



# DEBATES OF THE SENATE

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OFFICIAL REPORT  
(HANSARD)

Wednesday, February 5, 2014

The Honourable NOËL A. KINSELLA  
Speaker

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## THE SENATE

Wednesday, February 5, 2014

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

Prayers.

### VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I wish to draw your attention to the presence in the gallery of Mr. Don Tannas, accompanied by his wife Chris. Mr. Tannas served as the MLA for the riding of Highwood in Alberta from 1989 to 2004 and served as Deputy Speaker of the Alberta Legislature during his fourth term. Mr. Tannas is the father of the Honourable Senator Scott Tannas.

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

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

### SENATORS' STATEMENTS

#### SYRIA

##### REFUGEE CHILDREN

**Hon. A. Raynell Andreychuk:** Honourable senators, as governments, including Canada, have put emphasis on the Geneva Conference toward a political solution in Syria, the Syrian refugee situation continues unabated.

The United Nations characterized Syria as “one of the largest refugee exoduses in recent history with no end yet in sight.” In this context, it is particularly important that we continue to consider the plight of displaced Syrian children.

More than half of all those displaced by the conflict are in fact children. Almost 3 million displaced children remain within Syria. We know little about their daily reality. Over 1.2 million Syrian children are counted amongst the growing refugee populations in Lebanon, Jordan, Turkey, Iraq and Egypt.

The situations of these children are varied and complex. Many are registered as refugees in host countries and living in refugee camps, where UNICEF, the United Nations High Commissioner

on Refugees and others provide food, blankets, education, medicine and counselling. But in many of the camps, gang activity, vandalism, theft and rape are a concern.

Thousands of others are either registered or unregistered but living outside of formal camps. Often they are dispersed amongst host countries' populations and are largely inaccessible to humanitarian agencies. They are more vulnerable to child labour, survival sex and forced marriage, and less likely to access schooling or medical care.

As we know, children are especially vulnerable in conflict and refugee situations. In light of the dynamics of this particular conflict, it is time to look at whether our international architecture for supporting children displaced by conflict is adequate. That is why I believe it is noteworthy that the Standing Senate Committee on Human Rights has agreed to study the situation. I encourage all senators in this chamber to get involved and to follow the work of the committee.

As António Guterres, the United Nations High Commissioner for Refugees, recently put it: “The future for these children is slipping away, but there is still a chance to save them.” It is my hope and expectation that our committee's work will contribute toward that end.

### THE LATE MAJOR WILLIAM JOHN “DANNY” MCLEOD, M.C., C.D.

**Hon. Joseph A. Day:** Honourable senators, I would like to bring to your attention the death of a very great Canadian. On January 14, Major Danny McLeod, better known as “the Major” to his friends and acquaintances, passed away peacefully in Kingston, Ontario, at the age of 92.

Born in 1921, in Medicine Hat, Alberta, “the Major” enlisted in the South Alberta regiment at the outset of World War II. It took little time for “the Major's” superiors to recognize his considerable skill and leadership ability, as he quickly rose up through the ranks. This young, talented Canadian from the prairies was selected for officer training and to attend the very prestigious Sandhurst Military Academy in the U.K. where, true to form, he placed first in his class and was awarded the Sword of Honour by Viscount General Montgomery.

Following his commission, “the Major” went on to participate in the D-Day landing at Juno Beach. He also participated in battles in Belgium, Holland and eventually Germany. His distinguished actions in one particular battle resulted in him being awarded the Military Cross for Bravery.

“The Major” stayed with the Canadian Forces following the end of the war and would remain in action for some time. It was his last posting, however, at the Royal Military College of Canada, where he made his most lasting legacy.

He embraced sport, not only for its effects on the human body but also for the qualities it instills in young people such as commitment, leadership, team work and self-sacrifice.

Upon his arrival at the Royal Military College as athletics director, “the Major” set about establishing a highly respected and innovative athletics program. In time “the Major” would help establish the Canadian Interuniversity Athletic Union, CIAU. The CIAU would eventually become known as Canadian Interuniversity Sport, CIS, an organization that gives young Canadians the opportunity to compete and grow through sport while they are completing their academic studies.

• (1410)

It was during this time that I met “the Major” when I was a cadet at the Royal Military College. I developed a great regard for him at that time, a feeling that remains today.

He is survived by his incredible wife, Sheila, who will undoubtedly carry on his legacy of advocacy for veterans, the promotion of the Royal Military College and the support for sports in Canada.

He was a friend, mentor and hero to many of us. His many contributions to the lives of others will be celebrated for years to come.

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

#### THE LATE PETER MCSHEFFREY

**Hon. Scott Tannas:** Honourable senators, I rise to pay tribute to my colleague and friend Peter McSheffrey. He was one of two Canadians killed when a suicide bomber and two gunmen attacked a popular Lebanese restaurant in Kabul on Friday, January 17. As we all know, that attack was the deadliest one against civilians in the country over the last 13 years.

As a financial consultant, Peter was in Afghanistan working on an audit for an aid agency. Like so many other Canadians, I was shocked by the news of the attack. Then it came even closer to home when I learned that I knew one of the victims. I knew Peter McSheffrey from our work as members of the board of directors of SOS Children’s Villages Canada, a non-profit organization that helps orphaned and abandoned children around the world. He had been the treasurer for the last seven years.

Peter was an amazing volunteer. There are volunteer treasurers who check in with their charity once a month or so to sign some cheques. Not Peter. Although he was a busy man with his professional career and a young family, he was in regular contact with the staff at SOS Children’s Villages’ head office in Ottawa, where he would stop by regularly. It mattered to him that SOS Children’s Villages, like the best charities, was financially

transparent and open in its processes, so it could get on with its important work of helping orphaned and abandoned children overseas.

Peter brought his profound professional skills and his passion for our cause to every meeting and consultation. He was always ready to help. He gave generously of his time, talent and treasure to help SOS Children’s Villages serve more children at risk.

Peter loved to travel. His Flickr pages are full of beautiful, vibrant, colourful photos of distant places. During his visits to many of those places, he would go to local SOS Children’s Villages. Even on his vacations, he wanted to see how SOS Children’s Villages was making a difference in the lives of children.

Canadians are a wonderfully generous people. They support a multitude of charities at home, but they also support international charitable work. Peter was the essence of this kind of Canadian. People like Peter are why we as Canadians can travel the world and feel welcome. We are seen as compassionate and active citizens of the world. This is a measure that has nothing to do with commerce, military strength or a desire to dominate. This is a measure that has everything to do with generosity, caring and a desire to help others.

Peter has left behind his lovely wife, Lee-Ann; two daughters, Darcy and Paige; and a large extended family. At this time, our thoughts and prayers go out to all of them and to the family of Martin Glazer, the other Canadian victim of that terrible incident.

Let us also take this moment to commemorate this tragedy with a spirit of generosity. Let us follow the example of my friend Peter, who believed that making a difference in the lives of others was always possible.

**HUGH ALLAN (BUDDY) MACMASTER,  
C.M., O.N.S.**

**CONGRATULATIONS ON FOLK ALLIANCE  
INTERNATIONAL LIFETIME  
ACHIEVEMENT AWARD**

**Hon. Terry M. Mercer:** Honourable senators, some ways in which a culture proudly shares itself with people include the written word, voice, dance and music. For Cape Breton, the finest example is through its music.

When you think about Cape Breton, you think fiddles, and when you think fiddles, you think Buddy MacMaster. The Dean of Cape Breton Fiddling, an Order of Canada and an Order of Nova Scotia recipient, Buddy MacMaster is being awarded the Folk Alliance International Lifetime Achievement Award. Folk Alliance International is the headquarters for folk music and dance, with over 2,800 members worldwide. Buddy joins a very prestigious group that includes Bob Dylan, Joan Baez, Woody Guthrie and even Stan Rogers.

MacMaster was actually born in Timmins, Ontario, and moved back with his family to Judique, Cape Breton, when he was young. As a teenager, he learned to play the fiddle. While working

for CN Rail for over 45 years, he played concerts and appeared on CBC on shows like the *John Allan Cameron Show*. He only started touring full-time after he retired at 65 years of age.

Whether it was in the kitchen, in a barn or on a stage, Buddy's fiddle always got your feet tapping and maybe even got you up to dance a jig or two.

He has taught musicians how to play and has acted as a mentor to many a young person, including his own niece Natalie MacMaster, who is a superb fiddler in her own right.

Honourable senators, I offer congratulations to Buddy MacMaster on this great achievement and ask you to join me in saluting him.

## 2014 ALBERTA WINTER GAMES

**Hon. Douglas Black:** Honourable senators, I rise today to update you on a special event that will start tomorrow in my home province of Alberta. This weekend, more than 2,500 of Canada's future elite athletes will descend upon the towns of Banff and Canmore to take part in the 2014 Alberta Winter Games.

In events from the biathlon, hockey and speed skating to squash, judo and synchronized swimming, young Albertans will demonstrate their athleticism, grace and respect towards one another through athletic competition.

I have the privilege of celebrating the games through participating in both the opening and the closing ceremonies and proudly presenting medals.

I would like to salute the hundreds of volunteers who have laboured for months to bring us to the doorstep of what will surely be an exceptional event. We should be encouraged by events like the Alberta Winter Games that promote active, healthy lifestyles, something that Bill S-211, Senator Nancy Greene Raine's effort to create a national health and fitness day, will surely address.

For many of the young Albertans competing in this year's winter games, this will be their first competition at the provincial level. I wish them all the best of luck.

With role models like this year's Canadian Olympians, 25 per cent of whom are from Alberta, as well as past Olympians, like Senator Greene Raine, I have no doubt that many of these young Albertans will one day represent Canada at the highest international level.

Because of events like the Alberta Winter Games, and as we now look toward Sochi to cheer on our Canadian Olympic team, we can be confident that the future of Canadian sport is golden.

## ROUTINE PROCEEDINGS

### FIRST NATIONS ELECTIONS BILL

#### RESPONSES TO QUESTIONS TABLED

**Hon. Scott Tannas:** Honourable senators, on January 29, Senator Lillian Dyck posed some questions to me with respect to Bill C-9. I undertook to get written answers; I have them here in both official languages.

**The Hon. the Speaker:** Is leave granted to table them?

**Hon. Senators:** Agreed.

[*Translation*]

### CANADA-EUROPE PARLIAMENTARY ASSOCIATION

#### ORDINARY SESSION OF THE PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE, SEPTEMBER 30-OCTOBER 4, 2013— REPORT TABLED

**Hon. Michel Rivard:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian delegation of the Canada-Europe Parliamentary Association regarding its participation at the fourth part of the 2013 ordinary session of the Parliamentary Assembly of the Council of Europe, held in Strasbourg, France, from September 30 to October 4, 2013.

• (1420)

[*English*]

### CANADA-UNITED STATES INTER-PARLIAMENTARY GROUP

#### CANADIAN/AMERICAN BORDER TRADE ALLIANCE CONFERENCE, MAY 5-7, 2013—REPORT TABLED

**Hon. Janis G. Johnson:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canada-United States Inter-Parliamentary Group respecting its participation at the Canadian/American Border Trade Alliance Conference, held in Ottawa, Ontario, Canada, from May 5 to 7, 2013.

#### ANNUAL MEETING OF THE COUNCIL OF STATE GOVERNMENT'S SOUTHERN LEGISLATIVE CONFERENCE, JULY 27-31, 2013— REPORT TABLED

**Hon. Janis G. Johnson:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canada-United States

Inter-Parliamentary Group respecting its participation at the Sixty-seventh Annual Meeting of the Council of State Government's Southern Legislative Conference, held in Mobile, Alabama, United States of America, from July 27 to 31, 2013.

CANADIAN/AMERICAN BORDER TRADE ALLIANCE  
CONFERENCE, OCTOBER 6-8, 2013—  
REPORT TABLED

**Hon. Janis G. Johnson:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canada-United States Inter-Parliamentary Group respecting its participation at the Canadian/American Border Trade Alliance Conference, held in Washington, D.C., United States of America, from October 6 to 8, 2013.

ANNUAL MEETING AND REGIONAL POLICY FORUM  
OF THE COUNCIL OF STATE GOVERNMENT'S  
EASTERN REGIONAL CONFERENCE,  
DECEMBER 6-9, 2013—  
REPORT TABLED

**Hon. Janis G. Johnson:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canada-United States Inter-Parliamentary Group respecting its participation at the Fifty-third Annual Meeting and Regional Policy Forum of the Council of State Government's Eastern Regional Conference, held in Fajardo, Puerto Rico, United States of America, from December 6 to 9, 2013.

SENATE REFORM

NOTICE OF INQUIRY

**Hon. Terry M. Mercer:** Honourable senators, I give notice that, two days hence:

I will call the attention of the Senate to Senate Reform and how the Senate and its Senators can achieve reforms and improve the function of the Senate by examining the role of Senators in their Regions.

THE HONOURABLE CHARLIE WATT AND  
THE HONOURABLE ANNE C. COOLS

THIRTIETH ANNIVERSARY OF APPOINTMENT  
TO SENATE—NOTICE OF INQUIRY

**Hon. James S. Cowan (Leader of the Opposition):** Honourable senators, I give notice that, two days hence:

I will call the attention of the Senate to the 30<sup>th</sup> anniversary of the appointment of Senators Charlie Watt and Anne Cools.

QUESTION PERIOD

ENVIRONMENT

CLIMATE CHANGE STRATEGY

**Hon. Grant Mitchell:** Honourable senators, I think what we have learned from the failure of the government to build a pipeline after eight years in power is that Canadians and Americans need to give these projects their social licence, social permission. We've also learned that it isn't sufficient and it isn't possible for the industry — as good as it is and as high quality as its product and projects are — to build that social licence because they are simply lacking two things. First, they don't have the forum to do it and, second, they are directly involved in the process. Canadians and Americans, in this case, need to know that there is a third party of some independence, a government that will protect their environmental interests. Getting social licence is dependent directly on proving that we will handle the environmental implications of these projects and products properly.

Recently, this industry has confronted two huge further obstacles: a report that a pipeline explosion was hidden from the public for upwards of three years and not reported publicly, and now a report from the University of Toronto indicating that certain carcinogenic emissions may be much higher than had originally been anticipated arising not just from the process of extracting the oil from the oil sands, but also literally evaporating from the many tar sands.

The point here is that industry can't do it alone. It can't build social licence alone and it's extremely important that the government provide leadership.

Why after eight years has this government not finally implemented the regulations it has been saying it's about to implement to regulate the emissions from the oil sands and to build some environmental credibility for Canada and for these projects?

[Translation]

**Hon. Claude Carignan (Leader of the Government):** Honourable senators, I wasn't sure if our colleague was using his 15 minutes of speaking time or asking a question.

With respect to pipeline safety, our government increased the number of inspections of federally regulated pipelines by 50 per cent, doubled the number of annual audits and introduced new fines for companies that break the law. The fines for violations that affect the environment are hefty. The government also requires companies operating major pipelines to have a minimum of \$1 billion in financial capacity so that taxpayers will not have to foot the bill.

Honourable senators, our government is taking action to ensure pipeline safety. We are also taking action on climate change. We are committed to working with our international partners on

climate change. We have made it clear that any international agreement must be fair and effective, and it must include commitments from major emitters.

Honourable senators, we will continue to work on reducing emissions. In the oil and gas sector, we will work with the provinces to reduce emissions.

[English]

**Senator Mitchell:** I am quite struck, honourable senators, that the leader would go to the trouble of criticizing the way in which I ask questions. Perhaps if he were a little more independent of the PMO he would be able to actually answer some of them.

**Some Hon. Senators:** Oh, oh.

**Senator Mitchell:** Back to my question: It isn't that you don't claim in any way to be trying to help the industry, but it is in fact that you're sending all the wrong messages. You attack environmental groups; you gut the environmental review process; you shut down the Experimental Lakes Area; and you don't do what you say you're going to do, which is bring in regulations to regulate emissions and to build environmental credibility amongst Canadians, the population of B.C. and Americans when you say you will.

It has been eight years. You've been saying over and over again that we will get the regulations. Could you check with the PMO to find out when exactly they will bring these regulations and give us a straight answer on it?

[Translation]

**Senator Carignan:** Mr. Liberal senator, thank you for your question. Senator Mitchell has not sent a letter stating that he no longer wishes to sit as a Liberal, so he is still a Liberal. As I said, our government is committed to working with its international partners. Here in Canada, we have taken action and seen progress because, thanks to our measures, emissions have gone down by about 130 megatonnes compared to the Liberal scenario. We have chosen a sector-by-sector regulatory approach, making us the first major coal user to ban the construction of new coal-fired power plants, and we have harmonized vehicle emission regulations with the United States.

Senator Mitchell likely has not picked up on the fact that regulations that apply to heavy-duty vehicles have helped reduce their carbon emissions by nearly 23 per cent. Since 2006, we have invested \$10 billion in green infrastructure, energy efficiency, green energy technologies, cleaner fuels and smart grids. Those are practical steps, honourable senators, for which I was expecting congratulations from Senator Mitchell, not criticism.

[English]

**Senator Mitchell:** I know that the leader is having fun tweaking our Liberal status. I'm very proud to be a member of the Senate Liberal caucus. I wonder if I can take a moment and have a little fun tweaking his "PMO Party" senator status because it seems to be that that is the party he actually represents.

[ Senator Carignan ]

The point that I would like to come back to him with is that results matter. It isn't enough just to talk. Results matter and if you dropped 130 megatonnes it's only because the economy has performed so poorly under you that industry hasn't been able to operate where it's producing to that level. That's the fact.

• (1430)

During this recessionary period, which you haven't managed particularly well, you've just dropped emissions because the industry hasn't been performing at the levels that it did under the Liberals, in fact.

My point is, once again, that underlies the need to do something more to get results. Leadership is about results, not excuses. Will you tell me when you're going to bring in those regulations so that we can get some environmental credibility amongst the population, so that we can earn social licence, so we can build these projects, so we can stimulate the economy that you failed to stimulate adequately over the last eight years.

[Translation]

**Senator Carignan:** I would like to thank the senator for talking about results because when we are in power, we take action. Our government is the only one that has reduced greenhouse gases in Canada.

## NATIONAL DEFENCE

### BUDGET

**Hon. Roméo Antonius Dallaire:** My question is for the Leader of the Government in the Senate. I hope that the leader won't be reading from his notes when he answers my question.

Last year, the Department of National Defence gave back \$2.4 billion that it was unable to spend. At the same time, quality of life has declined significantly and there has been a decrease in resources available for families and troops in garrison. Those resources would have ensured there was support available for troops returning home from missions, for example.

How can it be that the department is scraping money together to help families, yet it was so inefficient that it gave back \$2.4 billion at year-end and no one said anything? What sort of method does the Minister of National Defence use to balance his budget?

**Hon. Claude Carignan (Leader of the Government):** This type of criticism always makes me laugh. If we don't spend enough, you criticize us for that. If we had run a deficit and spent more, you would have criticized us for that. Only the Liberals could criticize us for not spending enough. That's an odd argument, it seems to me.

Honourable senators, when it comes to National Defence, need I remind you of the Liberal decade of darkness? Our government is keeping its promise to provide Canadian military personnel



with the tools they need to do their job. The National Defence budget has increased substantially every year since 2006. As I have already said, we have kept our word about purchasing new planes, helicopters, trucks and tanks.

The National Shipbuilding Procurement Strategy will also enable us to re-equip the Royal Canadian Navy and the Coast Guard. The government plans to provide care and funding for wounded and ill soldiers and to provide military infrastructure for the entire country.

I would've expected congratulations instead of criticism from a military man like you, Senator Dallaire.

**Senator Dallaire:** Don't wait too long for that. You could be waiting a while.

First, the equipment that you bought had to be bought. We were at war, and if you had not bought it, you would have been held responsible for putting our troops in danger. Thank you so much for fixing that problem, but now the war is over.

Second, nothing is being spent on the projects you listed, except on paperwork. Millions are being spent on paperwork. Not a single piece of metal has been cut at either of the two shipyards in your great shipbuilding strategy. That is still in the future.

It gets worse. It does not make sense to set a budget for a department, to see that the department did not spend everything, and then to accuse it of not spending everything. If departmental officials told us that they needed \$20.3 billion, and at the end of the year they had spent less than expected, some answers are needed.

Either you are promising them money when you know that not all that money will be spent — which is hypocritical — or they are making some fundamental errors that demand answers. Given the penny-pinching going on at the expense of the troops and their families, the fact that the money is not being spent demands an answer, and not an answer you read off your notes.

We know the story. Everyone knows it, and we are sick of hearing it day in and day out. Will you ask the minister how it is that there could be such an imbalance in that logic?

**Senator Carignan:** Senator Dallaire, I would like to answer your question. I don't know what your budget is as a senator, but I imagine you did not spend all of it.

**Senator Dallaire:** Yes, I spent it all.

**Senator Carignan:** If you spend any more, senator, make sure you follow the rules. However, for those who did not spend their entire budget, does that mean they must have made serious mistakes in how they administered their budget? No. They merely spent it based on their needs.

I expected you to ask me questions about the announcement made by the ministers this morning regarding the Defence Procurement Strategy, which will create jobs and stimulate economic growth. It is about ensuring a better procurement process and cutting red tape, as you said.

**Senator Dallaire:** I have a supplementary question. I have over 30 years of service within the government. I have been responsible for budgets within the government. I have managed budgets worth over \$4 billion. As a senator, I am given a budget that should meet my needs. Otherwise, I would have asked for more or less money. If senators do not spend their entire budget in a given year, it means they did not need it.

This means one of two things: either whoever allocated the budgets made a mistake, or those who received the budgets are not telling the authorities that they don't need all that money. Perhaps the budgets need to be reviewed in order to redistribute the money to other senators who need it because they have more duties. That is what it means to manage a budget.

The government should not allocate sums of money and then wait until the end of the year to determine whether the money was spent. The Department of National Defence was given a large budget and it did not spend all of it. DND is penny-wise and pound foolish. That is why I am wondering how it is possible for this very department to squeeze its own members and then to return massive amounts of money.

**Senator Carignan:** I will respond with this morning's announcement about the Defence Procurement Strategy. One of its objectives is to deliver the right equipment to the Canadian Armed Forces and the Canadian Coast Guard in a timely manner. With this objective, the government will ensure an early and continuous industry and client engagement in the procurement process. Starting in June 2014, the *Defence Acquisition Guide* will be published annually, outlining National Defence procurement priorities and establishing, within DND, an independent, third-party challenge for military requirements.

The procurement strategy will also leverage our purchases of defence equipment to create jobs and economic growth in Canada. To achieve these objectives, we will use a weighted and rated value proposition to assess bids, and will implement an export strategy to support international sales opportunities and participation in global value chains. We will identify and apply key industrial capabilities to inform potential economic benefits of individual Canadian Armed Forces procurements and also establish an independent, defence analytics institute that will provide expert analysis to support the objectives of the Defence Procurement Strategy and its evaluation.

• (1440)

These are tangible actions and decisions that will be applicable in the coming months and will ensure that we have a better procurement strategy. That strategy is greatly appreciated by the people in the sector. I want to read part of the statement made by Tim Page, President of the Canadian Association of Defence and Security Industries. He said:

This is a critical and positive milestone, and a transformational approach to how our military and Coast Guard will be equipped and supported. On behalf of more than 1,000 CADSI members and the industries' 109,000 employees, we give full credit to the government for today's comprehensive response to its Budget 2013 commitment to improve defence procurement outcomes. Once in operational effect, the policy and implementing measures

announced today will strengthen the Canadian Armed Forces and Canadian Coast Guard, and enhance Canada's economic and national security interests. We look forward to continuing to work closely with the government to fully realize the clear intent of these policy, process and governance measures.

Honourable senators, I believe that is a comprehensive response that should allay your concerns.

[English]

#### DEFENCE PROCUREMENT STRATEGY

**Hon. Joseph A. Day:** I thank first of all the Honourable Leader of the Government in the Senate for reading the news release from the Departments of National Defence and Public Works. I was going to ask questions on it, so we won't have to have that read again, hopefully. It's under "P" for procurement, honourable senators, in your own programs.

**Senator Mercer:** Or his binder.

**Senator Day:** The government did announce this morning an overhaul of the military procurement strategy. I congratulate the government for finally recognizing something that has been clear to most of us for some time now, which is that military procurement is in trouble.

The overhaul of the procurement system has, in typical fashion, been blamed by the ministers on the public service, and in this time the Department of National Defence has been particularly picked out as poorly handling most of the recent procurement.

In response, they have announced the creation of this super-secretariat, which you've just heard about. It will direct future procurements and will have to answer to a select group of ministers of the Crown, giving it "political oversight."

It is that interference from the government, and government politics, that has tarnished the defence procurement to this point.

The secretariat that is to oversee is to be made up of deputy ministers from Public Works and a number of other departments, but will rely on independent advisers, fairness monitors and arm's-length audits to try to keep military purchases from going on the rails.

Would the leader let us know if the government would consider the creation of a bipartisan committee as part of this super-secretariat, to which the procurement process would be subject, so that we would all have confidence in the process?

[Translation]

**Hon. Claude Carignan (Leader of the Government):** Thank you, Senator Day for your question and your congratulations. As this does not happen very often, I am all the more pleased to accept your kind words.

[ Senator Carignan ]

I didn't talk about the procurement process in my response to Senator Dallaire, but one of its goals is to streamline things for defence. The government will adopt a new regime to ensure streamlined and coordinated decision-making for defence and major Canadian Coast Guard procurements. The government will also establish a defence procurement secretariat within Public Works Canada to ensure close coordination among key departments. Lastly, the government will review the current Department of National Defence delegated authority to purchase goods with a view to increasing the level from the current \$25,000 to achieve more efficient procurement practices.

You are skeptical and I understand your need for reassurance given the existing process, so I would like to read a second quote, this one from Jim Quick, president and CEO of Aerospace Industries Association of Canada:

Today's announcement is excellent news for the aerospace industry, our armed forces and Canadian taxpayers. The government's commitment to assessing the value procurements have for Canadian jobs, innovation and R&D capacity will help to ensure that the money the government spends on military purchases provides maximum benefit to the Canadian economy while also ensuring that our armed forces continue to receive the equipment they need to protect our country. We applaud the government for this...strategy and will continue to provide any support and assistance we can during the implementation process.

Honourable senators, you might not be reassured, but I think people in the industry are.

[English]

**Senator Day:** Thank you very much for reading the other part of that news release. I have a brief of that. It's only two pages long; I see yours is five.

Honourable senators and the leader will know that the term "independence" is used quite loosely around here. You used "independence" on two different occasions in this particular statement.

My colleague was concerned about your being too close to the executive and the Prime Minister. My concern is that you're not close enough, and that's the independent thought that's going on. I would hope that you can determine for us why DND is being blamed for all of these projects that have been delayed, and money not spent, when DND was quite prepared to do so.

Honourable senators will know that you can buy a product that has already been designed and developed and is in use, or you can design and develop and attempt to build it here in Canada to Canadian tastes. It's when you start putting the Canadianization into a product that you start having problems. The maritime helicopter is a perfect example of that. We could easily have replaced the maritime helicopter many, many years ago if we hadn't gotten into this design developed specifically for Canada.

The problem I have with your answer is that you're now trying to complicate the situation again by putting industrial development and employment in here, and you're going to try to create companies to do things that they're not doing now.

Would the minister consider, as an alternative to this solution, where there's clearly a problem, letting this go back to DND and letting them deal with their budgets and letting them purchase the product that they need to protect our Canadian Armed Forces when they're doing the job for us?

[Translation]

**Senator Carignan:** I believe that the new procurement processes, with Public Works Canada and defence, earned the approval of the Auditor General in his latest report.

• (1450)

Why question a process that works, produces results and is praised by the Auditor General?

[English]

## SCIENCE AND TECHNOLOGY

### RESEARCH AND DEVELOPMENT

**Hon. Terry M. Mercer:** Honourable senators, the assault on evidence-based research and science continues under the Harper Conservatives. If you happened to tune in to the recent CBC *The Fifth Estate* program entitled "Silence of the Labs," you would have heard of the many instances where this government is literally shutting down science. Scientists have said that funding is being cut from areas like climate change research, but what's more interesting is that this funding is being channelled to projects that support industry and commerce.

When will Harper's war on science stop, and when will our scientists be able to actually do what they are educated and trained to do?

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

[Translation]

**Hon. Claude Carignan (Leader of the Government):** Honourable senators, as you know, our government has made unprecedented investments in science. Canada is at the top among G7 nations when it comes to supporting research and development at colleges, universities and other institutes. In Budget 2013, we provided support for the Canada Foundation for Innovation, Sustainable Development Technology Canada, the National Research Council and Genome Canada. You were here for the Speech from the Throne and you also heard our commitment to updating the science, technology and innovation strategy and to making targeted investments in science and innovation chains, from laboratory to market, in order to position Canada as a leader in the knowledge economy.

There is always room for improvement, which is why we are supporting programs that foster partnerships, so that more ideas make it from laboratory to market. The Liberals, because you are still Liberal senators, are in no position to lecture the government since they showed no vision for the future when they were in power, slashing investments in science, research and innovation.

[English]

## ORDERS OF THE DAY

### SIoux VALLEY DAKOTA NATION GOVERNANCE BILL

#### SECOND READING—DEBATE ADJOURNED

**Hon. Nancy Greene Raine** moved second reading of Bill C-16, An Act to give effect to the Governance Agreement with Sioux Valley Dakota Nation and to make consequential amendments to other Acts.

She said: Honourable senators, it is truly a pleasure to rise today as sponsor of Bill C-16, the Sioux Valley Dakota Nation governance act, a bill I am confident all senators can not only support, but celebrate.

[Translation]

With this bill, which seeks to implement the Sioux Valley Dakota Nation Governance Agreement, we have an opportunity to forge a new relationship between the Government of Canada and the Sioux Valley Dakota Nation, a relationship based on democratic and modern principles of governance that will promote the autonomy of this community and help its people become more self-reliant.

[English]

We also have an opportunity to take our commitment to reconciliation beyond words and into action; an opportunity to modernize the relationship between Canada and Sioux Valley Dakota Nation; and an opportunity to recognize the legitimate aspirations of the people of this First Nation to build a healthier, more self-sufficient and prosperous community on their own terms.

This self-government agreement, called the Sioux Valley Dakota Nation Self-Government Agreement, which will be brought into effect by this bill, frees Sioux Valley Dakota Nation from the archaic and paternalistic restraints imposed on community decision making by the Indian Act. With self-government in place, critical decisions on economic development, land management, education, housing, water and in many other areas will no longer be made by or require the assent of the Government of Canada. Rather, these decisions will be made by the government of Sioux Valley Dakota Nation — a government that is financially and politically accountable to the

community and to other governments with which it interacts through transparent structures and procedures, a government for and of the people of Sioux Valley Dakota Nation.

This, honourable senators, is something that we should all agree is a positive outcome and is consistent with our government's shared goal with First Nations to create the conditions for stronger, more self-sufficient communities — taking the minister out of the equation and empowering First Nations to make decisions regarding their own affairs. In addition, it lays the foundation to attract greater economic development and growth on its own terms.

I would like to point out that the agreement is neither a treaty nor a land claim agreement. It does not alter any constitutionally protected rights which Sioux Valley Dakota Nation may have to lands or natural resources, and it does not create any new rights for Sioux Valley Dakota Nation.

When the agreement comes into effect, Sioux Valley Dakota Nation will cease to be categorized as an Indian Act band for most purposes. Instead, it will be party to a new relationship with the federal government: one based on equality, partnership and shared responsibility. Sioux Valley Dakota Nation laws will apply on the First Nation's reserve lands, together with federal and provincial laws and within the framework of the Canadian Constitution.

To be clear, honourable senators, there are two main agreements that set out the self-government arrangement negotiated between Sioux Valley Dakota Nation, Canada and Manitoba.

The first, the governance agreement between Sioux Valley Dakota Nation and Canada, recognizes the Sioux Valley Dakota Oyate government. It establishes a government-to-government relationship between the Sioux Valley Dakota Nation and Canada. It sets out the bulk of the self-government arrangements, including the self-government powers of Sioux Valley Dakota Nation.

The second is the agreement reached by Sioux Valley Dakota Nation, Canada and Manitoba, which formalizes Manitoba's recognition of and concurrence with the main governance agreement and cements the tripartite nature of the agreement. Manitoba will also enact provincial legislation to give effect to the self-government arrangement. Canada and Manitoba will ensure that the two acts come into force on the same date.

Honourable senators, what the Sioux Valley Dakota Nation Self-Government Agreement will achieve is significant. What is also fundamentally important with this agreement is the manner in which the agreement was achieved. It is a demonstration of the positive results that can be realized through partnership and dialogue. I sincerely believe that this agreement, and particularly the degree of partnership and cooperation that facilitated it, can serve as a model for future agreements.

The agreement is the result of a process that began in 1991 and, since 1993, has also involved the Province of Manitoba. While it has taken many years to come together into the final product that

you see today, the spirit of partnership and mutual respect that has defined these negotiations has never wavered.

In 2001, Canada and Sioux Valley Dakota Nation signed a comprehensive agreement in principle and a corresponding tripartite agreement in principle with Manitoba. These agreements in principle were a key part of the process and provided the framework for negotiation of the final self-government agreement.

Draft agreements were initialled by all three parties in June 2011. The agreements were approved by members of Sioux Valley Dakota Nation in a vote held on October 4, 2012, and the agreements were signed by Canada, Manitoba and Sioux Valley Dakota Nation at a ceremony in the community on August 30, 2013.

• (1500)

With the introduction of this bill, the process has entered the final stage.

Honourable senators, it is to the credit of all parties that the spirit of collaboration and mutual respect that marked the launch of this process continued throughout the negotiation and led to the ultimate resolution of the many complex and detailed issues that must be addressed in an agreement of this kind.

It is, I might add, the first of its kind. This is the first self-government agreement not only in Manitoba but also in any of the Prairie provinces. It is also, I am proud to say, the twentieth self-government agreement the government has signed, involving a total of 34 Aboriginal communities.

Self-governing communities are free of the constraints of the Indian Act, which restricts First Nations to a very limited form of local administration. Even that limited administration is subject to the oversight of the Minister of Aboriginal Affairs and Northern Development.

With the Sioux Valley Dakota Nation Governance Agreement in place, that sort of intrusive paternalism will come to an end for Sioux Valley Dakota Nation. In its stead will be conditions that encourage prosperity and sustainable economic growth.

Sioux Valley Dakota Nation will have law-making powers in more than 50 subject areas. The community will be able to make its own decisions about membership in the community, cultural matters, elections, financial administration, housing, education, health, social development, public safety and order, and the enforcement of Sioux Valley Dakota Nation laws.

Honourable senators, our government believes that the people best able to make decisions for the Sioux Valley Dakota Nation are the members of the Sioux Valley Dakota Nation, and with this agreement, the community will finally be in charge of its own affairs.

This agreement establishes a governance regime that is more transparent and more responsive to community needs and direction than the one under the Indian Act. It includes strong

provisions for democratic accountability, reflecting the principles of the Sioux Valley Dakota Nation's constitution, developed by the Sioux Valley Dakota Nation itself through extensive consultation over several years and reaffirmed by members in the October 2012 vote.

The agreement will enable Sioux Valley Dakota Nation to assume greater control over its own economic destiny. It includes the power to pass laws relating to the management of the First Nation's reserve lands, and it sets out a process whereby the First Nation may replace the Crown as the party holding title to the reserve lands.

As honourable senators know very well, issues surrounding First Nations land management are the largest impediments to outside investment and the economic benefits that come with it. By working together to reach this agreement, the Sioux Valley Dakota Nation is set up to reach its full economic potential.

The agreement also enables Sioux Valley Dakota Nation to assume control over natural resource development on its reserve lands and over the environmental assessment of related projects.

Sioux Valley Dakota Nation will also be able to establish, licence and regulate businesses on reserve lands, changes that lay the ground work for expanded economic development and business partnerships with the private sector. In short, this bill paves the way for the Sioux Valley Dakota Nation in terms of economic development.

Land management, resource development and business regulation are three pillars of First Nations economic growth, and this governance agreement addresses all of them. The parties have also negotiated a financial arrangement agreement and an implementation plan to support this new governance agreement.

Honourable senators, we have seen time and again how important the changes that will be brought about by agreements such as this one can be, the positive impact that self-government agreements can have on Aboriginal communities. In British Columbia, for example, the Sechelt First Nation has enlarged its traditional economy, which was based on fishing, while expanding its economic activities to include logging, gravel extraction, salmon farming and tourism. Large portions of Sechelt lands have been developed and leased to non-member residents.

In collaboration with its negotiation partners, Canada has signed 20 comprehensive self-government agreements, recognizing a wide range of Aboriginal jurisdictions that involve 34 Aboriginal communities across Canada. Of those, 17 are part of a comprehensive land claim agreement or a modern treaty, which includes the Yale First Nation Final Agreement that was reviewed and passed by the Senate this past June.

The valuable work of all parliamentarians on this matter has set up the Sioux Valley Dakota Nation to join this impressive list of First Nations who have seen sustained economic growth following self-government agreements similar to the one before you today.

Eager to join the ranks of First Nations who are reaping the economic benefits associated with these agreements, Sioux Valley Dakota Nation is already purchasing land and positioning itself to take advantage of future business opportunities.

Such potential is very real, honourable senators. Impact assessments conducted by Aboriginal Affairs and Northern Development Canada in 2003 and 2010 found that self-governing communities experience consistently higher employment. In fact, employment in these communities increased by well over 13 per cent on average after their self-government agreements came into effect. This is the tangible economic growth that the Sioux Valley Dakota Nation can look forward to. Honourable senators, I would urge you not to let this opportunity pass by.

Studies completed by authorities such as the World Bank and Harvard University have detailed how good governance, enabled by self-government agreements, can help to increase investor confidence, support economic partnerships and improve living conditions in Aboriginal communities.

Honourable senators, these are the kinds of positive, concrete results that reinforce our government's belief that self-government is among the keys to reconciling relationships and improving the quality of life for First Nations people.

The agreement we are asking senators to ratify through Bill C-16 demonstrates our firm commitment to strengthening relationships with First Nations. It is because of this commitment that we continue to take action to support more self-sufficient and prosperous First Nation communities.

Our government has heard repeatedly from First Nation community members and leaders that the Indian Act is an impediment to progress for First Nations. That is why our government continues to move forward with the kind of change for which Aboriginal people have been calling. That is why our government continues to work in partnership with communities like Sioux Valley Dakota Nation and with the provinces and territories to develop agreements like the one brought before the chamber today.

The Sioux Valley Dakota Nation Governance Agreement is an excellent example of our government working with First Nations to create paths out of the Indian Act, which include self-government agreements, the expansion of the First Nations Land Management Act, and Bill C-9, the First Nations election act, which is currently before Parliament.

Self-government is one of the tools that can help to release First Nations from the grip of the Indian Act and give a community greater control over its destiny. No one has expressed what that means better than Sioux Valley Dakota Nation Chief Vincent Tacan, when he spoke at the signing ceremony for these agreements in August:

We begin to lift impediments of the Indian Act and move to build a self-reliant, healthy and prosperous Dakota Nation... We'll be able to do things that other people and

governments take for granted. We'll be able to participate fully in things we feel are important to us and that's jobs, looking after our own health issues and our priorities as we see them.

Honourable senators, Chief Tacan and the people of Sioux Valley Dakota Nation are ready and able to shape their own destiny, to begin building a better future for their community and for Canada.

In the spirit of trust, respect and reconciliation, I urge my honourable colleagues to support this bill, to give effect to this agreement and to welcome this new relationship between Canada and Sioux Valley Dakota Nation.

**Hon. Thanh Hai Ngo:** Would the honourable senator accept a question?

**Senator Raine:** Yes, with pleasure.

• (1510)

[Translation]

**Senator Ngo:** Senator Raine, as you know, Bill C-16 received considerable support from the parties in the House of Commons. Could you tell us about the extent of that support by the members of the other place and explain why it is important for us as senators to build on the momentum of the bill and pass it?

[English]

**Senator Raine:** Thank you for the question, Senator Ngo.

Bill C-16 received significant support in the other place. In fact, so widespread was the backing that Bill C-16 passed all stages in the other place through an unanimous consent motion. It received the full support of all MPs from all parties. It was remarkable. The unanimous support of this proposed legislation shows that positive results can be achieved when people work together.

Honourable senators, it is important that we build on the impressive momentum that this bill has already gathered. I look forward to seeing a quick passage through the Senate. This can be an example of moving forward.

**Senator Ngo:** Could you give us more detail about why we should accept and adopt this bill?

**Senator Raine:** Honourable senators, I have served with pleasure and humility on the Aboriginal Peoples Committee. I have a soft spot in my heart for Aboriginal communities, but I've learned so much over the past five years. I have come to recognize that when you do not have control of your own destiny as a community, so many things can happen. The worst of them all is a feeling of not having hope and optimism for the future. Once a community has control over their governance, they can do what they decide they want to do. Once out from under the heavy yoke of the Indian Act, amazing things happen and people come alive, especially the children. They can see that there is nothing holding them back. They're not in a jail anymore.

[ Senator Raine ]

I truly believe that this self-governance bill will be a model for many communities across the Prairies.

In British Columbia, we have a different situation because we weren't under the original numbered treaties. Our First Nations have been struggling toward self-government in a slightly different way.

This agreement has taken 20 years to come to where we are today. It wasn't rushed through. There was a tremendous amount of relationship-building between Canada, Manitoba and the First Nation. As well, it has helped to develop a relationship between neighbouring communities and the City of Brandon, which is about 50 kilometres away.

I see this as a wonderful template and a chance for the Dakota First Nation to inspire many other First Nations across the Prairies to also come forth with First Nations agreements.

**Hon. Charlie Watt:** Honourable senators, I'm hearing a great deal of encouragement and I strongly support that concept. It's very true that, when dealing with a community with that feeling of helplessness, it doesn't go very far. Hopefully this will allow them to move forward positively and to try to take control of their own destiny.

Senator Raine, normally it costs a lot of money to implement modern treaties. Could you express to us what kind of money will be made available by the government to implement this fantastic agreement that you're talking about?

**Senator Raine:** This gives me an opportunity to clarify. This is not a modern treaty but a self-government agreement, which is quite different. This does not change the basic financial arrangements between the Government of Canada and the First Nation in that the same supports will be in place through a financial agreement arrived at between the First Nation, the Government of Canada and the Government of Manitoba.

There will be some additional funding in the form of an annual amount for the actual governance part of the agreement. There will be regular funding for health, education, infrastructure and all of these other things, but there will also be an envelope, if you like, for the cost of the governance, itself.

This agreement has been reached, and I feel much more comfortable with that money being spent on governance by the First Nation rather than it being in the governance envelope of Aboriginal Affairs and Northern Development Canada. This is not a large sum to settle a treaty, because this is a self-government agreement.

**Senator Watt:** You mentioned that they will be taking control of the natural resources on their land and making those available to third parties. I think you are speaking of economics. You also talked about a new governing structure that needs to be put in place in a gradual move away from the Indian Act.

Do you have a specific dollar amount attached to these needs, which were never dealt with under the old program before?

**Senator Raine:** I don't have those figures before me. With the way in which the agreement is structured, they will move forward as the First Nation decides to take control of different fields. Certainly, if there are resources on their lands, there will be an opportunity to develop them. They will have their own-source revenue. In this agreement, that has been itemized and worked out, and all parties have agreed to it.

(On motion of Senator Fraser, debate adjourned.)

• (1520)

## GENETIC NON-DISCRIMINATION BILL

### SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Cowan, seconded by the Honourable Senator Fraser, for the second reading of Bill S-201, An Act to prohibit and prevent genetic discrimination.

**Hon. James S. Cowan (Leader of the Opposition):** Colleagues, this bill is identical to the one that I tabled in the spring, Bill S-218, which I spoke to on April 23, 2013.

The purpose of Bill S-201 is to address specific issues that are preventing many Canadians from benefiting from extraordinary advances in medical research. Let me explain.

It isn't often in the history of mankind that science makes leaps of knowledge and understanding that catapult the world into a whole new era. That happened, and in our lifetime, with the genetic revolution.

The results have been transformative for many fields. Some scientists say there is no aspect of biology that has not been impacted. Perhaps the most important consequence for most people is that genomics has ushered in a whole new way of doing medicine. Scientists are unlocking the secrets of our genetic code — identifying genetic mutations that are associated with particular diseases and opening up the possibility of treatment and even, best of all, prevention of diseases in the first place.

The speed with which these genetic tests are being developed is breathtaking. When I spoke last spring, I pointed out that 10 years ago there were some 100 genetic tests available for genes for particular diseases. I contrasted that to the number of tests available at that time — last April — more than 2,000. I thought that was a pretty staggering explosion for the field of medicine. Well, colleagues, today — just nine months later — that number has grown to more than 13,800 — 13,800 tests for some 4,000 conditions and 2,600 genes.

Prostate cancer, certain breast and ovarian cancers, kidney diseases, Huntington's, ALS, cystic fibrosis — the list of diseases for which genetic tests are now available goes on and on.

There are tests for a number of genes associated with heart disorders, such as certain irregular heartbeats, arrhythmias; or heart muscle problems, cardiomyopathies. Undetected, these conditions can lead to sudden heart attacks and even death. Identifying that someone carries a problem gene opens up the possibility of managing a disorder before it manifests, for example through lifestyle changes, prescription drugs, implanting a pacemaker or other device, or surgery. In other words, colleagues, genetic testing is saving lives.

Canadian researchers are at the forefront of this work. The Ottawa Heart Institute is home to the John & Jennifer Ruddy Canadian Cardiovascular Genetics Centre, the first comprehensive cardiovascular genetics centre dedicated to both the research and clinical management of inherited cardiovascular disease in Canada. In fact, it was researchers at the centre who identified the strongest genetic risk factor for coronary artery disease and heart attack found to date — the so-called "9p21 locus."

There is an inherited form of colon cancer known as familial adenomatous polyposis, or FAP. People with this gene gradually — and often silently, as doctors say, or without symptoms — develop hundreds to thousands of polyps, beginning when there are very young, in early adolescence. While these begin as benign tumours, left untreated one or more will turn malignant. People with this gene have a 7 per cent risk of developing cancer by the time they turn 21 and that risk rises to 87 per cent by the time they turn 45. But, colleagues, if someone knows they have the gene, there is surgery that effectively eliminates the risk of developing this form of cancer.

Genetic diseases often manifest themselves in young children and adolescents, so it's not surprising that our children's hospitals are at the vanguard of genetic research.

Last October, Genome Quebec announced the launch of Canada's first integrated clinical genomic centre in pediatrics, located in Sainte-Justine Hospital in Montreal, one of the largest pediatric centres in North America. Dr. Jacques Michaud, a doctor and geneticist at Sainte-Justine Hospital, said:

Over 80 per cent of genetic diseases are diagnosed in childhood or adolescence. In more than half of these children, doctors are unable to arrive at a diagnosis, and many years go by before the cause of the disease is identified. With this new technology, we can sequence all the genes of a child's genome, develop a genetic profile in a timely manner, establish a diagnosis, and deliver the treatment, if one is available at the time or becomes available in the future. A parent's worst nightmare is not knowing.

There is the case of Brygette Park of Corner Brook, Newfoundland. Before she was two years old, Brygette had been hospitalized more than 40 times, virtually living in Toronto's SickKids Hospital. Doctors could not identify the cause of her inflammatory bowel disease and were running out of treatment populations. The quality of her young life, colleagues, was very

bad. She was in almost constant pain, vomiting up to 30 times a day and contending with a series of illnesses, from life-threatening meningitis to rheumatoid arthritis.

Dr. Aleixo Muise, a gastroenterologist at SickKids, suspected that the problem stemmed from a genetic issue and just before Bryette's second birthday, a new genetic mutation was identified by researchers. Bryette was tested and found to carry it. A bone marrow transplant was performed and, while it was a harrowing experience, Bryette was cured. Today she is a healthy, happy, young girl.

Of course, genetic testing is helping adults as well. Angelina Jolie, a well-known movie actress, went public last May with her own discovery that she carried the so-called BRCA1 genetic mutation. People with the mutation have an 87 per cent chance of developing breast cancer and a 50 per cent chance of developing ovarian cancer. Ms. Jolie had watched her mother suffer and die from breast cancer. She knew that she came from an ethnic background known to have a heightened risk of carrying the BRCA mutation. She had the genetic testing, discovered that she carried the gene and decided to have preventative surgery. The result? She went from an 87 per cent likelihood of developing breast cancer to under 5 per cent. She wrote in *The New York Times*:

I can tell my children that they don't need to fear they will lose me to breast cancer.

Ms. Jolie's story sparked a surge in requests from women around the world — and here in Canada — inquiring about genetic testing. Meghan Ferguson, a genetic counsellor in my home city of Halifax, said that her phone started ringing off the hook. She said that referrals increased by more than 80 per cent and that her colleagues across North America were seeing similar surges in interest. Articles referred to it as "the Angelina effect."

This is a good thing, colleagues. All of us want the best health for Canadians. As these stories illustrate, when someone knows they have a genetic predisposition to develop a particular disease, this can open up the possibility of taking preventative steps which can range from making lifestyle changes to — as in the case of Ms. Jolie — undergoing surgery. It enables doctors to provide effective treatment. Fundamentally, it is good for Canadians and their families, and it is good for our communities and our country as a whole. Of course, avoiding or minimizing the risk of disease is the most efficient and economical use of our health care system.

Put simply, the genetic revolution has opened up a world of better health outcomes. The science is advancing at an exponential rate and the science is here, in Canada. Indeed, our own research community is up there with the best in the world, ready to bring the latest medical knowledge to the service of Canadians.

The problem is that in Canada, unlike in most other western countries, if one has genetic testing and discovers that indeed one carries a gene associated with a particular disease or disorder, there is no protection at either the federal or the provincial level against what is called "genetic discrimination." That is the problem that Bill S-201 is designed to address.

• (1530)

Genetic discrimination usually arises in two contexts: insurability and employment. There is no legislation in Canada that provides clear protection against either one. The result is that many Canadians who otherwise would be candidates for genetic testing are opting not to have those tests for fear that the results will impact their insurability or their present or future employability. That means that many Canadians who are at risk of developing certain diseases or disorders are not able to take the preventative steps that may be available to them to reduce the likelihood that they may in fact develop those diseases or disorders.

When I spoke last April, I cited a 2002 study from the United States that found that 61.5 per cent of eligible women seeking breast cancer risk assessment decided not to be tested for the genes because of the threat of health insurance discrimination. The report went on to describe that, statistically, some one half of those women would have tested positive for that gene. By not having the testing, they missed out on preventative or treatment opportunities that otherwise would have been available.

This is not a phenomenon unique to the United States, colleagues. As I was speaking here in the chamber last April, a staffer in my office received an email from a woman right here, in another Senate office, who was listening to our proceedings. She wrote that I was describing her own situation exactly. Her mother died of breast cancer at a young age, and her doctor suspects that she may carry one of the breast cancer genes. She met with a genetic counsellor, and when she realized that there could be implications for insurance, she felt she could not have the testing. She had seen first-hand how important insurance was for her mother, and she felt that she simply could not take the risk.

She is not alone. I mentioned Toronto's Hospital for Sick Children. It has established a Centre for Genetic Medicine to harness the explosion of research and knowledge and apply it to improve the health of children. In July, the centre launched a five-year research project offering whole genome sequencing for 100 patients at Sick Kids each year who are suffering from a range of diseases.

Dr. Ronald Cohn is co-director of the centre. As he explained it to me, the idea is to look at the whole spectrum of genes to collect data so that as research advances, they are able to identify and develop new treatment possibilities for these young people. Dr. Cohn told me that families desperately want to participate; they see the project as offering hope for their children.

But fully 30 per cent reluctantly decide that they cannot have their child participate. Why? Because of concern about future problems with insurance and jobs.

There was a young child in intensive care with an unusual combination of severe low-muscle tone and breathing problems. The doctors believed that genetic sequencing could help provide insights into how to best manage the child's care. However, the parents were afraid of the possible implications for insurance and felt they had to refuse to allow any genetic testing.



Another patient seen by the centre was suspected of suffering from a mitochondrial disease. However, a diagnosis required the testing of a sibling. That sibling could not agree to be tested; he was in the process of applying for work, and he was afraid that any genetic disease-related issue would impact his ability to find a job.

Colleagues, it is heartbreaking to think of parents or siblings forced to make such choices. But without certainty in the law, we can all understand a family's terribly difficult position.

Are the fears of genetic discrimination justified in Canada? A leading study published in 2009 in the *BMJ* — formerly the *British Medical Journal* — suggests the answer is yes. The authors surveyed genetic clinics servicing communities across all 10 Canadian provinces. They focused on Huntington's disease, which at that time had a long, 20-year history of predictive genetic testing. The results were striking: Genetic discrimination was reported by 39.9 per cent of the survey respondents. Most of this occurred in insurance — 29.2 per cent — but genetic discrimination was also reported in employment at 6.9 per cent.

Colleagues, under 7 per cent may sound small, although I'm sure we would all agree that any discrimination in employment is too much. But a paper prepared in 2010 for Genome Canada called "Revisiting Genetic Discrimination Issues" by University of Ottawa law professor Errol Mendes cautioned that while evidence about genetic discrimination in employment in Canada is limited, "we cannot be complacent given the U.S. experience." Professor Mendes cited a U.S. study from 2001 that reported that 30 per cent of large- and mid-size employers required genetic testing, while 7 per cent used the information for hiring and promotion purposes.

As I described a few moments ago, we know of instances where individuals decide against genetic testing, even in extreme circumstances, because of the fears that the results — or even just the fact of the testing — could hurt their ability to get or hold a job.

Colleagues, as I said in April, there are many reasons why a person may choose not to undergo genetic testing. There are some illnesses for which there is no known treatment, and one may prefer not to have the sword of Damocles suspended over one's healthy years. There may be concerns for the impact upon children, siblings or other relatives. However, colleagues, fears about not being able to obtain affordable insurance for oneself or one's family or not being able to find or hold a job should not be the barriers that prevent Canadians from accessing the extraordinary medical advances of the genetics revolution and the hope that it carries for better health and a better quality of life.

This is what Bill S-201 would address.

The bill is in three parts. The first creates a new act, the genetic non-discrimination act, which would prohibit anyone from requiring someone to take a genetic test, or disclosing the results of a genetic test as a condition of providing goods or

services to that person, entering into or continuing a contract with that person, or offering or continuing particular terms or conditions in a contract with that person.

The act sets out specific exceptions for medical personnel, such as doctors in respect of someone under their care, and it has a specific exception for medical or scientific research for someone participating in that research.

The bill also provides an exception for certain high-value insurance contracts, and I will return to that point shortly.

The second part of the bill amends the Canada Labour Code to prohibit employers from requiring employees to take a genetic test or to disclose the results of a genetic test they might have taken. It prohibits third parties from disclosing to an employer that an employee has had a genetic test, and it prohibits the disclosure of the results without the written permission of the employee in question. It also prohibits an employer from receiving or using the results of a genetic test without the employee's express written permission.

The third part of the bill adds "genetic characteristics" as a prohibited ground of discrimination under the Canadian Human Rights Act.

Colleagues, that is a very brief overview of the bill.

I'd like to return briefly to the issue of insurance. Fear of repercussions for insurability is probably the single biggest concern that people have about genetic testing. At the same time, insurance companies maintain that genetic test results are really no different than information about family history. They are concerned about the implications for their industry if they are unable to obtain the result of any genetic testing.

According to public opinion research conducted for the federal government in 2003, Canadians disagree. They believe there is something qualitatively different about one's genes; they are seen to be more fundamentally personal than other health information. Fully 91 per cent of respondents did not believe that insurance companies should have the right to access existing personal genetic information. Virtually the same number — 90 per cent — said that employers should not have access to genetic information of employees or job applicants.

In most cases, having a gene associated with a particular disease does not mean that a person will necessarily develop that disease. In fact, knowing that one has a genetic predisposition for something can open up the possibility of taking steps to reduce the likelihood that one will actually develop the disease.

• (1540)

I'm not convinced that the future for the insurance industry without access to genetic information is as dire as some representatives predict. The Office of the Privacy Commissioner of Canada commissioned studies of the potential economic impact of a ban on the use of genetic information for life and health insurance.

They concluded:

... for the present and near-term future, a ban on such information would likely have no significant negative implications for insurers or for the efficient operation of markets such as life insurance.

Interestingly, the authors continued:

Although we do not consider it our purview to make a recommendation one way or the other on such a regulation, a ban would provide comfort to individuals regarding protection of privacy and reduce concern about potential future problems with buying life insurance should a genetic test reveal “bad news”. The institution of such a ban would seem not only unproblematic for the insurance market but even economically and socially desirable.

One issue that is raised by the insurance industry and repeated in the literature on this topic — and it was raised by the insurance industry when I met with their representatives in Toronto before Christmas — concerns so-called “adverse selection.” That is the concern that someone has genetic testing, discovers that in fact they are at risk of developing a particular disease or disorder, and rushes out to buy a large amount of insurance with a hefty payout, knowing that the insurance company cannot find out about the testing or the results.

The studies prepared for the Privacy Commissioner suggest that this concern is not as significant as insurers may fear. However, my bill proposes a compromise solution, modelled on approaches used in other countries, where insurance companies may require the disclosure of genetic test results for high-value insurance contracts. I have proposed setting the bar at policies that exceed \$1 million or \$75,000 per year in benefits. Respecting our constitutional division of powers, this provision would apply only if the relevant province has passed legislation allowing it. In this connection, I note that a member of the Ontario legislature recently introduced a bill on genetic discrimination that includes a provision similar to the one contained in my bill.

I also want to underscore that insurance companies would still be prohibited from requiring someone to undergo genetic testing. That is, someone who buys a high-value insurance contract but who has never had any genetic testing still could not be asked to undergo testing. This clause would apply only to allow insurers to demand disclosure of prior tests.

Colleagues, that’s an overview of the bill. Back in 1999, one of our former colleagues, Senator Sheila Finestone, said that some predict genetic discrimination could become *the* human rights issue of the new millennium. My bill is an attempt to address this, and especially to clear away certain obstacles that are known to be preventing many Canadians from accessing genetic testing that otherwise might be able to help them or their children live healthier lives. We all benefit when that happens.

Colleagues, obviously this is not a partisan issue. I have been gratified by the interest shown in this bill by colleagues on both sides of this chamber, and in the other place as well. The need to address genetic discrimination has been highlighted by each of the

three main political parties at one time or another. In October, in the most recent Speech from the Throne, the Conservative government said that it will “prevent employers and insurance companies from discriminating against Canadians on the basis of genetic testing.”

Colleagues, I’ve tried in Bill S-201 to propose what I believe would be a workable solution. I’ve been gratified by the response I’ve received from individuals and organizations concerned about genetic discrimination. One medical researcher said that with this bill, Canada will go from lagging behind other nations on this issue to being a world leader.

I hope that we can proceed quickly to move the bill to one of our committees for further study so that we can hear directly from interested Canadians with their views on the proposals set out in Bill S-201. Does it achieve its objectives? Are there unanticipated consequences we should be aware of? And of course, are there ways in which the bill could be improved?

I look forward to your comments and suggestions. Thank you, colleagues.

**Hon. Yonah Martin (Deputy Leader of the Government):** Honourable senators, I’m not the critic of this bill, but I will adjourn the debate in my name at this time.

(On motion of Senator Martin, debate adjourned.)

## FINANCIAL ADMINISTRATION ACT

### BILL TO AMEND—SECOND READING— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Moore, seconded by the Honourable Senator Day, for the second reading of Bill S-204, An Act to amend the Financial Administration Act (borrowing of money).

**Hon. Yonah Martin (Deputy Leader of the Government):** Honourable senators, I am not the critic of this bill, as you know. At day 15, I wish to reset the clock at this time.

**The Hon. the Speaker *pro tempore*:** It is moved by Senator Martin, seconded by Senator Marshall, that further debate be adjourned until the next sitting of the Senate. Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Wilfred P. Moore:** A point of information. Deputy leader, I know earlier last week you said you would try to have an answer for me at the earliest possible date, and I appreciate that the clock has been restarted. I don’t want to be going through another 15 waiting days. As I indicated before, I’m anxious to have this bill before our National Finance Committee. Do you think you might be speaking to this next week?

**Senator Martin:** As I'm not the critic on this bill, I personally will not be speaking to it. At this time, I don't have that name, senator. I know we're waiting on a number of bills as well. In any event, the answer is no at this time.

**Senator Moore:** Maybe there's something I can do to help push this along, and I anticipate that you'll have somebody speaking next week. If not, I'll do something to maybe help you out. Thank you.

(On motion of Senator Martin, debate adjourned.)

## CORRECTIONS AND CONDITIONAL RELEASE ACT

### BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator McIntyre, seconded by the Honourable Senator Dagenais, for the second reading of Bill C-350, An Act to amend the Corrections and Conditional Release Act (accountability of offenders).

**Hon. George Baker:** Honourable senators, Senator McIntyre introduced this bill at second reading, and this is the second time around for this bill. It has gone through practically all of the stages.

It's a private member's bill from the other place, and of course Senator McIntyre, as everybody knows, is an expert. He was the chair of the NCR Review Board for 25 years, a position occupied only by retired judges or persons who could be appointed as judges, as the Criminal Code says. He's a learned scholar, a litigator, a lawyer. I would show some deference to his opinion as far as the legislation is concerned.

However, he has pointed out a very important fact: The constitutionality and the regulatory parameters of this bill have not been judged by the Department of Justice.

• (1550)

In fact, honourable senators, the Department of Justice has for some time now refused to comment on private members' bills that originate in the other place. It means that the Senate has to be extra careful in its consideration of this legislation because, as everybody knows, our Supreme Court of Canada quotes the Senate three times more than they quote the House of Commons when it comes to legislation, the purpose of legislation, the impact of legislation and the meaning of words in our laws.

We have to be very careful. Looking at the bill, just on the face of it, there are some very important questions that come to mind, for example, the exclusions in this bill.

The bill is designed to affect maybe four or five persons over a period of about five years. If a prisoner receives a monetary judgment against the Crown or against a servant of the Crown,

then the contents of this bill will come into play. It sets an order of priority as to where the money actually goes. As you know, Your Honour, when you have a judgment against you in a court of competent jurisdiction on a particular matter, if you're in prison and receive money, then that order applies. It's probably the simplest way for somebody to collect if somebody is in prison.

However, this bill, according to this private member, will set a priority that payments will be made first to maintenance, alimony and family financial support made by any court of competent jurisdiction; second to any amount owing as a result of a restitution order; third to any victim surcharge; and fourth to any judgment awarded by a court.

Then the bill goes on to say that there will be proportional payments. In other words, if there's more there than is required for the first, and if the second, third, fourth or all of them come into play, then the money will be divided equally, which sort of defeats the purpose of the bill.

Then the bill has excluded amounts. Excluded amounts, according to this bill, are "any amount awarded in the decision for costs."

As you know, Your Honour, it costs a lot of money when you pursue a matter in a Superior Court, as these particular people would be doing. You've appeared as a witness, Your Honour, before Superior Courts in dealing with your work here in the Senate, and you know how costly it is to litigate something in Superior Court. Sometimes, the cost awards are quite substantial in those matters. They can amount to huge amounts of money to compensate for time spent and so on. These will be excluded as amounts pertaining to this bill.

The second matter that's excluded from these matters covered by this bill relates to — and one can understand this — the final day of hearings in the House of Commons. On that final day, in committee, testimony was received from a particular person who suggested that an exception be granted for all prisoners who receive money "as a result of the Indian Residential Schools Settlement Agreement which came into force on September 19, 2007."

But it does not include any other similar payments. For example, what came to my mind was the Mount Cashel agreement or any other similar agreement.

The prospect arises that in a particular case one could argue fairness. One could argue that perhaps their section 7 constitutional rights have been violated. We have no opinion from the Department of Justice as to whether or not this would in fact be the case because it has not been tested. As Senator McIntyre has pointed out, this has not received the examination of constitutionality from the Department of Justice.

Let me go on as well. There's a section here that says:

Subsection 30(1) of the *Crown Liability and Proceedings Act* does not apply to amounts referred to in section 78.1.

That's the section that gives authority for the Crown to make any payments at all. On the face of it, you would say, "What would be the impact of that on existing legislation?" Again, the

Department of Justice has not given an opinion and, according to their custom for years, will not give an opinion on this matter.

With these private members' bills, we have to be careful, although we've been the round on this bill, and it's still here now at second reading. There are matters here that are of concern in terms of the Constitution and regulatory impact. Members of the Legal and Constitutional Affairs Committee have expressed concerns as to the applicability of the legislation, that it will cause an enormous amount to be allocated for administration, for example, when, as we know, court orders can be obtained at any time for the matters under discussion in the bill.

Generally speaking, I would show deference to Senator McIntyre because of his great knowledge of these matters, but I think senators should realize that — and I differ from Senator McIntyre here — I don't think the Liberals did such a great job in the House of Commons on this bill. I don't think the NDP did such a great job either in examining this legislation. Those political parties in the House of Commons — of course, they're Liberals, NDP — are just deferring things to the Senate and not giving us the basis on which to build a concrete examination of this legislation.

Those are my few words, Senator McIntyre, and I'll be open to questions if you have any.

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

**Senator Baker:** Yes, indeed I will, senator.

**Senator McIntyre:** Thank you, Senator Baker, for those kind words. Bill C-350 is, as you have rightly pointed out, a private member's bill designed to divert money won by inmates' legal actions to their victims and creditors. It was unanimously passed in the House of Commons by all parties, and they all backed it.

On November 26 of last year, after I had spoken on Bill C-350, both Senators Fraser and Jaffer raised concerns regarding this bill and, more particularly, regarding the issues that you have just raised, for example, the number of offenders to be affected by this legislation and the cost factors involved. I've done a little bit of research since then, and I note that, since 2007 — you are absolutely correct — only five offenders have successfully sued Correctional Service Canada before the courts or a tribunal and received a final judgment for monetary damages.

• (1600)

You've also raised the issue of cost. With respect to that, my understanding is that there are operational impact cost factors for many different levels of government as well as other federal departments. I further understand that for Correctional Service Canada, the cost factors include, for example, the creation of a creditor database and communication tools, such as a web page and registration forms. Obviously, all of these will result in some costs. I further understand that Correctional Service Canada will observe these costs within its current budget. Were you able to follow up on that?

**Senator Baker:** We have dealt with the facts as far as the inmates are concerned and their representatives who appeared before the committee and the actual cost.

Senator, you requested in your speech that this matter be referred to the Standing Senate Committee on Legal and Constitutional Affairs. I want to second the motion as I don't think we need to have further debate on this bill. I agree that we should send this along to the committee. You sit on the committee and are the expert in many of these fields. Perhaps we'll call you as a special witness, certainly to hear from the mover of this motion and find out if he would be agreeable to making any advisable amendments, especially to some of the matters that I referred to in not restricting the exclusions to the legislation: inserting words like "or in similar circumstances," "or in similar matters," as it relates to subsection 4. We have to deal with the proposed legislation; I agree with you. Further, I would second your motion that this be referred immediately to the Legal and Constitutional Affairs Committee, whose members are looking for business right now.

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

**Hon. Senators:** Question.

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

**An Hon. Senator:** On division.

(Motion agreed to, on division, 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 McIntyre, bill referred to the Standing Senate Committee on Legal and constitutional Affairs.)

## TOUR OF ALBERTA

### INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Mitchell calling the attention of the Senate to Canada's Pro-Cycling Festival, the Tour of Alberta.

**Hon. Joseph A. Day:** Honourable senators, I have taken the adjournment to draw your attention to the inquiry set down by Senator Mitchell. I intend to speak to the matter, which deals with the phenomenon of cycling in Canada. I invite honourable senators to be aware of this inquiry. After I speak, I'm hopeful that other senators will want to join in. I see the inquiry as much broader than the particular road race that took place in Alberta and as an opportunity to talk generally about the phenomenon of cycling and its evolution in Canada.

(On motion of Senator Day, debate adjourned.)

(The Senate adjourned until tomorrow at 2 p.m.)

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