become well-known public figures in Canada, and I have no doubt you know some of them: Brian Mulroney, Lucien Bouchard, Michael Meighen, Peter White, André Ouellette, President of the National Assembly of Quebec and Minister Clément Richard, Quebec Minister of Justice Yvon Marcoux, and several members of the judiciary, including Paul Arthur Gendreau, Louise Lamarre, Sonny Mass, the late Bernard Roy, Raynald Langlois, Jean Bazin, Michel Vennat and Michel Cogger.

I would never have guessed, after having taught at the law school I attended and practised law at Letarte Saint-Hilaire, that I would end up leaving Quebec to become the assistant to Justice Minister Pierre Trudeau and that I would then get elected, five times, as the MP for the riding of Matapédia-Matane.

[English]

I served, in 1972, as parliamentary secretary, as my leader, Senator Cowan said, to the Secretary of State for External Affairs and Deputy Prime Minister, the Honourable Mitchell Sharp, who told me when I was appointed, "Pierre, all of my parliamentary secretaries have become ministers, so I want you, every day, to attend, at nine o'clock, my daily meeting with my deputy, Ed

[Senator Tardif]

Ritchie, who just arrived from Washington, where he was Canada's ambassador. You will learn how to deal with the deputy of your future department. You will not be allowed to speak while the deputy is there, but, afterwards, we will exchange views together."

It was a fascinating experience to have a mentor like Mitchell Sharp, who was the deputy of C.D. Howe. He confided to me one day that having been minister and deputy minister, he preferred the latter one. When he was Minister of Finance, he was also the mentor to his parliamentary secretary, Jean Chrétien.

• (1440)

Gordon Osbaldeston, who served as Clerk of the Privy Council, wrote a book after his retirement called *Organizing to Govern*. He confided to me that I was the only minister who wrote to the Prime Minister and suggested that his department, Regional Economic Expansion, be merged with the ministry of the Department of Industry.

Regional Economic Expansion, or DREE, dealt with the geographic aspect of economic development, while the Department of Industry dealt with the sectoral view of the economic activity in this country. I concluded that it was imperative that in a federal system where people had a profound attachment to their province where they lived, in the second largest country in the world, which has six time zones, it was essential to integrate both aspects of the decision making of economic development. The two departments, at my request, were merged. Today, 35 years later, irrespective of all the elections and changes of government, those two elements are grasped, taken stock of in the same department.

I found myself as a member of Parliament in a government that was responsible for some of the greatest achievements in our nation's history: the Official Languages Act in 1969; the dramatic increase of French-speaking Canadians within the Canadian public service; Canada's multiculturalism policy in 1971; meeting the challenge of separatism, including victory in the 1980 referendum; the 1982 patriation of the Constitution; and the Charter of Rights and Freedoms, where the fundamental rights of every citizen are protected. There is one person in this house who was one of the people inside the room where those discussions were held in 1982, and it is the Speaker of the Senate, the Honourable Noël Kinsella.

Every premier was entitled to bring with him one official, and our speaker was the adviser to the Premier of New Brunswick. He was there. He is the one who could tell us a lot about what happened during those negotiations that really have done something that, over the years, will identify the Canadian people, because there is no common element in our history, whether it is language, origin, religion, whatever one wants. What I think is going to happen over time is that gradually that Charter of Rights and Freedoms will become the defining common element of the Canadian people.

One thing that was achieved during those negotiations is that finally we entrenched in the Constitution the rights of all English-speaking and French-speaking people across the land to have their own schools administered by each community.

Some Hon. Senators: Hear, hear.

Senator De Bané: We did something that was absolutely unique. It was the first time that we made a distinction between Canadian-born citizens and those who immigrated to Canada in the sense that those from outside of Canada — from the United States, the United Kingdom, Australia, wherever — who wanted to locate in the province of Quebec had to send their children to French schools. However, children who were educated in the other provinces, if they relocated in the province of Quebec, could continue in English. We made the distinction there to show how the national government and the other provinces were sensitive to the particular situation in that province, and we call that the Canada clause. I think today there is no contest or dispute about that very wise decision.

In 1984, I was appointed to the Senate, an institution whose value has seldom been fully appreciated and whose failings have too frequently been the subject of criticism. Honourable senators, I am proud to be a member of this institution. I am proud of the good work we have done for Canadians. I am honoured to have served with dozens and dozens of distinguished senators, whose hard work, intelligence and good judgment have helped to shape the direction of this country.

For example, let us consider for a moment the conflict of interest rules that the Senate adopted eight years ago, and amended in 2009 and last year. They have served us well, and so have our ethics officers, Mr. Jean T. Fournier and Ms. Lyse Ricard. Indeed, those rules serve as models to other upper houses. We should note that there have been more investigations of breaches of conflict of interest rules in the House of Commons than in the Senate or in other jurisdictions in Canada. It means the Senate ethics regime works well. We are collectively accountable to Canadians in this regard.

[Translation]

I am also very proud of the quality of the debates in this chamber and of the outstanding work the Senate committees do in areas as varied as banking, foreign policy and mental health.

That is the very essence of the Senate. The role of the upper chamber is not to compete with the democratically-elected House of Commons, but instead to focus on, debate and take a stand on major issues. Our debates here are informed and relatively non-partisan and are focused on making progress. That is the mission of the Senate and that is what inspires us.

Honourable senators, the fact that we were appointed and not elected speaks to the primacy of the House of Commons. Because we are not involved in a race for power, we are able to act in the best interest of the public.

The truth is that this chamber, as it is now, has the strongest representation of women out of all the legislative assemblies in the country, and we are very proud of that.

• (1450)

The truth is that this chamber allows representatives of different minority communities to participate in managing the affairs of state.

The truth is that our colleagues in the other place will never want to consent to the creation of another equally democratic chamber that would compete with and overshadow them, as was the case in the United States when senators were elected in the early 20th century.

The truth is that abolishing the Senate would hand the House of Commons an intolerable situation that would be unacceptable to eight provinces. In fact, Quebec and Ontario combined have 60 per cent of Canada's population and would have an absolute majority in the other chamber, without the counterbalance of another chamber, the upper chamber. Can we imagine a federation where two provinces would hold sway in the other chamber? How can we have a democratic House of Commons where 60 per cent of the members are elected by two provinces if we do not have the counterbalance of another chamber?

The truth is that many studies have shown that the quality of debate in this chamber is superior to that in the other place.

The truth is that two elected chambers could legitimately block the government, but only one of them would have the power to defeat the government. There is no question that this would cause instability and incoherence.

If we want senators to be appointed by a committee with indisputable moral authority and credibility, there are a number of options. We could ask a committee made up of members of the Order of Canada, the most prestigious order in the country, to prepare a list of eminent candidates in accordance with set criteria and submit it to the Prime Minister of Canada.

[English]

Mr. Mel Cappe, former Clerk of the Privy Council, which is the highest senior official of the federal government — head of the public service, secretary to the cabinet, deputy minister of the Prime Minister — published this week a long article from which I will read a few paragraphs:

As a senior official, it was always easier for me to appear before a committee of the House of Commons than of the Senate. In House committees, the two sides would go at each other making petty partisan political points while the official witness sat back and watched. Stick to your facts and you could get out of there without even answering questions.

Before a Senate committee, however, you had to really know your stuff. Senators didn't have constituencies to worry about or elections to win. They could spend their time doing their homework, delving deeply into substance and challenging official witnesses. They probed the estimates, seriously reviewed legislation and considered big strategic policy questions. Indeed, several were expert in the fields of municipal finance, national security, health care, tax law, business and so on. It was much more difficult for an official.

Having served in both houses, I myself have experienced that reality. Mr. Cappe is right.

Today, I would like to mention some initiatives with which I have been associated as a senator and that I would count as significant contributions to Canada. The first was the 1994 report

of the Special Joint Committee on Canada's Defence Policy, which I co-chaired with the Honourable Bill Rompkey, then an MP and later a senator. The committee did exemplary work listening to Canadians, talking to our allies and taking the ideas and concerns of the Canadian Forces to heart. Our report laid the foundation for a defence policy that endured for a decade thereafter.

The second initiative from this house in which I take particular pride was the work in 2011-12 of the Standing Senate Committee on Official Languages. Our focus that year was on the circumstances and needs of the English-speaking community in Quebec. That was important work in the service of Canada. We held hearings in Ottawa and in several communities throughout my province. We heard from scores of communities and a lot of witnesses: presidents of universities, university professors, intellectuals, artists, et cetera. That lasted for over six months.

My only regret is that Radio-Canada — whose mission, as stated in the Broadcasting Act, is "to contribute to shared national consciousness and identity" — did not air one minute of those hearings. When asked to be accountable, they took refuge behind "programming and journalistic decisions" that the corporation does not have to explain or to be accountable for. Indeed, that was the answer of the corporation to over 200 questions that I submitted.

A professor emeritus of journalism at Université Laval, Mr. Florian Sauvageau, one of the great authorities, when he heard the questions I put and the pretext that Radio-Canada gave in saying, "No, we do not have to answer; we are not accountable," said, "Really, it is childish to answer with a broad brush like that."

Third and most recently, I should point to the submissions of several of my colleagues, as well as my own, to the CRTC — submissions inspired in part by the failure of Radio-Canada to pay attention to Acadian and French-speaking communities outside of Quebec. Honourable senators, this, too, was good work because, as we can see from the resulting report by the CRTC, it made a difference.

Looking to the future, I would like very respectfully to make two proposals. Number one is that the Senate consider a domain that we have too long neglected, that of culture.

• (1500)

The Senate, in my humble opinion, should correct this oversight by creating a new standing committee on culture. Such a committee would be a forum through which honourable senators could focus their attention and that of Canadians on the soul of our country, on what makes us distinct as a people. It would be a forum that, every year, could convene artists, intellectuals and poets from across the country to present their ideas and concerns, to remind parliamentarians and the national media of the issues that are of concern to some of the most creative minds in Canada.

Such a committee would recognize the cultural dimension of our national life and distinctive personality. It would be fitting that the Senate take on this responsibility because culture is not, or ought not to be, a partisan matter. Culture transcends our political differences. Artists and intellectuals would greatly

[Senator De Bané]

appreciate the Senate's establishing a permanent dialogue with these constituencies. Our mission is to take care of and nurture what makes our country unique: poets, writers, singers, actors, composers. That should be an essential part of our unique mission.

Naturally, of course, the government must give priority to the economy, health, infrastructure, science and the environment, to guarantee Canadians prosperity and well-being. The Senate is involved in these priorities, but it also has a role in fostering and protecting culture.

[Translation]

Culture is a multi-faceted word, full of meaning. Depending on the group and the area, we talk about Acadian culture, Quebec culture, the culture of our various francophone communities across the country, the culture that is the expression of Canadian genius and soul, of painters in Vancouver, Aboriginal art, musicians in Calgary, or the Stratford Festival. The list is long, and I could go on and on.

No matter what dimension of the country we look at, artists and their creativity take the hopes of the people, their values, beliefs, dreams for the future and their past, and translate them into art. Their voice challenges that which we believe to be absolute truth, sets us in motion, brings us together and sets us apart. Whether it is artisans, writers, singers, actors, architects, filmmakers or painters, creators forge a nation's soul. Without artists, a nation loses its sense of self. That is precisely why we need to hold on to the power to promote our cultures using tomorrow's media, for our cultures are rich and unique. We also need to encourage directors to make films about their own culture by highlighting the differences.

Culture is not a commodity. It is the people's right to thought. We cannot leave film and culture to the mercy of market forces. That would jeopardize the very survival of the film industry. Without the wonders of cultural exemption, which Canada openly fought for, every culture, beginning with our own, will be threatened.

[English]

My second recommendation to you, honourable senators — and this will come as no surprise — is that the Senate take the lead in addressing the failure of our national public broadcaster to fulfill the mandate given to it by Parliament.

As I have made my speech on the occasion of the second reading of Bill S-220, I will not repeat those arguments today.

[Translation]

I would like to acknowledge Vincent Raynauld, a professor and researcher at Carleton University's School of Journalism and Communication. I tabled a study during CRTC hearings which stated that the *Téléjournal* and *The National* had found that in 2010 and 2011, Radio-Canada dedicated barely three minutes, on average, to media coverage of other provinces and territories.

I would like to pay tribute to Mr. Raynauld because the scientific quality of his study was such that no experts disputed his findings. Radio-Canada's only argument was that the study

focused only on the 9 o'clock edition of *Téléjournal*. That is exactly the edition that the CRTC recognized as the major news report for both the CBC and Radio-Canada — the leading source of information — which should not be aired at 11 o'clock when half of the population is asleep. It should be aired at 9 o'clock or 10 o'clock at the latest.

I would like to conclude my remarks, honourable senators, with a few observations about our country in 2013. I am an optimist by nature but also because I see what is happening in our country, and that allows me to look to the future with confidence. I see a Canada whose cultural heritage has been greatly enriched by the creative talent of our artists and intellectuals and by the contribution of thousands of newcomers from over 150 countries around the world.

Today, one in five Canadians was not born in Canada. According to Statistics Canada, as of 2026, 100 per cent of our population growth will be due to immigration.

I see a young generation of Canadians who face the future with confidence. I feel that assurance from my son Jean-Manuel and my five grandchildren — Pénélope, Jean-Gabriel, Delphine, Laurent and Lambert — as well as in the attitudes, values and creative talent of the young people that I have met from across the country. I see a country with countless achievements, whose potential is limited only by the imagination of its people.

To quote Al Johnson:

Let us dream big dreams. Let us dream big dreams.

Let us dream big dreams. Let us work together to achieve our great ambitions.

Honourable senators, I am proud to live in a country where an anglophone Prime Minister from western Canada has been so consistent and loyal in his respect for the other official language.

I am proud to have served my constituents throughout my 45 years in my country's Parliament. I thank you all for the work that you do. I leave you with heartfelt appreciation for our great democracy and filled with the hope that you have given me throughout my career in Parliament.

Long live Canada.

• (1510)

ROUTINE PROCEEDINGS

BUSINESS OF THE SENATE

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, having consulted both sides, I would ask for leave of the Senate that photographers and camera operators be authorized in the Senate Chamber to photograph and

videotape the Royal Assent ceremony today, with the least possible disruption of the proceedings.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

[English]

CANADIAN NATO PARLIAMENTARY ASSOCIATION

JOINT MEETING OF DEFENCE AND SECURITY
COMMITTEE, ECONOMICS AND SECURITY
COMMITTEE AND JOINT POLITICAL
COMMITTEE AND ECONOMICS
AND SECURITY COMMITTEE,
FEBRUARY 24-28, 2013—
REPORT TABLED

Hon. Joseph A. Day: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canadian NATO Parliamentary Association respecting its participation in the Joint Meeting of Defence and Security Committee, Economics and Security Committee and the Joint Political Committee and the Economics and Security Committee, held in Brussels, Belgium and Paris, France, from February 24 to 28, 2013.

THE SENATE

MEMBERSHIP OF STANDING COMMITTEE ON
CONFLICT OF INTEREST FOR SENATORS
MODIFIED AND DEEMED ADOPTED

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, I move, seconded by the Honourable Senator Cowan:

That pursuant to rule 12-27(1) of the *Rules of the Senate*, the membership of the Standing Committee on Conflict of Interest for Senators be modified as follows:

The Honourable Senator Tannas is added to the committee to fill a vacancy created by a senator's resignation from the committee.

(Pursuant to rule 85(2.1), the motion was deemed adopted.)

[Translation]

QUESTION PERIOD

NATIONAL REVENUE

INTERNATIONAL TAX EVASION

Hon. Céline Hervieux-Payette: Honourable senators, my question is for the Leader of the Government in the Senate. Yesterday, my question was about the G8 meeting, specifically tax havens and the new rules that will soon come to bear.

I would like to remind the Leader of the Government in the Senate that Minister Gail Shea recently announced that the Canada Revenue Agency had information from international

allies about 550 individuals residing in Canada who have foreign assets.

My question is simple. Once Parliament resumes in the fall, will the leader report to this chamber on her government's actions to recover taxpayers' money from these 550 people?

This is a priority because everyone has to pay taxes, even on assets held in foreign countries.

[English]

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, as I indicated when I responded to the honourable senator previously, the list that was made public was compiled by the CRA. Of course, I would be happy to take the honourable senator's question on how their work is progressing as notice.

Senator Hervieux-Payette: Honourable senators, I will give the leader more homework.

One thousand and eight hundred Canadians also had accounts in HSBC in Switzerland and were not necessarily paying the proper taxes on this money. According to the CBC, they have received the files of these people and they are going to review them.

I am adding 1,800 to the 550. In fact, this will help you to pay down the deficit.

France has already recuperated hundreds of millions of dollars from these funds at HSBC. Could the leader also report on these 1,800 cases?

Will the minister inform us of what has been done, when we will recover this money, and how many resources will be required to do the work? Due to the reduction of personnel at the Canada Revenue Agency, we are concerned that this will take a long time, as it previously did. This is a way to recover nearly \$1 billion. Will the leader report on these other 1,800 cases?

Senator LeBreton: Honourable senators, to put this into perspective, since 2006 we have introduced over 75 measures to improve the integrity of the tax system, including increasing the size of the international audit program by 40 per cent; requiring mandatory reporting of international electronic fund transfers of over \$10,000; streamlining the judicial process that provides the CRA authorization to obtain information from third parties, such as banks; and recently investing \$30 million to target international tax evasion and aggressive tax avoidance.

The department is well on its way to working on all of these files. To the extent that they can provide any further information, I will be happy to ask them to do so.

PUBLIC SAFETY

CYBER SECURITY

Hon. Wilfred P. Moore: Honourable senators, my question is also for the Leader of the Government in the Senate. Over the past year and a half I have been asking her questions with respect

[Senator Carignan]

to cyberattacks, hacking and intellectual property theft. Related to that, we recently heard about the massive surveillance of communications of private citizens and the role in that of the Communications Security Establishment Canada. Its mandate was to collect foreign intelligence. Apparently it has gathered metadata — incidentally, they say — in Canada.

• (1520)

This goes against its mandate. I would like the leader to explain to Canadians whether this is true and whether it is actually happening as reported.

Hon. Marjory LeBreton (Leader of the Government): First, honourable senators, as I reported and as the honourable senator knows, we do not comment on operational matters of national security. I have also indicated that we take the whole question of cyber security seriously and we operate on the advice of experts.

In 2010, the government brought in the first-ever cyber security strategy. We have made a significant investment, \$245 million, in a cyber security strategy designed to defend against electronic threats, hacking and cyber espionage.

Of course, with respect to specific incidents, I cannot comment.

Senator Moore: I have a supplementary question. A report dated 2008 from the then Communications Security Establishment Canada watchdog, the late Charles Gonthier, a former Justice of the Supreme Court of Canada, reads as follows:

Some of CSEC's metadata activities raise issues that make us question whether CSEC is always in compliance with the limits.

Can the leader comment as to whether or not CSEC has been operating within its limits? Keep in mind that between 2007 and 2008 it was shut down until new rules were put in place. Has CSEC been operating within its prescribed legal mandate?

Senator LeBreton: Honourable senators, I actually believe that they do. CSEC provides valuable foreign intelligence that protects Canadians from foreign threats and cyber attacks. CSEC uses metadata to identify and collect international — and not domestic — communications, and of course it does not include any content of any particular communication. Yes, they do follow the rules.

Senator Moore: Is the leader confirming, then, that CSEC is not gathering metadata on communications by Canadians within Canada?

Senator LeBreton: Yes, honourable senators, that is my understanding.

Senator Moore: I have a further supplementary question.

A number of months ago in the Senate, we switched from the BlackBerry to the Apple iPhone, as well as the new mainframe. Where is the server for all of that? I am wondering if it is in the

United States. If it is in the United States, is it subject to the Patriot Act, so that communications of senators and staff going through that mainframe would be caught and would therefore be subject to the Patriot Act? Where is the mainframe, the server that drives that computer service?

Senator LeBreton: Honourable senators, that is not a question that I can answer, as Leader of the Government in the Senate. That is a question for the officials and the authorities who run the Senate communications network.

Senator Moore: Honourable senators, I just thought, as a matter of interest, that maybe the leader or her staff has an iPhone. She is participating in that service, so I thought it might be of interest to her. I would like for her to try to find out.

We learned over the past few days that in the United States there are over 2,000 private companies surveilling communications and reporting to that country's National Security Agency.

Would the leader know, or could she find out, whether any of those 2,000 companies are surveilling Canadian communications and reporting them to the National Security Agency in the United States?

Senator LeBreton: Honourable senators, all I can say to the honourable senator is that CSEC is prohibited by law from directing any of its activities at Canadians anywhere in the world or at any person in Canada.

With regard to the activities in the United States, it is very clear what the mandate of the Communications Security Establishment is. It is explicitly prohibited from directing its activities at Canadians.

I actually do not believe that I, as the government leader in the Senate, can answer a question about the activities of another country.

Senator Moore: I appreciate that, honourable senators. However, I am wondering if the leader could inquire of our own security service as to whether or not they could themselves check that out. I think it would be important information to know.

Some of these U.S. companies might be located near our border. Maybe that is their job; I do not know. However, if we could find that out, I think it would be useful and instructive as to our relationship there and what is happening and what Canadians may be unknowingly subjected to.

Senator LeBreton: Insofar as the Senate is concerned, that would be a question that the honourable senator could direct to the proper authorities in the Senate.

I clearly stated the mandate of the Communications Security Establishment. Of course, the government and authorities do not comment on individual cases. I doubt very much if they could answer the honourable senator's question; however, I would be happy to pass along his concerns to the appropriate people.

[Translation]

OFFICIAL LANGUAGES

LANGUAGE TRAINING FOR IMMIGRANTS— LINGUISTIC DUALITY

Hon. Maria Chaput: Honourable senators, my question is for the Leader of the Government in the Senate. The purpose of the Roadmap for Canada's Linguistic Duality is to enhance the vitality of official language minority communities. There are two official language minority communities in Canada: anglophones in Quebec and francophones and Acadians outside Quebec.

In this Roadmap, your government stated that \$120 million would be set aside for language training for immigrants. This plan is designed to strengthen our official language minority communities, so language training for immigrants should be available to anglophones in Quebec and francophones and Acadians outside Quebec.

Why did Minister Kenney say that the money in the Roadmap was being used to teach English to new arrivals outside Quebec? Why did he say such things? That is not what the Roadmap is for.

[English]

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, I am not aware of Minister Kenney's comments, so I will not address them specifically.

I can tell honourable senators that with regard to the Roadmap, of course, Canada is a bilingual country and our government has shown its very firm commitment to ensuring that Canadians can communicate in the official language of their choice.

Our government's Roadmap for Official Languages is a renewal of the most comprehensive investment in Canada's official languages in our country's history. Our investments support English and French minority language communities, centred on three specific pillars: education, immigration and community support.

Our government, of course, is committed to this and will continue supporting official languages so that all Canadians can take advantage of the economic and social benefits of Canada's linguistic duality.

[Translation]

Senator Chaput: I thank the leader, but could she tell us when Minister Kenney made these comments? I was told that it was when he appeared before the House of Commons Standing Committee on Official Languages. There is nothing wrong with teaching English to immigrants across Canada. I think it is a good thing and it is commendable, but the money for this is not in the Roadmap. If the government takes money from the Roadmap to teach English to immigrants outside Quebec, I think it is using Roadmap money for other purposes.

Madam leader, I would like you to find out this information and answer my questions as to when Minister Kenney said that.

[English]

Senator LeBreton: I thank the honourable senator because, as honourable senators know, when new immigrants come to Canada, there is a requirement that they speak one or the other of Canada's official languages.

I am not, as I mentioned, aware of the context of Minister Kenney's remarks. I will, of course, seek clarification as to what exactly Minister Kenney said, and in what context.

[Translation]

Senator Chaput: Honourable senators, I am sure that the leader understands that the Roadmap funding is to be used to enhance the vitality of official language minority communities.

• (1530)

If, in fact, and this is commendable, the federal government wants to teach English to newcomers to Canada who do not speak English, that is fine, but the funding to do this should not come from the Roadmap for Canada's Linguistic Duality. Thank you.

[English]

Senator LeBreton: Honourable senators, I fully understand the intent and purpose of the Roadmap: after all, we were the ones who set it up. I have not confused what your question is about the Roadmap with purported comments of Minister Kenney. I simply sought to find out what exactly he said and in what context.

[Translation]

ANSWERS TO ORDER PAPER QUESTIONS TABLED

NATIONAL REVENUE—CORRESPONDENCE FROM PARLIAMENTARIANS

Hon. Claude Carignan (Deputy Leader of the Government) tabled the answer to Question No. 70 on the Order Paper by Senator Downe.

NATIONAL REVENUE—COMMUNITY VOLUNTEER INCOME TAX PROGRAM

Hon. Claude Carignan (Deputy Leader of the Government) tabled the answer to Question No. 71 on the Order Paper by Senator Downe.

[English]

ORDERS OF THE DAY

ECONOMIC ACTION PLAN 2013 BILL, NO. 1

THIRD READING—DEBATE SUSPENDED

Hon. JoAnne L. Buth moved third reading of Bill C-60, An Act to implement certain provisions of the budget tabled in Parliament on March 21, 2013 and other measures.

She said: Honourable senators, I am pleased to make a few comments on Bill C-60, Economic Action Plan 2013 Bill, No. 1.

I would like to acknowledge and thank the Standing Senate Committee on National Finance for all their work in conducting a pre-study of this important legislation. Special thanks go to our chair, the Honourable Senator Day, for his fair and effective chairmanship; to Jodi Turner, our committee clerk, for her commitment and exceptional organizational skills; and the Library of Parliament analysts, Edison Roy-César and Sylvain Fleury.

I would like to applaud all the department officials and non-government witnesses who appeared before the committee to provide input on Bill C-60 and why its passage is vital to so many aspects of the Canadian economy. In total, 67 witnesses appeared before the committee. Their insight into this very important piece of economic legislation was very much appreciated.

I would like to call on all honourable senators to support the final passage of these key measures that will help communities and families, drive economic growth, create high-paying jobs and ensure long-term prosperity in Canada.

Hon. Joseph A. Day: Honourable senators, I will have a few words to say at third reading of Bill C-60. Unlike Honourable Senator Baker, whose few words tend to be a lot of words, I will try to reduce mine, but I may get carried away with some of these points because there is a lot in this particular bill. I am hopeful that each honourable senator will take the time over our break in their home areas to reflect on some of the points in this bill.

This is budget implementation number one for this year. This is our opportunity, honourable senators, to vote on, discuss and understand aspects of the budget. We, in this chamber, do not vote on the budget. We receive it, of course, and it is tabled here, but we do not vote on it. However, we do vote on any budget implementation bills that come forward.

This particular bill is entitled “An Act to implement certain provisions of the budget tabled in Parliament on March 21, 2013 and other measures.” There is still an admission by the executive that there are things in here — and there are, as it turns out, quite a few things in here — that are not part of a tax bill, not part of a fiscal bill, but are put in the annual omnibus bill. I have said from the beginning that there is nothing wrong with an omnibus bill

where a lot of small matters are brought together that would not, each one in itself, merit a piece of legislation. It makes sense to bring forward those small items and put them together maybe once or twice a year.

Honourable senators, my difficulty and the objection I have is that it is disingenuous at best to put an omnibus pile of non-fiscal and non-tax matters in with tax legislation and say, “There you go; this must be passed very quickly and it is a matter of confidence.” It is not fair for us and not fair for the people we represent that we are required to rush through all of these other peripheral matters in order for the government to get its funding to carry on with the business of government.

Senator Buth is the third member of our steering committee and the sponsor of this bill. I know she has heard me speak on that point previously, so what I have said is nothing new to her. I would like to thank her and, through her, all members of the Finance Committee for the fine work that has been done. I join her in thanking the staff members of our team who helped us bring this matter through to you in good time. We did a pre-study because we knew the bill would be late getting here. We knew it was tied to finances and that the government would need it before we go home, but that does not make it any more palatable or acceptable.

As well, I would like to thank the deputy chair, Senator Smith, for his work; Senator Buth as part of the steering committee; and our respective offices because a lot of planning needs to be done and a lot of work goes on behind the scenes to create the various hearings and to ensure we have witnesses present.

To remind honourable senators, we are at third reading of Bill C-60, which is 116 pages long and contains 233 clauses. Each of those clauses does not necessarily build on a previous one. There is a lot of different subject matter in this bill.

The Standing Senate Committee on National Finance held 11 meetings and heard from 67 witnesses, comprising 15 government departments, 5 agencies and 16 organizations outside of Parliament and outside of government. The committee also received eight written submissions, which form part of the record. Honourable senators can access those written submissions at any time, but I would highly recommend the submissions from the Canadian Broadcasting Corporation and the Canadian Bar Association on different subject matter, but they had very important comments to make.

Usually what happens when we receive written submissions is, because we are acting so quickly and trying to get this work done in such a short period of time, witnesses cannot be arranged as quickly as we would like, so we give them the opportunity to send us written submissions in the event they cannot come. The difficulty with a written submission is that it is not open for explanation. When they come as witnesses before us then we can engage in a good dialogue that is very helpful in educating all members of the committee.

As Senator Buth has said, we did a pre-study on this matter. Therefore, when the bill came to us last week, it was referred immediately to us and reported back here.

We are now at third reading, which honourable senators will understand is the final step before we are called upon to say “yea” or “nay” with respect to this bill.

• (1540)

There are good parts in this bill. There are parts in this bill that I would like to vote for, but I am not given an option at this stage in third reading to vote for certain items and vote against other items. I could move amendments to try to take out the parts that I find to be less acceptable, but apart from that, it is just a yes or no, so honourable senators will understand that I will be voting against this legislation because of certain items in this bill that I feel are misdirected.

I will try to touch on some of those so that honourable senators will understand the areas I have some concerns about. If time permits, then I could tell you about some of the other areas that I think are good public policy that would be good to see implemented. Assuming that we vote this bill down, then maybe we could reintroduce some others.

I was tempted to do something that was done on another occasion last year on a budget implementation bill and bring a motion to divide this bill into the other matters and the financial matters. I decided against doing that at this time primarily because I am seeing some progress from the executive in reducing the size of this bill. It is about two thirds the size of the previous one, so we are slowly moving down on these other matters. Maybe we will see how things go, and perhaps we will achieve our goal of having other matters dealt with in another omnibus bill as time progresses.

Let me first of all remind honourable senators from second reading that there are three major sections to this bill: Part 1, Part 2 and Part 3.

Part 1, clause 15, is credit unions. Credit unions are extremely important financial institutions for our small communities. Many of us have them in our regions. In some small communities, the only financial institution that exists in that community is a credit union. In French, credit unions are called “caisses populaires.”

The caisse populaire, or the credit union, is oftentimes the only bank that exists in a small community, and this bill is an attack on those small caisses populaires, the small credit unions. That is one reason why I cannot vote for this particular bill. This is not the time to be raising taxes.

Senator Munson: We would like to have a little order so that we can hear Senator Day.

The Hon. the Speaker pro tempore: I should say, Senator Day, you will have two more minutes, and then we will have to rise and suspend awaiting the arrival of the Governor General.

Senator Day: I will continue for two more minutes, and I probably will not be able to conclude my remarks in relation to this bill, honourable senators, but I can conclude the comments with respect to the caisses populaires or the credit unions.

Historically, it has been recognized that a caisse populaire or a credit union has a much smaller business base and therefore needed some special attention that the bigger banks did not need.

[Senator Day]

In fact, the bigger banks, when they look at a small community, will often close down that small bank in the small community because they say it is not profitable enough, whereas the caisses populaires can continue, in part, because the government has recognized that they needed special attention, so they had a lower tax rate. That additional tax deduction for credit unions found in clause 15 of the bill is taking away that special provision. This change is expected to cost the credit unions across Canada roughly \$75 million per year. That \$75 million taken out of all of our small, little communities to go to the federal government is the result of this initiative.

Mr. Gary Rogers, the vice-president of financial policy at Credit Union Central of Canada, appeared before the committee and stressed that his organization has enjoyed a great partnership with the federal government in the past.

The Hon. the Speaker pro tempore: Honourable senators, as per the order of this chamber, we must now suspend this sitting to await the arrival of His Excellency the Governor General in approximately 15 minutes.

(Debate suspended.)

(The Senate adjourned during pleasure.)

• (1600)

[Translation]

ROYAL ASSENT

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

An Act to amend the Canada Post Corporation Act (library materials) (*Bill C-321, Chapter 10, 2013*)

An Act to amend the Criminal Code (*Bill C-37, Chapter 11, 2013*)

An Act to amend the International Boundary Waters Treaty Act and the International River Improvements Act (*Bill C-383, Chapter 12, 2013*)

An Act to amend the Criminal Code (*Bill S-9, Chapter 13, 2013*)

An Act to enact the Nunavut Planning and Project Assessment Act and the Northwest Territories Surface Rights Board Act and to make related and consequential amendments to other Acts (*Bill C-47, Chapter 14, 2013*)

An Act to amend the Criminal Code (concealment of identity) (*Bill C-309, Chapter 15, 2013*)

An Act to amend the Immigration and Refugee Protection Act (*Bill C-43, Chapter 16, 2013*)

An Act respecting a national day of remembrance to honour Canadian veterans of the Korean War (*Bill S-213, Chapter 17, 2013*)

An Act to amend the Royal Canadian Mounted Police Act and to make related and consequential amendments to other Acts (*Bill C-42, Chapter 18, 2013*)

An Act to amend the Criminal Code (prize fights) (*Bill S-209, Chapter 19, 2013*)

An Act respecting family homes situated on First Nation reserves and matrimonial interests or rights in or to structures and lands situated on those reserves (*Bill S-2, Chapter 20*)

An Act respecting the safety of drinking water on First Nation lands (*Bill S-8, Chapter 21, 2013*)

An Act to amend the National Defence Act and to make consequential amendments to other Acts (*Bill C-15, Chapter 24, 2013*)

An Act to give effect to the Yale First Nation Final Agreement and to make consequential amendments to other Acts (*Bill C-62, Chapter 25, 2013*)

An Act to amend the Corruption of Foreign Public Officials Act (*Bill S-14, Chapter 26, 2013*)

An Act to implement conventions, protocols, agreements and a supplementary convention, concluded between Canada and Namibia, Serbia, Poland, Hong Kong, Luxembourg and Switzerland, for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes (*Bill S-17, Chapter 27, 2013*)

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 (*Bill S-15, Chapter 28, 2013*)

The Honourable Andrew Scheer, Speaker of the House of Commons, then addressed His Excellency the Governor General as follows:

May it please Your Excellency:

The Commons of Canada have voted certain supplies required to enable the Government to defray the expenses of the public service.

In the name of the Commons, I present to Your Excellency the following bills:

An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2014 (*Bill C-63, Chapter 22, 2013*)

An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2014 (*Bill C-64, Chapter 23, 2013*)

To which bills I humbly request Your Excellency's assent.

The Honourable the Governor General was pleased to give the Royal Assent to the said bills.

The House of Commons withdrew.

The Honourable the Governor General was pleased to retire.

• (1620)

[English]

(The sitting of the Senate was resumed.)

ECONOMIC ACTION PLAN 2013 BILL, NO. 1

THIRD READING—DEBATE ADJOURNED

Resuming debate on third reading of Bill C-60, An Act to implement certain provisions of the budget tabled in Parliament on March 21, 2013 and other measures.

Hon. Joseph A. Day: Honourable senators, I was talking about the phase-out of the special tax treatment and its cost to credit unions — small financial institutions in communities across Canada — of roughly \$75 million per year hereafter. Mr. Gary Rogers, Vice-President, Financial Policy, Credit Union Central of Canada, which is the umbrella organization, appeared before the Senate Finance Committee. We thank him for coming before us and helping us to understand this proposal. He indicated that the effective federal rate would go up about 4 per cent from 11 per cent to 15 per cent for each credit union. As honourable senators will understand, for a small credit union about 1,000 times smaller than the smallest bank, that is a significant increase.

Mr. Rogers said:

It is fair to say that no other federal decision in memory has been met by this degree of surprise, consternation and anger from credit unions.

As honourable senators know, credit unions are important to Canadian communities. This is a rather significant change that we have not heard enough about. We will be watching to see how many credit unions are closed down in our small communities as a result of this change proposed in the bill.

Another area that I will mention briefly, honourable senators, is Part 3, Division 1. Part 3 has 18 different divisions, but I will not go through each one, as much as I am tempted to do so. Division 1 is particularly important to our committee because we have some good background information in relation to tariffs, which I touched on at second reading. The committee heard testimony and prepared a report on the price gap between Canada and the United States for the same products. We found that one of the factors that impact on this difference in the price of goods is the difference in the tariffs on items brought into the United States from Asia or Europe and those brought into Canada. We found that because of the distribution system, it is not only the direct

percentage of the tariff but also the multiplier effect because the tariff is applied at the front end and then distribution and transportation costs are factored in as a percentage on top of that. The percentage is calculated on the cost plus the tariff.

Honourable senators, we were particularly interested in seeing a major announcement with respect to a reduction in tariffs on certain children's clothing and athletic equipment. However, the problem arises when you get into the weeds of this and find other increases because the government decided to do away with the General Preferential Tariff, which means that there is a major increase. The General Preferential Tariff was a reduction in tariff rates for various products from developing countries. However, these countries have moved from developing to developed or newly developed, but the tariff rate remains at the earlier rate; they are not changing the tariff rate. It does not matter if they change the category of the country; it is the naming of the rate of the tariff.

What is the effect of this, honourable senators? The steady effect of this will be an increase in the cost of goods imported into Canada by at least \$350 million a year; and that is a tax by any other name.

An Hon. Senator: A backdoor tax.

Senator Day: As I said previously, a "tax or duty paid on a particular class of imports" is the definition of "tariff." While the government opines about keeping taxes low for Canadians, in fact it is doing the opposite with respect to these matters.

Mr. Mike Moffat, Assistant Professor, Richard Ivey School of Business, University of Western Ontario, concurred and stated so when he appeared before the committee. I will read from Mr. Moffat's opening remarks. He said:

We can think of a tariff basically as a sales tax, although one hidden from the consumer.

Mr. Moffat also said:

The changes to the General Preferential Tariff system and the associated \$350 million per year tariff increase more than undo the benefits of the reductions on baby clothes and sporting equipment.

Ms. Karen Proud of the Retail Council of Canada shared some of these concerns when she appeared before the committee. She said:

We understand the government's policy intent behind this review, but we do have some concerns with the implementation, the scope and the potential negative effect on consumers.

• (1630)

This might be a good policy initiative to talk about in terms of nations that are more advanced now and should be in another category, but is this the right time to increase the cost of a wide, wide range of goods for Canadians when we are just coming out of this economic downturn?

To sum up, honourable senators, with respect to this issue, the government will lose approximately \$76 million in revenue through the much heralded reductions on sports equipment and

children's clothing but will gain \$350 million in tariff increases when this has been implemented. This is a net gain to the government of \$274 million in this budget implementation bill that you are voting on.

There is another new revenue source for the government, which we found in Part 1. This provision eliminates the tax deduction for safety deposits boxes. So many small businesses have safety deposit boxes in your caisses populaires and in your local banks. In the past, that was deemed to be a cost of doing business, and a small business could make a business deduction for having the safety deposit box. The government has decided that safety deposit boxes are no longer used that much for business purposes, so they are taking that deduction away. This provision eliminates the tax deduction for safety deposit boxes. This is expected to cost Canadians approximately \$40 million a year — \$40 million more to the government through another one of these little nickel and dime things.

Honourable senators, I wanted to talk very briefly about temporary foreign worker permits. We spent a lot of time discussing that area, and we had a number of witnesses on this. It is a subject that has been in the media quite a bit in the last while. This can be found in Division 9 of Part 3. Part 3 is all the other matters. The committee heard from Christopher Smillie of the Building Construction Trades Department; Martin Lavoie of Canadian Manufacturers & Exporters; and Karl Flecker of the Canadian Labour Congress. We would, of course, like to thank each of them for coming and helping us to understand the impact of these government initiatives on industry, on the goose that lays our golden egg for us, the people outside of government who are generating the revenues and hiring the people who pay the taxes.

Mr. Martin Lavoie, of Canadian Manufacturers & Exporters, said that his members fully support the goal of government that companies hire Canadians first, whenever possible, and that the abuse of the Temporary Foreign Worker Program has to stop. They support that, and I support that. I would argue that we all share that same goal, honourable senators.

Canada's unemployment rate is hovering at just over 7 per cent. In my home province of New Brunswick, the unemployment rate is 10.5 per cent. We all support getting Canadians back to work. While Mr. Lavoie stated that hiring a foreign worker should be a last resort for the members of his Canadian Manufacturers & Exporters, he said that finding domestic workers to fill the positions is not always possible, and that is important for us to understand. It is due to a number of different reasons, honourable senators.

Mr. Karl Flecker, of the Canadian Labour Congress, also appeared before the committee to discuss changes to the Temporary Foreign Worker Program. He began by expressing his disappointment. This is the Canadian Labour Congress. Who else would you talk to about trying to create programs for the employment of Canadians? He began by expressing his disappointment in the consultation process, or lack thereof, done by the government. He felt that labour groups were not represented at many of the consultations and were somewhat ignored. He called Canada's Temporary Foreign Worker Program "broken." He argued that more oversight is needed to stop abuses and to hold the employers, labour brokers and immigration consultants responsible if they abuse the program.

Honourable senators can see how we are getting away from a finance bill and a tax bill when we get into some of these other items that really deserve a study in their own right.

There was another aspect of this that I mentioned in passing, at second reading, that I want to remind honourable senators of. If I were going to move an amendment, this is one of the areas where I would move an amendment because there is an exemption for the User Fees Act that appears under immigration and under citizenship. Two acts that we looked at, both of them administered by the same department, want to be exempted from the User Fees Act.

Honourable senators will remember that the User Fees Act went through this chamber, and we discussed at length a few years ago how important it was to make sure that government departments do not ask for more in user fees than is actually the cost of administering their program. Avoiding another hidden tax is what we were trying to get at because sometimes user fees bring in more revenue than is actually being expended for the service.

The Department of Immigration is increasing fees for all of the people we just heard about. The immigration consultants, the would-be worker coming in and the would-be employer are all having to pay for different privileges. Under the Citizenship Act, there is a \$100 fee for the privilege to become a Canadian.

They are changing names to avoid costs being called “user fees,” and they are avoiding the user fee by asking us to exempt them from our law that we worked hard to get in there, to say that they do not have to abide by it. When we asked them about it, they just said that they found it inconvenient to have to abide by the law.

Senator Mercer: Inconvenient? Oh, is not that nice?

We have seen a lot of that around here lately.

Senator Day: Honourable senators, that is Division 17. I know I am abusing my time here, so I will try to move along. Collective bargaining for Crown corporations is another area that is very important that we know we are voting on here.

Honourable senators, this is in Division 17 of Part 3. That division had, perhaps, the majority of the media coverage, which I think can be largely attributed to a lack of understanding as to why this is being implemented. I will read directly from the bill what this division purportedly sets out to do.

Division 17 of Part 3 amends the *Financial Administration Act* to give the Governor in Council the authority to direct a Crown corporation to have its negotiating mandate approved by the Treasury Board for the purpose of the Crown corporation entering into a collective agreement with a bargaining agent. It also gives the Treasury Board the authority to require that an employee under the jurisdiction of the Secretary of the Treasury Board observe the collective bargaining between the Crown corporation and the bargaining agent.

We create Crown corporations to be, for obvious reasons, separate from a government department, and now the government is saying, “We want to put more of our people into all of your day-to-day activity, so we know what you are doing and can direct how that can be done.”

Division 17:

... also gives the Governor in Council the authority to direct a Crown corporation to obtain the Treasury Board’s approval before the Crown corporation fixes the terms and conditions of employment of certain of its non-unionized employees.

Not only does this relate to unionized employees, but it also relates to non-unionized employees, where they want government department representatives in the Crown corporation. What is the role of the board of directors of these Crown corporations? What responsibilities do they have with respect to hiring, when their authority and that fiduciary duty that they have as a member of the board is being taken away? Honourable senators have not heard the end of this.

• (1640)

The committee contacted various Crown corporations because it was important they come. We were not able to schedule any in the short time we had available to study this bill. This is one of the areas we will follow up on in the future to see how it will be implemented.

We received several submissions with respect to concerns about the Canadian Broadcasting Corporation. Senator De Bané would be pleased to know there are a lot of people out there writing about the CBC. They were unable to appear because of scheduling conflicts, but they did submit a letter originally sent to the Standing Committee on Finance in the other place. It outlines many of their concerns.

CBC believes that the amendments proposed to the Financial Administration Act, which I précised for honourable senators, would reduce the independence that is fundamental to their operation; it may be in conflict with parts of the Broadcasting Act. Mr. Lavoie sent that letter to us, pointing out that there could be some legal issues.

At present, safeguards are in place to guarantee the arm’s-length independence of CBC’s activity as a public broadcaster. CBC also reports to Parliament through comprehensive reporting structures. It is all looked after. That is not the executive; that is to Parliament, and the executive learns that way. This initiative is the executive branch trying to get into the Crown corporations.

The question really is: Why are we legislating that Crown corporations may be required to seek a negotiating mandate from Treasury Board ministers, or to determine the terms and conditions of employment?

In its letter, CBC pointed out that this would include the terms and conditions of employment of journalists, anchors and senior executives.

This legislation would allow a Treasury Board employee to be part of the negotiating process. CBC worries this could create a conflict which may in turn compromise CBC's independence.

I also mentioned to honourable senators another letter we received from the Canadian Bar Association. It raises concerns about certain portions of this bill, in particular the Investment Canada legislation where a takeover is proposed by a foreign entity of a Canadian operating entity or company. The question is whether it is a wholly owned government operation in another country, and the rules are being changed in that regard.

They were concerned about the vagueness of this proposal. As honourable senators know, I dislike the deeming provisions, but there is going to be the opportunity for a deeming when a foreign entity has taken control, virtually or, in effect, in reality, in numbers, even though it is not 51 per cent control. If it has virtual control, then the government can step in, as the Canadian Bar Association points out, after the deal is done and the entity is operating, and there is a 35 per cent ownership by a foreign entity. If that 35 per cent becomes de facto control as opposed to legal control, then there can be a deeming after the fact. That could cause a lot of difficulty in markets that do not like surprises; that is, the stocks, bonds and foreign investment markets. That kind of provision causes a lot of concern.

It is there, honourable senators. It would be nice if it were not. The Canadian Bar Association suggests we lift this out of Bill C-60 and have a full discussion on what the ramifications are.

That, honourable senators, would have been another area where I would have been inclined to move an amendment to remove it. Because of the way this is couched in a piece of tax legislation, I am not inclined to do so at this stage.

Those are a few of the items I wanted to bring to the attention of the honourable senators. Other senators who served on the committee during the pre-study may wish to raise additional issues.

Thank you, honourable senators, for your attention.

(On motion of Senator Callbeck, debate adjourned.)

WITNESS PROTECTION PROGRAM ACT

BILL TO AMEND—THIRD READING— DEBATE ADJOURNED

Hon. Bob Runciman moved third reading of Bill C-51, An Act to amend the Witness Protection Program Act.

He said: Honourable senators, I am pleased to offer some brief comments at third reading of Bill C-51 — the Safer Witnesses Bill. This bill is the first major update to the Witness Protection Program Act since its passage in 1996.

I would like to explain what the bill does and what witnesses told the committee. At the outset, I would like to thank Deputy Chair Senator Fraser. I am the sponsor of this bill, so Senator Fraser took the chair during the consideration of the bill, and as always, she did an outstanding job.

Honourable senators, this bill accomplishes three major objectives.

First, it streamlines the process for identity change by allowing more seamless integration between the federal and provincial programs.

Honourable senators may know that several Canadian provinces and municipalities have their own witness protection programs. Right now, for witnesses in these programs to receive secure federal documents for identity changes, they need to be transferred into the federal program. Bill C-51 will allow provincial programs to be designated under the federal act. This designation clears the way for the RCMP to assist these witnesses in receiving the necessary documents, without requiring a transfer to the federal program.

Second, Bill C-51 broadens the prohibitions on disclosure of information relating to persons admitted to the federal program or to designated municipal or provincial programs. There will be prohibitions on disclosure, not just relating to the protected witness, but to the means and methods by which witnesses are protected, as well as to persons who provide or assist in providing protection.

Finally, a major change in this bill is that it expands the categories of witnesses who may be admitted to the Witness Protection Program to include those who are referred by services with a national security or national defence mandate.

I would like to give honourable senators a sense of what the committee heard last week during its consideration of this bill. In particular, I would like to highlight the strong endorsement of this legislation by Tom Stamatakis, President of the Canadian Police Association. He is a very impressive man. He is an experienced police officer who represents 54,000 front-line officers.

In his testimony, he highlighted the resourcefulness of organized crime and the challenges police face in building a case. He told us:

Law enforcement often has to rely on witnesses putting their own safety, as well as the safety of their families, in jeopardy when they come forward with information that is used to prosecute these dangerous offenders. This legislation will help provide and, perhaps most importantly, modernize the tools we use to protect these informants.

In his view, one of the most important changes is the expanded prohibition on disclosure that he believes will increase protection for both the witnesses and for the police officers who are working with them. These changes are absolutely critical in the information age, Mr. Stamatakis said.

• (1650)

He also praised the new system of designating a provincial program to allow the RCMP to assist witnesses in changing their identity without having to formally admit them into the federal program. It is an example of cutting red tape that he said he hopes to see in future legislation as well.

His overall conclusion about the bill was, and again I quote:

... Bill C-51 is an example of legislation that will help better coordinate efforts across various levels of law enforcement, provide better protection to the men and women who serve as police personnel in this country, help our members crack down on organized crime and gang activity and promote at least some efficiencies in a system that is badly in need of reform.

Again, that is from a man who represents 54,000 front-line police officers.

He was not alone. Richard Dupuis, a retired Montreal police officer who ran that city's witness protection program, said the beauty of Bill C-51 is that it fully respects the autonomy of provincial and municipal programs, while allowing greater access to federal help.

The committee also heard from Yvon Dandurand, a criminology professor from the University of the Fraser Valley. Professor Dandurand worked with the Air India inquiry and has spent a number of years studying this issue. I will not suggest that Professor Dandurand provided unqualified praise for Bill C-51. In fact, he wishes it would go further in terms of independent oversight in particular.

He did say that what is in the bill are "positive changes that are overdue." He said Bill C-51 is a step in the right direction, but perhaps not as big a step as he would like. He believes this bill will increase the efficiency of both federal and provincial programs, and he called it a valid compromise that enhances the national program, while increasing access to help by the RCMP for provincial programs.

Even on oversight, he believes that a planned advisory committee for the federal program, combined with the enhanced ability for oversight of the RCMP as a result of Bill C-42, the enhancing RCMP accountability act, are positive developments.

Speaking of Bill C-42, Ian McPhail, the Interim Chair of the Commission for Public Complaints Against the RCMP, told the committee that his commission — and, to an even greater extent, the new commission that would be created by Bill C-42 — provides very robust oversight of the witness protection program.

Honourable senators, this is just some of the evidence we heard at committee. I do not want to be accused of cherry-picking and quoting only those witnesses who agree with the bill. There was also vigorous opposition by the Ontario government expressed at the committee by the Deputy Commissioner of the OPP and by a written brief from the Minister of the Attorney General. Even though I am unable to share their concerns, the committee did appreciate their input.

Ontario's arguments are that Bill C-51 creates a cumbersome system that may compound delays for provincial partners in receiving secure identity documents and that the prohibitions on disclosure may interfere with Ontario's yet-to-be-proclaimed Crown Witnesses Act.

Honourable senators, I have spent much of my working life as a provincial representative, and I have seen first-hand the frustrations of dealing with the federal government, regardless of political stripe. Therefore, I do not take these concerns lightly and have looked at them carefully.

The beauty of Bill C-51 is that it creates an opt-in system, where provincial programs can choose to be designated to gain access to the streamlined process for federal identity documents, or they can choose not to be designated and operate exactly as they do now. How will that compound delays, as alleged by the OPP? That is difficult to understand.

The objections to the new prohibitions on disclosure are even more questionable. Ontario is arguing these new provisions may conflict with their yet-to-be-proclaimed Crown Witnesses Act. I highlight "yet to be proclaimed." This legislation was passed in 2009 and is yet to be proclaimed.

Honourable senators, why should the federal government delay reforms to significantly modernize and improve the witness protection program because some of the changes may conflict with legislation in a single province, legislation that, four years after passage, has not even — and may never — come into force? Further, the prohibitions on disclosure apply to the federal program and to other designated programs. If Ontario chooses not to seek designation, the prohibitions will not apply.

In a submission received just briefly before clause-by-clause consideration of the bill, the Attorney General of Ontario recommended two amendments. One was to allow provincial officials to bypass the RCMP when requesting federal documents. I think that was their number one priority. The second was to allow provincial legislation regarding disclosure in the provinces in which such legislation exists to override the federal act.

On that latter point, I note the wisdom of Senator Baker, an indispensable member of our committee, who registered his disagreement at committee with the prospect of a provincial law trumping federal legislation on disclosure in criminal matters.

As well, honourable senators may have to question why Ontario waited until the eleventh hour to bring forward these concerns. This bill is the result of years of consultation with provincial partners and is drafted and crafted to address the concerns they raised.

Honourable senators, this bill allows for a streamlined process for those provinces that choose to participate, but it fully respects their autonomy. It provides a better system, but, at the end of the day, it is up to them whether or not they want to participate.

In conclusion, Bill C-51 streamlines, modernizes and enhances the system of witness protection in this country. It will help keep witnesses and police officers safer, and I encourage all honourable senators to support Bill C-51.

(On motion of Senator Baker, debate adjourned.)

CANADA TRANSPORTATION ACT

BILL TO AMEND—THIRD READING—
DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Unger, seconded by the Honourable Senator Smith (*Saurel*), for the third reading of Bill C-52, An Act to amend the Canada Transportation Act (administration, air and railway transportation and arbitration).

Hon. Terry M. Mercer: Honourable senators, I would like to add some further comments on Bill C-52, the fair rail freight services act.

During committee hearings on the bill, we heard from a variety of witnesses, including the Coalition of Rail Shippers, which represents 17 shipper organizations across Canada. We also heard from the Railway Association of Canada, the Canadian National Railway Company, Canadian Pacific Railway, the Forest Products Association of Canada, the Canadian Fertilizer Institute and the Grain Growers of Canada, as well as Pulse Canada and the Honourable Denis Lebel, Minister of Transport, and officials from the department.

I was happy to see so many witnesses being called to the committee, and I thank the chair and the steering committee for that.

How did we get to this point? The Rail Freight Service Review reported on its findings concerning the relationship between shippers and railways which resulted in this bill. Is it a perfect bill? I think if honourable senators read the testimony from the witnesses, all of them will say no. Is it a good start? Possibly. The bill tries to give shippers a legislated way to resolve disputes and to come to agreements concerning levels and quality of service with the providers; that is, the railways.

What I find interesting is that there is no guidance on how a railway is to fulfill its service obligations; they are not really defined, and this could result in unnecessary and costly proceedings.

Honourable senators, as I have said in previous comments, the legislation proposes that the railways provide their customers with service level agreements that are enforceable, but that must be fair. Does this legislation accomplish that goal? I am not so sure.

The mechanism for providing a service level agreement that is beneficial to both parties was intended to address concerns by shippers that the railways should be providing contracts for all service terms.

• (1700)

Proposed subsection 169.31(1) includes “operational terms,” throughout the subsection, as well as in 169.32(1), 169.34(1) and 169.37.

Does this solve any problems? Does it provide for contracts for service terms other than for operational terms? I do not think it does.

Honourable senators, there is a mandatory review of the larger Canada Transportation Act scheduled for 2015. Rather than wait until that time, it would be my preference to ensure that this bill accomplish what it and the Rail Freight Service Review Panel intended: better service for shippers and the railways. For that reason, I moved amendments in the committee to try to strengthen the bill in some ways, including those issues I mentioned just now. The amendments were suggested by the Coalition of Rail Shippers in order to strengthen the bill for all parties-shippers, railways and even the arbitrator. Those amendments were defeated in committee.

Concerning the arbitrator, many commented that the arbitrator will have a tough time when and if the process ever gets to that point.

I would like to read into the record some of the comments of Ian MacKay, legal counsel for the Canadian Fertilizer Institute. He said:

There are many hoops, loops, bells and whistles in here that the arbitrator will have to take into account. The thing that surprised the shippers, when we first saw Bill C-52, was the extent of the detail. Every one of those details will have to be interpreted and applied by the arbitrator in the course of the arbitration. We are trying to address some of the complicated detail that we find in the six amendments proposed through the Coalition of Rail Shippers.

I agree, honourable senators.

That being said, I believe that we should try to make the bill better. As a result, I have looked at the amendments again and would like to propose two changes that I think will make the bill better, but will not change it drastically. They will, in my opinion and those of many others, make it clearer.

MOTION IN AMENDMENT

Hon. Terry M. Mercer: Therefore, honourable senators, I move, seconded by the Honourable Senator Robichaud:

That Bill C-52 be not now read a third time, but that it be amended,

(a) in clause 8, on page 4, by adding after line 20 the following:

“(1.6) For the purposes of this Division and without restricting the generality of the term, “service obligations” includes obligations in respect of

(a) the timeliness and frequency of the receiving and the delivery of traffic by the railway company;

(b) dwell times, estimated times of arrival, transit times and cycle times regarding the carriage of traffic;

(c) the quantity, condition and types of rolling stock to be provided by the railway company;

(d) the furnishing of adequate and suitable accommodation for the carriage, unloading and delivering of the traffic;

(e) accommodation and facilities for the exchange of information regarding the billing, receiving, carriage and delivery of traffic; and

(f) car order fulfillment, car spotting performance and car placement at destination.

(1.7) For greater certainty, a railway company shall be considered to have fulfilled the service obligations referred to in paragraph (1.6)(d) if it has carried them out in a manner that meets the rail transportation needs of the shipper.”; and

(b) in clause 11,

(i) on page 5,

(A) by replacing line 9 with the following:

“(a) the terms that the railway”,

(B) by replacing lines 14 to 16 with the following:

“(b) the terms that the railway company must comply with if it fails to comply with a term described in”,

(C) by replacing lines 18 to 20 with the following:

“(c) any term that the shipper must comply with that is related to a term described in paragraph (a)”, and

(D) by replacing line 28 with the following:

“to a term described in paragraph”,

(ii) on page 6, by replacing line 28 with the following:

“company with respect to a term”,

(iii) on page 7, by replacing line 24 with the following:

“(a) any term described in para-”, and

(iv) on page 8, by replacing line 38 with the following:

“lish any term described in paragraph”.

The Hon. the Speaker *pro tempore*: On debate.

Some Hon. Senators: Question.

The Hon. the Speaker *pro tempore*: Are honourable senators ready for the question? Is it your pleasure, honourable senators, to adopt the motion?

(On motion of Senator Robichaud, debate adjourned, on division.)

[Translation]

CIVIL MARRIAGE ACT

BILL TO AMEND—SECOND READING

Hon. Claude Carignan (Deputy Leader of the Government) moved second reading of Bill C-32, An Act to amend the Civil Marriage Act.

He said: Honorable senators, this is a technical bill that arose from a ruling following the separation of a same-sex couple that had married overseas.

Upon divorce, the rules that apply are those from the country in which the couple married. Unfortunately, few countries recognize same-sex marriage, which means that when people return to Canada and decide to separate, the foreign rules cannot apply, causing some inconsistency.

The purpose of the bill is to ensure that, no matter where they were married, same-sex couples who decide to separate in Canada are not prejudiced by the fact that the country in which they married does not recognize same-sex marriage.

Here ends my speech. I know Senator Black also wanted to speak to this bill.

• (1710)

[English]

Hon. Douglas Black: Honourable senators, on January 12 of last year, thousands of same-sex couples around the world were shocked to find that their Canadian marriages were not valid under Canadian law. These men and women came to Canada to celebrate their commitment to one another by marrying here because they were unable to do so in the countries where they lived. While they fully expected that their marriage would not be recognized at home, they were unaware that their Canadian marriage was not valid in Canada. This gap in the law needs to be corrected.

[Translation]

Hon. Fernand Robichaud: Honourable senators, this is the second time the government has risen to speak to this bill. We would like to reserve the second 45-minute period for this side of the chamber. Is that understood?

[English]

The Hon. the Speaker *pro tempore*: That is certainly understood. The person who was to speak to this bill was absent when the bill was called at the table, and the deputy leader got up and began to speak. During the course of him speaking, the sponsor of the bill came in. The Honourable Senator Carignan saw him and finished his discourse.

The speaker is really continuing the first discourse, but at no time was there an intention to take away the rights of the second speaker, Honourable Senator Fraser.

Senator Robichaud: I am not questioning the intentions.

The Hon. the Speaker *pro tempore*: Is that agreed, honourable senators?

Hon. Senators: Agreed.

Hon. Joan Fraser: I am not the second speaker, Your Honour; Senator Joyal is. I do not know whether he is prepared to speak today, but we can speak to that after Senator Black's remarks.

The Hon. the Speaker *pro tempore*: Thank you. Senator Black may continue.

Senator Black: The pain and uncertainty this has caused is unacceptable to this government.

Today, I am pleased to speak to Bill C-32, an Act to amend the Civil Marriage Act. Before I begin discussing the details and merits of this bill, it is important to note that our colleagues in the House of Commons unanimously supported this bill and passed it with one amendment. I look forward to the same expeditious support from my colleagues in this chamber.

Honourable senators, the intention of this bill is clear and its effects are unambiguous. The bill sets out a series of necessary and balanced reforms to provide fairness to couples who have come to Canada from other countries seeking to express their commitment to one another in marriage.

The first part of Bill C-32 would provide the legal validity to Canadian marriages of non-residents. To understand the effect of Part 1, it is important to understand why this situation arose in the first place.

The laws that determine when a marriage is legally valid have developed over hundreds of years. In most instances, it is the law of the country where someone lives or, more technically, where they are domiciled that determines whom they can or cannot legally marry, which is termed "capacity." These private international law rules also provide that to be valid a marriage must meet the requirements of "form" in the law of the place where the marriage is performed. This would include requirements about licensing, the ceremony itself and registration.

Non-residents who come to Canada to marry remain subject to the laws of their country with regard to their capacity to marry. For example, if those laws do not recognize same-sex marriage, then the marriage is invalid in both countries. This applies as well to opposite-sex couples. For example, if they are barred by law

from marrying someone of a different faith, and if they were to come to Canada to marry, their marriage would be invalid in both countries.

While the laws of other countries are not something we can change, we can change our own. This bill will change the current law to make valid for the purposes of Canadian law these marriages of non-residents performed in Canada.

The bill does not stop, however, at validating marriages performed in Canada where both spouses are non-residents. The new law would also remove any doubts about the validity of marriages where one person is a Canadian resident while the other is not.

The validation will operate not only for marriages performed in the future but also for those performed in the past, as long as the marriage would have been valid for two Canadian residents. This will ensure that all marriages of non-residents, regardless of when they were entered into, receive the same treatment under Canadian law.

Inevitably, there will be some situations where couples have ended their relationships. To deal with this, Bill C-32 also specifies that if, before the coming into force of this act, the couple obtained in Canada or in another country a court order that either declared their marriage null and void or provided a divorce — which has happened in a few instances in the United States — the marriage is dissolved.

The second part of this bill would create a new process to allow non-resident couples married in a Canada to dissolve their Canadian marriage following relationship breakup. The new divorce process is structured within the Civil Marriage Act rather than as an amendment to the Divorce Act.

The reason for approaching these divorces differently is that marriages of residents and non-residents present very different legal situations. Internationally, most countries, including Canada, require an individual to live in their country for a minimum period, usually at least one year, before they can apply for a divorce and any other related order.

There are several reasons for this residency requirement. First, it ensures that any disputes are heard by the court that is best placed to hear the evidence and render a legally sound decision. This will be the court of the country where the spouses and their children live and where their assets are usually located.

Second, these residency rules provide greater assurance that any court order regarding divorce and related matters will be recognized and enforced in other countries, if necessary.

Third, residency requirements exist worldwide to prevent people from choosing to take their disputes to a country where they do not live simply because they think they may get a better result than they would at home.

Clearly, however, the residency requirement, while logical for most couples, causes hardship for non-resident couples who were married in Canada because they could not marry in their own country. In many of these cases, as their Canadian marriage is not

recognized where they live, they are also then unable to divorce. Bill C-32 would create a specific divorce process for these non-resident couples in order to alleviate that hardship. This divorce process is unique because it is designed to address the unique needs of these non-resident couples.

There are three differences between the new divorce process created in this bill for non-resident couples and the Divorce Act process for resident couples. First, non-resident couples are entitled to a divorce order only with no court hearing; second, they must agree with each other to apply; and, third, they can only apply after having lived separate and apart for at least one year.

First, due to the need I mentioned a moment ago for the courts where they live to make decisions about support, the care of children, property, pensions and so on, the new divorce process would be a paper review only, with no court hearing. All that the Canadian law would govern would be the issuance of a divorce certificate to end the couple's Canadian marital status created by the Canadian marriage.

While it may be difficult for some non-resident couples whose marriages are not recognized to resolve their disputes at home, it will be possible in many cases under laws recognizing unmarried, conjugal couples, or under other laws beyond family law, such as contract law.

Canadian family law applies to Canadian residents. Our laws cannot give non-resident couples new rights and obligations in the country where they live. Even if non-resident couples were able to go before the Canadian courts to resolve their disputes, they would likely spend money on lawyer fees to get an order from the court that is highly unlikely to be enforceable in that other country in any event. If the court where they live does not recognize the marriage, they will not recognize the divorce or any other order connected with it.

Second, because non-resident couples must resolve any disputes in their own country, an integral component of this new process is that it will operate with the consent of both parties. This requirement for consent is different from the law that applies to Canadian residents because it reflects the fact that the legal situation of the non-resident couple is also very different.

As applying for divorce is a separate legal matter — that is, the only aspect that Canadian courts can deal with — requiring the consent of both spouses would mean that the couple either has resolved or is resolving any difficulties that might flow from the breakdown of the relationship, such as support and care of children in the country where they live, and are now applying for the Canadian court order to clarify their marital status under Canadian law.

There may, however, be situations where it is impossible for one of the spouses to obtain the consent of the other. In such circumstances, it would be unfair to deny the spouse any means to dissolve the marriage.

• (1720)

To address this concern, Bill C-32 would allow a Canadian court to proceed without consent by relying on its own order or an order from a court in the spouse's country of residence in three

circumstances: one, where the other spouse is incapable of making decisions because of a mental disability; two, where the other spouse cannot be found; or three, where the other spouse is unreasonably withholding consent.

These are orders that one spouse may already have from another court proceeding in their own country. In addition, the House of Commons adopted an amendment to clause 4 in proposed subsection 7(2) of Bill C-32 to also allow parties to seek such orders from a Canadian court should they so choose. This is the one amendment that I mentioned earlier in my remarks.

The third difference is that the couple will be able to apply only after they have lived separate and apart for at least one year. They will not be given access to the other two grounds for divorce in the Divorce Act, which are adultery and physical or mental cruelty. Again, the reason for this is to address the different situation of non-residents.

The government is not in any way denying the possibility that some non-resident couples may be able to establish adultery or cruelty. However, those grounds often take considerable amounts of evidence and a lengthy court hearing that will be both difficult and expensive for the non-resident spouses and yet could have no effect on the final order, which would still be the divorce to end the marital status for the purposes of Canadian law.

Bill C-32 amends the Civil Marriage Act to create a new and tailored divorce process for non-residents because their situations require a specific response.

Canada is breaking new ground with this legislation to alleviate hardship.

The new divorce process would be added to the Civil Marriage Act, not the Divorce Act, both to avoid confusion and because the Divorce Act deals with many issues beyond the divorce itself that would not make sense to apply to non-residents.

As one example, the Divorce Act makes it the duty of every lawyer to discuss the possibility of reconciliation with their clients, including referring them to mediation, which would likely not be available to non-residents.

This new process for non-residents is a specific exemption to the general approach for residents, not only in Canada but worldwide. It is a recognition of the different needs of non-resident couples.

The Divorce Act will continue to apply to any married couple that resides in Canada. It is only logical, honourable senators, that to have the full benefit of Canadian law people must reside in Canada.

This government is proud to stand behind this important piece of legislation. I urge all honourable senators to offer their support and expeditiously pass Bill C-32 so that we may provide this much-needed solution as quickly and as effectively as possible.

Canada recognizes the symbolic and legal significance of marriage between two people. Although we are limited in that we cannot affect the laws of other nations, we can shape our own

in a way that treats all couples with dignity and respect for their choices in expressing their commitment to one another in marriage.

The Hon. the Speaker *pro tempore*: Further debate?

[Translation]

Hon. Serge Joyal: Honourable senators, I will be speak very briefly about the bill at this stage because I would like to see it sent to the Standing Senate Committee on Legal and Constitutional Affairs this afternoon so that, under the chairmanship of Senator Runciman, we will be able to study the bill tomorrow.

I would simply like to make one clarification this afternoon. As the Honourable Senator Carignan pointed out, this bill is the result of an Ontario court ruling in the case of a same-sex married couple. However, Bill C-32, as it stands today, is not limited in its application to same-sex partners. I think we need to be clear about that.

[English]

I will read the summary for everyone to understand what we are doing. I know that there was no ill intent in the introductory remarks of Senator Carignan, but I do not want honourable senators to believe that this bill applies only to same-sex couples. It originates from a same-sex couple problem, but its solution would apply to the civil marriage of any kind of couple. I want to read the summary because it answers the question quite clearly:

This enactment amends the *Civil Marriage Act* in order to provide that all marriages performed in Canada between non-residents, whether they are of the same sex or of the opposite sex...

It is very clear; there is no confusion. We are not revisiting the debate that we had in this chamber eight years ago. Many honourable senators who were here then participated in that debate recognizing the civil marriage between two persons of the same sex. I will remind the honourable deputy leader that we sat late into July that year to adopt that bill. I say that with no ill intent, either.

The Honourable Speaker participated in that debate. We were of the conviction that it was directly related to minority rights. As His Honour reminded us yesterday, minority rights in the Senate are a priority. We did not want to break for the summer before we completed our debate on that issue.

Eight years later, we can recognize the progress that has been realized worldwide on the basis of ground that was broken by Canada. We were not the first country; we were the third country to legislate civil marriage. However, today there are more than 14 countries that have recognized civil marriage, the latest one being France last month. Some of you may have read about the turmoil that French society went through. I was in Paris several times at the beginning of this year and I participated in a public debate on that issue. If honourable senators think the debate we had eight years ago was tense, I would say that it was almost an academic debate in comparison with the passions that drove the French into

the streets in the hundreds of thousands repeatedly over the whole winter and spring. Finally, when the National Assembly voted on it and calm returned, they were still in a position at the Constitutional Council to challenge the provisions of the bill, which were finally settled at the end of May, and the first marriage took place at the end of May and beginning of June.

I am looking at my colleague and friend, Senator Segal. I will remind him that our friends from Westminster adopted similar provisions in early March in the House of Commons, but the bill is still in the House of Lords. The House of Lords defeated a motion last week to stand the debate, so we can expect that the House of Lords also will have completed its debate on this subject before it adjourns this summer. Then Britain and France will follow Canada.

I do not say that essentially to enhance your patriotic sense, but the important thing is what Senator Black has said, which is that what Canada does is examined and read by the courts abroad.

As a matter of fact, I want to insist on what Senator Black said, because it is absolutely the truth. When the Massachusetts court had to consider a challenge following an act that had been adopted by the Commonwealth parliament in Massachusetts recognizing civil marriage for persons of the same sex, it was challenged in court. The Massachusetts court relied on the Canadian debates and the decision of the Supreme Court of Canada to recognize that the Massachusetts bill was constitutional.

I had the opportunity early in the spring, and I mentioned this to Senator Carignan, to attend a seminar at which Justice Breyer from the Supreme Court of the United States was in attendance. He informed me that the Supreme Court justices — and our Speaker knows about this — have regular exchanges with justices from our Supreme Court, have met in the course of their regular meetings and certainly would have discussed the way the Supreme Court of Canada approached the issue, its reasoning and so on. In other words, what we say in this chamber, what they say in the House of Commons, and what Canadian courts have expressed as their rationale for coming to the conclusion that the Civil Marriage Act was constitutional is of prime importance.

• (1730)

Senator Baker sometimes reminds us of how often the Supreme Court of Canada refers to the arguments that we put forward here. Honourable senators should not be surprised to learn that the constitutional court in Paris has also looked at the decision of the Supreme Court of Canada and the debates of this chamber, especially, for the reasoning behind this legislation.

Eight years after all the doom that was predicted — albeit not with any ill intent; it is fair and intelligent in debate to canvass all sides — nothing has materialized. After eight years we are a certain distance from that historic decision and we are in a position, as Senator Black has said, to move on.

This bill was well thought through. I have read it, and Senator Black explained it better than I could have, especially the amendments introduced yesterday to clause 7(4) of the bill. It was a necessary amendment because it put the couple in the hands of a court of a country that is inimical to people of the same sex.

[Senator Black]

We have all travelled around the world and we know that the freedom we enjoy in Canada is, unfortunately, not always replicated abroad. This amendment addresses the concern I had when I read the bill.

We will certainly benefit by doing clause-by-clause consideration tomorrow at the Standing Senate Committee on Legal and Constitutional Affairs so that we can report the bill before we recess for the summer.

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

Hon. Senators: Agreed.

(Motion agreed to and bill read second time.)

REFERRED TO COMMITTEE

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

(On motion of Senator Carignan, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.)

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, it being past 4 p.m. and the Senate having come to the end of Government Business, pursuant to the order adopted on October 18, 2011, I declare the Senate continued until Thursday, June 20, 2013 at 1:30 o'clock p.m.

(The Senate adjourned until Thursday, June 20, 2013, at 1:30 p.m.)

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