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OFFICIAL REPORT
(HANSARD)

Thursday, December 11, 2014

The Honourable PIERRE CLAUDE NOLIN
Speaker

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THE SENATE

Thursday, December 11, 2014

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

Prayers.

SENATORS' STATEMENTS

THE LATE BRUCE PHILLIPS, O.C.

Hon. Jim Munson: Honourable senators, this past Saturday, Bruce Phillips, one of Canada's most respected journalists, passed away in British Columbia. It is my honour today to pay tribute to him. He was 84.

Bruce was a good friend, and for five years he was also my boss. Those were great days on the Hill — 1979 to 1984, those five years he was my boss. We had a lot of fun together. Your Honour, as you know, what happened in the Press Club stayed in the Press Club; what happened on the road stayed on the road; what happened at the annual Press Gallery dinner, well, sort of stayed at the dinner; what happened on Parliament Hill, well, that's another story.

Bruce was a good man and I had so much respect for him. The experiences we shared together became memories that kept us close, and I'm grateful for this. The distance between us over the last several years, him on the West Coast in retirement and me here, never altered or eroded our friendship.

As a journalist, what drove Bruce was the very purpose of journalism — the public interest. That might seem like a vague concept, but it was clear for Bruce. Here on the Hill, and as a foreign correspondent, he didn't just cover social and political events. He got to the crux of why they mattered and why people should know about them, their significance, the lessons they yielded and the threats they posed.

Politicians, both in the House of Commons and in the Senate, paid attention to his nightly CTV News opinion pieces. At the office we used to call him "the Bruce-grounder," but the country and politicians did pay attention.

As a producer and host of CTV's "Question Period" Bruce used his talents fully in discussions about issues. His style enabled audiences to feel as though they were participants in the process in the same room. For Bruce and his loyal viewers, that was important. That's what public affairs coverage was.

Before becoming Canada's Privacy Commissioner, he had a stint as a minister counsellor at the embassy in Washington. He served his country and his ambassador well. Bruce became Privacy Commissioner in 1991, a time when privacy concerns were not nearly as widely understood as they were when he left that office in 2000. That is no coincidence, of course. In this capacity Bruce was as determined, as grounded in his beliefs and as capable of advancing issues as he was as a journalist.

He enhanced the public conscience about an understanding of privacy and expanded social recognition of the duty to respect and protect it. His role in creating legislation and building public awareness prepared us well for the connected, intrusive world we live in today.

An advocate for the public interest and a formidable decision and change maker, Bruce was also wonderfully accessible. He had a great sense of humour, which he used to make me laugh, to bring me in and sometimes to make a point.

During those days when I reported to him, Your Honour and fellow senators, I felt his authority and respected it because he was a person of substance. He didn't need to raise his voice or be severe.

In closing, in fact he was simply Bruce, and that was reason enough to listen to him and pay attention to the example he set. Like many people in Canada today, the memories I have of Bruce are associated with ideas and perspectives that I admire. I'm so fortunate to have known him and called him a friend.

Bruce loved his daughters deeply and I'm pleased he was able to enjoy living near them in British Columbia after retiring. My sympathies go to them both for the loss of their dad.

Thank you.

CHARITABLE AND NOT-FOR-PROFIT SECTOR

Hon. Douglas Black: Honourable senators, we all know that it is much better to give than to receive. So at this time of year, I want to ask you to join with me in saluting the generosity of Canadians and those who work or volunteer with the charitable sector of Canada.

Canada's charitable and not-for-profit sector is the second largest in the world. Today, there are more than 85,000 registered charities in Canada. And, what's more, the total number of not-for-profit organizations and charities, which includes registered and unregistered charities, hospitals, universities and colleges, numbers 170,000. This sector represents a contribution of $106 billion or 8.1 per cent of Canada's GDP, and it employs 2 million people.

Most impressively, according to Statistics Canada, in 2010 almost half of all Canadians volunteered, giving more than 2 billion hours collectively of their time.

Colleagues, we all know that the charitable sector provides a crucial role in our society. It provides much-needed funding and support for important causes, helping the challenged, funding medical research, supporting sports and the arts and building

low-income housing, among many others. And that's why it's important that our government continue to encourage and support charitable giving.

Innovative tax incentives, such as the first-time donor super credit, are key to encouraging younger Canadians to develop the habit of giving. The temporary credit, available from 2013 to 2017, provides an extra 25 per cent federal tax credit on top of the original charitable donation tax credit for the eligible first-time donors. As of July 2014, more than 95,000 first-time donors have donated over $20 million in charitable donations.

As parliamentarians and as citizens, it is important for us to do all that we reasonably can to ensure that this type of support for giving is continued. And as senators, it is important that we acknowledge and generously thank all those who work and volunteer in the charitable sector.

Canadians' quality of life would suffer without them.

Hon. Senators: Hear, hear.

MS. RINELLE HARPER

Hon. Lillian Eva Dyck: Honourable senators, on Tuesday, December 9, 2014, the Assembly of First Nations kicked off their Special Chiefs Assembly in Winnipeg, Manitoba. As you know, Chief Perry Bellegarde from Saskatchewan was elected as the new national chief. Also, the first day of the assembly was quite remarkable for the courage of a 16-year-old Aboriginal girl, Rinelle Harper.

As honourable senators know, in November Rinelle was violently attacked, sexually assaulted and left for dead at the side of the Assiniboine River in Winnipeg. She was later found and remarkably survived this violent attack. Two men are now charged with sexual assault and attempted murder in this case. Her words to the assembly were powerful, and I would like to read them into the record.

> I am Rinelle Harper, and I am from the Garden Hill First Nation. I am here to talk about an end to violence against young (aboriginal) women.
>
> I am happy to be here today to provide you a few words on behalf of my family and I am thankful for the thoughts and prayers from everyone. I understand that conversations have been occurring all across the country about ending violence against indigenous women and girls, but I wish to continue to on with my life, and I am thankful that I will be able to go back to school, to see my friends and be with my family. Some of the people who visited with me have shared their stories of healing. I ask that everyone here remembers a few simple words: Love, kindness, respect and forgiveness. As a survivor, I respectfully challenge you all to call for a national inquiry into missing and murdered indigenous women. *Meegwitch*. Thank you.

[Senator Black]

• (1340)

Honourable senators, I hope you will join me in congratulating Rinelle on her incredible courage and determination. I also hope that her words move all senators to live up to Rinelle's challenge for us all to call for a national inquiry into missing and murdered indigenous women.

HUMAN RIGHTS DAY

Hon. A. Raynell Andreychuk: Honourable senators, yesterday the world marked Human Rights Day 2014. This year's Human Rights Day was themed "Human Rights 365."

The United Nations High Commissioner for Human Rights notes that this theme:

> . . . celebrates the fundamental proposition in the Universal Declaration that each one of us, everywhere, at all times is entitled to the full range of human rights, that human rights belong equally to each of us and bind us together as a global community with the same ideals and values.

On November 26, Europe's top human rights prize was awarded to one man who lives by these ideals and values. Dr. Denis Mukwege is the winner of this year's Sakharov Prize for Freedom of Thought. He dedicated his prize to the more than 30,000 victims of rape and sexual violence treated at his hospital in eastern Democratic Republic of Congo.

Overcoming shortages in anesthetics and electricity in a region where rape has been used as a weapon of war, Dr. Mukwege's Panzi Hospital has been described as "a beacon of hope and refuge for survivors of gender-based violence."

Human Rights Day also comes in the wake of Ukrainian Famine and Genocide Memorial Day. Holodomor Memorial Day is a day of remembrance of millions of victims of Joseph Stalin's agricultural collectivization policies in 1932 and 1933. It also reaffirms our commitment never to allow food to be used as a weapon again. Yet starvation and sexual violence continue to be used to dehumanize and to destroy human beings.

The United Nations Declaration of Human Rights reminds us:

> . . . recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world. . .

Yet human rights remain a distant aspiration for girls forced into marriage, for boys forced into labour, for religious minorities and political prisoners, for ethnic minorities, for LGBT communities and so many more.

Senators, let us reaffirm our respect for human rights. Let us uphold the international covenants that make respect for human rights the responsibility of all nations, 365 days of the year.

[*Translation*]

ROUTINE PROCEEDINGS

MENTAL HEALTH COMMISSION

2013-14 ANNUAL REPORT TABLED

Hon. Yonah Martin (Deputy Leader of the Government): Honourable senators, I have the honour to table, in both official languages, the 2013-2014 annual report of the Mental Health Commission of Canada entitled *Together We Accelerate the Change: Taking Action on the Mental Health Strategy for Canada*.

[*English*]

NATIONAL DEFENCE

FIGHTER JET DOCUMENTS TABLED

Hon. Yonah Martin (Deputy Leader of the Government): Honourable senators, I have the honour to table, in both official languages, the following documents: the Next Generation Fighter Capability Annual Update 2014; the Canadian Industrial Participation in the F-35 Joint Strike Fighter Program (Fall 2014); and the final report of the Independent Review: 2014 Department of National Defence Annual Update on Next Generation Fighter Capability Life Cycle Costs.

[*Translation*]

IMMIGRATION AND REFUGEE PROTECTION ACT CIVIL MARRIAGE ACT CRIMINAL CODE

BILL TO AMEND—TENTH REPORT OF HUMAN RIGHTS COMMITTEE PRESENTED

Hon. Mobina S. B. Jaffer, Chair of the Standing Senate Committee on Human Rights, presented the following report:

Thursday, December 11, 2014

The Standing Senate Committee on Human Rights has the honour to present its

TENTH REPORT

Your committee, to which was referred Bill S-7, An Act to amend the Immigration and Refugee Protection Act, the Civil Marriage Act and the Criminal Code and to make consequential amendments to other Acts, has, in obedience to the order of reference of November 27, 2014, examined the said Bill and now reports the same without amendment but with certain observations, which are appended to this report.

Respectfully submitted,

MOBINA S. B. JAFFER
Chair

(*For text of observations, see today's* Journals of the Senate*, Appendix A, p. 1470*.)

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

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

[*English*]

FEDERAL FRAMEWORK ON LYME DISEASE BILL

SEVENTEENTH REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE PRESENTED

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

Thursday, December 11, 2014

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

SEVENTEENTH REPORT

Your committee, to which was referred Bill C-442, An Act respecting a Federal Framework on Lyme Disease, has, in obedience to the order of reference of Tuesday, September 30, 2014, examined the said bill and now reports the same without amendment.

Respectfully submitted,

KELVIN K. OGILVIE
Chair

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

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

BANKING, TRADE AND COMMERCE

BUDGET AND AUTHORIZATION TO ENGAGE SERVICES AND TRAVEL—STUDY ON THE USE OF DIGITAL CURRENCY—EIGHTH REPORT OF COMMITTEE PRESENTED

Hon. Irving Gerstein, Chair of the Standing Senate Committee on Banking, Trade and Commerce, presented the following report:

Thursday, December 11, 2014

The Standing Senate Committee on Banking, Trade and Commerce has the honour to present its

EIGHTH REPORT

Your committee, which was authorized by the Senate on Tuesday, March 25, 2014, to examine and report on the use of digital currency, respectfully requests funds for the fiscal year ending March 31, 2015, and requests, for the purpose of such study, that it be empowered:

(*a*) to engage the services of such counsel, technical, clerical and other personnel as may be necessary; and

(*b*) to travel outside Canada.

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

Respectfully submitted,

IRVING GERSTEIN
Chair

(*For text of budget, see today's* Journals of the Senate, *Appendix B, p. 1472*.)

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

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

• (1350)

[*Translation*]

TRANSPORT AND COMMUNICATIONS

BUDGET AND AUTHORIZATION TO TRAVEL—STUDY ON THE CHALLENGES FACED BY THE CANADIAN BROADCASTING CORPORATION—TENTH REPORT OF COMMITTEE PRESENTED

Hon. Dennis Dawson, Chair of the Standing Senate Committee on Transport and Communications, presented the following report:

Thursday, December 11, 2014

The Standing Senate Committee on Transport and Communications has the honour to present its

TENTH REPORT

Your committee, which was authorized by the Senate on Monday, December 9, 2013, to study the challenges faced by the Canadian Broadcasting Corporation in relation to the changing environment of broadcasting and communications, respectfully requests funds for the fiscal year ending March 31, 2015 and request, for the purpose of such study, that it be empowered to travel outside Canada.

The committee budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that committee were printed in the Journals of the Senate of June 5, 2014. On June 10, 2014, the Senate approved a partial release of $262,811 to the committee. The report of the Standing Committee on Internal Economy, Budgets, and Administration recommending the release of additional funds is appended to this report.

DENNIS DAWSON
Chair

(*For text of budget, see today's* Journals of the Senate, *Appendix C, p. 1480*.)

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

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

[*English*]

FISHERIES AND OCEANS

BUDGET—STUDY ON THE REGULATION OF AQUACULTURE, CURRENT CHALLENGES AND FUTURE PROSPECTS FOR THE INDUSTRY—SEVENTH REPORT OF COMMITTEE PRESENTED

Hon. Fabian Manning, Chair of the Standing Senate Committee on Fisheries and Oceans, presented the following report:

Thursday, December 11, 2014

The Standing Senate Committee on Fisheries and Oceans has the honour to present its

SEVENTH REPORT

Your Committee, which was authorized by the Senate on Monday, December 9, 2013, to examine and report on the regulation of aquaculture, current challenges and future prospects for the industry in Canada, respectfully requests supplementary funds for the fiscal year ending March 31, 2015.

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

Respectfully submitted,

FABIAN MANNING
Chair

(*For text of budget, see today's* Journals of the Senate*, Appendix D, p. 1482*.)

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

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

ADJOURNMENT

NOTICE OF MOTION

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

That when the Senate next adjourns after the adoption of this motion, it do stand adjourned until Monday, December 15, 2014 at 5 p.m. and that rule 3-3(1) be suspended in relation thereto.

[*Translation*]

L'ASSEMBLÉE PARLEMENTAIRE DE LA FRANCOPHONIE

REGIONAL ASSEMBLY OF THE AMERICA REGION, AUGUST 4-8, 2014—REPORT TABLED

Hon. Paul E. McIntyre: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Parliamentary Delegation of the Canadian Branch of the *Assemblée parlementaire de la Francophonie* (APF), on its participation in the 30th Regional Assembly of the America Region of the APF, held in Toronto, Canada, August 4 to 8, 2014.

EUROPE REGIONAL ASSEMBLY, SEPTEMBER 28-OCTOBER 1, 2014—REPORT TABLED

Hon. Paul E. McIntyre: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Parliamentary Delegation of the Canadian Branch of the *Assemblée parlementaire de la Francophonie* (APF), respecting its participation in the XXVII Session of the Europe Regional Assembly of the APF, in Warsaw, Poland, September 28 to October 1, 2014.

[*English*]

CANADA-UNITED KINGDOM INTER-PARLIAMENTARY ASSOCIATION

BILATERAL VISIT TO LONDON AND CARDIFF WALES, UNITED KINGDOM, JANUARY 18-25, 2014—REPORT TABLED

Hon. Nancy Ruth: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canada-United Kingdom Inter-Parliamentary Association, respecting its participation at the Bilateral Visit to London and Cardiff Wales, United Kingdom, from January 18 to 25, 2014.

[*Translation*]

NATIONAL FINANCE

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

Hon. Joseph A. Day: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the Standing Senate Committee on National Finance have the power to sit at 3 p.m. on Monday, December 15, 2014, even though the Senate may then be sitting, and that rule 12-18(1) be suspended in relation thereto.

[*English*]

LEGAL AND CONSTITUTIONAL AFFAIRS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Bob Runciman: Honourable senators, with leave of the Senate and notwithstanding rule 5-8(a), I move:

> That, on Friday, December 12, 2014, for the purposes of its consideration of legislation, the Standing Senate Committee on Legal and Constitutional Affairs have the power to sit even though the Senate may be then sitting, with the application of rule 12-18(1) being suspended in relation thereto.

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

Hon. Senators: Agreed.

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

Hon. Senators: Agreed.

(Motion agreed to.)

TRINITY WESTERN UNIVERSITY

NOTICE OF INQUIRY

Hon. Donald Neil Plett: Honourable senators, I give notice that, two days hence:

> I will call the attention of the Senate to the decisions made by certain provinces' law societies to deny accreditation to Trinity Western University's proposed new law school.

QUESTION PERIOD

CANADIAN HERITAGE

SPORTS—ANTI-DOPING REGULATIONS

Hon. Jim Munson: Mr. Leader, I have a question submitted by Mr. Lucas Wilson of Toronto, Ontario, through our "Your Question Period" initiative. Mr. Wilson writes:

> Doping continues to be a major problem in amateur and professional sports. Even with thorough drug-testing regimes, athletes are often able to evade getting caught for long periods of time.
>
> Greater penalties for athletes and coaches should be available — including, in the most serious cases, criminal sanction. Germany is proposing such measures.

• (1400)

Mr. Lucas Wilson asks:

> Is the Canadian government doing anything on this important issue?

[*Translation*]

Hon. Claude Carignan (Leader of the Government): Senator, as you know, amateur sport is governed by various organizations, including the associations and federations for each individual or team sport, all under the umbrella of the Canadian Olympic Association, which, in turn, is a member of the International Olympic Committee. That committee cooperates with an international anti-doping association, which, if I'm not mistaken, is headquartered here in Canada. That association enforces the rules regarding doping. We have every confidence that those centres of expertise can identify the best ways to deal with doping in amateur and Olympic sports.

[*English*]

Senator Munson: I want to thank you for your answer, Mr. Leader, but Mr. Wilson is correct that doping remains a major problem. We saw that in January 2013, when Lance Armstrong, the famed American road-racing cyclist admitted publicly to doping.

Of course, our country has its own experience with high-profile doping cases. I was there in 1988 in Seoul when Ben Johnson was disgraced when he ran the 100-metre race and was found to have a lot of drugs in his body, and tested positive for a banned substance. We had the Dubin Inquiry.

I think Mr. Wilson wants to make sure that you're confident that Canadian regulations are stringent enough, given the upcoming Pan Am and Parapan Am Games in Toronto next year.

[*Translation*]

Senator Carignan: Honourable senator, as I said, it is the responsibility of the amateur and Olympic sports organizations, both Canadian and international, to adopt strict rules and to ensure compliance with those rules. We do our best to promote healthy living. I would like to commend the work done by our colleague, the Honourable Nancy Greene Raine, regarding National Health and Fitness Day, which I think is a worthwhile cause, as it will encourage Canadians to participate in healthy sports activities.

[*English*]

Senator Munson: What, if anything, is the Canadian government's oversight role? You're a partner in all this. We're all partners in this. This country was disgraced back in 1988 over what happened in Seoul, South Korea.

What is the government's role? Do you work closely? Are you part of the process? You talked about the expertise and different organizations that have tight drug regimes. What does this government do in this capacity?

[*Translation*]

Senator Carignan: Senator, our government supports sports organizations, associations and federations, as well as the Canadian Olympic Association. It also supports athletes by allocating various funding envelopes either directly to athletes or to the associations. The associations are mandated to adopt the rules and regulations necessary to discipline their members and to adhere to national and international anti-doping regulations.

[*English*]

PUBLIC SAFETY

HUMAN TRAFFICKING PREVENTION

Hon. Mobina S. B. Jaffer: Leader, I have another question on the games. When we had the winter games in Vancouver, one of our preoccupations was trafficking of women and children from outside Canada for the games. I have to say that the federal government, the municipalities and the provincial government worked very hard. We believe that not many women and girls were trafficked from outside into our country.

What steps is the government taking this time to make sure no women or girls are trafficked to these games?

[*Translation*]

Hon. Claude Carignan (Leader of the Government): Senator, I think that the police public safety teams and intelligence services work every day to enforce Canadian laws. It's our job, as politicians, to set priorities and pass legislation, and it's up to the police or security services to enforce these laws. I have full confidence that our Canadian police services will use all the tools at their disposal to prevent crimes from being committed here in Canada, as they do every day.

[*English*]

Senator Jaffer: Thank you, leader, for that answer. May I respectfully ask that you find out exactly what they are doing to make sure, as we did for the winter games, that no women or children are trafficked into our country?

[*Translation*]

Senator Carignan: As I said, police services work together and enforce Canadian laws. I have full confidence that they will continue to use the tools at their disposal to do so.

INTERNATIONAL TRADE

CANADA-EUROPEAN UNION COMPREHENSIVE ECONOMIC AND TRADE AGREEMENT

Hon. Céline Hervieux-Payette: Mr. Leader, in your answer yesterday you claimed that the provinces are much better off under the Conservatives. I'd like to remind you of some of this government's recent dealings with the provinces.

First we have the single national securities regulator, which the government wants to create against the will of Quebec and Alberta. We have to wonder why the government wants to interfere in this matter, when there's no guarantee that this regulator will work better than what already exists in the provinces.

Second, against strong opposition from the provincial government, the federal government forced Quebec to go all the way to the Supreme Court to maintain a firearms registry.

Your government also carried out an employment insurance reform that seriously let down and, more importantly, penalized the Maritime provinces.

Yesterday, we heard that the premier of Newfoundland and Labrador is threatening to pull his support for the free trade agreement because of a $400 million measure that would be used to retrain some workers in the fishing industry. Today, we learned that Prime Minister Harper, who was in Montreal yesterday, will meet with Mr. Davis.

Can the Leader of the Government in the Senate tell us when the government will be willing to listen to a provincial premier and negotiate an agreement — this has been in the works for a year now — that is in the interests of the province and its people, and not just based on ideology?

Hon. Claude Carignan (Leader of the Government): I always listen very closely to Senator Hervieux-Payette's questions so that I can determine exactly what she is asking. If I understood her question correctly, she was referring to a statement made by the premier of Newfoundland and Labrador, Paul Davis, during a press conference about the free trade agreement. He specifically spoke about the $400 million fund for minimum processing requirements. Her opening remarks notwithstanding, I believe that was the focus of her question.

Senator, we remain committed to working out the details of the fund for minimum processing requirements with the Government of Newfoundland and Labrador. The fund was created to provide compensation for the projected losses that will result from eliminating minimum processing requirements.

• (1410)

The fund was never intended as a blank cheque that would give the industry in Newfoundland and Labrador an unfair advantage over other Atlantic provinces.

We have been clear from the start that the fund was to compensate for demonstrable losses, and federal government officials remain open to receiving proposals from their provincial counterparts on how to implement the minimum processing requirements fund.

You can rest assured that the Premier of Newfoundland and Labrador, like all of the provincial premiers, will have the full attention of our Prime Minister.

Senator Hervieux-Payette: I am sorry if my Quebec colleague does not understand my French. Perhaps I should ask my questions in English.

I was listing the provinces or premiers who are trying to plan a meeting to reach an agreement with Ottawa and promote united political action. Take for example, the Premier of Ontario, Ms. Wynne, who has been trying desperately to meet with the Prime Minister for nearly a year. She is in the same province and it should not be hard to set up a meeting.

Right now, we are talking about Mr. Davis. He looks out for the people in his province. He is being told that he has to eliminate the processing regulations designed to protect fish stocks, quality standards in the fishing industry and local employment. The Premier is well within his rights to call for financial compensation, but why has an agreement still not been reached one year later and why has a meeting not been arranged? I do not think he intends to spend this money on the agricultural industry. As far as I know, fishing is the primary industry there. Why would our agreements with Europe take jobs away from Canada, when you are still promising Canadians 80,000 jobs? How many people will be fired from fish processing plants in Newfoundland and Labrador?

Senator Carignan: Thank you, Senator. Allow me to take this opportunity to congratulate the people who use your services to ask questions, which they write with great clarity, making them rather easy to understand, unlike other people who do not necessarily use questions from the public.

To get back to your specific question, as I said, we are determined to iron out the details of the minimum processing requirements for the funding with the Government of Newfoundland and Labrador.

Senator Hervieux-Payette: I would simply ask my colleague to show a little more respect. I think my questions are straightforward. My colleagues here have never said otherwise. If we're going to talk about understanding my questions, we might also talk about your answers.

Senator Carignan: Ask a complex question, get a complex answer.

[*English*]

CANADA NATIONAL PARKS ACT

BILL TO AMEND—MESSAGE FROM COMMONS

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons returning Bill S-5, An Act to amend the Canada National Parks Act (Nááts'ihch'oh National Park Reserve of Canada), and acquainting the Senate that they had passed this bill without amendment.

ORDERS OF THE DAY

MISCELLANEOUS STATUTE LAW AMENDMENT BILL, 2014

SECOND READING—DEBATE ADJOURNED

Hon. Paul E. McIntyre moved second reading of Bill C-47, An Act to correct certain anomalies, inconsistencies and errors and to deal with other matters of a non-controversial and uncomplicated nature in the Statutes of Canada and to repeal certain provisions that have expired, lapsed or otherwise ceased to have effect.

He said: Honourable senators, for the first time in over a decade, we are debating the Miscellaneous Statutes Law Amendment Act in the upper chamber at second reading. The past incarnations of these bills have been passed through the normal procedure, which I will discuss in a few minutes.

The Miscellaneous Statute Law Amendment Program, better known as the MSLA Program, was established in 1975 and is administered by the legislation section of the Department of Justice. It was developed in order to provide a means of cleaning up federal statutes.

According to the Minister of Justice at that time, this type of law reform had fallen behind, in part due to pressure upon the use of house time. To qualify under the MSLA Program, a proposed amendment must not be controversial, not involve the spending of public funds, not prejudicially affect the rights of persons, create new offences, or subject a new class of person to an existing offence.

The process for enacting legislation under the MSLA Program is not the usual parliamentary process; rather, it follows a process that permits the development of the bill that is non-controversial so that once the bill in question is introduced in Parliament, it will likely proceed through all three readings in each house quickly, thereby minimizing the use of house time.

Under the MSLA Program, as a first step, a draft bill, also referred to as proposals or legislative proposals, is tabled in both the Senate and the House of Commons and referred to committees of each of the houses for study. The draft bill is tabled in the Senate under rule 14-1 of the *Rules of the Senate of Canada*, and in the House of Commons under Standing Order 32 of the *Standing Orders of the House of Commons*.

In 2001, the last time an act was enacted under the MSLA Program, the draft bill in question, the proposals for a Miscellaneous Statute Law Amendment Act, 2001, was referred to the Standing Senate Committee on Legal and Constitutional Affairs and the Standing Committee on Justice and Human Rights.

It is important to note that the draft bill can be studied by the committees without their being constrained by the rules of the legislative process. Generally, the procedure that is followed by the committees is that if any member of a committee objects to a

proposed amendment in the draft bill, the committee will recommend that the proposed amendment not be included in the bill that will ultimately be drafted by the government.

The second step involves the finalization of the bill by the government, taking into account the committees' reports and introduction of the bill in Parliament. Once the bill is introduced, it is subject to the usual parliamentary process.

However, since the content of the bill had already been examined by committees of both houses, the bill will go through all three readings in each house without being referred to a committee for study. It is for this reason that miscellaneous statute law amendment acts are described as being subject to an accelerated enactment process.

Since the MSLA Program was established in 1975, the following 10 acts have been enacted under this program, in accordance with this alternative process: Miscellaneous Statute Law Amendment Act, 1977; Miscellaneous Statute Law Amendment Act, 1978; Miscellaneous Statute Law Amendment Act, 1981; Miscellaneous Statute Law Amendment Act, 1984; Miscellaneous Statute Law Amendment Act, 1987; Miscellaneous Statute Law Amendment Act, 1991; Miscellaneous Statute Law Amendment Act, 1993; Miscellaneous Statute Law Amendment Act, 1994; Miscellaneous Statute Law Amendment Act, 1999; and Miscellaneous Statute Law Amendment Act, 2001.

Friends, colleagues, honourable senators, I would greatly appreciate your support in seeing this bill passed in the same non-partisan way it was dealt with at the Standing Senate Committee on Legal and Constitutional Affairs.

(On motion of Senator Fraser, debate adjourned.)

• (1420)

PUBLIC SERVICE EMPLOYMENT ACT

BILL TO AMEND—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Stewart Olsen, seconded by the Honourable Senator Ogilvie, for the second reading of Bill C-27, An Act to amend the Public Service Employment Act (enhancing hiring opportunities for certain serving and former members of the Canadian Forces).

Hon. Joseph A. Day: Honourable senators, I will attempt to outline some of the background with respect to this particular bill and the purpose for Bill C-27, and perhaps in so doing we can learn a little bit about the basic principles, since at second reading the purpose is to look at the principle of the bill and determine whether, in principle at least, the bill appears to be a supportable initiative, at least to send it to committee.

Honourable senators will know that the Finance Committee has, as part of its mandate, the machinery of government and how matters function within government, in addition specifically to finance matters.

On the occasion of studying the Main Estimates 2012-13, the Public Service Commission appeared before the Standing Senate Committee on National Finance. One of the comments made in our report at that time is worth reviewing. These are comments made by the Public Service Commissioner at the time, Maria Barrados. She pointed out that the departments and agencies need to ensure that priority persons — the priority that's established within the hiring process — are considered to fill vacant positions and appointed if qualified.

Public Service Commission audits have dictated some inconsistencies in the application of priority entitlements. For example, some organizations use a more stringent statement of merit criteria for priority persons — and that's one of the criteria, one of the exceptions: There must be merit before someone is appointed, even though that someone might be in a priority category — while others are unable to demonstrate clearly that the priority criteria were followed by the particular department.

Public Service Commission officials also informed our committee that the number of priority positions has been rising, and at that time from 1,500, almost 1,600 in 2010-11 to 1,800 in 2011-12 to 2,700 to the end of October 2012. So you can assume it was over 3,000 by the end of that particular year.

Priority persons are in three main category groups: surplus employees within an organization; employees on leave for more than one year whose positions were indeterminately filled — that means permanently filled — by others in the absence of that person who was on leave; and persons who have been laid off. So those are the basic, fundamental priority groups that existed back at this time.

This bill purports to create a new priority category for Armed Forces personnel, in particular Armed Forces personnel who are honourably discharged by virtue of having received an injury while in uniform.

In response to a senator's question of the Public Service Commission regarding recruitment of former Canadian Forces members by the federal departments and agencies, the Public Service Commission, back two years ago speaking to the Finance Committee, explained that the Canadian Forces members released for medical reasons are registered with the Public Service Commission priority system once they have been declared fit for work. So it's the Public Service Commission that maintains a list of veterans who are unable to continue their work within National Defence but who are still able and would be able to perform other work within the public service.

The Public Service Commission is, as you know, the hiring body for all government positions, but we have learned that they have delegated that particular responsibility to the various departments. The departments are supposed to follow the rules of priority as established by the Public Service Commission, and

it's the Public Service Commission's role to audit the functions of each of the departments to make sure that those functions are being followed and that the priority that is established is being followed.

Under the current system before this bill is passed, surplus employees occupy the top statutory priority for appointment in their own organizations.

That statement implies two things. One is that we're talking statutory priority, and there's also another group called regulatory priority. We have to look at all of those to determine priorities in the order of preference. Also in their own organizations, that term means that there is internal competition for jobs and external competition. Internal for that particular department, you would understand that somebody who is laid off applies in his or her department for another position. That's an internal competition. External would be somebody from another department who can't find work in that department moving over to a new department and seeing if he or she could fit in there. That's an external competition.

From 2008 to 2012, the appointment of medically-released veterans has had the highest rate of placement, and that is good, 72 per cent of the priority groups under the existing law. However, implementation of the 2012 spending review by the government resulted in more surplus employees entering the priority system, laid-off employees. In fact, the Auditor General has indicated approximately 25,000 public service employees have been found to be surplus. They have a priority under the existing law. They are the number one priority, as I've just indicated. So the difficulty, then, is since the implementation of the spending review and all these surplus employees entering the priority system, what has resulted is that the attempt to give priority to the Armed Forces personnel who have terminated their employment by virtue of an injury that was received or experienced during service in the Armed Forces has suffered terribly.

Before the layoff it was 72 per cent. It worked wonderfully. So that would appear, honourable senators, to be the incentive for this particular piece of legislation, Bill C-27.

Let me then look briefly to the existing law. What we have in the existing law is the law itself, the statute itself; then there are regulations that also determine priorities, as I've indicated, so priorities within the statute, priorities in the regulations. There are also certain definitions that we found at different places in an attached schedule to the statute. All of that has to be looked at in order to determine where we are in relation to priorities.

The basic priority scheme of the Public Service Commission, which I've explained, has the priority role for determining priorities according to the law.

• (1430)

Existing priorities are found under subsection 35(1) of the existing law. We see from that particular section of the act that a priority was established for members of the Canadian Armed Forces. Under subsection 35.1(1), members of the Canadian Armed Forces were given priority in internal appointment processes as long as they met the criterion established by the Public Service Commission. Internal, higher-up priority, regulatory — this is statutory, so that particular position is members of the Canadian Armed Forces. It doesn't say retired members. It is members who are still in uniform.

The statute attempts to add recently-retired personnel to this priority list for the internal appointment process. That's one expansion of the priority that this bill is attempting to do. It is important for us to know that there was and there is now an existing priority for Canadian Armed Forces personnel.

There is also, under section 39 of the existing act, another priority that we should be looking for and looking to. That section states that "advertised external" — second group, right? Internal, external, all over the public service. That particular priority is for veterans or survivors of a veteran.

The problem is when you have got 25,000 people looking for other employment, this particular priority is not likely to provide you with any great comfort, because the internal priority is going to go first and the laid-off members will fill that category and any vacancies very quickly.

But it is there and is important to know, and we will want to ask the government officials what their statistics are in relation to those particular categories that exist now.

What does this bill attempt to achieve? It adds, as I indicated, one category of those out of uniform, which will be helpful, and that's under subsection 39(1).

I wanted to talk to you about on area that I think is important, and it is quite disappointing. Subsection 39(1) refers to "veteran or a survivor of a veteran." So "veteran" now has been redefined in this act. First we should go to how it is defined, and that's in the schedule attached to the bill or to the law that now exists.

A veteran is defined at page 44 of the act, if you are interested in looking there. The various categories are all World War II. These are 70, 75, 80, 85-year-old individuals. It doesn't include modern-day veterans. That priority available for 75 to 90-year-olds is not likely to be tapped into too often.

Then we look at the definition of "survivor of a veteran," which means:

> . . . the surviving spouse or surviving common-law partner . . . who, being a veteran, died from causes arising during the service by virtue of which the person became a veteran.

A 75-year-old or 90-year-old dies from injuries received during the time he or she was in service is what that means. It is the spouse, not the children, but the spouse only.

So there's an opportunity to amend that as we have an aging group, if we were interested in helping modern-day veterans. What we should do is look to the amendments that appear in relation to the particular bill, and we will find that the

amendments do indeed — if I could find it I would read it to you, but I will tell you there is an amendment with respect to the veterans, and happily so. There's a subsection *(f)* to the definition of "veteran," which basically, in layman's terms, includes modern-day veterans, not just Second World War veterans. We say that's perfect.

I wonder, honourable senators, if I could have a few minutes more to finish this explanation of what we find in the bill.

The Hon. the Speaker *pro tempore***:** Would the chamber offer five minutes to Senator Day?

Hon. Senators: Yes.

Senator Day: Thank you.

The definition for "veteran" has been expanded, and that's positive. Unfortunately, even though there is an expansion of the definition of "veteran" to include a modern-day veteran, the definition of "survivor of a veteran" still doesn't include children of a veteran, because it may be in some instances there isn't a spouse, but there is someone looking after that veteran who was a child of the veteran. In my view, it would be desirable to expand the definition of "survivor of a veteran" to include children as well as a spouse.

Secondly, from the survivor of the spouse being only the wife or the common-law partner, it is still is restricted to Second World War veterans, even though the definition of "veteran" has been expanded. The various subparagraphs *(a)*, *(b)*, (c) and *(d)* all relate to the Second World War, and then there is *(f)*, modern-day veterans. The definition of a "survivor of a veteran" includes only the *(a)*, *(b)*, *(c)* and *(d)* and not the expanded definition *(f)*.

Why that was left out? Was that an oversight? We will have to find out when we have the minister before us on this. Surely if "veteran" was expanded, you would think "survivor of a veteran" would be all veterans, but very specifically this legislation excludes modern-day veterans from the definition of "survivor of a veteran."

So what does this bill do? This bill gives a priority right to an 85-year-old survivor of a Second World War veteran. How often will that be used and how important, honourable senators, is this particular benefit that we're purporting will do a whole lot for veterans and survivors of veterans? When you get into the detail on this, that is the kind of thing that is very discouraging.

Let's assume and hope when this is brought to the attention of the minister during committee that we will be able to bring about an amendment in relation to that.

The other very important aspect of this bill that is new is a priority over everybody else for veterans who have served in the Armed Forces and have been injured during their service time, and where the injuries are by virtue of their service. If those two criteria are there, then that veteran will have priority over all others. We support that, and it has been a long time coming. It is needed because of the extensive number of public servants in the public service, the 25,000 who have been laid off, who previously had the top priority. We're putting another priority above them for the wounded veteran who is not able to stay in the Armed Forces but received that injury by virtue of service to Canada. That I fully support.

• (1440)

Honourable senators, those are some of the points that have come from a reading of the act, the schedule to the act, and the regulations and the amendments. We will look forward to a good, fulsome hearing on this at committee, and hopefully we will get some of the oversights and deficiencies corrected.

Thank you, honourable senators.

Hon. Percy E. Downe: Thank you for that overview, Senator Day.

One of the provisions that most concerned me was that, up until 2010, 387 medically-released veterans who were on the priority list dropped off because their two years expired. I'm glad to see that's extended.

The second part that concerns me, however, is when I asked for a list and received it in reply to a written question in the Senate. As you indicated, delegation of authority for hiring has now gone to departments. Very few departments are actually participating.

Many departments have hired no one, and other departments have hired the bulk of them, including DND. Surprisingly, Veterans Affairs has hired very few. I wrote to various ministers in the government, and I must say I received great letters from the late Minister Flaherty and Minister Ambrose. The rest of the ministers sent a form letter urging their deputies to follow the spirit of the law because many of these people who are medically injured in the Armed Forces can work in many departments.

It seems to me it is very restrictive if you're just considering those veterans for mainly two departments. Does anything in the bill reflect a broader participation rate among the deputy ministers in the departments in the hiring?

Senator Day: Thank you, Senator Downe, for the question. I know you have been following this, as have we in the Finance Committee. I believe you were there when we had the Public Service Commission before us. The Public Service Commission maintains a priority list, and the Public Service Commission, although delegated authority, has the responsibility to audit all of the delegated authorities to make sure that they're doing what they're supposed to be doing in following and checking the priority list and making no hires before they check that list, and then follow the rather complicated maze of priorities.

We were told by Maria Barrados, when she appeared before us, and I think it's time to bring back a —

The Hon. the Speaker *pro tempore*: Senator Day, your time has expired.

Senator Day: Could I please have more time?

The Hon. the Speaker *pro tempore*: I will give you a bit of time to finish.

Senator Day: Thank you. I'm almost finished the answer.

Senator Ogilvie: Did you have five minutes already?

Senator Day: I'm sorry, Senator Ogilvie has an intervention.

Senator Ogilvie: Did you give him five minutes?

The Hon. the Speaker *pro tempore*: Out of courtesy, I will let him finish the answer to that last question.

Senator Ogilvie: The rules are clear and there's an important reason that we allow for an extra five minutes. To go beyond that is extending beyond the Rules, and I object.

Hon. Joan Fraser (Deputy Leader of the Opposition): Nowhere in the Rules does it say that leave can be granted for an extension of time for only five minutes. That is a custom we have adopted. It's not mandatory. It's not in the Rules, and it seems to me that it has been customary in this place that those five minutes that we customarily give to speakers do allow for the completion of the answer to a question.

The Hon. the Speaker *pro tempore*: Senator Ogilvie, if I may, the chair has ruled on this. I think out of courtesy we will allow our colleague a few seconds to terminate. He's in the process of terminating the answer to the question that has been put to him. The chamber was benevolent enough to give him an extra five minutes, and I think it's only appropriate we allow him to finish his thoughts in giving the answer.

Senator Ogilvie: On the understanding that it's a completion of the answer, I'm fine with that.

Senator Day: I thank the honourable senators for joining in the benevolence that I have received at this time of the year, and I will finish. I think I remember the question.

Senator Campbell: Could you repeat the question, please?

Senator Day: Perhaps I will send you the answer in writing in due course.

The Public Service Commission has a responsibility. It has been pointed out to our Finance Committee that different techniques are being used to get around priority lists in different departments, such as deployments, filling positions on a temporary basis and then moving them in and giving them priority that way.

That's the kind of thing that the Public Service Commission has a responsibility to follow up on, and we will follow up on that because that has happened. You are absolutely right, many departments have not been hiring according to the priority list that has been established. Thank you.

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

Some Hon. Senators: Agreed.

(Motion agreed to and bill read second time.)

REFERRED TO COMMITTEE

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

(On motion of Senator Stewart Olsen, bill referred to the Standing Senate Committee on National Security and Defence.)

ECONOMIC ACTION PLAN 2014 BILL, NO. 2

SIXTEENTH REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE ON SUBJECT MATTER—DEBATE ADJOURNED

The Senate proceeded to consideration of the sixteenth report of the Standing Senate Committee on Social Affairs, Science and Technology (Subject matter of Bill C-43 (Divisions 5, 7, 17, 20 and 24 of Part 4)), tabled in the Senate on November 27, 2014.

Hon. Art Eggleton moved the adoption of the report.

He said: This is the report from the Standing Senate Committee on Social Affairs, Science and Technology with respect to certain parts of Bill C-43, the budget bill. Numerous other committees have also reported, as you can see in subsequent items here, but I want to speak to a couple of the parts that came to the Social Affairs Committee.

The first one I want to speak to is Division 5. This is an amendment to the Federal-Provincial Fiscal Arrangements Act. As with a lot of these bills, it's an omnibus bill and so it contains a lot of amendments to a lot of different acts. Anyway, this is one of them.

First, in the report it says that the majority of the committee supported this. However, it goes on to say that there was strong opposition as well, so I'm here to stand in favour of the strong opposition part of this.

In Division 5 it is recommended that we modify the national standard for the Canada Social Transfer to the provinces — the national standard. And what are we modifying? Apparently there's a provision in the act now that says no residency requirement may be imposed by a provincial or a territorial

government on social assistance recipients without the possibility of incurring a penalty in the form of a reduction in the Canada Social Transfer from the federal government.

Who does this apply to? The biggest group of all, the main group, is refugee claimants. Bear in mind refugees come here with no money; they come here maybe not knowing anybody. They suddenly find they have to feed themselves, house themselves and so, and to a great extent they rely upon the social assistance programs that are administered by the provinces. And, up until now, this provision in the Federal-Provincial Fiscal Arrangements Act said you can't deny it to them. They are refugee claimants, and you can't suddenly put them out on the street without any food or money or anything to house themselves with.

The bill here is proposing that we remove that and provide for a policy option by the provincial or territorial governments of imposing a residency requirement, available to them without a risk of financial penalty. The federal government is saying, "We won't penalize you if you don't do this, but we'll make it available for you to do it," if you want to put a residency requirement, if you want to say that somebody has to be resident in your province for four months or six months, or something like that, you can do it and we won't penalize you for it, except, as I pointed out, refugee claimants in most cases are penniless. They're not immigration applicants, they're refugee claimants and many of them are here in dire circumstances right from day one, never mind somewhere down the line.

• (1450)

What is particularly interesting about this is that nobody requested this from the provinces. The provinces and territories didn't ask for the power to be able to do this. When I questioned the official who was before the committee about that matter, he indicated that, well, no, it hadn't been requested,. They admitted that it hadn't been requested. I asked whom they talked with. "Oh, we talked with somebody in Ontario." One province. They talked with somebody at the staff level.

Interestingly enough, Ontario, the only one that any discussion went on with, has come back with the following, and I quote from *The Star*:

> A spokesman for Ontario Minister of Community and Social Services Helena Jaczek immediately refuted the claim.
>
> "The government of Ontario has not requested the ability to impose residency restrictions, and we were not consulted on this legislation," . . . .
>
> "In fact, the Ministry of Community and Social Services has concerns about the potential human rights implications of imposing a waiting period for a specific group. We believe that a waiting period could impact people with legitimate refugee claims who are truly in need. We have communicated our concerns to the federal government."

The only province that the officials indicated they had any dialogue with at all says exactly that.

Here we have an attempt to put something into legislation that was not asked for by the people who were supposedly going to benefit from it and who would have the discretion to put a residency requirement in.

You have to wonder why this is being done. Is there some plan down the road that that may become a requirement the federal government may make? I think that's quite possible, so I think it is a mistake to be able to adopt that.

At the same time we should bear in mind the situation that these refugee claimants find themselves in. The Canadian Council for Refugees, one of many organizations that came before our committee, correctly pointed out that refugees are at their most vulnerable when they first arrive in Canada as claimants. They generally arrive with little or no money; they know few if any people in Canada; they don't know their way around; they must wait several months for a work permit; and they often speak neither English nor French. For all of these reasons, most refugee claimants need to rely on social assistance for their very survival during their initial months in Canada. I think that's why the concern that was raised by the Ontario government about the human rights implications applies.

Also, we need to bear in mind that we are a signatory to some international treaties such as the International Covenant on Economic, Social and Cultural Rights of the United Nations that gives recognition to the right of everyone to social security, including social insurance.

Canada also has a particular duty to protect children under the Convention on the Rights of the Child, which says that Canada must also recognize, for every child, the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realization of this right in accordance with their national law.

So here we are; we've signed on to these treaties. Are we going to let these children starve on the street and go homeless? That's not what our obligations are under either of these.

The federal government, by removing the restrictions from the province, is in effect promoting or condoning the imposition of residency requirements on refugee claimants. I think that's just fundamentally wrong. It's mean-spirited. I think it undermines the values that we have in this country in terms of dealing with people and a fair process. They haven't yet reached the point where their claim has been decided. They can't get a job, because you have to wait six months to get a work permit, so there's nothing else they can do.

Once a decision is made on them being a refugee, then, fine, they're okay at that point in time. But if it's decided that they're not going to be allowed to stay in the country, then of course removal procedures can be commenced. While they are in this country, surely we can't let them go destitute; we can't let them be homeless and starve on the streets.

All of this was objected to by many organizations, and for what? No province asked for this. The one province that had any knowledge of it totally disowns it and thinks it's inappropriate.

I will certainly be voting against the bill on the basis of this particular clause, which I think is just wrong for us to advance.

One other section is Division 20. This deals with the Public Health Agency of Canada. There are some other ones in here I agree with, by the way. I do not disagree with all of them. I disagree with two of them in here, I want to point out.

There's a third one that I think Senator Cordy will speak to, although the committee did try to capture her intent. She will speak to that further, which comes later on.

The second one that I want to speak to is this question of the Public Health Agency of Canada. When the Public Health Agency was set up by the Parliament of Canada, the Chief Public Health Officer was made the head of that agency and, in fact, has the status of a deputy minister. Now what they're proposing is that he be downgraded by one position and that somebody be put in over him who will be called the president of the Public Health Agency of Canada and will take on that role equivalent to a deputy minister.

Senator Mitchell: It's job creation.

Senator Eggleton: Of course, as part of that kind of role, you report to the Clerk of the Privy Council and it becomes like all the other deputy ministers will then be running this particular agency. I don't think that should be the case.

Senator Mitchell: They actually created a full-time job.

Senator Eggleton: The Public Health Agency of Canada is important in terms of pulling people together in times of health crisis in this country, and I think the Chief Public Health Officer needs to be in a position to be able to call the shots in his department, to be able to reorganize or align the resources that are needed to deal with an outbreak of SARS or H1N1 or whatever happens to come down the pipe.

Somebody said, when I went to the Finance Committee, oh, yes, but that person shouldn't have to be dealing with day-to-day routine items and budgets and all of these kinds of details. Yes, I agree, that's why he or she needs an assistant, a person under them who does that kind of thing. That's the way it is now. The Chief Public Health Officer is not worrying every day about every little detail. He has staff to do that, but he's in a position where he can call the shots in dealing with a public outbreak of some disease or some problem in the community.

One of the persons who appeared before the committee on this issue is Dr. Perry Kendall. He's the Provincial Health Officer for the Province of British Columbia, a man I've known for many years. He has a very distinguished career in public health and had a lot to do with the establishment of the Public Health Agency of Canada and with the selection of its first officer, Dr. David Butler-Jones, who has since retired. He also became the first provincial-territorial co-chair of the Pan-Canadian Public Health Network.

During the H1N1 pandemic, 2009-10, Dr. Butler-Jones, then the head of the Public Health Agency as well as he, Dr. Perry Kendall, co-chaired a special advisory committee that directed and coordinated the H1N1 pandemic response and reported the conference to deputy ministers. He's a man of great knowledge and distinction with respect to these issues.

He reported to us in writing. He said:

> I have reviewed this proposal and I have discussed it with a number of public health colleagues who, like me, have a lengthy institutional memory of working with Health Canada prior to SARS, during SARS and during H1N1, and working with the Public Health Agency of Canada and the Chief Public Health Officer of Canada.

He goes on to say:

> We are actually unanimous in advising you not to proceed with this amendment.

He says:

> In our view, it will significantly weaken the agency and the position and the influence of the Chief Public Health Officer and his or her independence. The move seems retrograde to us and ignores the lessons of the past.

• (1500)

Now, the current Chief Public Health Officer, Dr. Gregory Taylor, says he has no problem with him or with the lady who was there acting in the more senior capacity, but he says with great respect that it's the position we're talking about, not the individuals, and that it should continue to be headed by the Chief Public Health Officer of Canada.

I agree with that, and I believe, again, it should not be in this budget bill.

Hon. Jane Cordy: Will Senator Eggleton take a question?

Senator Eggleton: Sure.

Senator Cordy: Thank you very much, Senator Eggleton. You and I were part of the committee that dealt with this omnibus bill, but a couple of omnibus bills ago, we were also part of the committee that dealt with the omnibus bill when the Conservative government removed health rights for refugees. Thank goodness the court overturned that and said it was unconstitutional.

Now, again, the government has hidden things in an omnibus bill. In the past, provinces were not allowed to have residency requirements to give refugees financial assistance because, as you said, they come to the country, they have no money and they can't get a job for a period of time until they've been in the country for a while. But now, as part of this omnibus bill, the provinces, as you rightfully said, are being told they don't really need this residency requirement anymore.

I applaud you for asking where this is leading. Is the federal government going to determine that there be no residency requirements so those refugees will no longer be able to get assistance?

What was interesting, and you also referred to it, was when the department official was asked about the input the provinces had. I think your question was, "Were they consulted?" —

Senator Eggleton: May I have five minutes more, Your Honour?

The Hon. the Speaker *pro tempore***:** Do honourable senators grant Senator Eggleton an additional five minutes?

Hon. Senators: Agreed.

Senator Cordy: That question was asked by you, I believe, and the answer was that the department had discussions with the provinces. The official singled out Ontario specifically. But the message we were left with was that all provinces had "discussions" regarding this residency requirement.

You spoke to the Government of Ontario, and they were certainly not in favour of this. I had my office phone the Government of Nova Scotia. They actually phoned three ministerial departments and nobody had heard of it. No department even knew that it was in the omnibus bill, let alone had they agreed to this clause removing the residency requirement. So I guess Ontario disagreed with it and Nova Scotia knew nothing about it.

Were you aware that in Nova Scotia they knew absolutely nothing about this clause that's hidden in the omnibus bill?

Senator Eggleton: When I asked who the officials had consulted with, the only response they came back with was that they had talked with somebody in the Government of Ontario. That's all they said. They didn't offer the fact that they had consulted anybody else.

When I further questioned them, it became clear to me that that was the full extent of it. They also admitted that absolutely nobody had asked for this or said they wanted it, so you've got to wonder why this is proceeding.

As I said, it sends the wrong signal. It suggests that maybe the provinces should be considering that. When you take into account something else that was said about the health care system, about the attempt to deny certain health benefits to refugee claimants, then that could well be the signal.

But it could also become the basis for social transfers in the future. They say not now. No, they're not going to penalize anybody if they just keep doing the thing they're doing. But then why are they doing it if somewhere down the line they don't plan to invoke it as the new national standard and the basis for the Canada Social Transfer payments to the provinces? It would be disgusting if they did that.

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

INDIAN ACT

BILL TO AMEND—THIRD READING—MOTION IN AMENDMENT NEGATIVED—DEFERRED VOTE

On the Order:

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

Hon. Anne C. Cools: Honourable senators, I rise to speak to Bill C-428, An Act to amend the Indian Act (publication of by-laws) and to provide for its replacement. I speak in support of Senator Dyck's thoughtful and well-considered amendments. I would like to thank her for her good work.

In the House of Commons on June 4, 2012, Bill C-428 was moved by its sponsor, the Saskatchewan Conservative MP Rob Clarke. It died at prorogation last year, was reinstated at third reading on October 16, 2013, and was adopted on November 20. It was adopted in the Commons on the strength of the government supporters there. Bill C-428 appears to be another one of those private members' bills which is really a government bill. It is pushed and supported by the government. It is very interesting that the government supports it, wants it but was not willing to take responsibility for it. I would think that a bill of such national importance, of such sensitive nature and policy magnitude, should proceed in the two houses under the doctrine and procedures of ministerial responsibility, and under the guidance and superintendence of the responsible minister, Bernard Valcourt, the Minister of Aboriginal Affairs and Northern Development. He is the minister designated by our Constitution and appointed in Her Majesty's name by her representative, the Governor General, to have the superintendence of the affairs of our indigenous peoples, as in our First Nations.

The 1959 edition of *Jowitt's Dictionary of English Law*, Volume 2, at page 1206, defines the term "nations" — First Nations:

> Nation, a people distinguished from another people, generally by their language, or government; an assembly of men of free condition, as distinguished from a family of slaves.

Black's Law Dictionary, Fifth Edition, 1968, at page 1175, also defines "nation":

> Nation. A people, or aggregation of men, existing in the form of an organized jural society, usually inhabiting a distinct portion of the earth, speaking the same language, using the same customs, possessing historic continuity, and distinguished from other like groups by their racial origin and characteristics, and generally, but not necessarily, living under the same government and sovereignty.

Honourable senators, the term "nation" includes a quality of sovereignty and self-determination. Our lawful dealings with our First Nations, most particularly those on the adoption of statutes in our two houses, must be initiated and conducted by plenipotentiaries, meaning Her Majesty's ministers, authorized by her to act on her behalf with our First Nations peoples. These First Nations peoples had been the subject of copious treaties with Her Majesty. They have many large and important rights and powers, including section 35 of the 1982 Constitution Act. All bills in the two houses of Parliament must proceed under the guidance and watchful eye of a member of Her Majesty's cabinet, in this instance, Her Majesty's minister responsible for Aboriginal Affairs and Northern Development.

• (1510)

Honourable senators, I note that this bill's sponsor is not a minister, a plenipotentiary, or a member of His Excellency, the Governor General David Johnston's, Government of Canada, called the administration. Rob Clarke, this bill's sponsor, is a First Nations member of whom we are all proud. But our constitutional and parliamentary practice and law dictate that bills in Parliament about First Nations business are the exclusive domain of our ministers, of which he is not one. A private member may be a supporter of the government of the day, but a private member is not the minister. The notion of ministerial responsibility is the fundamental and founding principle of our modern parliamentary system. Put in other words, every important measure should be moved in the houses under ministerial responsibility, by a minister who takes responsibility for everything in the bill that is before the house. Matters of this nature, magnitude and importance should not proceed in either house of Parliament as the work product and initiative of a private member, but should proceed at the initiative of a Crown minister.

Honourable senators, this private member's Bill C-428 is a pretender. It pretends to be an answer to the large and deep problems that so afflict our beloved and enduring indigenous peoples, but it is a proceeding that is violating their right to have their affairs in the houses led by a member of Her Majesty's Canadian government, a minister. The first principle of our constitutional system is that as nations, our First Nations, our Aboriginal and indigenous peoples are entitled to have their affairs in the houses dealt with and processed by cabinet ministers. The first defect in Bill C-428 is this fact, that the bill as it has proceeded, is a slight of the First Nations' entitlement to engage nation to nation, that is their nations with our nation, Canada. This bill is a pretender. It reads and sounds more like a promotion and advertising campaign than it does a bill seeking support in the two houses, which should proceed under the principles of responsible government and ministerial responsibility.

Honourable senators, I shall quote the bill's sponsor, Mr. Rob Clarke, in the Commons House on October 18, 2012. Speaking about the Indian Act, he tells of the

> . . . outdated, racist, colonial statute . . . the Indian Act. . . . this archaic piece of legislation . . . extending to every aspect of the lives of every first nations person . . . .

I note that the bill's sponsor hints broadly and loudly that his bill is well-supported by the Harper government and, in places, he speaks for the Government of Canada. His preamble says:

> Whereas the Government of Canada is committed to the development of new legislation to replace the *Indian Act* . . .
>
> And whereas the Government of Canada is committed to continuing its work in exploring creative options for the development of this new legislation in collaboration with the First Nations . . .

Those words should fall only from a government minister's mouth.

Honourable senators, the bill's sponsor does not tell us why he is speaking on behalf of the Government of Canada in this bill. Senators must differentiate between government supporters in the houses and the Government of Canada. It is well established

that only a Crown minister, so appointed by Her Majesty's representative, can claim to speak for our government, within or outside of the framework of a bill. It is also unfortunate that the unusual preamble bears no relationship whatsoever to the content of the bill.

Honourable senators, the bill's sponsor believes that the Indian Act can be dismissed and easily dismantled. On October 25, 2013, in his speech at page 430, he described it as:

> . . . an archaic and fundamentally bigoted piece of legislation that governs the day-to-day lives of first nations and that it must go.

And said:

> . . . I believe that the practical and incremental changes proposed in the bill can lead to further meaningful conversation about how the Indian Act could be dismantled and replaced.

And also:

> . . . I believe it is the first step of meaningful change.

These are all his beliefs, products of his mind.

Honourable senators, Bill C-428 even proposes to delete the terms "residential schools" from the Indian Act. In the same October 25 speech, Mr. Clarke stated:

> Bill C-428 would also remove references to residential schools from the Indian Act. As a grandson of two residential school survivors, I have seen first-hand the devastating effects that residential schools have had on our people. There is no place in Canadian law in the year 2013 for residential schools. I cannot wait for the references of this shameful period of our nation's history to be erased from the books.

This reminds me of Mr. Stalin. If you erase words from a statute, you also erase the history concerned.

Honourable senators, the bill's sponsor believes that the deletion of words from a statute is simultaneously the deletion of the unhappy event from history. Colleagues, I would submit that these painful memories of many of these people will not disappear soon. We should take a long and hard look at this bill, which sounds more like a public relations and communications advertisement than an effective piece of legislation aimed at advancing the condition of our indigenous peoples.

Honourable senators, I thank and laud Senator Ngo for his more measured approach to correcting defects in the *Indian Act*. He said in his speech here, November 6, at page 2439, that:

> The best way to remove a big boulder is to carve it out chip by chip.

Honourable senators, the Indian Act, and changes to it, require careful, lengthy and profound consideration and study. My concerns with this bill are that the bill itself is unparliamentary and does not follow parliamentary procedures of ministerial responsibility. I would go so far as to say that this bill is a frontal attack on the concept of ministerial responsibility and on the principle that large and important measures in both houses should originate and be piloted in the houses by ministers of the Crown.

I thought, honourable senators, it might be useful if I recorded here some of the great minds and the great concepts that define the meaning of ministerial responsibility. In his 1887 edition of *On Parliamentary Government in England,* Volume II, writing about ministerial responsibility and the proper role of Crown ministers in the houses of Parliament, Alpheus Todd wrote, at page 288:

> It is by means of the introduction of the ministers of the crown into Parliament for the purpose of representing therein the authority of the crown, and of carrying on the government in direct relation with that body, that the responsibility of ministers for every act of government is practically exemplified and enforced.
>
> The whole executive functions of the crown have been entrusted to ministers, chosen by the sovereign, and personally accountable to him. In order that those functions may be exercised in conformity with the most enlightened opinions of the great council of the nation, it is indispensable that the king's ministers should be selected from amongst that council. Having in their individual capacity as members of one or other of the legislative houses, a right to sit therein, they are thus brought face to face with those who are privileged to pronounce authoritatively upon the policy of the government, and whose consent must be accorded to their very continuance in office as ministers of the crown. Ministers, . . ., being the chosen and confidential servants of the sovereign, are necessarily the depositaries of all the secrets of state, and have access to the highest sources of information on every political question. They are . . . peculiarly qualified to guide the deliberations of Parliament, and to aid their fellow-members in forming sound conclusions upon every public matter that may be brought before them.

Honourable senators, in his same work, Volume I, Todd wrote, at page 6:

> All important bills are now submitted to Parliament by ministers of the crown, with the avowed sanction and express authority of the sovereign; and it has become a recognised and prominent part of the functions of the king's ministers that they shall be able to lead and control the two Houses of Parliament, and to carry on the government therein, by themselves undertaking the oversight and direction of the entire mass of public legislation.

• (1520)

Further, at page 9, he said:

> By the formal introduction of the king's ministers into Parliament . . . the monarchical element in the constitution began to make itself felt in the House of Commons. . . . 'For

> parliamentary government is essentially a government by means of party, since the very condition of its existence is that the ministers of the crown should be able to guide the decisions of Parliament, and especially of the House of Commons . . . .'

And, at page 265:

> As a pledge and security for the rightful exercise of every act of royal authority, it is required by the constitution that the ministers of state for the time being shall be held responsible to Parliament and to the law of the land for all public acts of the crown.

Finally, at page 266, Todd adds:

> In a constitutional point of view, so universal is the operation of this rule, that there is not a moment in the king's life, from his accession to his demise, during which there is not some one responsible to Parliament for his public conduct; and 'there can be no exercise of the crown's authority for which it must not find some minister willing to make himself responsible.' . . . whenever the royal sign manual is used, it is necessary that it should be countersigned by a responsible minister, for the purpose of rendering it constitutionally valid and authoritative.

Honourable senators, Bill C-428 is indeed unusual and odd. Its large and substantive issues do not belong in a private member's bill, lacking the guidance of a minister of the Crown.

I submit that there are good and clear reasons why our indigenous peoples are called First Nations. Exchange between nations, in this instance between our Crown and our First Nations representatives, must be by a minister, a representative of the Crown. The duty to consult with First Nations on legislative issues that touch them must rest with our Crown, as one nation to another nation. Nation-to-nation exchange is not the purview of a private member's bill, nor the role of a private member.

Honourable senators, this bill looks to create a false power over the Minister of Aboriginal Affairs and Northern Development. It is unparliamentary for the houses to legislate a duty that a Crown minister report to a committee of the House of Commons. Bill C-428 does this in clause 2, that —

The Hon. the Speaker *pro tempore***:** Honourable senator, your time has expired. Would you be willing to ask for five more minutes?

Senator Cools: I would.

The Hon. the Speaker *pro tempore***:** Senator Cools is asking the chamber for five more minutes. Is it granted?

Hon. Senators: Agreed.

Senator Cools: Bill C-428 does this in clause 2, that: —

> Within the first 10 sitting days of the House of Commons in every calendar year, the Minister of Indian Affairs and Northern Development must report to the House of Commons committee responsible for Aboriginal affairs on the work undertaken by his or her department in collaboration with First Nations and other interested parties to develop new legislation to replace the *Indian Act*.

This is so constitutionally wrong. It is also offensive to ministerial responsibility. The role and work of house committees is the exclusive domain of the house, and statutes should be wary about intruding on and usurping the exclusive domain of the house. The house alone decides the role and the work of its committees. A minister's business is not the house's business; it is Her Majesty's business. This clause 2 is not consistent with our practice of ministerial responsibility. Decisions on the work of committees is the duty of the whole house, and of all members acting together. The house should not attempt to control the output of a minister by subjecting him to a committee. Defining house committees duties belongs to the house, not a statute. This is irregular, more so on matters as sensitive as the Indian Act, and the pain and suffering that we now know — and have known for a long time — that so many Aboriginal peoples have endured.

Honourable senators, questions arise from this troubling clause 2 order for the minister. Why 10 sitting days? Why has this particular minister been singled out in this way? If the minister does not report, what will be the consequence? Would he be subjected to the house's contempt of parliamentary power? More importantly, does the responsible Minister Valcourt have an opinion on any of this? What does he think and why do we not know?

Honourable senators, the Indian Act will not simply be repealed or replaced so easily, as this bill suggests. Such profound action requires serious, deep, substantial and lengthy consultations between the Crown and the First Nations. And I mean nations. This bill is very strange indeed.

Honourable senators, I urge you to consider the parliamentary and procedural flaws that this Bill C-428 harbours, and to vote against it, and to inquire why Her Majesty's responsible Minister, Minister Valcourt, is not involved in this bill. We should also find out what he thinks of it, and also why he did not have carriage of this issue in the House of Commons of this bill. It would seem to me dismantling or replacing the Indian Act is exclusively the purview of the minister.

Hon. Lillian Eva Dyck: Would the honourable senator take a question?

Senator Cools: I do not know where my time is, but I hope that they will grant it to us.

The Hon. the Speaker *pro tempore***:** One more minute for a short question.

Senator Dyck: I believe you pointed out a fundamental flaw in the parliamentary procedure in that the Member of Parliament should not have introduced the bill, but that it should have been the minister. Is that correct?

Senator Cools: Absolutely. The dealings between government and First Nations people stand on a very special footing. They stand on a unique constitutional footing. In addition, such dealings are entrenched over history for a couple of centuries, the result of the various treaties. Absolutely. This Bill C-428 is completely out of order.

Senator Dyck: What can the First Nations do then? Can they challenge that in court?

Senator Cools: I would say yes. The member, Rob Clarke, is obviously very well-intentioned. Most members are. I think he is somebody we should be proud of, because he himself is a native person. But this is obviously and evidently egregious. We are not dealing here with a simple little bill on an insignificant issue. —This bill deals with, in his words, "dismantling" the Indian Act. Mr. Clarke is very harsh in his words. I would like us to take this very seriously. We have ministers for a reason and, in their appointment and commissions, they receive certain powers to do certain things that private members simply cannot.

The Hon. the Speaker *pro tempore***:** Are honourable senators ready for the question on the amendment?

Hon. Senators: Question.

The Hon. the Speaker *pro tempore***:** It was moved in amendment by the Honourable Senator Dyck, seconded by the Honourable Senator Mitchell, that Bill C-428 be not now read a third time but that it be amended, in the preamble, on page 1, by replacing line 17 with the following:

"legislation in consultation with the First".

That Bill C-428 be amended on page 1 by adding after line 24 the following: —

Shall I dispense?

Hon. Senators: Dispense.

The Hon. the Speaker *pro tempore***:** All those in favour of the motion, please signify by saying "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker *pro tempore***:** All those against the motion, please signify by saying "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker *pro tempore***:** In my opinion, the "nays" have it.

And two honourable senators having risen:

Hon. Jim Munson: Thirty minutes will be fine.

The Hon. the Speaker *pro tempore***:** There is an agreement for a 30-minute bell, which means the vote will take place at 3:59 p.m. The house is suspended until then.

Call in the senators.

• (1600)

Motion negatived on the following division:

YEAS
THE HONOURABLE SENATORS

Baker	Hervieux-Payette
Campbell	Hubley
Chaput	Jaffer
Cools	Kenny
Cordy	Lovelace Nicholas
Cowan	Massicotte
Dawson	Merchant
Day	Mitchell
Downe	Moore
Dyck	Munson
Eggleton	Ringuette
Fraser	Smith (*Cobourg*)
Furey	Tardif—26

NAYS
THE HONOURABLE SENATORS

Andreychuk	Martin
Ataullahjan	McInnis
Batters	McIntyre
Bellemare	Meredith
Beyak	Mockler
Black	Nancy Ruth
Boisvenu	Ngo
Carignan	Oh
Dagenais	Patterson
Demers	Plett
Doyle	Poirier
Eaton	Raine
Enverga	Rivard
Fortin-Duplessis	Runciman
Frum	Seidman
Gerstein	Seth
Greene	Smith (*Saurel*)
Housakos	Stewart Olsen
Johnson	Tannas
Lang	Tkachuk
LeBreton	Unger
MacDonald	Verner
Maltais	Wallace
Manning	Wells
Marshall	White—50

ABSTENTIONS
THE HONOURABLE SENATORS

Nil

The Hon. the Speaker: We will now return to the main motion. Are senators are ready for the question?

Hon. Senators: Question.

The Hon. the Speaker: It was moved by the Honourable Senator Boisvenu, seconded by the Honourable Senator Runciman that the bill be read a third time now. Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: No.

Some Hon. Senators: Yes.

The Hon. the Speaker: All those in favour of the motion, please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: All those opposed to the motion, please say "nay."

Some Hon. Senators: Nay.

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

And two honourable senators having risen:

The Hon. the Speaker: I see two senators rising. Order, please, honourable senators. Could I have the whips speak, please?

Hon. Jim Munson: We wish to defer the vote until tomorrow.

The Hon. the Speaker: The opposition would like to defer the vote.

Hon. Elizabeth (Beth) Marshall: I need to look at my rule book, please, Your Honour.

Since the opposition whip has deferred the vote until tomorrow, I would like the vote deferred until the next sitting day, which will be Monday at 5:30. That would be in accordance with rule 9-10(4).

The Hon. the Speaker: That seems in order. The vote will take place on Monday at 5:30 p.m.

CORRECTIONS AND CONDITIONAL RELEASE ACT

BILL TO AMEND—THIRD READING

On the Order:

> Resuming debate on the motion of the Honourable Senator MacDonald, seconded by the Honourable Senator Wallace, for the third reading of Bill C-483, An Act to amend the Corrections and Conditional Release Act (escorted temporary absence).

Hon. George Baker: Honourable senators, I would like to very briefly congratulate Senator MacDonald on this bill. I will be very, very brief.

Some Hon. Senators: Hear, hear!

Senator Baker: The Legal and Constitutional Affairs Committee has done its usual excellent job under Senator Runciman and all members of the committee.

We are meeting in an extraordinary session tomorrow morning, and I wish to thank Senator Bellemare for bringing to our attention in a piece of legislation something we should examine more closely, and that's the job of the Legal and Constitutional Affairs Committee and that's the job of the Senate. That's why the Senate is held in such high esteem, a higher esteem than the House of Commons when it comes to legislation and the examination of legislation.

Before I outline what Senator MacDonald said, I recently had a look at references in case law in our courts and in our quasi-judicial bodies in Canada as to which committees of the Senate are referenced in their proceedings and compared it to the committees of the House of Commons. Here is the result over a two-year period. Here are the committees that were referenced, that is, portions taken from the committee proceedings and used in court cases and in quasi-judicial bodies like disciplinary committees for nurses, doctors, lawyers and so on in the provinces.

• (1610)

Here is a list of the committees of the Senate that were referenced. First of all, Banking Trade and Commerce, top of the list. Second, Foreign Affairs and International Trade, and third, Transport and Communications.

Some Hon. Senators: Hear, hear.

Senator Baker: Then Legal and Constitutional, then Energy, then Human Rights, then Social Affairs, then Official Languages, then Aboriginal Peoples, then National Security and Defence, then National Finance, then Agriculture and then Fisheries.

Now, we have 20 committees in the Senate. The 13 that I have just named have been quoted in the past two years, some of them more than once. There are 26 committees in the House of Commons. Only three of them have been referenced in reported case law in the past two years, the same two-year period, and they are, in the order of numbers of times, first, Justice and Human Rights; second, Citizenship and Immigration; and third, Public Safety and National Security.

So you have 13 committees of the Senate referenced in the past two years, some of them many times, but you only have three committees of the House of Commons. We have 20 committees; they have 26.

It is interesting why that is, and it is for the very reason that the committees do such a great job, and we have members like Senator MacDonald, who introduced a private member's bill

approved in the House of Commons and clearly outlined the purpose of the bill, what the bill sets out to do. I don't completely understand his use of the word "government," though, because it is really a private member's bill, but he kept referring to the government as standing up for the rights of victims and so on.

I think when you look at the committee reports that we do, perhaps that's a part of why our courts reference the Senate more than the House of Commons. Perhaps it is because the House of Commons has gone through the issue, has questioned some experts and some witnesses, and perhaps then we have the benefit of that when it gets to the Senate. Perhaps that's why. That could be one of the reasons why sober second thought is referenced more than any other legislature.

Now, we dealt with this bill, and we also had observations on this bill. The committee felt generally that we approve of the bill, but we made observations that apply not only to people who are seeking escorted temporary absences who serve life terms as a minimum punishment; we also suggested it be extended to those persons who are dangerous offenders.

Now, on that note, I'm not going to say very much more, but just let me give you examples from the past three months in our courts of references to just a couple of cases. First of all, there is the reference in the past three months to Foreign Affairs and International Trade at paragraphs 47 and 48 of *Chowdhury v. Canada*, 2014 Carswell Ontario 5568.

We have October 28, *Thibodeau v. Air Canada*, 2014 CarswellNat 4124, at paragraph 162. It is the *Debates of the Senate* that are referenced, the debates here in the Senate of the movers of bills, and also the Standing Senate Committee on Transport and Communications, evidence of October 31, 2001. That was still in the courts.

Then you go to another case on practically the same date, October 16, *R. v. VanBeek*, 2014 ABPC 226, and they take from the Senate debates, paragraph 24:

> As noted during the Senate debates on the Bill . . .

The bill was 2008, the Tackling Violent Crime Act. They take sections from speeches made in the Senate concerning the legislation, and they reference Senate debates of February 27, 2008. You don't see that in referencing to the House of Commons debates.

September 2014, Federal Court, Judge Luc Martineau, 2014 FC 849, at paragraph 14. The Standing Senate Committee on Official Languages. April 2014. That was just recently. And then paragraph 22 also quotes from what the committee of the Senate recommended.

You go to August, again the Federal Court, 2014 FC 836, and you get the proceedings of the Senate Committee concerning Bill C-36, and then at paragraph 20 it goes further into what that debate was all about.

You can see that over a period of time, with those kinds of references, and in the past three months, there was one reference to a Commons committee. It is just another reason why a lot of people say that the Senate performs a much more vital role in legislation than the House of Commons. That's why you get so many references.

I want to thank Senator MacDonald and all the members of the committee for doing an excellent job on this bill, and I will just give you one example of one of our witnesses. I won't talk about the witnesses who talked about the various parts of the bill and gave a legal analysis of it for our benefit, but a lady appeared before the committee. Senator MacDonald and members of the committee will recall this.

A lady appeared before the committee and she was concerned because about a year previous, she had been told by the Parole Board of Canada that a person who had killed her husband — her husband was sitting in a car, and the object of the exercise by the offender was to steal the car. The offender came through the window and stabbed her husband in the chest, and that person was convicted.

When that person applied for an escorted temporary release, the Parole Board telephoned the lady who appeared before our committee, and she had an opportunity to appear before the Parole Board to give her opinion and even just to listen to the proceedings, wanting to know where this person would be going and so on.

She went home, and the Parole Board denied permission for that person to be on a temporary escorted release. Three weeks later, she learns that the person has been released on temporary release by the warden. She couldn't understand this. She said, "How could it be possible that there was a hearing before the Parole Board that denied this person's request and now three weeks later the warden releases the person?"

She didn't understand the law as it is written. The law as it is written says that when you arrive at three years prior to your release date, if you are serving a minimum life sentence, then the responsibility for your leaves is transferred from the Parole Board to the warden. The warden sits in an office, and the warden reads some papers, and for whatever reason, the warden can adjudicate that that person can have the leave even though the Parole Board, three weeks previous, denied such a leave after a hearing.

• (1620)

What this bill does is extend the control of the parole board beyond that three-year point, so that the parole board will have the next hearing on that person. In this particular case, the lady would have been notified. The victim is notified so that they can be there. If the person successfully completes that temporary release, then it reverts to the warden. If they violate a condition, it reverts back to the parole board, and that's what is in this bill.

We all agreed with the bill and we also agreed with the observation that it should apply as well to certain categories of dangerous offenders. I want to congratulate Senator MacDonald and members of the Standing Senate Committee on Legal and Constitutional Affairs for doing an excellent job.

Hon. Paul E. McIntyre: Senator Baker, would you take a question?

Senator Baker: Yes.

Senator McIntyre: As I understand this legislation, there would no longer be an automatic transfer of release authority for rehab ETAs from the board to Correctional Service Canada at day parole eligibility; is that correct?

Senator Baker: Yes.

Senator McIntyre: Instead, the board would maintain authority for these ETAs until three criteria have been met: the inmate has passed the day parole eligibility; the inmate has been granted a rehab ETA; and the inmate has successfully passed the rehab ETA. If those three criteria are met, my understanding is that the decision-making authority for rehab ETAs would then move, as you pointed out, to CSC.

That being said, if a subsequent rehab ETA granted by CSC is not successfully completed or if there's a breach of the conditions on the part of the inmate, then the matter reverts back to the parole board. As I understand, that is the essence of the bill, so we are in agreement on this issue regarding the transfer of release authority.

Senator Baker: Yes.

Senator McIntyre: The point I want to stress is the release authority from the CSC back to the parole board, as long as the three conditions have been met. Is that correct, senator?

Senator Baker: Yes. I should have explained this, because it should be on the record and it is important for it to be on the record. It is interesting that Senator McIntyre would ask that question. I can imagine what's going through his mind, because the bill maintains a decision by a quasi-judicial body, the parole board, instead of an administrative decision made by a person in an office — the quasi-judicial decision. The reason why it is remarkable and instructive that Senator McIntyre would ask that question is because he sat on a quasi-judicial board for 25 years as the chair of the review board, performing exactly the same function. He was hearing, I believe, the same type of evidence that the National Parole Board would hear sometimes in a quasi-judicial proceeding.

Earlier, I looked up the definition of "judicial proceeding," and I would like to remind senators that the Senate is a judicial proceeding. The Senate and committees of the Senate are under section 118 of the Criminal Code of Canada. This is a judicial proceeding.

If you go down to sections 130 and 135 of the Criminal Code, they outline the penalties for misleading a judicial proceeding, like the Senate or a committee of the Senate. For those of you interested in case law, in *R. v. Lavigne*, at paragraphs 100, 102 and 109, 2011 ONSC 1335, the Ontario Superior Court of Justice spelled out that the Senate and a committee of the Senate, the Standing Committee on Internal Economy, Budgets and Administration, and other committees are judicial proceedings and the charges related in that particular matter applied in that particular case.

For the record, so that we understand exactly what transpires in a quasi-judicial decision, which is what we're doing for these persons serving a minimum life sentence — exactly the same procedures as under the NCR review board. You sat there for 25 years between two psychiatrists and made decisions, senator. If you're going to ask me a supplementary question, I wish you would at least make a comment as to what exactly transpires in the National Parole Board and in this situation where you were for 25 years. It is amazing you survived.

Senator McIntyre: Thank you, Senator. I certainly will. What a performance; what a speech.

You are right, Senator Baker. I believe there is somewhat of a similarity between the procedure used before the parole board and the procedure used before the review board. I have never been a member of the parole board, so I will refrain from making any comments regarding that board. But having chaired the New Brunswick Review Board for 25 years, I certainly can make a few comments.

As you rightfully pointed out, the review board is a quasi-judicial tribunal. The powers of the review board fall under section 672 of the Criminal Code. It deals with an accused person found unfit to stand trial or fit to stand trial, not criminally responsible on account of mental disorder. That person is then either remanded into to a psychiatric facility or released into the community pending a disposition hearing by a board, which is called review board.

The board must have a quorum of three persons: the chairperson, who must be a judge or a person qualified for appointment; a psychiatrist; and any other member. The chairperson of the review board has the same powers of a commissionaire conferred by subsections (4) and (5) of the Inquiries Act.

The code also makes it clear that the hearings before the review board must be held in as informal a manner as possible. There's a specific section in the code regarding that stipulation.

The code makes it mandatory for an accused person to be represented by counsel. The Crown prosecutor doesn't have to be present, but an accused person must be represented by counsel.

Much like the parole board, the review board receives documents. It marks them as exhibits. At the end of the hearing, the review board must render a disposition and reasons for disposition, and those documents are filed with all parties to the proceedings, much like in the case of the parole board.

The code also makes it clear that a record of proceedings must be kept and a decision of the majority governs the review board.

The review board renders one of three decisions. It can grant an absolute discharge, a conditional discharge or a discharge subject to conditions, or it can order detention in a hospital facility.

As you know, and I have reviewed that under Bill C-14, the difference between an absolute discharge as opposed to a conditional discharge or detention in a hospital facility revolves around the issue of dangerousness.

Bearing this in mind and given the similarity between the review board and parole board, I'm of the opinion that it is imperative that the parole board maintain authority for escorted temporary absence, until the three criteria have been met as set on out in Bill C-43. In a nutshell, I'm praising the virtues of the parole board.

Senator Baker: What an answer; what a question.

The Hon. the Speaker: I assume, Senator Baker, there was a question in that comment, and the question is do you agree?

Senator Baker: I agree.

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

Hon. Senators: Agreed.

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

• (1630)

SUPPORTING NON-PARTISAN OFFICES OF AGENTS OF PARLIAMENT BILL

SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Rivard, seconded by the Honourable Senator Wallace, for the second reading of Bill C-520, An Act supporting non-partisan offices of agents of Parliament.

Hon. Joan Fraser (Deputy Leader of the Opposition): Honourable colleagues, this bill purports to inject a new dose of sunshine into elements of the public administration of Canada. In fact, what this bill really does is create a climate of mean-spiritedness verging on paranoia. It is deeply offensive. It constitutes, among many other problems, a very serious invasion of the privacy of Canadian citizens. This bill "argues," I suppose is a reasonable word, that all persons working for or even seeking to work for agents of Parliament and officers of Parliament — people like the Auditor General, the Privacy Commissioner, all those agents of Parliament, and everybody in those offices — should make public their political activities past, going back 10 years, present and future. The sweep and scope of these requirements are absolutely breathtaking.

Any person working in those offices, as the bill says, any person down to the mailroom clerk and the receptionist working or even applying for a position in the offices of those agents must sign a declaration about whether or not they have been engaged in political activity or have served on ministerial staff, parliamentary staff or anything that could have a remotely political implication.

To be engaged in political activity, according to this bill, includes volunteer work as any officer of an electoral district association or your party's riding association. If you've been first vice-president of your party's electoral association and you haven't won a single election in that riding for the past 10 years, you still have to declare your political activity, even if 9 years ago you slammed the door on your party because you didn't agree with some policy they adopted.

The bill, as I said, applies to parliamentary staff, our staff, explicitly persons who work on behalf of a senator or a member of the House of Commons; and part-time and contract work are included. Think about that for a minute. Suppose, for the sake of example, Senator Dallaire needed somebody to do a short-term, part-time contract for him on his work in connection with child soldiers, which was a cause he championed in this place to great effect. Maybe he hired a person for two months, one day a week. Years later, that person applies for a job with the Privacy Commissioner — nothing to do with child soldiers. He would have to declare the work for Senator Dallaire.

The interesting thing about these declarations is that they're not private. If you actually get hired, they have to be posted on the agent of Parliament's website within 30 days, and there they stay, forever I guess.

Suppose that Senator Boisvenu hired somebody for a few weeks or months to help with his extraordinarily assiduous work in defence of the victims of criminal acts, and that six or seven or eight years later that person applied for a job with the environment commissioner — nothing to do with victims of crime. He would have to declare.

You have to declare what you did in the past. You have to declare any political activity at any level — federal, provincial, territorial and municipal — that you may be engaged in now. You have to declare if you intend to engage in any such activity.

Suppose you're applying for a job as the mailroom clerk at the Privacy Commissioner's office. You have to declare if you think you might run for town councillor in the village that you happen to inhabit. This is absolutely insane. It's hard to think of a more profound invasion of privacy than what amounts to posting on the Internet, for all to see, how you voted, because that's what this really boils down to.

Senator Nancy Ruth: No, it doesn't.

Senator Fraser: You're unlikely to have held a volunteer position in the electoral district association of a given party if you didn't plan to vote for that party. We generally don't tend to think that's a pretty fair way to run a democracy in this country.

The bill has retroactive application for present employees who were hired with no indication of any such declaration or any such requirement. Present employees have to fill out this declaration, and it goes on the website within 30 days.

It's truly so profoundly offensive to me, and not just to me. The agents of Parliament themselves told the committee that studied this bill in the other place that they strongly object to it. They had some technical grounds. They said that the bill does not provide specific guidance on how its provisions would interact with the current legislative and policy regime that governs political activities of public servants. Not everybody may realize that there is a very elaborate legal and administrative regime governing the political activities of public servants, including members of the staff of agents of Parliament.

They suggested that if this bill had to pass, it should not apply to all employees; that it should apply only to those with decision-making powers. You could sort of see an argument for some kind of declaration of political activity by people with decision-making powers, although I would still argue that being obliged to post that information on the Internet is absolutely unjustified.

There are serious constitutional questions about this bill and its impact in connection with the Charter of Rights and Freedoms, requirements for freedom of association, and Charter requirements for privacy. I suspect that if it passes, it will face a legal challenge sooner rather than later.

Here's the final thing about this bill that I find puzzling in that it is a product of politicians. The implication of being required to declare your political activity is that there is something wrong — suspicious — about engaging in political activity.

• (1640)

Senator Munson: McCarthyism.

Senator Fraser: That is not the case. It is a noble thing to engage in political activity. We do already have laws and rules that say, basically, the higher up you are, the more visible you are, the more non-partisan you must not only appear to be, but be.

However, the Supreme Court ruled a generation ago that members of the public service do have, subject to those limitations, the right to engage in political activity. I would strongly suggest that that would include the right to have their political activity remain a private matter. They can disclose or not, as they see fit.

It is my understanding that the government intends to move this bill to the Committee on National Finance. Given the concerns that I've just expressed, I would greatly have preferred to see it go to the Committee on Legal and Constitutional Affairs. I'm not quite sure why National Finance is the preferred recipient. I understand that National Finance examines the machinery of government, but this bill seems to me to go way beyond simple questions of the machinery of government. However, we know where the majority in this chamber lies, so National Finance it is.

Now, I know also that National Finance is one of the hardest working and most serious committees we have. I urge that committee to give this bill the most serious scrutiny and to amend it if it can be improved. I'm not sure it can. My own preference would be to sink it deep. But it is possible. All things are possible.

It is possible that it could be improved and made more palatable. That's what the Senate exists for: to do sober second thought, to examine legislation that may contain errors or may have been over-hastily passed in the other place, and I can't think of a better candidate for that kind of work than this dreadful bill.

Hon. Jim Munson: Would the honourable senator take a question?

Senator Fraser: Yes.

Senator Munson: I'm not being facetious here, but what do you think Joe McCarthy would think of this bill?

Senator Fraser: As Senator Downe said yesterday, "Are you now or have you ever been a member of . . . party?" Joe McCarthy would love it.

Hon. James S. Cowan (Leader of the Opposition): I only caught the tail end of Senator Fraser's remarks and I was wondering whether somebody from the government, before the debate is closed, would explain to the chamber why a bill which has the kinds of implications that Senator Fraser explains would not go to our Legal and Constitutional Affairs Committee rather than to our National Finance Committee. Again, of course, that is no reflection on National Finance.

The Hon. the Speaker: I wish to inform honourable senators that if Senator Rivard speaks that will close the debate.

[*Translation*]

Hon. Michel Rivard: Thank you, Mr. Speaker. I would like to respond to the many statements you just made, and I will start with the most recent one: Why does this issue have to go to the Standing Senate Committee on National Finance, not another committee? According to our rules, only the Standing Senate Committee on National Finance can deal with government operations.

You had some very kind things to say about the Senate Finance Committee and its members, and I was very happy to hear that. The committee has proven repeatedly that it can improve bills. One example is the bill on sports betting, which has not yet been finalized because we do not all agree. Even though it was passed by a majority — unanimously, at that — in the other place, we have not yet made a decision.

I have to admit, honourable senators, that some of your statements bothered me. Why should the mailroom clerk or the person who washes the floors be included? If we refer the file to the Standing Senate Committee on National Finance, we can find answers to those questions. There is no guarantee that nothing

will change. The purpose of this bill is to guarantee the integrity of the candidates and to eliminate any possibility of conflict of interest. Officers of Parliament — from the ethics commissioner to the Auditor General to the Chief Electoral Officer — play a very important role.

The people heading up offices were selected by the Governor-in-Council, so investigations were carried out to determine whether they were impartial. However, with respect to those hired afterward, we have to use the declaration to ensure that, in the 10 years prior to their being hired, they did not occupy any of the positions described in the bill: electoral district association CEO, electoral candidate, etc. This is not about volunteers, which someone mentioned earlier.

The goal is to give this matter serious scrutiny.

I would like to remind you of what Senator Baker said earlier: of 20 Senate committees, 13 of them have been cited by the courts in the past two years, whereas of the 26 committees in the other place, just three have been cited. Therefore, let the Senate Finance Committee do its job so that we can hear the appropriate witnesses and get an accurate picture of the situation. If amendments are required, we will move them.

[*English*]

Senator Cowan: May I ask a question?

The Hon. the Speaker: You may ask a question, yes.

Senator Cowan: I may have missed the first part of your answer, but I understood you to say the reason why it's being sent to National Finance is because it has to do with the operations of government; is that what you said?

[*Translation*]

Senator Rivard: I may not have your experience, senator, but what I do know is that, in the Senate, everything that has to do with the operations of government can only be studied by the Standing Senate Committee on National Finance.

[*English*]

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

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

Some Hon. Senators: Yea.

The Hon. the Speaker: Those opposed to the motion please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker: The "yeas" have it. On division?

And two honourable senators having risen:

Senator Munson: Mr. Speaker, this is an affront to privacy and democracy.

The Hon. the Speaker: Senator Munson, this is not a debate. Thirty-minute bell?

Senator Munson: Yes.

The Hon. the Speaker: Agreed, Senator Martin? Thirty-minute bell?

Senator Moore: I object.

The Hon. the Speaker: There not being unanimous consent, the bell will ring for one hour. The vote will take place at 12 minutes to six o'clock.

Call in the senators.

• (1750)

Motion agreed to and bill read second time on the following division:

YEAS
THE HONOURABLE SENATORS

Andreychuk	Marshall
Ataullahjan	Martin
Batters	McInnis
Bellemare	McIntyre
Beyak	Mockler
Black	Nancy Ruth
Boisvenu	Ngo
Carignan	Oh
Dagenais	Patterson
Demers	Plett
Doyle	Raine
Eaton	Rivard
Enverga	Runciman
Fortin-Duplessis	Seidman
Frum	Seth
Gerstein	Smith (*Saurel*)
Greene	Stewart Olsen
Housakos	Tannas
Johnson	Tkachuk
Lang	Unger
LeBreton	Verner
MacDonald	Wallace
Maltais	Wells
Manning	White—48

NAYS
THE HONOURABLE SENATORS

Campbell	Jaffer
Chaput	Kenny
Cools	Lovelace Nicholas
Cordy	Massicotte
Cowan	Merchant

Dawson
Downe
Dyck
Eggleton
Fraser
Hervieux-Payette
Hubley
Mitchell
Moore
Munson
Ringuette
Smith (*Cobourg*)
Tardif—23

ABSTENTIONS
THE HONOURABLE SENATOR

Day—1

[*Translation*]

REFERRED TO COMMITTEE

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

(On motion of Senator Rivard, bill referred to the Standing Senate Committee on National Finance, on division.)

[*English*]

SICKLE CELL DISEASE AND THALASSEMIC DISORDER

INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Cordy, calling the attention of the Senate to sickle cell disease and thalassemic disorder and the importance of screening to identify infants with sickle cell disease and the need for improvement of the management of sickle cell disease and thalassemic disorders in Canada.

Hon. Mobina S. B. Jaffer: Honourable senators, I am working on this matter. I have a speech ready, but, in light of the work that we've been doing today, I wish to continue my speech in the new year, if I may.

Some Hon. Senators: Hear, hear.

(On the motion of Senator Jaffer, debate adjourned.)

MYANMAR

PERSECUTION OF ROHINGYA MUSLIMS—INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Jaffer, calling the attention of the Senate to the persecution of the Rohingya Muslims in Myanmar, and the mandate of Canada's Office of Religious Freedoms.

Hon. Mobina S. B. Jaffer: This item stands at day 15 and I would ask the Senate's permission, in light of all the work we've done today, for me to speak on it in the new year.

Some Hon. Senators: Hear, hear.

(On the motion of Senator Jaffer, debate adjourned.)

RWANDA
CENTRAL AFRICAN REPUBLIC

INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Dallaire, calling the attention of the Senate to the clear and present links between the genocide in Rwanda and the crisis in the Central African Republic today.

Hon. Mobina S. B. Jaffer: Honourable senators, I would ask permission to speak on this item in the new year.

(On the motion of Senator Jaffer, debate adjourned.)

• (1800)

HUMAN RIGHTS

COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY OF INTERNATIONAL MECHANISMS TOWARD IMPROVING COOPERATION IN THE SETTLEMENT OF CROSS-BORDER FAMILY DISPUTES

Hon. Mobina S. B. Jaffer, pursuant to notice of December 4, 2014, moved:

> That, notwithstanding the order of the Senate adopted on Thursday, February 27, 2014, the date for the final report of the Standing Senate Committee on Human Rights in relation to its examination of international mechanisms toward improving cooperation in the settlement of cross-border family disputes, including Canada's actions to encourage universal adherence to and compliance with the Hague Abductions Convention, and to strengthen cooperation with non-Hague State Parties with the purpose of upholding children's best interests be extended from December 31, 2014 to March 31, 2015.

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

Hon. Senators: Agreed.

(Motion agreed to.)

COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY OF HOW THE MANDATES AND PRACTICES OF THE UNHCR AND UNICEF HAVE EVOLVED TO MEET THE NEEDS OF DISPLACED CHILDREN IN MODERN CONFLICT SITUATIONS

Hon. Mobina S. B. Jaffer, pursuant to notice of December 4, 2014, moved:

> That, notwithstanding the order of the Senate adopted on Tuesday, May 6, 2014, the date for the final report of the Standing Senate Committee on Human Rights in relation to its examination of how the mandates and practices of the UNHCR and UNICEF have evolved to meet the needs of displaced children in modern conflict situations, with particular attention to the current crisis in Syria, be extended from December 31, 2014 to June 30, 2015.

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

Hon. Senators: Agreed.

(Motion agreed to.)

NATIONAL SECURITY AND DEFENCE

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

Hon. Daniel Lang, pursuant to notice of December 9, 2014, moved:

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

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

Hon. Senators: Agreed.

(Motion agreed to.)

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

Hon. Daniel Lang, pursuant to notice of December 9, 2014, moved:

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

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

Hon. Senators: Agreed.

(Motion agreed to.)

FISHERIES AND OCEANS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE—MOTION IN MODIFICATION ADOPTED

Hon. Fabian Manning, pursuant to notice of December 10, 2014, moved:

> That the Standing Senate Committee on Fisheries and Oceans have the power to sit at 5 p.m. on Monday, December 15, 2014, even though the Senate may then be sitting, and that rule 12-18(1) be suspended in relation thereto.

He said: Honourable senators, before I move the motion, I wish to modify the time at which the committee can sit as set out in my motion from 5 p.m. to 4 p.m. due to the fact that the Senate will now be sitting at 5 p.m. With that modification, I move the motion standing in my name.

The Hon. the Speaker: Is leave granted for Senator Manning to modify his motion, honourable senators?

Hon. Senators: Agreed.

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

Hon. Senators: Agreed.

(Motion agreed to, as modified.)

NORTHERN FOOD SECURITY

INQUIRY—DEBATE ADJOURNED

Hon. Wilfred P. Moore rose pursuant to notice of November 4, 2014:

> That he will call the attention of the Senate to Northern Food Security.

He said: Honourable senators, I rise today to draw attention to the state of food insecurity in Canada's North, that is north of the 60-degree latitude. My work with Food Banks Canada has inspired this inquiry.

The last few years have seen the problem of food insecurity grow in Canada's North and solutions needed to be found. Hungercount 2014 —

The Hon. the Speaker: Honourable senators, it now being past six o'clock, is it your pleasure not to see the clock?

Hon. Senators: Agreed.

Senator Moore: Hungercount 2014 of Food Banks Canada informs us that once again, the level of food insecurity in the North is out of proportion with the rest of the country. Indeed Food Banks Canada has stated that there is no way for them to accurately determine food insecurity through food bank use because of the unique situation in the North, because the infrastructure which the food bank relies on for donations doesn't exist in many communities.

A recent report by the Council of Canadian Academies entitled *Aboriginal Food Security in Northern Canada: An Assessment of the State of Knowledge* examines not only the problem of food insecurity in the North but also the state of our awareness and understanding of why such a dire situation exists.

The report asks this question:

> What is the state of knowledge of the factors influencing food security in the Canadian North and the health implications of food insecurity for Northern Aboriginal populations?

The panel responsible for the report was composed of Aboriginal and non-Aboriginal scholars, and the input of national Aboriginal organizations was also obtained.

The report makes a very compelling argument which combines the notion of food security with another concept, food sovereignty, and I quote:

> While food security focuses on the pillars of food access, availability, acceptability, adequacy, and use to ensure that all people at all times have physical, social and economic access to food, food sovereignty is based on the principle that decisions about food systems, including markets, production modes, food cultures, and environments, should be made by those who depend on them.

To move forward and adjust the problem of food security, Aboriginal peoples themselves must be at the heart of the solutions to address the challenge of food security. Who knows more about the North than the people who have lived there for generations?

Having said that, the report offers a dire description of what is occurring in Canada's North. As stated earlier in the Food Banks Canada report last month, Aboriginal people suffer from food insecurity at a much higher level than Canadians living south of 60. We know this for a fact.

The report makes a series of key findings, each discussed at length over the 200-plus pages of the report. I will paraphrase each of the findings.

Food security is a serious problem in northern and remote or Aboriginal communities across Canada. As we have learned from Food Banks Canada, Aboriginal people suffer much more from food insecurity than other Canadians. The Canadian Community Health Survey of 2008 states that 3.9 million Canadians experienced food insecurity, 1.1 million of this number being children. That's about 11 per cent of the population.

In Aboriginal communities, the percentage more than doubles to 27 per cent of households experiencing food insecurity, with women and children more affected than men. Most disturbingly, an International Polar Year Inuit Health Survey from 2008 found that Nunavut experienced ". . . the highest documented rate of food insecurity for any Indigenous population living in a developed country."

Not surprisingly, these high rates of food insecurity have a very negative impact on the health of Aboriginal people as well. That survey reports that Aboriginal people have a much higher level of health problems such as, ". . . obesity, anemia, cardiovascular disease, stress, and child developmental issues."

The report refers to the level of diabetes in Aboriginal communities as "epidemic." As you can imagine, the impact on families and communities which experience this level of food insecurity can be a huge drain not only on our health care system but also on our economy. There are no easy solutions.

The report points out that there is a nutrition transition taking place in Canada's North. There's a shift occurring from traditional country foods to store-bought foods. Aboriginal people historically have lived off the land and had no need for a cash system for food.

Younger people are moving away from traditional country foods to market food, even though surveys have shown that among the Inuit, many would prefer to eat more country foods such as caribou and Arctic char. The cost of hunting and fishing has increased, however, thus limiting access to country food.

Traditional harvesting is declining. The report cites communities like the Cree of Eastern James Bay, where half the population participated in harvest in 1976 to 1981, but only 15 per cent between 2004 and 2008.

In the Northwest Territories, the report states that between 1999 and 2000, the percentage of people 15 years and older who hunted or fished during the previous season had declined from 8 per cent to 6 per cent.

The trend is going the wrong way, colleagues.

The report suggests that the introduction of a wage economy has also played a large role in this transition. The tradition of food sharing, while it still plays a large part in the lives of the

Aboriginal people of the North, is declining with this move to a wage economy and the downturn in harvesting through hunting and fishing. This situation leads to less intake of these traditional country foods and an increased intake of market foods, which, of course, are very expensive and less nutritional.

This is further complicated by poverty. We know from Food Banks Canada that poverty is directly linked to food insecurity. A high percentage of northern households experience low income. Indeed, a University of Laval study found that 4 out of 10 Inuit households are below the poverty line based on household income and the number of people living in each household. Living below the poverty line in Canada's North is not an easy life.

All of this brings us to the high cost of food in Canada's North. Many factors contribute to the often unaffordable cost of market food in the North. A lack of infrastructure in the North ultimately makes the remote communities of the North less accessible. The Council of Canadian Academies looked at the challenges of transport by several modes.

• (1810)

Regarding transport by sea, there obviously is the problem of the seasons, with ice being a major problem and which results in usually only two or three deliveries by sea each year.

Air transport has become very expensive. There is a lack of runways and a limit to the amount of cargo that an airplane or helicopter can carry.

The movement of goods by truck is again limited by climate. The report cites a cost of $3,000 to $5,000 per kilometre to construct ice roads, which in turn face weight restrictions. Further, climate change is shortening the season for the use of ice roads.

Another factor is these are generally one-way shipments. The planes, trucks and ships are returning south empty, which in effect doubles the fuel cost.

Energy costs for the storing of food is astronomical, as well. Hydro-Québec, in 2002, cited average residential electricity prices at 12 cents per household per kilowatt hour across 12 Canadian cities. CBC news reported that average residential electricity costs per kilowatt hour in the North ranged from 52 cents to $1. It doesn't get any easier.

Just last week the Auditor General released his report for the fall of 2014. Chapter 6 was a review of Nutrition North Canada, and it contains some interesting observations. I preface this by saying that Aboriginal Affairs and Northern Development Canada have agreed with the observations made in that report and have already begun their own analysis of some of the Auditor General's recommendations.

The Nutrition North program replaced the Food Mail Program in 2011, with the objective of making healthy food more available and affordable for people living in Canada's North. Nutrition North Canada has a $60 million budget, of which $53.9 million is in the form of a subsidy which is provided to Northern food retailers, suppliers, distributors and processors, through which it is intended to lower the cost of nutritious foods to the North.

The payment to retailers is based on the weight of eligible foods shipped to the communities that are eligible for the subsidy. The Auditor General notes that of the 40 retailers, suppliers and processors participating in the program, 3 retailers account for 80 per cent of the subsidy annually.

According to the Auditor General, the Department of Aboriginal Affairs and Northern Development determines what types of food are eligible for the subsidy. There is also a difference in subsidy rates by communities. The program is also not designed to make food in Canada's North the same cost as in the rest of Canada, citing the many variables which boost the cost of food in the North.

That being said, the Auditor General measured the program to determine whether it is meeting the objective of making healthy foods more accessible and affordable in the North and whether the subsidy was being passed on by the retailer to the consumer. The Auditor General identified several problems with the program, all of which can be rectified. For example, communities should be identified as eligible for this subsidy on a basis of need. Also, the kinds of food eligible for the subsidy need to be healthy, as there are some less-than-healthy foods receiving subsidization.

The Auditor General also reported that community eligibility is based on past use of the Food Mail Program, which precludes the eligibility of some communities that now are interested in accessing the subsidy. The department is currently conducting this eligibility review, and they've been at it for a year.

On the issue of whether the subsidy is being passed on to the consumer, the Auditor General made several observations. One, the department has not collected the necessary data to determine whether the subsidy is making it to the consumer. The Auditor General emphasizes that passing on the subsidy is a program requirement and thus it is intrinsic to making sure that healthy foods are more accessible and affordable to residents of the North.

He recommended that the department review the contribution agreements between retailers and the department to make sure that the long-term and current profit margins are included to determine whether the full subsidy is being passed on to the consumer. The department is currently carrying out this review and will amend it to include profit margins.

Honourable senators, as you can hear, this aspect of providing healthy food to Canada's North is complicated and expensive. The Nutrition North program has its heart in the right place, and I do not doubt that the recommendations of the Auditor General will be followed for the better delivery of nutritious foods to Canada's Northern residents.

Despite compliance with those recommendations, one very troubling fact remains with the entire concept of delivering food to the North. It is not sustainable and the price of food will never

be on par with the cost of groceries south of 60 degrees latitude. Subsidizing will narrow the gap slightly, but will never make food truly accessible and affordable in Canada's North.

Take, for example, the story of Leesee Papatsie, an Inuit mother of five who was the subject of a piece in *The Globe and Mail* newspaper in January of this year. The story was part of an investigation into the state of Canada's North. Ms. Papatsie spends, on an average, with only one child at home, $600 per week on groceries. Growing sick of the cost and lack of food available, she did something completely out of character for the Inuit: she began a protest. This is from someone who considers herself lucky that she and her husband have jobs. Her Facebook page entitled "Feeding My Family" has over 19,000 members and is growing. According to her, she says, "I want the Inuit to stand as one against the high cost of food." Ms. Papatsie is to be admired for this overdue initiative.

The Council of Academics also touched on the issue of climate change, as it plays a large role in not only determining cost of food, but what country foods might remain available to the people of Canada's North. We also know that our climate is changing, but the people of Canada's North know it better than anyone, as it directly affects their lives day to day.

The ice has been melting in Canada's North at a rapid rate since the 1970s. Indeed, the Intergovernmental Panel on Climate Change, in its latest report of 2014, predicts that by the middle of the century the Arctic Ocean will be free of ice for 125 days per year.

There are, of course, two ways of looking at this development. First, the economic activity this will present in the form of resource extraction and shipping between Canada and Europe will be enhanced. Second, the flip side is the further negative effects those activities will have on the environment of the North and the people who live there.

As an example, that IPCC report tells us that the warming of the North will lead to a thawing of permafrost by 31 to 81 per cent by mid-century. This releases more methane which is, as you all know, a greenhouse gas that further adds to climate change.

Caribou numbers are dwindling in the Yukon. The *Northern Journal* newspaper last week reported that harvesting restrictions for caribou were discussed between government and Aboriginal leaders regarding the Bluenose-East and Bathurst herds. The journal reports that the Bathurst herd has declined by 97 per cent since the mid-1980s: an alarming trend to say the least.

The University of Saskatchewan's Northern Research Portal describes the effect of melting ice on the ice-edge zone, which is unique to the Arctic:

> Should sea ice melt rapidly in the spring, withdrawing past the continental shelf areas to the deep ocean of the central Arctic, it would affect animals that use the ice for hunting, birthing and transportation.

This would have a dire effect on —

The Hon. the Speaker: Senator Moore, are you seeking a few more minutes to finish your remarks?

Senator Moore: Yes, I will try to be five minutes.

The Hon. the Speaker: Are five minutes granted to Senator Moore?

Hon. Senators: Agreed.

Senator Moore: Thank you, colleagues.

This would have a dire effect on walrus, seals and polar bears, all of which are dependent on the ice for survival.

The Arctic fishery, with the opening of the Arctic Sea for a longer period of time, would seem to present a relief to food insecurity in the North, however that, too, faces difficulty. The Government of Canada has provided support for the fishery in the North and, as a member of the Arctic Council, Canada has pushed for a moratorium on fishing in the Arctic until an assessment of species and stocks is complete.

We have a delicate and changing environment in Canada's North which, if not protected, would result in, for the purposes of this inquiry, more food insecurity in the North.

The potential loss of nutrient-rich traditional food to the Northern diet is not an acceptable result of these developments.

There are many local provincial and federal programs aimed at dealing with the food insecurity issues of Canada's North, including Nutrition North which was mentioned earlier. The Council of Academics report mentions several types of programs which attempt to reduce food costs and provide healthier foods, health and education programs, community wellness and intergenerational knowledge sharing, harvest support and wildlife management, poverty reduction, economic development, innovative infrastructure, transportation, local food production and, finally, youth engagement.

I would briefly mention an initiative which I consider key to providing sustainable, healthy food for Canada's North: greenhouses.

• (1820)

Many greenhouse programs and initiatives are being developed in Canada, including ones working to providing healthy food for the North. At the federal level, the Northern Greenhouse Initiative is in the midst of funding projects which are aimed at producing greenhouses for the North. The Aurora Research Institute's AgNorth program is making huge inroads in developing greenhouses in the North. Their mission statement is: ". . . to develop scalable modular farm stations . . . that will be able to grow a full complement of nutritional foods and provide economic development . . ."

This type of greenhouse is based on LED technology, which was developed for use in space, and it is designed to "enhance plant photosynthesis." This makes them much more efficient than natural or broadband illumination. The technology, which might provide part of the answer when it comes to food nutrition in the North, depends on such things as greenhouses, and I think it is an exciting possibility.

Another suggestion was made by Food Banks Canada. They proposed the creation of a "Northern Food Security Fund," which would help to jump-start and sustain community-based and community-led food initiatives across the North.

I will have to cut this short. I can see my time is running.

Colleagues, as you can see, the surface has been scratched, but the problem is complex and the solutions to establish a stable, sustainable, food-secure environment for Canada's North will be just as complicated as the problem itself. There is not an easy fix, but the solutions are there. What I have learned in looking at this issue is that time is of the essence. The climate and environmental concerns are ongoing and definite. There can be no more denying the reality of the situation.

The issue of northern food insecurity is tied to the environment, the climate, the people, the plants and animals which inhabit the North. Any change affects everyone and everything involved in this unique ecosystem. We must be sensitive to these facts. I believe that any solution to the food insecurity is tied to all these factors, and the form these solutions take should rest greatly on the input of Canada's Aboriginal northern people, who understand their environment better than anyone. We must recognize and appreciate this inherent and unique knowledge of our northern Aboriginal people.

Another obvious conclusion is that solving food insecurity in the North is going to be expensive.

In the end, with the emergence of the possibility of economic development in the North, sovereignty has come to the forefront as countries line up to explore for oil, gas and minerals. So far, the claim to sovereignty has been in the form of armed icebreakers, military bases, drones and military personnel. The amount of funding for this type of presence is never seriously questioned.

What we must keep in mind is that Canadians living in Canada's North are the real case for sovereignty, and creating conditions for life in the North, such as food security, might well be money better spent in many ways. So while my list of problems is much longer than solutions, I do believe that northern food security can be achieved. I think that Canada will be a better and stronger nation for it.

Some Hon. Senators: Hear, hear.

(On motion of Senator Fraser, debate adjourned.)

(The Senate adjourned until tomorrow at 9 a.m.)

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