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Tuesday, February 25, 2014

The Honourable NOËL A. KINSELLA
Speaker

CONTENTS

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THE SENATE

Tuesday, February 25, 2014

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

Prayers.

VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, before calling for Senators' Statements, I wish to draw your attention to the presence in the gallery of a distinguished Canadian student, Isabella Ruggeri, from Mount Saint Vincent University in Halifax. She is here in the nation's capital because she is the winner of the Andrea and Charles R. Bronfman Award in Canadian Studies.

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

Hon. Senators: Hear, hear!

SENATORS' STATEMENTS

INTERNATIONAL MOTHER LANGUAGE DAY

Hon. Mobina S. B. Jaffer: Honourable senators, I rise today to commemorate International Mother Language Day. International Mother Language Day was established by the United Nations in 2000 to promote linguistic and cultural diversity and multilingualism.

Over 200 languages are spoken in Canada, many from coast to coast. Aboriginal languages, as well as our two official languages of English and French, hold a special place in our heritage.

Sadly, of the 60 registered Aboriginal languages, only four are considered to be safe from extinction. British Columbia is home to more than half of Canada's Aboriginal languages; however, only one in 20 Aboriginal people in my province is fluent in their language, and almost all of them are elderly people.

We are losing these languages. We are losing our heritage. Many of these languages date back thousands of years, but today we allow them to teeter on the verge of extinction. Honourable senators, if we allow even one of our Aboriginal languages to become extinct, we will have done a great disservice to the heritage of our country.

According to the United Nations:

Languages are the most powerful instruments of preserving and developing our tangible and intangible heritage. All moves to promote the dissemination of

mother tongues will serve not only to encourage linguistic diversity and multilingual education but also to develop fuller awareness of linguistic and cultural traditions throughout the world and to inspire solidarity based on understanding, tolerance and dialogue.

The importance of language diversity gives Canada a distinct advantage in the world. Whether working on diplomatic missions, trade relations or humanitarian aid, our knowledge of the languages of the world allows us to achieve success in these endeavours.

Honourable senators, growing up in Uganda, I was lucky enough to have the opportunity to learn several languages: African, Indian and European. While I did not realize it at the time, learning those languages opened doors of opportunity for me that I would never have dreamt of when I was learning those languages.

This past summer, I travelled to Kolkata, India, with International Justice Mission Canada and spoke to young girls who had been victims of child trafficking. If it was not for the languages I learned as a child, I would not have been able to converse with these young girls and bring their tragic stories out into the open.

Honourable senators, in this increasingly competitive world, we must ensure that our children have all the tools they need to be successful in the future by promoting diverse language training. We must also ensure that we are protecting our heritage by giving Aboriginal languages the same status as our official languages of English and French. Allowing the original languages of this land to become extinct would be an irreversible tragedy. We would truly lose our heritage.

WINTER OLYMPICS 2014

Hon. Jacques Demers: Honourable senators, good afternoon. I will talk, obviously, about something that I think I know — sports in general. To a great senator — Senator Kinsella, our Speaker — this will be and has been his last Olympics in his official capacity.

[Translation]

I will start with the amateur athletes. We must recognize their efforts and the price they pay to train for four years for the Olympic Games. I had the honour of talking about this with Kim St-Pierre, Joannie Rochette and Alex Bilodeau, who, thanks to the medals they won, were lucky enough to get endorsement income. However, it is very hard for athletes in general to find funding so that they can train for four years, and that is why I wanted to remind you that there are never any losers at the Olympic Games, even though some athletes return home without a gold, silver or bronze medal.

[English]

In 2010 I had the opportunity to finish my hockey career providing commentary for the Olympics on television. I saw the Russians, a very talented team, get embarrassed. I thought that

this time, back home, they would redeem themselves, but obviously they did not. It is nothing personal about Russian people — the coaches or the players — it is just about the team and the way they don't play as a team.

Another thing I would like to address is the great performance by the ladies.

Some Hon. Senators: Hear, hear!

Senator Demers: They always have to fight for space. I'm not talking about space on the ice; I'm talking about getting recognition and sponsors. Once they win their goal — and usually it's between Canada and the U.S. and the Swiss are coming along. It was nice to see the Swiss team win a medal. Those Canadian women are so dedicated. I thought that something very special was done. It shows when you want to be a team and work together as a team.

• (1410)

Hayley Wickenheiser is a Hall of Famer, no question about that. When I saw Coach Kevin Dineen, who I know personally, take away the captaincy from her, there was reason for her to pout and be upset. She put that away and totally committed herself to being the player she is, even though she has slowed down.

The women deserve a tremendous amount of credit, because they have a hard time being recognized once every four years. They deserve that gold medal. I don't know what the heck happened when the puck stopped on the goalpost and didn't go in. They say we have hockey gods and, yes, we do.

As for the men's team, I am very honoured that General Manager Steve Yzerman — not retired, resigned — played for me for four years, and I worked with Kenny Holland in Detroit. They are special people, and all the athletes are special.

When you have in your life a Martin St. Louis — and there are a lot of Martin St. Louis's in this room — who was not drafted, who was not picked four years ago and who was picked now and wins the gold, it says a lot about our society.

I will finish with congratulations to the men. Great captain, Sidney Crosby.

An Hon. Senator: Jonathan Toews.

Senator Demers: Well, he's a good man.

I will finish with something that really bothered me, and I hope it did not happen. I don't know anything about figure skating except that they're great athletes and put in many hours, but if what I hear is true, that special young South Korean girl deserves better. If it's true that there was cheating, it's so unreal that in 2014 we would think of doing that. I'm not accusing anyone of cheating, but I think it's sad. To the Russian girl who won, she deserves the medal. She had nothing to do with it.

So Canada, we are proud Canadians.

CURLING

TEAM HOMAN

Hon. Jim Munson: Honourable senators, as Coach Demers has said, I wish I could play hockey like a woman, and I have always looked up to Martin St. Louis.

Honourable senators, the focus has been on the Winter Games in Sochi, but we're also proud of another Canadian team that could end up in Pyeongchang in 2018. I don't want you to forget the name of another women's team and a big name in curling.

With our break week, I couldn't offer official congratulations in the Senate, but today I want to salute Rachel Homan's Team Canada for their win at the Canadian women's curling championship in Montreal on February 9. In addition to Ms. Homan of Orleans, the team includes Ottawa's Lisa Weagle, Alison Kreviazuk and Emma Miskew.

They are the first team since 1985 to go undefeated at the championship. They are also repeat champions, having won last year in Kingston.

The event is probably better known to most of us as the Scotties Tournament of Hearts, which refers to both the long-time sponsorship of women's curling by Kruger Products and the friendship and teamwork that characterize the sport.

With over 1 million Canadians participating in the sport and more than one third of our population watching it on television every winter, it is fair to say that Canada is the number one curling nation in the world. After the results in Sochi in women's and men's curling, there is no doubt we are the number one nation in the world.

I have always been intrigued by the unique mix of etiquette and competitiveness in curling, not to mention a few drinks after the game, the smiles and handshakes between teams, combined with the players' wonderful focus and dedication. It is no wonder curlers and their audiences are so loyal and proud.

The excitement continues next month when Homan's rink participates in the World Women's Curling Championship, March 15 to 23 in Saint John, New Brunswick. I wish Team Canada well and look forward to watching them compete. Remember the name of Ottawa's Rachel Homan. It could be the name you see on the curling billboard in South Korea in 2018.

WINTER OLYMPICS 2014

Hon. Donald Neil Plett: Honourable senators, depending on where you live in the country, how many of you were up at 5 a.m., 6 a.m., 7 a.m. on Sunday, February 23, watching hockey? The last two weeks have been among our country's proudest as we all put aside our partisan differences and came together to cheer on the very best athletes in the world.

For over a year we had heard our Canadian Broadcasting Corporation and the lead-up to the 2014 Olympic Games. We heard of a Russian culture. Questions were asked about whether Sochi was the right place for the games. We heard

about the dangers of having the games in Russia and the possibility of terrorist attacks. The media tried in vain to put a damper on the games, then February 7 finally arrived.

Days before the games, CBC President Hubert Lacroix, along with Peter Mansbridge and company, arrived in Sochi. I wonder, honourable colleagues, what airplane seats do you think they were sitting in?

Some Hon. Senators: Hear, hear.

Senator Plett: Then the moment we had all been waiting for, the opening ceremonies of the 2014 Sochi Olympic Winter Games. Here is where the real heroes came forward: our athletes.

There will be many tributes to all of our great athletes in the coming weeks, but today I want to recognize one very special team. That, colleagues, is the Canadian Olympic gold medal women's curling team skipped by Jennifer Jones, with third, Kaitlyn Lawes; second, Jill Officer; and lead, Dawn McEwen. They curl out of my old curling club in Winnipeg, the St. Vital Curling Club.

Team Jones went undefeated in round-robin play, beating every country that competed in the women's curling. This is the first time in women's Olympic curling history that this has been accomplished. They added to this tremendous feat by winning both of their playoff games, giving them and Canada Olympic gold. This is a record that can never be broken; it can only be tied. This is also Canada's first gold medal in women's curling since the late Sandra Schmirler won in Nagano in 1998.

Ms. Jones is a four-time Canadian champion, a former world champion and now Olympic gold medalist. She has been curling since she was 11 years old. Manitobans have watched her grow up and progress as a tremendously skilled and gifted curler, winning provincial, national and, eventually, world championships.

Ms. Jones has spent her life in Manitoba, attending the University in Manitoba and is now working as a corporate lawyer for National Bank Financial in Canada. Jennifer and the rest of Team Jones are a treasure to Manitobans and all Canadians.

Honourable senators, I hope you will join me in congratulating Team Jones and all the other Canadian athletes on an outstanding year at the Olympic Winter Games.

Hon. Senators: Hear, hear.

DR. FORD DOOLITTLE

CONGRATULATIONS ON NATURAL SCIENCES AND ENGINEERING RESEARCH COUNCIL OF CANADA AWARD

Hon. Terry M. Mercer: Honourable senators, His Excellency the Right Honourable David Johnston presented a series of Natural Sciences and Engineering Research Council of Canada awards during a ceremony at Rideau Hall earlier this month.

The Natural Sciences and Engineering Research Council of Canada, or NSERC as we usually call it, is a federal agency that supports 30,000 post-secondary students and post-doctoral fellows in their many studies. Over the last 10 years, NSERC has invested more than \$7 billion in research and training. The NSERC Gerhard Herzberg Canada Gold Medal for Science and Engineering is awarded annually for excellence in research conducted in Canada. Named after Nobel laureate Gerhard Herzberg, the NSERC Gerhard Herzberg medal is the agency's highest honour and provides recipients with \$1 million over five years for research funding.

The current winner is Dr. W. Ford Doolittle from the Department of Biochemistry and Molecular Biology at Dalhousie University in Halifax.

• (1420)

Honourable senators, Dr. Doolittle is one of the world's top molecular geneticists and is currently the senior member of one of seven Canadian teams participating in the International Human Microbiome project. He has published more than 270 articles in the world's leading journals and has supervised 31 post-doctoral fellows and 35 graduate and undergraduate students.

Born and raised in Illinois, he received a BA in Biochemical Sciences from Harvard University in 1963, a PhD from Stanford University in 1967 and came to Dalhousie in 1971. In his spare time, Dr. Doolittle is an artist who studied at the Nova Scotia College of Art & Design — NSCAD University — in Halifax as well, where he received a BA in photography.

I offer my sincerest congratulations to Dr. Doolittle for winning the Herzberg Medal. We also thank him for his support of science and the future young scientists of Canada.

ROUTINE PROCEEDINGS

SPEAKER OF THE SENATE

**PARLIAMENTARY DELEGATION TO ROME, VATICAN
CITY, SKOPJE, PODGORICA AND BELGRADE,
SEPTEMBER 2-12, 2013—REPORT TABLED**

The Hon. the Speaker: Honourable senators, I ask leave of the Senate to table a document entitled: "Visit of the Honourable Noël A. Kinsella, Speaker of the Senate, and a Parliamentary Delegation, to Rome, Vatican City, Skopje, Podgorica and Belgrade," September 2 to 12, 2013.

Is permission granted, honourable senators?

Hon. Senators: Agreed.

NORTHWEST TERRITORIES DEVOLUTION BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-15, An Act to replace the Northwest Territories Act to implement certain provisions of the Northwest Territories Lands and Resources Devolution Agreement and to repeal or make amendments to the Territorial Lands Act, the Northwest Territories Waters Act, the Mackenzie Valley Resource Management Act, other Acts and certain orders and regulations.

(Bill read first time.)

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

(On motion of Senator Martin, bill placed on the Orders of the Day for second reading two days hence.)

VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Monsieur Adama Dieng, Under-Secretary General/Special Adviser for the Prevention of Genocide at the UN. He is the guest of the Honourable Senator Dallaire.

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

Hon. Senators: Hear hear.

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY THE INCREASING INCIDENCE OF OBESITY

Hon. Kelvin Kenneth Ogilvie: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the Standing Senate Committee on Social Affairs, Science and Technology be authorized to examine and report on the increasing incidence of obesity in Canada: causes, consequences and the way forward, including but not limited to:

- (a) food consumption trends;
- (b) specific elements of diet;
- (c) the processed food industry;
- (d) lifestyle;
- (e) provincial and federal initiatives; and,
- (f) international best practices.

That the committee submit its final report no later than June 30, 2015 and that the committee retain all powers necessary to publicize its findings until 180 days after the tabling of the final report.

THE SENATE

NOTICE OF MOTION TO CALL UPON MEMBERS OF THE HOUSE OF COMMONS TO INVITE THE AUDITOR GENERAL TO CONDUCT A COMPREHENSIVE AUDIT OF EXPENSES

Hon. Percy E. Downe: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the Senate call upon the Members of the House of Commons of the Parliament of Canada to join the Senate in its efforts to increase transparency by acknowledging the longstanding request of current and former Auditors General of Canada to examine the accounts of both Houses of Parliament, and thereby inviting the Auditor General of Canada to conduct a comprehensive audit of House of Commons expenses, including Members' expenses, and

That the audits of the House of Commons and the Senate be conducted concurrently, and the results for both Chambers of Parliament be published at the same time.

UKRAINE

NOTICE OF INQUIRY

Hon. A. Raynell Andreychuk: Honourable senators, I give notice that, two days hence:

I will call the attention of the Senate to the situation in Ukraine.

QUESTION PERIOD

ENVIRONMENT

ENDANGERED SPECIES RECOVERY STRATEGY

Hon. Grant Mitchell: Honourable senators, there is a law on the books in Canada called the Species at Risk Act that requires the Government of Canada to prepare a species recovery strategy within specified periods of time after certain species are declared endangered.

Justice Anne Mactavish of the Federal Court recently ruled that the Government of Canada has, on at least four occasions, specifically broken this act. There is, of course, a profound irony in that declaration to the extent that the Government of Canada is the hard-on-crime government, the one that would have

mandatory minimums and crack down on all kinds of criminals but are quite flagrant in abusing laws that apply to them that they simple seem, for some reason, not to like.

My question to the leader would be, to begin with, why is it that when the Department of Fisheries had three years to release a recovery strategy for the Nechako white sturgeon and four years under the law to release a recovery strategy for the Pacific humpback whale, they did not release these strategies for seven years and eight years respectively and then only after they were sued in the Federal Court to do so?

[Translation]

Hon. Claude Carignan (Leader of the Government): Honourable senators, Senator Mitchell is quoting material out of context. The government has no lessons to learn from the Liberal opposition when it comes to conservation.

Our government is committed to protecting the environment. Since forming the government, we have created national marine conservation areas. We have created three marine protected areas, three national wildlife areas, two national parks and one national historic site, and the total area of the land we have protected is more than twice as big as the City of Vancouver.

We have also made commitments in Budget 2014 to keep protecting wildlife. I would like to quote Nature Conservancy Canada, which applauded Budget 2014. On February 11, 2014, it said:

The promise of a National Conservation Plan and the continued support for nature contained in today's budget speak loudly to this government's commitment to conservation.

• (1430)

Instead of taking quotes from specific files out of context, I invite you to examine the government's long-term commitment to the protection of wildlife.

[English]

Senator Mitchell: Speaking of taking quotes out of context, it is interesting that the Leader of the Government would respond to a conservation concern with respect to the Pacific humpback whale by referring to a marine area in Georgian Bay, where, the last time I checked, there have never been humpback whales. Maybe that is an answer to another question, but it wasn't the question that I was asking.

My second question is why is it that the department of environment had four years to provide a recovery strategy for the Marbled Murrelet, a fish-eating bird, and four years to provide a recovery strategy for the southern mountain caribou but didn't prepare these recovery strategies for respectively six years and eleven years, seven years late, and then only after they were sued in the Federal Court?

[Translation]

Senator Carignan: As I said, we are committed to protecting the environment at all times. In the action plans we have adopted, which you voted against, we made clear commitments to

increasing protection and conservation through, among other things, Budget 2014.

Therefore, our government will continue to take steps to protect the environment, especially national marine conservation areas.

[English]

Senator Mitchell: I know you are taking steps because you are going to the Federal Court to fight the suits to get you to do what you need to do.

How is it that you can brand yourself as a hard-on-crime government, bring in mandatory minimums, which clearly don't work, and warehouse often in cases the mentally ill who are in jails not because of a criminal problem but because of a mental illness — how is it you can that do that, on the one hand, and on the other hand simply and utterly disregard laws that apply to you like these laws that are in place to protect important species and to ensure they don't become extinct?

[Translation]

Senator Carignan: The issue of minimum sentences has been mentioned a number of times and gives me the opportunity to remind you of your Liberal past and some statistics that I gave on that subject in a speech.

Since 1892, a total of 53 minimum sentences have been introduced into the Criminal Code. Eighteen were introduced by Conservative governments and 35 by Liberal governments. You surely remember the little quiz I gave about which prime minister resorted most often to minimum sentences.

There was Jean Chrétien, with 11 minimum sentences, eight in 1995 and three in 1997; Paul Martin, who introduced nine minimum sentences, all in 2005; Pierre Elliot Trudeau, with two in 1969, four in 1976 and one in 1977, for a total of seven minimum sentences; and Stephen Harper with five minimum sentences, two in 2009 and three in 2010.

I have always said that the Liberal government invented minimum sentencing. Need I remind you of the champion ministers of justice who invented minimum sentencing? We do not need to take any lessons from you in this regard.

[English]

EMPLOYMENT AND SOCIAL DEVELOPMENT

PRINCE EDWARD ISLAND—EMPLOYMENT INSURANCE—SEASONAL EMPLOYMENT

Hon. Elizabeth Hubley: My question is for the Leader of the Government in the Senate. This past Friday, the Minister of Fisheries and Oceans, the Honourable Gail Shea, announced that Employment Insurance in Prince Edward Island would now be administered differently based on where you reside on the Island. At first glance, this may seem beneficial to Islanders, but as they say, the devil is in the details. While rural Islanders will receive more weeks' benefits under new changes, they will come at a cost to Islanders who live in the Greater Charlottetown Area, which also includes rural communities such as Stratford and Cornwall.

Leader, unlike this government, the people of P.E.I. are compassionate people, and while they know your government needs to reverse its changes to EI, they don't want it to be at a cost to their fellow Islanders.

On behalf of the Islanders who are adversely affected by the changes, does your government have a plan to reverse changes to the EI system that will help all Islanders regardless of where they reside?

[Translation]

Hon. Claude Carignan (Leader of the Government): Every year, we introduce an economic action plan as part of the budget, and every year you vote against it. However, parts of this plan affect employment insurance and pertain specifically to Prince Edward Island.

With these changes, the employment insurance system will reflect the reality of the local labour market in every province and territory, and employment insurance will continue to be there for Canadians, including those living in regions where jobs simply do not exist outside seasonal or specialized industries.

With regard to Prince Edward Island in particular, the unemployment rate in Charlottetown is always lower than in the rest of the province. This change was made in order to better reflect the reality of the labour market in rural regions of Prince Edward Island. As you can see, we have an employment insurance action plan for Prince Edward Islanders and all Canadians.

[English]

Senator Hubley: As a supplementary question, Your Honour, Islanders are looking at this just a little bit differently. Islanders know the true motivations behind these EI changes, and, sadly, they know this is nothing but a political ploy. As many have observed, those who will most benefit are residents in the minister's own riding of Egmont, while residents of Malpeque, Cardigan and, most of all, Charlottetown will be negatively affected. Charlottetown Mayor Clifford Lee, Innovation Minister Allen Roach, the P.E.I. Coalition for Fair EI, and the Canadian Union of Public Employees have all spoken out, declaring that these changes don't make sense for Prince Edward Island, and it is an unfair way to help out people only in the minister's riding.

Why is the minister, who represents the entire province of Prince Edward Island, looking out for only the seasonal workers in her riding when she is responsible for the well-being of all Islanders?

[Translation]

Senator Carignan: If people are under the impression that we are not taking care of employment insurance, perhaps it is because they have been misinformed by people on your side who are giving out inaccurate information. As I explained earlier, our priority continues to be to ensure that people have the training required and are available to take the jobs that need to be filled.

[Senator Hubley]

That is true for the entire country, including Prince Edward Island. As I said earlier, the unemployment rate in Charlottetown is always lower than in the rest of the province, and these changes will better reflect the reality of Prince Edward Island's labour market.

Our ministers and MPs are proud to work on behalf of their regions and toward a vision for all of Canada. That is how our government sees employment insurance. The government is ensuring that all of its ministers and MPs are committed to all Canadians.

[English]

Senator Hubley: Supplementary question, please: I guess there's one thought that goes through my mind, and that is that you just don't get it when it comes to seasonal employment and what the reality actually is for the people who are employed in those particular industries.

Weeks ago, Minister Shea said that she was waiting for hard data to show that these seasonal workers were being forced to leave P.E.I. for work elsewhere as a result of the EI changes.

• (1440)

Given the changes to the EI system that were announced Friday, does the minister finally realize that there is an EI crisis in Prince Edward Island?

[Translation]

Senator Carignan: As I explained, our government takes the economy and Canadians' financial security very seriously. Employment insurance is a big part of protecting that. Our government made reasonable changes to the employment insurance regime to more efficiently match unemployed Canadians with suitable jobs available in their region. Employment insurance benefits will always be there to help people, including in regions with seasonal and specialized jobs. We created the improved Job Alert service to help people without work find suitable jobs in their communities.

As Minister Kenney already said, according to the best data available, less than one per cent of those who were disqualified from employment insurance were disqualified because they failed to search for work or refused to accept suitable work. The data show that 80 per cent of the increase in disentanglements is due to claimants being out of the country. There has been no change in the number of people being disqualified because of the new employment insurance standards.

[English]

Hon. Terry M. Mercer: I had a supplementary question, but you've lost us there, Senator Carignan. Would you please explain "they have rotated abroad"? That was the translation of what you said. It makes no sense to those of us who live in regions where EI is an important part of the support for people who find themselves out of work.

Could you clarify that? There were startled looks on this side, because we didn't understand it. It may be the translation, so I will give you the benefit of the doubt; if you could just explain yourself.

[Translation]

Senator Carignan: Maybe you misunderstood something, or maybe it is the interpretation. You keep accusing me of repeating the same answers, so I would think that I've given them enough times that you should understand. I would imagine the interpretation reflected that. Anyway, the data show that 80 per cent of the increase in disentanglements is due to claimants being out of the country. People who are out of the country are not available for jobs here in Canada. Because they are not available for jobs, they cannot collect employment insurance benefits. Those who are disentitled are not available for employment.

[English]

Hon. James S. Cowan (Leader of the Opposition): I'm not sure whether it was the translation or not, Senator Carignan, but what I understood was that you said that 80 per cent of the applicants were rejected because they were abroad at the time they made the application. With respect, that doesn't make sense.

You have people who are in seasonal industries, particularly in rural Quebec and many parts of Atlantic Canada. Because of the seasonal nature of their employment, they have to move away from their homes in order to get other employment; they are not abroad. "Abroad," to me, means outside the country. Is that what you mean?

[Translation]

Senator Carignan: I said that 80 per cent of the increase in disentanglements was due to claimants being out of the country, not outside the region because they left the region to take another job, but outside the country.

[English]

Senator Cowan: I obviously understand that you are saying the same thing two or three times, and I'm sure that's what your notes say. With respect, Senator Carignan, I would ask you if you would check with the people who provided you with that information, because it frankly doesn't make sense. You may be correct, but I find that hard to believe.

I'm sure you are reading your notes correctly, but I ask you to double-check to ensure that the information you have been provided is correct.

[Translation]

Senator Carignan: I will repeat what I explained and give the interpreters a chance to properly interpret it, because that may be the problem, unless it is simply an issue of perception. I think it may be an interpretation issue.

Less than 1 per cent of people were disqualified for failing to look for work or refusing to accept suitable work. Eighty per cent of that less than 1 per cent of cases were disqualified because they were outside the country. I do not know if that makes it clearer.

[English]

Senator Mercer: To continue with the supplementary question, I think I understand a little better what you were trying to say, Senator Carignan. Perhaps at some point you could table a document with some actual numbers on it so we could all be enlightened on this matter.

My original supplementary question was and still is related to politics being about perception. We all know that partisan politics can be rough and tumble, particularly in my part of the world. In Prince Edward Island today, the perception is that the Minister of Fisheries and Oceans, who represents a very large portion of Prince Edward Island, in cooperation with the minister, has changed how people are eligible for EI benefits for a portion of the island that is almost exclusively in her riding, whereas the other three ridings in the province that are held by the opposition party are less eligible for benefits.

It seems that this is pure partisan politics, Senator Carignan, with the people who are in need of assistance from the EI system that's been put in place.

[Translation]

Senator Carignan: It is so petty to see partisanship on this issue. As I explained earlier, especially with respect to Charlottetown, the unemployment rate is consistently lower than in the rest of the province. This explains the changes that were made to better reflect the reality of the labour market in rural Prince Edward Island.

The statistics are on the Government of Canada website at www.news.gc.ca. I can send you the link with the numbers and Minister Kennedy's message explaining these statistics.

PRIVY COUNCIL

STRATEGIC OUTLOOK

Hon. Roméo Antonius Dallaire: My question is for the Leader of the Government in the Senate. Are you able to tell me whether anything special will happen in 2017?

Hon. Claude Carignan (Leader of the Government): I can tell you that I am working day after day, week after week. I do not know what will be going on in 2017. I will turn 53, but for the time being, I do not know anything else. I do not know where you are going with this.

Senator Dallaire: It seems that no one knows what's going on here. In 2017 we will mark the 150th anniversary of one of the most stable democracies in the whole entire world.

• (1450)

Second, it will be the 100th anniversary of the year Canada's youth crossed the ocean, fought, bled, died and won a battle that transformed us from a colony to a nation. I am, of course, talking about the Battle of Vimy Ridge.

We will be commemorating the 150th anniversary of our country and the 100th anniversary of our country becoming a nation.

What is the vision for our country for 2017? I hope that it is more than just building arenas. What are the objectives? What can we expect in terms of leadership from the Conservative government for our country beyond 2017?

Senator Carignan: That was what you were getting at. Clearly, it is a very important anniversary. You know how important it is to us that we properly commemorate the key dates in our country's history, as we recently did for 1812.

Likewise, for 2017, our government has done everything to ensure that Canadians can properly commemorate these two important anniversaries.

Senator Dallaire: Your latest election platform mentioned the celebration of the 150th anniversary of Canada, but made no mention of the 100th anniversary of the Battle of Vimy Ridge, despite the fact that you claim to be focused on veterans and National Defence.

I don't want to know how big the cakes are going to be. I want to know what is actually going to be done to mark this important moment. I am not seeing any clear leadership for the future of this country.

[English]

For example, I use the Conference of Defence Associations Institute's recent report, entitled *The Strategic Outlook for Canada: The Search for Leadership*. I'm looking at your Canada First policy, which is really a shopping list that reflected a lot the 1987 Perrin Beatty white paper, but you've just shot the living daylights out of that policy, because that policy was a shopping list. You moved everything to the right; you've descaled many of the projects. We've got the maritime industry producing a lot of paper, but it hasn't cut one inch of steel yet.

Tell me if there is a vision for Canada in the world, which includes foreign affairs, defence, international development. Do you have a plan for us, to guide us into that future, or are we going to continue to stumble one day at a time, as you said in your first response?

[Translation]

Senator Carignan: Senator, of course we have a plan to give these events the recognition they deserve. Will you be pleased with it? I don't know, but one thing is certain: our government will celebrate the importance of these two anniversaries, especially the 100th anniversary of the battle of Vimy Ridge, in a way that they deserve.

[Senator Dallaire]

I would remind you that in May 2013, we announced an investment of \$5 million to support the construction of a permanent education centre, which will be the Canadian National Vimy Memorial, and we hope that the construction will be completed by April 2017, in time for the 100th anniversary of the battle of Vimy Ridge.

Senator Dallaire: You are forgetting that you spent \$31 million to restore the monument. The work was beautiful. I was on the reconstruction committee at the time. I have no problem with celebrating those events. My question is much more fundamental.

What kind of leadership, what direction, are you planning for us, for our entire country, besides the celebrations, the installation of headstones and God only knows what other things you will put on the ground?

What is your vision for this country, for the immeasurable energy that is our youth? Is someone trying to articulate this overall vision?

Senator Carignan: I don't know about you, but creating a better future for our children and ensuring that we can steer them towards the future in the most democratic, economically sound country is a serious concern for us, a passion that we think about every day. We will continue to do so through our various actions, and in 2017, we will be sure to give those two important anniversaries the recognition they deserve.

Senator Dallaire: I find that hard to believe. We have no foreign policies, no defence policy. We don't even have an international development policy, and the trade policy is somewhere in the mix.

When will your government bring in a defence policy that is integrated with our foreign policy?

Senator Carignan: Senator, as I said, we are always committed to ensuring that Canadians are properly represented and that our vision is shared with the entire population. I hope you will continue to help us develop these policies for many years to come.

[English]

ANSWERS TO ORDER PAPER QUESTIONS TABLED

ABORIGINAL AFFAIRS AND NORTHERN DEVELOPMENT—GOVERNMENT DECENTRALIZATION

Hon. Yonah Martin (Deputy Leader of the Government) tabled the answer to Question No. 1 on the Order Paper by Senator Downe.

NATIONAL REVENUE—CANADA REVENUE AGENCY—ENFORCEMENT AND DISCLOSURES DIRECTORATE

Hon. Yonah Martin (Deputy Leader of the Government) tabled the answer to Question No. 9 on the Order Paper by Senator Downe.

ORDERS OF THE DAY

THE ESTIMATES, 2013-14

NATIONAL FINANCE COMMITTEE AUTHORIZED TO STUDY SUPPLEMENTARY ESTIMATES (C)

Hon. Yonah Martin (Deputy Leader of the Government), pursuant to notice of February 13, 2014, moved:

That the Standing Senate Committee on National Finance be authorized to examine and report upon the expenditures set out in the Supplementary Estimates (C) for the fiscal year ending March 31, 2014.

The Hon. the Speaker: Is there debate?

Are honourable senators ready for the question?

Some Hon. Senators: Question.

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

Hon. Senators: Agreed.

(Motion agreed to.)

• (1500)

[Translation]

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. Ghislain Maltais: Honourable senators, today we are resuming debate on Bill S-204, a Senate private member's bill entitled An Act to amend the Financial Administration Act (borrowing of money).

This bill keeps coming back to this chamber. Senator Moore introduced it as Bill S-204. However, since 2007, it keeps coming back. It is what we might call a warmed-over bill. However, it gives us the opportunity to weigh the difference between Senator Moore's thinking and the work the government has done since 2007.

The government is committed to managing public finances in a sustainable and responsible manner. This commitment includes a return to a balanced budget in 2015. I don't think it's necessary to remind the government of that for it to achieve its legitimate objective for the good of all Canadians. These objectives are for

the future and are productive — which unfortunately is not the case for the measures contained in this bill. That should suffice to make us cautious about a bill like this.

What is more, the changes made to the Financial Administration Act by Budget 2007 allowed our government to react quickly to the 2008 financial crisis. It is clear that our government does not think that this bill is necessary. Let me explain.

Under the legislative framework in place, the previous government could refinance maturing market debt at any time, as long as the Governor-in-Council approved. Specific approval from Parliament was required in order to borrow more than the \$4 billion non-lapsing amount set out in the Borrowing Authority Act, 1996-97. Budget 2007 amended the Financial Administration Act, and the Minister of Finance is now required to obtain approval from the Governor-in-Council every year he wishes to borrow money. Previously, legislative approval was required if it was determined that borrowing needs were going to increase. The amendments passed in 2007 increase the transparency and accountability of the current system in comparison with the previous legislative framework.

Honourable senators, through his 2007 budget, the Minister of Finance helped Canada weather the financial crisis that affected every country in the world. Canada was, and still is, among the best if not the best of the G7 countries in that regard. Canada's banking and financial administration systems ensured that our country weathered the global crisis remarkably well.

Canada's future, over the next ten years, depends on how the government will manage public finances, namely the taxes that Canadians pay. The future of our children and grandchildren depends on the decisions we make today. If we make the wrong decisions, our children and grandchildren will pay the price. The responsible way our government manages public finances is now recognized the world over. We will take lessons from no one. However, we will consider sound advice that can help us better manage the taxes that Canadians pay.

The legislation amended in 2007 gives significant powers. Why restrict them? Why take a giant leap backward when our government is focused on the future? We have nothing to gain by living in the past and everything to gain by working for the future and looking to the future.

Earlier, a senator said that we did not have a plan for what would happen in 2017. We already know that we will have a balanced budget in 2017. How do we know that? Because the government has managed Canadians' tax dollars well. People can criticize all kinds of things, but when every other country in the world says that Canada's performance has been the best, maybe we should believe them. This is not just gossip. It's not people on Facebook or Twitter saying this. It's every country in the G7 and G20 saying this.

Many of us have opportunities to travel abroad. As you know, everyone always says that we in Canada are lucky because we have good government. That is what's important. Our government enabled us to get through economic difficulties and prepare ourselves for the future. That government decision was

not partisan; it was smart, and it enabled us to ensure that in the next few years, we will achieve financial stability, which is not easy during an economic crisis.

Honourable senators, I believe it's time for all members of the Senate to thank not only the government but also all Canadian institutions that worked hard to get us through the economic crisis. The important thing now is to figure out whether we will keep moving forward or go back to the past.

Therefore, I call on all honourable senators, on both sides of this chamber, from all parties, and Senator Moore, to rise above partisanship and withdraw this bill, or at least to vote against it for the good of all Canadians.

(On motion of Senator Marshall, debate adjourned.)

[English]

LINCOLN ALEXANDER DAY BILL

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Meredith, seconded by the Honourable Senator Raine, for the second reading of Bill S-213, An Act respecting Lincoln Alexander Day.

Hon. Pana Merchant: Honourable senators, I rise to speak on Bill S-213, an Act respecting Lincoln Alexander Day, to pay homage to a great Canadian, the Honourable Lincoln MacCauley Alexander, with whom I had the privilege to serve on the board of the Canadian Race Relations Foundation of which he was the chair in the late 1990s and early 2000s.

• (1510)

Canada is a formidable social laboratory.

Edgar Edouard Pisani, a former member of the European Parliament, is reputed to have remarked that if Canada were to disappear, with all its complexities, the world would lose a point of reference which is absolutely essential.

Lincoln MacCauley Alexander helped define Canada. A child of lowly African descent, the son of a hotel maid and a railway porter, born in an era in our history when racism and prejudice were a stark reality, he fought issues around racism and its harmful effects.

[Translation]

Racism has a long history in Canada. In fact, racism deprived Canadian citizens of their fundamental civil rights and political rights, kept children out of school, prevented adults from getting jobs and limited access to ownership of property.

Citizens did not have the right to enter private clubs, hotels, bars, theatres and other recreational facilities because of racism.

[Senator Maltais]

With its vile and abusive insults, racism oppressed and dehumanized minorities.

[English]

Lincoln Alexander never failed to grapple with racism's systematic dimensions: the fights and name-calling on our streets and in schoolyards; hate slogans spray-painted on buildings; jokes filled with prejudice and bigotry exchanged at coffee breaks and disseminated throughout the Internet; and the rancour of racial prejudice that distorts practices in such areas as employment, education, community services, law enforcement and housing.

He was the first in his family to go to university to become a lawyer; the first Black member of Parliament; the first Black cabinet minister; the first visible minority appointed as Ontario's Lieutenant-Governor; the first Black chair of the Workman's Compensation Board; the first chair of the Canadian Race Relations Foundation; the longest-serving chancellor of the University of Guelph; an Appointee of the Order of Ontario; a Companion of the Order of Canada; and, in June 2006, he was named the "greatest Hamiltonian of all time," an award he defined as "the essence of Canada," as the two finalists were a Holocaust survivor, Mr. Arthur Weisz, and he, Lincoln Alexander, a Black man.

In his 2006 memoir entitled *Go to School, You're a Little Black Boy*, he documents how racial attitudes in Canada oppressed but also relented over his time of 90 years. He credits his success in life to his mother's emphasis on the advantages of education and his father's message about the value of getting along with people.

Born on January 21, 1922, in Toronto, in a nearly homogeneous white community, he could remember knowing only three Black families and recalled being the only Black child in the kindergarten class, a reality that continued generally throughout his years in high school and university. He also spent a couple of years in his early teens in Harlem, New York, with his mother, where he recalled learning the tough life on the streets of Harlem. However, there, too, he found Black role models who had risen above manual jobs. He said this:

... stiffened my resolve to be more than a porter. Black was everywhere, and it was important for me to see that. In all professions, in all walks of life, Blacks were fully represented, and that was a stark difference from the limited career opportunities I had come to expect in Canada.

In 1942, at the age of 20, he challenged the Canadian military who were not interested in enlisting Blacks, and he won a place in the Royal Canadian Air Force, where he spent about three years, rising to the rank of corporal. Because of his poor eyesight, there was never a chance he would go overseas, but he travelled across the country in his capacity as a wireless operator.

After the war, he enrolled at McMaster University and, in 1949, he graduated near the top of his class. During the summer breaks, he worked in Stelco's open hearth. There, he hoped to get a permanent position in sales. The company was eager to hire veterans, but they refused to hire a Black veteran.

Disheartened, he enrolled in law school at Osgoode Hall. Upon graduating, he once again had difficulty. He could not secure articles, finally finding a position with a sympathetic Jewish firm, perhaps because they, too, had been confronted by obstacles. He was called to the bar in 1953. Later, he helped found the country's first interracial law firm and boasted a rainbow of partners: one Black, one white, an Asian and an Aboriginal.

Lincoln Alexander Day would pay tribute to this generous man whose life made a difference. At the same time, it will serve as a reminder of the increasing number of outstanding role models in Canada's Black community whose contributions have enriched the fabric and well-being of our country.

We can think of Sir James Douglas, the most consequential Black person in Canada's history. He was born in Guyana of a Scottish father and a free coloured Barbadian mother. He was the first governor of British Columbia in 1858 and was credited with keeping British Columbia from becoming a part of the United States.

We can think of Mary Ann Shadd, an American-Canadian anti-slavery activist, journalist, publisher, teacher and lawyer. She was the first Black woman publisher in North America, and the first woman publisher in Canada.

We can consider Elijah McCoy, the famous inventor and engineer, son of fugitive slaves. He invented a self-regulating lubricator device for railroads and shipping lines and was awarded more than 50 patents during his lifetime. Sadly, he continued to face racial discrimination even after becoming a well-known inventor.

We can think of William Hall, the first Black person and first Nova Scotian to receive the Victoria Cross, the British Empire's highest award for military valour.

We can think of Dr. Stephen Blizard, the past president of the Canadian Aerospace Medicine and Aeromedical Transport Association; Dr. Felix Durity, a pioneer in laser neurosurgery; Oscar Peterson, composer and pianist; Austin Clarke, journalist and broadcaster; Daniel G. Hill III, former Chairman of the Ontario Human Rights Commission; Lawrence Hill, award-winning Canadian novelist; Donovan Bailey, Canadian track legend; and role models in our nation's public life, such as the Right Honourable Michaëlle Jean, the twenty-seventh Governor General of Canada; the Honourable Jean Augustine, a former domestic from Grenada, the first Black woman elected to our Parliament whose 1995 motion, adopted unanimously, created February as Black History Month; the Honourable Rosemary Brown, legendary legislator from British Columbia; the Honourable Julius A. Isaac, Chief Justice of the Federal Court; Dr. Howard McCurdy, social activist and Ontario legislator; our former colleague Senator Oliver, who served honourably for 23 years in this chamber; and those of African descent currently in both houses of Parliament, including our colleagues Senator Cools and Senator Meredith.

Racial discrimination against Black people in Canada, however, has not disappeared. Recent reported incidents of racial profiling, particularly against Blacks; unacceptable per capita

unemployment rates among racialized groups; and dropout rates among students are tremendous, ongoing challenges facing Canadian families of Black descent.

• (1520)

[Translation]

The presence of Black people can be traced back to the start of the colony in the 17th century. When they joined us, too few of them were treated as they hoped to be, which was as equals. Far too few received their fair share of the opportunities, the affluence or the status of the dominant population, in either the public or the private sector.

[English]

The following story about Germany is attributed to the anti-Nazi theologian Martin Neimöller, and it is worth remembering:

First they came for the Communists,
and I didn't speak up,
because I wasn't a Communist.
Then they came for the Jews,
and I didn't speak up,
because I wasn't a Jew.
Then they came for the Catholics,
and I didn't speak up,
because I was a Protestant.
Then they came for me,
and by that time there was no one
left to speak up for me.

In his House of Commons maiden speech on September 20, 1968, Lincoln Alexander said:

I am not a spokesman for the Negro; that honour has not been given to me. Do not let me ever give anyone that impression. However, I want the record to show that I accept the responsibility of speaking for him and all others in this great nation who feel that they are the subjects of discrimination because of race, creed or colour.

Last November, members of the Ontario Legislature unanimously passed a bill that January 21 be annually recognized as Lincoln Alexander Day. Honourable senators, it would be symbolically fitting, particularly during Black History Month, if the Senate were to make January 21 Lincoln Alexander day, a day of national recognition.

Hon. David P. Smith: Honourable senators, I rise briefly to pay tribute to Lincoln Alexander and to indicate my support for this bill and for Senator Meredith's motion. I will be short in my comments. I just couldn't let an opportunity like this go by and not rise to put a few words on the record as to how I felt about Linc.

Linc was a friend of mine. I served with him in the House of Commons, and we had chats and lunch on a few occasions. He was warm and friendly, had a great sense of humour, and gave off

good vibes — and I like good vibes. He came from a humble background, but he achieved many accomplishments.

I can remember when I was a kid and would go with my folks on a train. Back then, all the porters were Black, and that's what Linc's father did. Linc was determined to have a professional career, so he got through university and law school. You've heard from Senator Merchant about some of his many accomplishments. Yes, he was the first Black to serve as a Lieutenant-Governor in Canada, but the list of positions and accomplishments of which he was the first is very long, and Senator Merchant touched on some of them.

It's fair to describe him as a self-made man. I've always had great respect for people about whom that can be said. Sometimes I think about Obama. There's a self-made man — just look at his background and at his achievements.

On the subject of humour, I recall one lunch with him and one of his caucus colleagues, an MP from Alberta whom I will not name. It was just a few weeks before he resigned from the House of Commons in 1980 to accept the position of Chair of the Ontario Workerman's Compensation Board. His colleague made a quip about what Linc was well qualified for, as he had talked about doing something else. There was a racial innuendo in his comment. It was subtle but it was there, from a colleague in the House of Commons. I could not believe it. If some of you want me to tell you privately who it was, I will, but I will not put it on the record.

Linc made no comment at first and waited about 30 seconds before smiling and saying, "Okay, if that's what you think," and he smiled again. I thought to myself, "Linc, you are an elegant gentlemen and I am proud of you."

Linc, if you're listening from upstairs, and I hope you are, I am still proud of you; and I support this bill and Senator Meredith's motion.

Hon. Joan Fraser (Deputy Leader of the Opposition): Colleagues, I did not have the privilege of knowing Lincoln Alexander, but certainly everyone of my generation knows what a massively important person he was in our history and how much he contributed.

In her very thoughtful and well-researched speech, Senator Merchant mentioned a number of Black senators. However, unless I missed something, there was one she left out: Senator Calvin Ruck. For those who never had the privilege of knowing Senator Ruck, let me tell you that he was also a monument in Canadian life and history. He was a Nova Scotian. He was not the son of a railway porter, or maybe he was, but he, himself, was a railway porter at a time when Black people — I suppose they would all have been men in those days — were not allowed to work in the kitchen on the railway because they were not considered good enough to peel potatoes for White people to eat. Senator Ruck was a porter for several years.

Then he got himself a job as a caretaker, if memory serves, at CFB Shearwater near Halifax. He took the night shift because he could hustle through his cleaning and then install himself in the library and read; and that's what he did. He read and read and

read. He became a pioneer in the advancement of the rights of Black Nova Scotians and, by extension, of all Nova Scotians. It was not easy.

I sat beside him for some time in this place. One story he told me was about a time when he had a young family. There was a housing development in Dartmouth across the bay from Halifax. He thought he'd like to buy one of the houses for his young family. The neighbours took up a petition to say he shouldn't be allowed to move in. He won that battle. He won many battles.

In his spare time, they say he would load up his car with literature and material and drive around Nova Scotia to spread the word to all those Black Nova Scotians who had been so terribly discriminated against for so long: "We can do it, and we will do it together." He did and he ended up in the Senate of Canada.

By the time he came here, his health was failing, so I think most of us never really had a chance to see him as he was in the days when he was making history.

• (1530)

As I say, I had the privilege of sitting beside him and listening to him tell his stories of what Canada had done to him. The thing I will never forget is that, when he told me these stories, there was never a shred of bitterness. If I had had the life he had had, I would have been deeply bitter.

Calvin Ruck was never bitter. He told his stories because he thought it was important for us to know our history and to learn from it. He changed my understanding of my country. He gave me much to be ashamed of in my country but also much to be proud of, starting with what he himself had done and also with the fact that this man, who had overcome such tremendous obstacles in his life, was now a member of the Senate of Canada. I thought that was, in the end, something to be proud of in my country.

I just did not want to let this day go by without remembering Calvin Ruck. That said, colleagues, I move the adjournment for the balance of my time.

(On motion of Senator Fraser, debate adjourned.)

INDIAN ACT

BILL TO AMEND—SECOND READING— DEBATE CONTINUED

On the Order:

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

Hon. Lillian Eva Dyck: Honourable senators, I rise today to speak to Bill C-428, An Act to amend the Indian Act (publication of bylaws) and to provide for its replacement. This is a private member's bill.

Honourable senators, I have read through this bill, and I've tried to take a common sense approach from a First Nation perspective. Even the title made me stop and think. At first glance, it seems innocuous enough: "An Act to amend the Indian Act... and to provide for its replacement." While the phrase "to provide for its replacement," meaning replacement of the Indian Act, may seem innocuous, it can have very far-reaching implications. As is often stated, the devil is in the details, so it's important to examine the wording — the details — carefully.

Bill C-428 also proposes to delete many so-called "outdated" sections and subsections of the Indian Act. We are still waiting for materials promised from the private member to be delivered to my office, so I haven't had a chance yet to examine his rationale or reasoning with respect to the bill. I am delving deeper in my research and study of the bill, and I move the adjournment for the balance of my time.

(On motion of Senator Dyck, debate adjourned.)

CRIMINAL CODE

BILL TO AMEND—SECOND READING— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator MacDonald, seconded by the Honourable Senator Greene, for the second reading of Bill C-290, An Act to amend the Criminal Code (sports betting).

Hon. Yonah Martin (Deputy Leader of the Government): Senator Runciman has asked me to ask leave to reset the clock on this bill. I ask honourable senators to approve resetting the clock in the name of Senator Runciman.

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

Hon. Senators: Agreed.

(On motion of Senator Martin, for Senator Runciman, debate adjourned.)

BREAST DENSITY AWARENESS BILL

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Martin, seconded by the Honourable Senator Marshall, for the second reading of Bill C-314, An Act respecting the awareness of screening among women with dense breast tissue.

Hon. Yonah Martin (Deputy Leader of the Government): Honourable senators, I see that the asterisk indicates that I am the sponsor of this bill. I am actually not the sponsor, so I wish to correct that. It is adjourned in my name, and, if I may, I again ask that I be able to reset the clock on this bill.

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

Hon. Senators: Agreed.

(On motion of Senator Martin, for Senator Marshall, debate adjourned.)

[Translation]

INCOME TAX ACT

BILL TO AMEND—SECOND READING— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Maltais, seconded by the Honourable Senator McIntyre, for the second reading of Bill C-377, An Act to amend the Income Tax Act (requirements for labour organizations).

Hon. Ghislain Maltais: Honourable senators, I move adjournment of the debate in the name of the Honourable Senator Dagenais.

(On motion of Senator Maltais, for Senator Dagenais, debate adjourned.)

[English]

STUDY ON ISSUES OF DISCRIMINATION IN HIRING AND PROMOTION PRACTICES OF FEDERAL PUBLIC SERVICE AND LABOUR MARKET OUTCOMES FOR MINORITY GROUPS IN PRIVATE SECTOR

SECOND REPORT OF HUMAN RIGHTS COMMITTEE AND REQUEST FOR GOVERNMENT RESPONSE ADOPTED

The Senate proceeded to consideration of the second report of the Standing Senate Committee on Human Rights entitled: *Employment Equity in the Federal Public Service: Staying Vigilant for Equality*, tabled in the Senate on December 10, 2013.

Hon. Mobina S. B. Jaffer: Honourable senators, I move:

That the report be adopted and that, pursuant to rule 12-24(1), the Senate request a complete and detailed response from the government, with the President of the Treasury Board being identified as minister responsible for responding to the report.

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

On debate, Senator Jaffer.

Senator Jaffer: I rise today to speak on the December 2013 report of the Standing Senate Committee on Human Rights entitled *Employment Equity in the Federal Public Service: Staying Vigilant for Equality*.

I will first give you some background information on the Employment Equity Act, and then I will remind you of the committee's previous reports on this topic and finally speak to the most recent report.

I would also like to inform all the senators here that this report was unanimously adopted by the Senate Human Rights Committee.

The Employment Equity Act came into force in 1996. The act regulates the federal public service and federally regulated private sector, requiring positive action to integrate members of "designated groups" into these employment sectors. The designated groups are women, Aboriginal people, persons with disabilities and visible minorities.

The purpose of the act is to achieve equality in the workplace and to correct the conditions of disadvantage in employment experienced by the four designated groups — women, Aboriginal people, persons with disabilities and visible minorities — by recognizing that treating all people the same is insufficient.

The act recognizes that sometimes special measures and accommodation of differences are necessary to achieve true equality.

- (1540)

The act requires federally regulated employers to assess the degree to which employment equity is a reality in their workplace and implement policies to produce the necessary changes.

I turn to previous employment equity reports of the Senate Committee on Human Rights.

[Translation]

Since 2004, the Senate Standing Committee on Human Rights has a permanent reference to examine issues of discrimination in the hiring and promotion practices of the federal public service, and to study the extent to which targets to achieve employment equity are being met.

The committee continues to study this issue because employment equity has not yet been achieved in the federal public service and we think we can propose practical recommendations to improve the situation.

At the beginning, we emphasized the need to pay more attention to employment equity and to take steps to achieve that goal.

Now that action has been taken, the priority has switched to monitoring and evaluating to assess the effectiveness of the efforts made so far.

During that study, the committee produced three reports. The most recent, entitled *Employment Equity in the Federal Public Service: Staying Vigilant for Equality*, was presented to the Senate in December 2013.

[Senator Jaffer]

[English]

The first report of the preliminary findings, *Employment Equity in the Federal Public Service — Not There Yet*, was published in February 2007. Though improvements were being made at that time, the committee found that progress was not fast enough. It found that visible minorities remained under-represented in the federal public service and that no designated group was well represented at the executive level or in all occupational groups.

The rate of recruitment for persons with disabilities was significantly lower than their representation in the federal public service, the representation rate being the percentage of the federal public service that are members of a designated group.

The committee was also concerned about the concentration of Aboriginal employees in certain departments.

[Translation]

The report includes three recommendations:

- that the bonuses of deputy ministers be tied to performance assessments in terms of progress on diversity and employment equity goals;
- that the federal public service develop concrete means to implement its plan of action in order to ensure equal access to executive level positions and all occupational categories for each of the designated groups;
- that the federal public service adopt a specific policy to ensure the effective removal of the systemic barriers that exist within hiring and staffing processes.

[English]

The second report, *Reflecting the Changing Face of Canada: Employment Equity in the Federal Public Service*, was published in June 2010. That report examined a number of challenges with data collection and data accuracy, such as the accuracy of representation rates, particularly with respect to visible minorities. It also addressed the outdated workforce availability statistics, which are the statistics that tell us what percentage of the active workforce identifies as being members of one or more of the designated groups.

Honourable senators, to date we still rely on statistics from 2006, and we are in 2014. Workforce availability statistics are based on census data and are published years after the data is collected, which affects their accuracy.

[Translation]

Other issues addressed in the report included the impact of non-advertised positions on employment equity and the high drop-off rate for visible minorities, meaning that they were applying at a far greater rate than they were being appointed to positions.

Access to executive positions, concentration of Aboriginal employees in a few departments and insufficient recruitment of persons with disabilities, all of which were discussed in the 2007 report, continued to be issues in 2010.

[English]

The second report made 13 recommendations that both reiterated the recommendations made in the first report, as they had yet to be implemented, and provided new ones. Some of the new recommendations included the following:

[Translation]

On understanding the drop-off rate for visible minorities.

On advocacy and accountability:

- that the federal government develop concrete means of seeking accountability from managers in the federal public service for their responsibilities in enforcing the standards outlined in the Employment Equity Act;
- that the federal government place special emphasis on the need for leadership and a strong organization culture when seeking to achieve employment equity goals;
- that the federal government implement a communication strategy to promote its employment equity goals.

On cases of discrimination:

- that the government seek to make Canada's human rights protection system under the Canadian Human Rights Act more effective and accessible, in order to ensure its ability to protect individuals from discrimination in a concrete way.

[English]

The most recent report: In October 2011, the Senate Standing Committee on Human Rights began new hearings on the topic of employment equity in the federal public service.

Summary of the situation for each of the designated groups: There have been some important improvements since 2010 but, again, there is much to be done. Still a lot of progress has to be made to have the visible minorities properly represented in the federal public service.

Honourable senators, I point out to you that the federal public service is relying on 2006 statistics, while the population of visible minorities has greatly increased. For example, visible minorities, according to the statistics of 2006, are 12.1 per cent of the population. But we all can take note that that is not correct, as the number of visible minorities in our country has greatly increased. In some cities they are more than half, 50 per cent, or certainly up to 35 per cent of the population.

A word of caution is necessary, nonetheless, as these conclusions are based on 2006 workforce availability figures, which likely understate the percentage of the Canadian workforce that are visible minorities.

Aboriginal employees are still concentrated in a few departments and are leaving the federal public service at a greater rate than they are being hired.

For persons with disabilities, there is a concern that the government may be meeting its targets as existing employees develop a disability, as opposed to through active recruitment, though the phenomenon is not sufficiently well understood to say definitively.

[Translation]

Lastly, women are still lagging behind men in terms of being appointed to executive and high-salary positions and are still largely clustered in certain occupations and departments.

They remain concentrated in administrative support jobs, generally hold lower-paying jobs than men and are over-represented in term appointments.

Recommendations:

Employment Equity in the Federal Public Service: Staying Vigilant for Equality examines the changes resulting from the creation of the Office of the Chief Human Resources Officer, or OCHRO, in 2009 and recent workforce adjustment processes and their impact on employment equity, as well as data collection and analysis challenges and the advocacy being done on the topic of employment equity.

Given that many of this committee's key observations made in *Reflecting the Changing Face of Canada* can still be made again today, we continue to stand behind the 13 recommendations we made in that report.

The report sets out two new recommendations, one with regard to monitoring and evaluation and the other with regard to employment equity advocacy.

• (1550)

With regard to monitoring and evaluation, the committee recommends that the federal government support greater monitoring and evaluation to achieve employment equity in the federal public service.

[English]

The recommendation on monitoring and evaluation outlines a number of areas in which improvements are necessary.

Honourable senators, we as a country have made great progress in the number of people we have in our public service from these four different groups, but I would be remiss if I did not remind you that for us to reach equality, we have to treat people differently.

I will read to you the Treasury Board definitions of the following terms. The Treasury Board of the federal public service has accepted these definitions:

Formal Equality

Formal equality is achieved when we treat members of the official language minority community and those of the

majority community in the same way by offering them identical services in French and in English without taking into account the two possible differences that exist between members of these two communities.

Substantive Equality

Substantive equality is achieved when one takes into account, where necessary, the differences in characteristics and circumstances of minority communities and provides services with distinct content or using a different method of delivery to ensure that the minority receives services of the same quality as the majority. **This approach is the norm in Canadian law.**

Honourable senators, it is the norm in Canadian law, but we have not achieved equality. Let me give you some examples.

With respect to women, in the *Meiorin* case, a duty to accommodate case, there was a standard aerobic test for forest firefighters. A female firefighter failed to pass the test and was dismissed, despite having performed her work satisfactorily. There was evidence that women could not increase their aerobic capacity to meet the test, and it was not established that passing the test was necessary to do the job.

By treating men and women the same, requiring them to pass the test, the women were affected unfairly.

With respect to disability, an example of a wheelchair access ramp is a good one. Other recommendations include being able to work from home for individuals with chemical sensitivities or adequate sick leave policies for certain types of disabilities.

Honourable senators, this is a category that greatly concerns our committee because there isn't enough access to the federal public service for people who have disabilities. The reason the public service meets the norm is because people become sick at work rather than being hired with a disability.

With respect to visible minorities and Aboriginal people, this is an expanding group, and much has to be done so that they can be properly represented in the federal public service. We've heard on numerous occasions that there are issues regarding discrimination, both for Aboriginal people — may I have five minutes, please?

The Hon. the Speaker pro tempore: Colleagues, is it agreed that we will give five more minutes to Senator Jaffer?

Hon. Senators: Agreed.

Senator Jaffer: Thank you.

There is systemic discrimination towards Aboriginal people and people in visible minorities.

Honourable senators, I stand in front of you today to say much progress has been made, but if you are the individual in the federal public service who is a visible minority or from an

Aboriginal community, if there is discrimination against you, your career is at its end. We still have a lot of work to do.

May I please ask that you move to adopt this report?

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

Some Hon. Senators: Question.

The Hon. the Speaker pro tempore: Honourable senators, it was moved by the Honourable Senator Jaffer, seconded by the Honourable Senator Ringuette:

That the report be adopted and that, pursuant to rule 12-24(1), the Senate request a complete and detailed response from the government, with the President of the Treasury Board being identified as minister responsible for responding to the report.

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

Hon. Senators: Agreed.

(Motion agreed to and report adopted.)

STUDY ON ECONOMIC AND POLITICAL DEVELOPMENTS IN THE REPUBLIC OF TURKEY

SECOND REPORT OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE COMMITTEE— MOTION IN AMENDMENT— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Fortin-Duplessis, seconded by the Honourable Senator Unger, for the adoption of the second report of the Standing Senate Committee on Foreign Affairs and International Trade entitled: *Building Bridges: Canada-Turkey Relations and Beyond*, tabled in the Senate on November 28, 2013;

And on the motion in amendment of the Honourable Senator Andreychuk, seconded by the Honourable Senator Plett, that the motion to adopt the report be amended to read as follows:

That the second report of the Standing Senate Committee on Foreign Affairs and International Trade entitled: *Building Bridges: Canada-Turkey Relations and Beyond*, tabled in the Senate on November 28, 2013, be adopted and that, pursuant to rule 12-24(1), the Senate request a complete and detailed response from the government, with the Minister of Foreign Affairs being identified as minister responsible for responding to the report, in consultation with the Minister of International Trade.

Hon. Anne C. Cools: Honourable senators, I rise to speak to the motion in amendment for the adoption of the second report of the Standing Senate Committee on Foreign Affairs and International Trade. This report is the product of our Foreign Affairs Committee's welcome study of Canada's bilateral relationship with the Republic of Turkey, a post-war country that was established in 1923 with its capital at Ankara. This country is to be distinguished from the old Ottoman Empire that was dissolved and partitioned after its defeat in the Great War, as the First World War was called.

Many use the words "Turkey" and "Turks" to mean the old Ottoman Empire. To avoid misunderstanding, we should be clear that the Republic of Turkey and the old Ottoman Empire are two different constitutional entities and states. This report is about Canada's relationship with the Republic of Turkey, the independent and sovereign nation, with its own constitution and capital of Ankara as created in 1923 by the Turkish people under the leadership of the most distinguished Mustapha Kemal.

Honorable senators, I support this committee report. I shall vote for its adoption. Its title, *Building Bridges: Canada-Turkey Relations and Beyond*, is fitting because it expresses a positive approach. This is desirable and uplifting.

Our Senate Foreign Affairs Committee is crystal clear that Canada's international relations and foreign policy dealings with the Republic of Turkey must be forward-looking and future-leaning. Our foreign policy dealings with Turkey must be anticipatory and expectant. The phrase "building bridges" is humble but its message is large and powerful.

This report anticipates and promises the release of abundant creative energy and resources as required to meet the shared goals of a renewed and reinvigorated Canada-Turkey relationship. I laud the thoughtfulness embodied in the report's title, *Building Bridges: Canada-Turkey Relations and Beyond*. This title holds great hopes and possibilities for the Canada-Turkey bilateral relationship and is especially supportive of ministerial and governmental action to that end.

Honorable senators, we should reflect on the meaning of the group of activities that we describe as foreign policy and international relations. We should contemplate the human and political fact that foreign policy and foreign relations have, for their single purpose, the building and sustaining of stable, peaceful, healthy and humane interchange between peoples and nations. Such interchange and exchange require persistent and consistent attention, and that means constant work. Neglected or afflicted international relationships do not prosper, nor do they deliver the shared good.

This committee report is timely and necessary. It promises a new chapter in Canada-Turkey relations. I support it with vigour. I congratulate committee Chair Senator Raynell Andreychuk, Deputy Chair Percy Downe and the committee members. I thank them for their labours. I also take this opportunity to note that Senator Andreychuk brings much experience and knowledge of foreign affairs to this work. She is a credit to the Senate and to Canada.

Honorable senators, the Senate Foreign Affairs Committee's study of Canada-Turkey relations was well received by the Turkish government and the Turkish people, as was the

committee's visit to Turkey, where it heard from many Turkish ministers, officials, business people, foreign ambassadors posted in Turkey and other sectors.

Turkish interest in the committee's work was keen and broad-based. This demonstrates that Turkey and its people have a great interest in a productive and successful relationship with Canada in trade, industry, education and, of course, in diplomacy. Similarly, in Canada, Canadians see the benefits of a healthy and robust relationship with Turkey.

The connection between healthy international relations and economic health and prosperity is obvious. Those who advocate and desire strong Canada-Turkey relations are alive to the mutual benefits of this bilateral relationship, particularly in these dynamic times. The work and report of our Senate Foreign Affairs Committee seeks to enhance and enrich the Canada-Turkey relationship.

I shall read from the committee report. In its foreword, the committee confidently declares at page v:

The Committee believes that the contents of this report remain an accurate assessment of the evolving Canada-Turkey relationship.

Honourable senators, confidence is the tone most expressed throughout this report. In the report's conclusion, the committee notes the importance of trust in foreign affairs and diplomatic relations. Going to the heart of the matter, the committee boldly states at page 49:

• (1600)

As the Committee's previous studies on Brazil, Russia, India and China have collectively emphasized, in a world of rapidly changing dynamics, creative thinking and multi-level approaches are key differentiators. Commercial diplomacy is essential, but insufficient in and of itself. A truly coordinated foreign policy, involving expertise in Canada's private, public and civil society sectors, is critical towards the establishment of lasting bilateral relationships. As highlighted in this report, Turkey is no exception to this rule. As Canada continues in its efforts to seize new opportunities in a changing world, a durable and trusting relationship with Turkey fits squarely within our regional, global and domestic interests.

I repeat:

As Canada continues in its efforts to seize new opportunities in a changing world, a durable and trusting relationship with Turkey fits squarely within our regional, global and domestic interests.

Honourable senators, the committee report is clear and well spoken, and its conclusions are well supported by human and diplomatic experience, and the wisdom of the ages. The report's conclusion articulates the well-agreed principle and well-established practice that trusting relationships are vital to successful partnerships in all human endeavours. This is the fundamental guiding principle of life, of human experience, and of

all social and human intercourse. Trusting relationships are the quid pro quo to the success of all engagement and relations between human beings. This is true between individuals and nations.

Mutual respect, with its mutual sense of humanity, is the ground on which sound international and foreign relations are built and stand. Governments ignore these human facts at their peril. International relations demand constant care and attention, and demand these of the highest officeholders of state power. In Canada, this means the Foreign Affairs Minister and the Prime Minister. For this reason, international and foreign relations, known as diplomacy, are part of that group of high powers known as the royal and prerogative powers. These powers are absolute and are to be exercised with meticulous care, meaning meticulous international care.

Honourable senators, the committee report, in its executive summary at page 1, employs unique and interesting metaphors and language. It refers to the country Turkey as the “new Turkey.” It also adopts a tone of urgency, noting that time is important and of the essence, and that Canada may run out of time or miss out in respect of the positive and favourable developments in Turkey, and its own relationship with Turkey. The report’s executive summary is forthright on this point saying at page 1 that:

The report finds that Canada is not too late to capitalize on the opportunities that Turkey presents...

The report’s executive summary continues:

Building on the groundwork already laid out by government officials, businesses and educational institutions, the report offers six recommendations to the Government of Canada that focus on ways to deepen political engagement and enhance commercial diplomacy in order to renew relations between Canada and Turkey and strengthen mutual awareness.

And that:

The Committee believes that now is the right time for Canada and Turkey to pursue deeper commercial partnerships... including in agriculture, mining, energy, infrastructure and transportation, as well as education.

This report’s executive summary also notes that:

The Committee underscores that fostering a positive and constructive dialogue at the highest political levels is critical to building the Canada-Turkey relationship, increasing Canada’s visibility and helping Canadian businesses to position themselves for success in Turkey. In particular, deeper political engagement underpins other initiatives and enhances their contribution.

Honourable senators, this committee report, in its entirety, is bursting with persuasive pleas that can only originate from those who are well acquainted with their subject, and who are truly convinced of their findings and conclusions. Conviction and confidence in one’s work are desirable and helpful.

Clearly, our Senate Foreign Affairs Committee, with its work well done, is cognizant of the importance of their findings and conclusion to the people of Canada and to the Canada-Turkey relationship. By providing the Senate with the necessary tools, our Senate committee report seeks adoption by us here to support and strengthen the Government of Canada with their sound knowledge-based opinion that the future of the Canada-Turkey bilateral relationship is bright, and that both Canada and Turkey are ready for renewed and full engagement with each other.

The committee’s conclusions and recommendations are assuring. Canada, its people and its trade, business, education, tourist and other sectors are ready and are calling for a reinvigorated, contemporary, well-considered, well-nurtured and thoughtful Canada-Turkey relationship.

The Senate Foreign Affairs Committee and its report’s most important conclusion is that, on behalf of the people of Canada, the Government of Canada — meaning the Prime Minister and the Foreign Affairs Minister — must meet the challenge of modernity. Modernity, emerging Asia and its dynamic Republic of Turkey, in its glorious beauty, antiquity and ancient existence are beckoning. This modernity requires Canada’s finest effort at diplomacy to attain the Canada-Turkey bilateral relationship that contemporary Canada and Canadians need and deserve.

Honourable senators, led by Senator Raynell Andreychuk, the chair, and Senator Percy Downe, the deputy chair, our Foreign Affairs Committee has contributed greatly to meeting this challenge. The senators on this committee have provided yeoman service. The Senate has provided vital and needed support to the government, while staying solidly within the Senate’s proper constitutional framework.

As we know, all bilateral relationships, including Canada-Turkey, are foreign affairs questions and therefore in the exclusive ken of Her Majesty’s Government and the responsible Minister of Foreign Affairs, John Baird. The Senate has provided this service to Canada in the knowledge that it has no constitutional power in foreign affairs decisions. The Senate’s role has been very properly one of study, inquiry and advice, delivered as findings and recommendations to Her Majesty’s Government in the committee report, *Building Bridges: Canada-Turkey Relations and Beyond*. The Senate has performed its constitutional duty. It will now be up to Her Majesty’s Government and Foreign Affairs Minister to act in their proper constitutional role for the public good and welfare of Canada in foreign and international affairs.

Honourable senators, this committee report is emphatic that Turkey is a country on the move and is, and has been for some time, an important and powerful player in its region and in the world. This report of our Senate Committee on Foreign Affairs and International Trade makes six well-considered recommendations. I shall read them into the Senate record, in numerical order.

Recommendation 1, at page 39, states:

That the Government of Canada maintain consistent engagement with the Government of the Republic of Turkey at the highest political levels in order to develop a new and more significant bilateral relationship.

Recommendation 2, at page 40, states:

That the Government of Canada identify Turkey as a strategic commercial priority and accelerate negotiations with the Government of the Republic of Turkey for a free trade agreement.

Recommendation 3, at page 42, states:

That the Government of Canada facilitate partnerships between Turkish and Canadian businesses, including innovative financing collaborations in third countries.

Recommendation 4, at page 44, states:

That the Government of Canada undertake to enter into a youth mobility agreement with the Government of the Republic of Turkey, which could include young professional and international co-op experiences, and with reasonable quotas for each category.

Recommendation 5, at page 45, states:

That the Government of Canada develop a foreign policy strategy that features a Canada Brand and profiles Canada's advantages, notably in technology and education.

And Recommendation 6, at page 47, states:

That the Government of Canada consider memoranda of understanding with the Government of the Republic of Turkey in the areas of science and technology, mining and energy.

Honourable senators, this report is an admirable piece of insightful, well-considered and needed work. I commend it to all senators, to the Foreign Affairs Minister John Baird and to the Government of Canada.

This report did not address this government's policy, adopted in 2006, that the Armenian tragedy of the Great War was genocide, or that Canada was the only government in the world to do so. Nor does it note the unintended, negative consequences of this policy for Turkey, Turkish sovereignty and Canada-Turkey bilateral relations. I shall speak to this.

Honourable senators, in recent years it has become clear that this well-meaning but unfortunate policy needs review and repeal. I propose that such review and repeal should be part of the renewed Canada-Turkey relationship and the negotiations thereon.

The term "genocide," as is its complex legal framework, is new. The creation of this new term is credited to a Polish-Jewish lawyer named Raphael Lemkin, who was an advisor to the Washington

War Department. In his 1944 book, *Axis Rule in Occupied Europe*, in Chapter 9, titled "Genocide," Raphael Lemkin wrote:

New conceptions require new terms. By "genocide" we mean the destruction of a nation or of an ethnic group. This new word, coined by the author to denote an old practice in its modern development, is made from the ancient Greek word *genos* (race, tribe) and the Latin *cide* (killing), thus corresponding in its formation to such words as tyrannicide, homicide, infanticide, etc.

I shall address this a bit more on the next motion.

• (1610)

I thank honourable senators for their attention for listening. I commend this report to the reading of all senators. We are not in the habit of doing applause, but the Standing Senate Committee on Foreign Affairs and International Trade, under the leadership of Senator Andreychuk and Senator Downe, has really performed a great service, a very thorough service, and a very thorough study. I thank you, honourable senators.

The Hon. the Speaker pro tempore: Are honourable senators ready for the question? In amendment, it was moved by the Honourable Senator Andreychuk, seconded by the Honourable Senator Plett, that the motion to adopt the report be amended to read as follows:

That the second report of the Standing Senate Committee on Foreign Affairs and International Trade entitled: *Building Bridges: Canada-Turkey Relations and Beyond* —

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

Hon. Senators: Agreed.

(Motion in amendment agreed to.)

The Hon. the Speaker pro tempore: On the main motion.

Senator Cools: Honourable senators, I rise to speak to the main motion as amended to request the government's response. This Foreign Affairs and International Trade Committee report, entitled *Building Bridges: Canada-Turkey Relations and Beyond*, is a credit to the Senate. Its forward-looking approach is fitting to the times.

Honourable senators, some years back, many legislative assemblies worldwide adopted resolutions that the 1915 Armenian tragedy be recognized as genocide. This Senate

adopted such resolution on June 13, 2002. Then, many employed the term “genocide” as though it were a term of memorial and memorializing and a term of recognition, remembrance and commemoration. Remembrance Day in Canada is a solemn day. On the eleventh day of the eleventh month at the eleventh hour, as led by our Governor General, every person stops. We pause, united in a collective and national moment of silence. We bow our heads in prayers of remembrance. Lest we forget.

Honourable senators, national days of remembrance engage the whole country in the sacred and divine state and act of prayer, in remembrance and commemoration of their war dead. All nations and peoples share in these collective and national rituals, actually national rites of passage. Most nations hold memorial and remembrance services yearly, on designated days, appointed for the public and collective grieving for their war dead, regardless of the side of the war they had fought. In these rites, all remember and uphold the sacrifice of the many who served and the many who fell in that monstrous robbery of human life that we call war.

Honourable senators, the term “genocide” is an important term of recent birth. It is a legal term, created for and directed towards criminal prosecution in courts of competent jurisdiction. It is not a term of commemoration, remembrance or recognition, nor a term of national sorrow. It is a legal characterization. Genocide, as a legal and formal determination, cannot be decided absent competent legal and judicial process, nor can it be decided except in courts of competent jurisdiction. The term “genocide” is a definitive criminalizing appellation. It is not an alternate word for “remembrance.” The term “genocide” aims to criminalize and punish. It invades national sovereignty. The selective labelling of some, but not all, countries for selected ancient violent acts is unjust and will foster its own new injustices. We must always remember that the human capacity for injustice is boundless.

Honourable senators, the jurisdiction to make genocide judgments is a large and precarious question. We should recall the huge and still unresolved legal controversies about the jurisdiction of the post-World War II trials by the Nuremberg Military Tribunal, by the war victors over the war vanquished. The victors tried the vanquished. These trials, executions and imprisonments at the time were thought to be more humane than the savage act of summary execution in the old military battlefield practice, that was the old custom. The noted juridical aspect of these military trials was that they proceeded by the copious tons of documented evidence captured from the archives, offices and possession of the Nazis, of the vanquished enemy. The judgment of genocide is reserved to the competent courts, constituted with the competent jurisdiction.

Honourable senators, the term “genocide” could very easily be applied to the centuries-long slavery of black peoples, to the Boer War, to King Leopold’s treatment of the Black peoples of the Belgian Congo, and to the biblical, Joshua-led, Israelite slaughter and expulsion of the Canaanites, to capture Canaan as the Promised Land for the Hebrews. History abounds in human cruelty. It is one thing for someone to use the word “genocide” as a metaphor. It is quite another for a parliamentary assembly to adopt resolutions that have the international effect of pointing an accusatory finger at a sovereign nation for ancient war events that well antedate the term and legal regime that we call genocide. Retrospectivity in law and legal application has

always been condemned. It is well-established principle and practice that selective application of criminal law to the selected some and not all is unjust. This is true for individuals and nations.

The retroactive and retrospective application of laws to eras and events that well antedate those laws is unfair, unjust and unwise. This principle, in European legal canon, is stated as *Nullum crimen sine lege, nulla poena sine lege praevia*. This means, “No crime without law and no penalty without previous law.”

Honourable senators, a glance at human history and the human condition quickly reveals a sorry, sad tale of what Robert Burns named “man’s inhumanity to man.” The selective criminalizing application of new legal regimes to ancient war episodes of man’s inhumanity to man is to be discouraged and condemned. Selective application should be equally opposed if it is done to meet political exigencies. It is a maxim of law that courts, judges and judicial processes should not be made to serve political ends. Judicial process used for political purposes is unjust and a glaring example of man’s inhumanity to man. Judicial process as weapons in the arsenals of political warfare is heresy to justice. It is not objective or impartial, as the blindfolded Goddess of Justice, Themis, demands by her tightly held and perfectly balanced scales of justice. Judicial process should not be deployed for politics and political goals.

Honourable senators, all humans have a duty to study human history in its cruelty and to form judgements. We should probe and understand man’s inhumanity to man so as to avoid repetition. The term “genocide,” as a legal and blunt instrument, is new to human experience. It is a needed concept that compels us to face the dark and cruel sides of human beings and the pathologies that lurk therein, readily unleashed in certain conditions, with the most black-hearted and barbarous results. What the Nazis did was black-hearted. I submit that the abuse, misuse and ill-use of the legal criminalizing construct “genocide” and its judicial weapons also unleash their own inhumane and brutal opportunities for man’s inhumanity to man to prosper. This new legal framework of genocide as international law was codified in 1948 in the UN Convention on the Prevention and Punishment of the Crime of Genocide. This was entered into force on January 12, 1951.

Honourable senators, on June 13, 2002, the Senate adopted a resolution that the Armenian tragedy be recognized as genocide. This was moved and seconded by the good Liberal senators — and I remember very well — Senator Shirley Maheu and Senator Raymond Setlakwe, who is himself of Armenian descent. These good senators worked here to persuade senators, not easily convinced, to adopt this resolution despite stout opposition in the Senate Liberal caucus from the then capable Liberal Government Leader Senator Sharon Carstairs and me. This motion languished for a while. This changed when Liberal senators became convinced that this resolution was supported by the Prime Minister’s Office. I shall read the resolution as adopted that day, June 13, 2002:

That this House calls upon the Government of Canada:

- (a) to recognize the genocide of the Armenians and to condemn any attempt to deny or distort a historical truth as being anything less than genocide, a crime against humanity, and

- (b) to designate April 24th of every year hereafter throughout Canada as a day of remembrance of the 1.5 million Armenians who fell victim to the first genocide of the twentieth century.

• (1620)

This resolution was adopted, though it was never referred to or studied in a Senate committee. No witnesses were heard and no evidence was received or tested.

Honourable senators, I recently heard that Eddie Goldenberg, the senior policy adviser to Liberal Prime Minister Jean Chrétien, wrote about this in his 2006 book, *The Way it Works: Inside Ottawa*. I shall record Mr. Goldenberg's words in part, at pages 94 to 96:

... I was having lunch in the Parliamentary Restaurant with Senator Raymond Setlakwe. He... was an unconditional Chrétien loyalist, a member of what the prime minister liked to call his Roman Guard.... During the course of a wide-ranging, cheerful chat, he mentioned to me that the Senate might soon debate a motion condemning the Armenian genocide of 1915, and asked me what I thought.... I told him candidly that I had never given any thought whatsoever to the matter.

... I betrayed my own bias about the usefulness of the Canadian Senate. "I would have thought the Senate has more pressing matters to address than something that happened in another part of the world almost a century ago. I really don't care what the Senate does about it. As far as I'm concerned, if you want to waste your time on that type of resolution, go right ahead."... It didn't cross my mind that he was seeking my considered views as the senior policy adviser to the prime minister of Canada....; I had no idea that he was of Armenian descent.

A few days later, I was the most surprised person in the world to learn that I had made an important decision. The word was out that I had reversed a long-standing position of the government (of which I was completely unaware), and that the PMO apparently no longer objected if the Senate was to proceed with the resolution on the Armenian genocide. I got frantic calls from Sharon Carstairs, the leader of the government in the Senate, and Lloyd Axworthy, the minister of foreign affairs, telling me that I might have caused a major problem in relations between Canada and Turkey by what I thought was an off-handed comment to my lunch companion, and certainly not a decision. I relearned an important lesson, which is that anything said by a member of the PMO is easily misinterpreted as instructions or orders when they are merely questions, thoughts, ideas, or personal views, or even just a matter of passing unsolicited representations on to someone else.

Honourable senators, his words are a disturbing revelation. These were good senators. You would have to know some of these fine people. They were good, hard-working, sincere senators. These words are disturbing in their revelation. They jolt the

sensibilities. They stun the consciousness. They cast doubt on the validity of the resolution, which, by its unintended grief, is already doubted.

I mused to myself. The title of the book is *The Way It Works: Inside Ottawa*. His words evoke a surreal sense that something was very wrong in all this. Is this "the way it works inside Ottawa"?

Honourable senators, Prime Minister Jean Chrétien and his government did not take the Senate resolution view. He did not accept the motion. He did not believe that such foreign policy would be good for Canada's foreign relations. All of these lessons, and all that I have learned, confirm that it is time for the Government of Canada to review and repeal this now-doubted policy. It was well-intentioned and well-meaning, but is now doubted. Were the government to review and repeal it, I would consider that — and I think the world would consider it — a wise act that would avoid future conflict and pain.

Honourable senators, I would like to call your attention to the recent judgment by the European Court of Human Rights on December 17, 2013, in the case of *Perinçek v. Switzerland*. At a 2005 conference in Switzerland, a Turkish national, one Dogu Perinçek, leader of the Workers Party, made certain statements — to wit, that the tragedy Armenians endured cannot be characterized as genocide. He was charged and convicted in the Swiss courts.

About his conviction by the Swiss court, the European Court of Human Rights found that Switzerland had violated the freedom of expression Article 10 of the European Convention on Human Rights, and that Dogu Perinçek had not abused his own rights by Article 17 of that same convention. The court's press release of that same day said:

The limit beyond which comments may engage Article 17 lay in the question whether the aim of the speech was to incite hatred or violence. The rejection of the legal characterisation as "genocide" of the 1915 events was not such as to incite hatred against the Armenian people.

The Hon. the Speaker pro tempore: Does the Honourable Senator Cools wish to ask for more time?

Senator Cools: Absolutely.

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to grant more time to Senator Cools?

Hon. Joseph A. Day: I wish a point of direction before I give my consent. I understand we are on item number 2, and we have already voted on the motion in amendment. The motion in amendment at line 4 adopts the report, so the report has already been adopted.

The Hon. the Speaker pro tempore: No, no. There was a motion to amend the main motion, and it was adopted. Now we are on the debate on that amended main motion, and the text of that main motion there is the text you have in front of you.

Is it clear?

Senator Day: No, it's not clear.

As I understand the motion in amendment, the wording that appears here and the fourth line of that second paragraph is that the report be adopted. We have already voted on the report.

The Hon. the Speaker pro tempore: No, we amended the text. Only the text of the main motion was amended by an amending motion, and we have adopted that amendment.

Now we are discussing the main motion, which is entitled what you just read, so I can read it again if you want for everybody to be very clear.

Senator Day: Thank you, Your Honour. Perhaps I am misreading the particular document.

The Hon. the Speaker pro tempore: Is more time granted? Five more minutes is granted to Senator Cools.

Senator Cools: Honourable senators, the European Court of Human Rights also found that the Armenian tragedy is a legitimate subject of debate and discussion, and was clear that there is no consensus regarding the legal characterization of the events in question. Agreeing with Dogu Perinçek, the court took the view that the notion "genocide" was a precisely defined legal concept, requiring a high threshold of proof. The criminalization of opinions on historical facts has always been discouraged. The United Nations Human Rights Committee has expressed concerns about such criminalization. The European Court distinguished the case of *Perinçek* from those cases concerning the negation of the crimes of the Holocaust.

Honourable senators, back in 2002, I was concerned about the fairness of the politics of stockpiling such resolutions from worldwide legislative assemblies, and the heavy local political activity to this end. I was dubious about the conclusion the motion sought. Assemblies are free to form opinions, but the problem here was beyond opinions. The problem here was the harsh judgment, with its reach into international law, to mete out to one selected country a measure of guilt for ancient events that predate the law and legal framework of the sins for which the guilt was assigned.

• (1630)

This is not proper, fair, just, or consistent with our common law. Most assemblies are partisan and driven by politics, not always suited to selective judgment of and guilt assignment to some countries and not others. This well-intended Senate resolution that hurt Canada-Turkey relations was part of a worldwide resolution campaign. It was driven by local politics at the riding levels and by fine Armenian-Canadians, whom I respect and who believed they were doing right. It is time for the Government of Canada to review and repeal this foreign policy. We would be flabbergasted, dismayed, angered and disturbed if the Turkish Assembly or any assembly in the world were to adopt a resolution that Canada's treatment of Native peoples was genocide, which large numbers of Canadians believe. However, there is a difference between holding a belief and moving in a legal direction.

Robert Burns articulates it best in his poem, *Man Was Made To Mourn*. He said:

Man's inhumanity to man
Makes countless thousands mourn!

All of us who go to the Remembrance Day ceremony every year can't get through it most of the time without breaking into tears. It is larger than all of us.

War, one of the four horsemen of the apocalypse, is a grim reaper and a robber of all that is living. Colleagues, there is no limit to man's inhumanity to man; but we do not have to create more. Honourable senators, I would like to quote John Donne from his famous 17th century *Devotions upon Emergent Occasions* that we hear often. It says, in part:

No man is an island entire of itself; every man is a piece of the continent, a part of the main; any man's death diminishes me, because I am involved in mankind; and therefore never send to know for whom the bells tolls; it tolls for thee.

I thank honourable senators. Senator Andreychuk, you were not here but I thanked you profoundly, and I thanked your committee and Senator Downe. I also said that you are a credit to the Senate, to your province and to the country.

This committee has done a very contemporaneous, needed and relevant piece of work, and I believe the government needs it.

I thank you all for listening. We should always keep up the war against injustice; but human beings can be frightening creatures. Bear that in mind. Whatever it is that unleashes black-heartedness, we should try to keep it locked up in a den somewhere, as much as we can.

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

Hon. Roméo Antonius Dallaire: I wish to continue the debate, not to delay unnecessarily the report. I will speak to it on Thursday. The nature of the report and the subject that we have been raising brings to the fore how we have been working at the whole realm of crimes against humanity and genocide and trying to come to grips with that. This evening, the Under Secretary-General of the UN will be speaking at 6:30 p.m. in Room 256-S about the prevention of genocide to the genocide prevention group.

I am standing here in the midst of the twentieth anniversary of a genocide. In the debate, I have a responsibility to intervene, if so slightly, to reinforce the position that we should hold, from my background, for this significant report.

I beg that I be permitted to speak Thursday for the rest of my time and, hopefully, bring the debate to conclusion

(On motion of Senator Dallaire, debate adjourned.)

HUMAN RIGHTS

MOTION TO AUTHORIZE COMMITTEE TO STUDY INTERNATIONAL MECHANISMS TOWARD IMPROVING COOPERATION IN THE SETTLEMENT OF CROSS-BORDER FAMILY DISPUTES— DEBATE ADJOURNED

Hon. Mobina S. B. Jaffer, pursuant to notice of February 11, 2014, moved:

That the Standing Senate Committee on Human Rights be authorized to study 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; and

That the committee submit its final report to the Senate no later than December 31, 2014.

She said: Honourable senators, the Standing Senate Committee on Human Rights proposes to undertake a study on international mechanisms to resolve cross-border child custody and access disputes. This proposed study includes an examination of the Hague Abductions Convention and the Malta Process and Canada's actions toward the improvement of international cooperation under these mechanisms.

Hon. Joan Fraser (Deputy Leader of the Opposition): Senator Jaffer, would the committee be travelling? What kind of budget would the committee require for this study?

• (1640)

Senator Jaffer: Honourable senators, the committee is planning to travel. We are planning to travel to The Hague and even to Geneva because one of the things that has been brought up is that, while there is the convention, a lot of work needs to be done to impress upon different countries that are not members of the Hague convention and are part of the Malta Process, so the committee is planning to travel. As for the amount of the budget, senator, I have still not gotten approval from the committee, so I don't feel comfortable saying what the amount will be. We will be discussing this at other next meeting, and, if necessary, I can provide you with the amount.

Hon. Ghislain Maltais (The Hon. the Acting Speaker): Thank you, senator. Do we have another question?

Hon. Daniel Lang: I would just like to pursue this a bit further. I find it a little bit difficult, I'm sure like my fellow senator, Senator Fraser, to deal with a motion of this substance and not to know what the costs attached to it are and to give our approbation to it before you've gone through the budgetary process. In order for us to be able to do these studies, there is a process set that most of us have gone through, and I would say to the chair that she has the same responsibility as any one of us in other committees.

I would ask at this stage, Your Honour, that the motion be adjourned in my name.

Senator Jaffer: May I have permission to answer before you adjourn the motion in your name? The challenge I have, honourable senators, is that I cannot really pursue this study or even look at it before there is a reference. We cannot do any further work until there is a reference. We are all aware that there are two parts to this study. The first part of the study is that we will be studying what is happening here. We will be hearing from different groups as to what is happening here, to different individuals who are affected by this. That will be the first part of our study.

The second part is that, if we get the budget, we will strengthen our study, but whether we get the budget or not, we are asking the Senate to give us permission to proceed with this study. It's a very important study in this day and age when children are abducted across the country to different parts of the world. The Human Rights Committee felt that, whether we travel or not, this is a very important study that we should look at.

My challenge, honourable senators, is that until I have a reference I cannot look at a budget. That is why I am here, to get a reference. Obviously, there is a process set up. If Internal does not, and you do not, recommend that we travel and get the money, we will not travel, but we would still like to continue with this study.

The Hon. the Acting Speaker: Another question?

An Hon. Senator: No, he's adjourned it.

The Hon. the Acting Speaker: The debate is adjourned. Question?

Senator Fraser: I was wondering if Senator Lang, before he takes the adjournment, would allow me to speak for 30 seconds.

The dilemma Senator Jaffer outlines is one of my abiding frustrations in this place — that we are asked to give approval for projects before we know how much they're going to cost. I think we have made progress. As you know, Senator Lang, it has become customary for committee chairs, if they don't give us dollar numbers, to at least give an indication of the scope of the studies they are proposing. I think that's a great step forward. For many years, we didn't get even that.

The Hon. the Acting Speaker: Excuse me, Senator Fraser, the debate was adjourned.

[Translation]

Senator Fraser: Pardon?

The Hon. the Acting Speaker: Debate is adjourned; therefore, we cannot discuss this further. Senator Lang moved the adjournment of the debate.

Senator Fraser: However, we didn't adopt the adjournment motion.

The Hon. the Acting Speaker: When debate is adjourned, we cannot continue debate.

Senator Fraser: With all due respect, Mr. Speaker, as far as I know, we did not vote on the adjournment motion. I politely asked Senator Lang for a few moments to speak before he moved the adjournment.

[English]

I believe Senator Lang accepted that. I understand that he's going to move the adjournment. I would have finished by now.

The Hon. the Acting Speaker: Okay, a few words, senator.

Senator Fraser: What we now know about this study, honourable senators, is that it will not be cheap because it will involve sending the committee to Europe.

The Hon. the Acting Speaker: Order.

[Translation]

Hon. Pierre Claude Nolin: Mr. Speaker, an adjournment motion is currently on the table. According to the Rules, the motion cannot be debated and we cannot hear a question that has been raised. You must immediately put the motion and we will see whether or not it is adopted.

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

Hon. Senators: Agreed.

(On motion of Senator Lang, debate adjourned.)

[English]

ABORIGINAL PEOPLES

COMMITTEE AUTHORIZED TO STUDY CHALLENGES AND POTENTIAL SOLUTIONS RELATING TO FIRST NATIONS INFRASTRUCTURE ON RESERVES AND REFER PAPERS AND EVIDENCE FROM CURRENT STUDY ON FEDERAL GOVERNMENT'S RESPONSIBILITIES TO FIRST NATIONS, INUIT AND METIS PEOPLES

Hon. Dennis Glen Patterson, for Senator Dyck, pursuant to notice of February 13, 2014, moved:

That the Standing Senate Committee Aboriginal Peoples be authorized to examine and report on challenges and potential solutions relating to First Nations infrastructure on reserves, including, but not limited to:

(a) housing;

(b) community infrastructure (such as water and wastewater treatment, schools and other community buildings); and

(c) innovative opportunities for financing and more effective collaborative strategies;

That the papers and evidence received and taken and work accomplished by the committee during the Second Session of the Forty-first Parliament, as part of its study on the federal government's constitutional, treaty, political and legal responsibilities to First Nations, Inuit and Metis peoples and on other matters generally relating to the Aboriginal Peoples of Canada, as authorized by the Senate on November 21, 2013, form part of the papers and evidence received and taken for the purposes of this study; and

That the committee submit its final report no later than December 31, 2015 and that the committee retain all powers necessary to publicize its findings for 180 days after the tabling of the final report.

He said: I think the inadequacy of house and community facilities on reserves is a known contributor to the health, education and socio-economic conditions of First Nations people. We've proposed a study that would examine existing community infrastructure conditions on reserves, including those relating to housing.

I don't think I need to go into detail on the challenges of housing on First Nation reserves. It was spelled out in a report, in 2011, by the Auditor General. We've heard about problems of mould, maintenance and poor quality in housing on reserves.

This infrastructure gap, which also includes related infrastructure, such as roads, water and sewer and schools and other community buildings, is felt by the committee to be a problem that needs addressing urgently.

We did have a general order of reference that has allowed us to explore this subject, in an overview, over the last number of months, but we are now ready to focus the motion as outlined today. Because we have already had previous witnesses who gave evidence that the committee found useful, the motion also includes a request to import that evidence going forward.

Anticipating Senator Fraser's question, we do, if the order of reference is approved, anticipate, in addition to calling witnesses to come before the committee, travelling to various regions of the country to look at best practices and also examine situations where infrastructure needs are pressing and aggravated by situations such as flooding.

There will be a request for travel within Canada that we will put together, hopefully in a targeted and responsible manner, for later consideration by the Senate.

The Hon. the Acting Speaker: Thank you, Senator Patterson. Questions? Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

(Motion agreed to.)

• (1650)

[Translation]

THE SENATE

ROLE IN REPRESENTING THE REGIONS OF THE CANADIAN FEDERATION—INQUIRY— DEBATE ADJOURNED

Hon. Pierre Claude Nolin rose pursuant to notice of January 28, 2014:

That he will call the attention of the Senate to its role in representing the regions of the Canadian federation.

He said: Honourable senators, this inquiry into the representation of the regions in the Senate is one of a series of debates designed to foster a better understanding of the nature of the Senate's work, the principles underpinning the Senate, and the scope of the roles it plays. In preparing my notes, I once again relied heavily on the book *Protecting Canadian Democracy: The Senate You Never Knew*, published in 2003 under the direction of our colleague, the Honourable Serge Joyal.

[English]

I relied extensively on Chapter 3, "Bicameralism in Federal Parliamentary Systems," written by Professor Ronald Watts, Principal Emeritus and Professor Emeritus of Political Studies and Fellow of the Institute of Intergovernmental Relations at Queen's University. I also used Chapter 7, "Comparing the Lawmaking Roles of the Senate and the House of Commons," by Professor Paul Thomas.

[Translation]

Let me begin by saying that I think it is worth reiterating what Professor Ajzenstat said in the first chapter of Senator Joyal's compendium:

[English]

It is not much to say that the fate of Confederation turned on the issue of regional representation in the Upper Chamber.

She invites us to consider Brown's argument:

The very essence of our compact is that the union shall be federal and not legislative. Our Lower Canada friends have agreed to representation by population in the lower house, on the express condition that they shall have equality in the

upper house. On no other condition could we have advanced a step; and for my part I am quite willing that they should have it.

[Translation]

Let us look at some little-known historical facts. After the election in December 1857, Brown and his True Grits and the daily paper *The Globe* clamoured for proportional representation. This is what historian Jacques Lacoursière had to say about that situation.

When Lower Canada had a larger population than Upper Canada, the people of Upper Canada thought it was only natural that the two parts of the united Canada should have equal representation. However, after thousands of immigrants swelled the ranks of Upper Canada's population and helped it achieve greater numbers, people cried foul.

As soon as Parliament resumed, Brown proposed amendments to the Elections Act to ensure fair representation of the people in Parliament. His amendment received almost unanimous approval from his Upper Canada colleagues while all of the Lower Canada representatives voted against it.

[English]

This division set the tone for the debates to follow in Quebec City in 1864 on the crucial issue of representation in the new Parliament that would result from the proposed Confederation.

This gives us the context we need to understand Brown's statement in 1865 that I just mentioned and the irrefutable observation Professor Ajzenstat made regarding the final result.

[Translation]

I want to cover the subject of my inquiry thoroughly, so I will begin by looking at why nearly all federations have adopted bicameralism and at the regional representation role that second chambers have been given. Then we will look specifically at the Canadian situation. Before I conclude, I will propose a strategy that could improve this situation.

A bicameral parliament or legislature is not only a feature of Canada but also of most mature democracies and particularly of nearly all federal political systems. There are only two relatively minor exceptions: Micronesia and the United Arab Emirates. Underlying this widespread establishment of bicameral legislatures are two main rationales. These relate to the roles of second chambers in legislative review and representation of regional interests.

[English]

When we understand this premise and its importance in building our federal system, it is a shock to hear again and again people say that the Senate should be completely abolished.

[Translation]

Legislative review is a primary function of most second chambers, and we have recently looked at why and how the Senate carries out this legislative role.

Representing regional interests at the federal or national level is a second major role that second chambers have played in the vast majority of federations.

[English]

Representation in the lower houses of most federations has been based on population. But this means that the more populous states or provinces will have a preponderant influence in the lower house through their greater proportion of representatives.

As a counterbalance to this, the creators of federations have generally chosen to provide the less populous states and provinces an improved voice in deliberations at the federal level by giving them weighted or even equal representation in a federal second legislative chamber.

[Translation]

This has been intended to ensure that different state or provincial viewpoints would not be simply overridden by a majority of the population concentrated in the larger states or provinces. In addition, in most federations their designers have chosen a different method for selecting members in the second chamber in order to facilitate the expression of regional interests.

[English]

According to Professor Watts:

The essence of federal systems as political systems is that they are intended to be based not solely on majoritarian principles but upon the recognition and accommodation of diversity. This has almost invariably been translated in the institutions of the federal legislature into a majoritarian first chamber and a non-majoritarian representation of regional interests in the second chamber.

[Translation]

Five points need to be made about the representation of regional interests. The first concerns the nature of the regions. Normally, the regions are the constituent units of the federation: the states, provinces, cantons, länder, et cetera. In this respect, Canada has been unique in establishing regional representation that distinguishes between provinces and regions.

The second concerns the interests to be represented, which are primarily those of the federal minorities which themselves constitute a majority in a state, as is the case in multilingual or multinational federations.

Third, the second chamber provides a forum for the direct expression of regional viewpoints on issues of federal policy.

[Senator Nolin]

Fourth, it is important to ensure that the more populous constituent units do not submerge the voices of the smaller ones.

The last point has to do with distinguishing between defending the interests of the units of the federation and defending the interests of the people. Defending the provincial governments is desirable, but it is not necessarily the role of the second chambers, as they represent the regions — especially if the composition of the regions is different from that of the provinces — the people who live there and their interests in federal policy-making.

• (1700)

[English]

Professor Watts concludes that:

...comparative studies of federal second chambers have indicated that in almost all federations, the ostensible representation of regional interests in the federal second legislative chamber has been a vital requirement. Thus, in considering Senate reform in Canada, its wider significance for the future stability and development of the federation as a whole is of particular importance.

[Translation]

Let's now look at the nature of this representation in Canada. Federal parliamentarians, whether MPs or Senators, both represent a group of citizens in a specific location, this is, in a riding, in a region, as well as in the entire country. It is this dual reality that allows Parliament to deal effectively with measures of national interest. Deliberations that are truly national are, for all practical purposes, impossible, and the Senate would have no power to curb improper designs if it were any other way.

In 1908, in a debate on the Senate of Canada, Senator Ambroise Comeau made the point in these words:

The supreme usefulness of this Chamber — the Senate — depends upon its national character, upon the broad outlook of its members; upon the maintenance of a just and equitable consideration, not only of the rights of every class of men and industry, but of each and every portion of the Dominion as well.

[English]

This double obligation can occasionally cause problems. In representative institutions, this dilemma is ever present but should be looked on as a strength, says Professor Ajzenstat:

... the local interest cannot be neglected, but neither can the responsibility to consider local interests in the context of the national good. Note that there is no similar dilemma for the premiers in their role as provincial champions.

They defend their respective provinces single-mindedly in federal-provincial conferences.

I will quote again Professor Ajzenstat:

If the Senate is not, and by its very nature cannot be, the single-minded defender of provincial perspectives, it is in a better position than other institutions to represent them in the broadest deliberations and to remind those with a vision of the national good not to silence regional demands.

[Translation]

Our founding fathers discussed at length the importance of a balanced regional representation in the Upper Chamber. A careful examination of their lengthy deliberations on the matter leads us to conclude that they wanted the Senate to protect the regions and their interests. However, the Constitution Act, 1867 contains no provisions to spell out that role or provide any appropriate mechanisms. The regional make-up of the Senate and the nearly equal legislative powers granted to the Senate reflected the belief that it should act as a brake on the House of Commons on behalf of the smaller provinces.

Almost all observers agree that the Senate's most notable shortcoming was its inability to further the interests of the regions on an ongoing basis. We have to ask ourselves why.

Let's look at the most common hypotheses shared among commentators. Although it is structured on the basis of the regions, some people maintain that the Senate, given that its members are appointed, does not have the political authority needed to oppose the wishes of the regions, which are democratically expressed by the votes in the House of Commons.

Here is another point: this deficit is compounded by the partisan appointments made by the various prime ministers. Others contend that party loyalty now takes precedence over regional representation. Others still add that since senators have no electoral obligations, their presence in a region is often less important. Consequently, senators are said to lack visibility and credibility.

Dr. Thomas, the Duff Roblin Professor of Government at the University of Manitoba, examined these conclusions and commented as follows:

[English]

A closer examination of this familiar argument that the Senate has failed as a regional body reveals that it is not altogether persuasive.... First, it should be noted that the original intention was to have the Senate represent the views of provincial societies on national legislation. This role is not the same as representing the interests and positions of provincial governments and legislatures. In other words, the Canadian Senate was never meant to be the equivalent of the German Bundesrat, in which the constituent units of the federal system are represented in the Upper House. In Canada's federal system, there are many other forums, such as federal-provincial conferences and the courts, where the interests of provincial governments can be defended.

He concludes:

For a number of reasons... the Senate's regional role has, to say the least, remained underdeveloped. In part, this reflects the fact that protection of regional interests has taken place in other locations within the political system, such as

- in the courts where early rulings on the division of powers extended the jurisdiction of the provincial governments;
- in the numerous federal-provincial conferences and committees dealing with a wide range of policy issues both national and provincial in scope;
- in Cabinet, which was seen from the outset as a more important forum for regional accommodation than the Senate and has developed this function through mechanisms like the appointment of regional ministers;
- in the elaborate system of private meetings of national, regional, and subregional caucuses attended by both members of the House of Commons and senators from the various provinces that developed over time, especially after the 1960s.

[Translation]

Dr. Thomas' conclusions require some explanation. Except for court decisions, each of the other forums that I just named is connected, to various degrees, to partisan interests which, because of electoral considerations, can sometimes meet regional interests.

Second, the arbitration of conflicting regional interests is also marked by partisanship in each of these forums. These forums rarely morph into public forums and let conflicting voices express themselves. The various populations have a hard time following and understanding how their specific interests are taken into consideration. Finally, the required compromises are often deliberately misrepresented and the frustrations that follow adversely affect the cohesion of the federation built to accommodate these regional interests.

Honourable senators, could I have a few minutes to finish my presentation?

Hon. Senators: Agreed.

Senator Nolin: While the implementation of this role was not systematically structured, we must recognize that, at times, the Senate was able to take into consideration regional interests, on an ad hoc basis. I will just give two examples.

In 1977, the Liberal government of the day wanted to abolish port registration in the Atlantic provinces.

[English]

The intent at that moment was to stop the registration at port of entry in the various Atlantic ports. Guess what happened? People from Quebec and also from British Columbia made representation in front of the Senate, and the Senate amended the bill and it was adopted by the House of Commons.

[Translation]

Here is another example: In 1989, another government, this time a Progressive Conservative government, wanted to shut down the Department of Regional Industrial Expansion. The Senate amended the bill so that the federal government would maintain its responsibility — which it still has to this day — to alleviate regional economic disparities.

Honourable senators, the reflexes are there. It is a matter of doing a little more. How can we do better? In 1980, a Senate committee that was mandated to recommend internal reforms called for the creation of a standing committee that would be responsible for organizing this regional representation. We can even go further. Would it be appropriate to establish several regional committees to have, in each of these committees, each of four divisions that our Constitution asks us to represent?

• (1710)

For a number of reasons, which were unfortunately partisan reasons, such a committee was never established.

Another suggestion made around the same time proposed the establishment of regional all-party caucuses. Incidentally, this is a

solution that is now resurfacing. I must admit that it seems interesting. In fact, I think we should seriously consider all these options, because we are going to have to act quickly and efficiently on this issue. I see that the Leader of the Opposition in the Senate is here. Senator Cowan, I would like you and your colleague to quickly reflect on this. When I say quickly, I am not talking about months, but weeks or days. This exercise would give the two leaders an opportunity to examine simple proposals that deserve to be looked at. It can be done. We must begin with small steps, but let's make sure they are relevant and promising.

During these inquiries, I have asked you on several occasions to think carefully about the powers that have been conferred on us, about our ability to act more independently and counter the undue influence of blind partisanship, and about our responsibility to build and maintain our credibility.

In conclusion, I propose the following statement: the bicameral structure of the Parliament of Canada gives the Senate, among other duties, the responsibility of ensuring that it takes the interests of the regions and their populations into consideration when exercising its roles. The laws and the government measures examined by the Senate help preserve the many regional communities that make up Canadian society.

I thank you for listening to my remarks. I am now prepared to answer your questions.

(On motion of Senator Eaton, debate adjourned.)

(The Senate adjourned until Wednesday, February 26, 2014, at 1:30 p.m.)

CONTENTS

Tuesday, February 25, 2014

	PAGE		PAGE
Visitor in the Gallery		Employment and Social Development	
The Hon. the Speaker	985	Prince Edward Island—Employment Insurance—Seasonal Employment.	
<hr/>		Hon. Elizabeth Hubley	989
SENATORS' STATEMENTS		Hon. Claude Carignan	990
International Mother Language Day		Hon. Terry M. Mercer	990
Hon. Mobina S. B. Jaffer	985	Hon. James S. Cowan	991
Winter Olympics 2014		Privy Council	
Hon. Jacques Demers	985	Strategic Outlook.	
Curling		Hon. Roméo Antonius Dallaire	991
Team Homan.		Hon. Claude Carignan	991
Hon. Jim Munson	986	Answers to Order Paper Questions Tabled	
Winter Olympics 2014		Aboriginal Affairs and Northern Development—Government Decentralization.	
Hon. Donald Neil Plett.	986	Hon. Yonah Martin	992
Dr. Ford Doolittle		National Revenue—Canada Revenue Agency—Enforcement and Disclosures Directorate.	
Congratulations on Natural Sciences and Engineering Research Council of Canada Award.		Hon. Yonah Martin	992
Hon. Terry M. Mercer	987	<hr/>	
ROUTINE PROCEEDINGS		ORDERS OF THE DAY	
Speaker of the Senate		The Estimates, 2013-14	
Parliamentary Delegation to Rome, Vatican City, Skopje, Podgorica and Belgrade, September 2-12, 2013—Report Tabled	987	National Finance Committee Authorized to Study Supplementary Estimates (C).	
Northwest Territories Devolution Bill (Bill C-15)		Hon. Yonah Martin	993
First Reading.	988	Financial Administration Act (Bill S-204)	
Visitor in the Gallery		Bill to Amend—Second Reading—Debate Continued.	
The Hon. the Speaker.	988	Hon. Ghislain Maltais	993
Social Affairs, Science and Technology		Lincoln Alexander Day Bill (Bill S-213)	
Notice of Motion to Authorize Committee to Study the Increasing Incidence of Obesity.		Second Reading—Debate Continued.	
Hon. Kelvin Kenneth Ogilvie	988	Hon. Pana Merchant	994
The Senate		Hon. David P. Smith	995
Notice of Motion to Call Upon Members of the House of Commons to Invite the Auditor General to Conduct a Comprehensive Audit of Expenses.		Hon. Joan Fraser	996
Hon. Percy E. Downe.	988	Indian Act (Bill C-428)	
Ukraine		Bill to Amend—Second Reading—Debate Continued.	
Notice of Inquiry.		Hon. Lillian Eva Dyck	996
Hon. A. Raynell Andreychuk	988	Criminal Code (Bill C-290)	
<hr/>		Bill to Amend—Second Reading—Debate Continued.	
QUESTION PERIOD		Hon. Yonah Martin	997
Environment		Breast Density Awareness Bill (Bill C-314)	
Endangered Species Recovery Strategy.		Second Reading—Debate Continued.	
Hon. Grant Mitchell.	988	Hon. Yonah Martin	997
Hon. Claude Carignan	989	Income Tax Act (Bill C-377)	
		Bill to Amend—Second Reading—Debate Continued.	
		Hon. Ghislain Maltais	997
		Study on Issues of Discrimination in Hiring and Promotion Practices of Federal Public Service and Labour Market Outcomes for Minority Groups in Private Sector	
		Second Report of Human Rights Committee and Request for Government Response Adopted.	
		Hon. Mobina S. B. Jaffer	997
		Study on Economic and Political Developments in the Republic of Turkey	
		Second Report of Foreign Affairs and International Trade Committee—Motion in Amendment—Debate Continued.	
		Hon. Anne C. Cools.	1001
		Hon. Joseph A. Day.	1005
		Hon. Roméo Antonius Dallaire.	1006

	PAGE
Human Rights	
Motion to Authorize Committee to Study International Mechanisms toward Improving Cooperation in the Settlement of Cross-Border Family Disputes—Debate Adjourned.	
Hon. Mobina S. B. Jaffer	1007
Hon. Joan Fraser	1007
Hon. Ghislain Maltais (The Hon. the Acting Speaker).	1007
Hon. Daniel Lang	1007
Hon. Pierre Claude Nolin	1008

	PAGE
Aboriginal Peoples	
Committee Authorized to Study Challenges and Potential Solutions Relating to First Nations Infrastructure on Reserves and Refer Papers and Evidence from Current Study on Federal Government's Responsibilities to First Nations, Inuit and Metis Peoples.	
Hon. Dennis Glen Patterson	1008
The Senate	
Role in Representing the Regions of the Canadian Federation—Inquiry—Debate Adjourned.	
Hon. Pierre Claude Nolin	1009

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