



# DEBATES OF THE SENATE

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OFFICIAL REPORT  
(HANSARD)

Tuesday, March 25, 2014

The Honourable NOËL A. KINSELLA  
Speaker

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## THE SENATE

Tuesday, March 25, 2014

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

[Translation]

Prayers.

[Translation]

### ROYAL ASSENT

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

RIDEAU HALL

March 25, 2014

Mr. Speaker:

I have the honour to inform you that Mr. Stephen Wallace, Secretary to the Governor General, in his capacity as Deputy of the Governor General, signified Royal Assent by written declaration to the bill listed in the Schedule to this letter on the 25<sup>th</sup> day of March, 2014, at 9:51 a.m.

Yours sincerely,

Patricia Jaton  
*Deputy Secretary*

The Honourable  
The Speaker of the Senate  
Ottawa

Bill Assented to Tuesday, March 25, 2014:

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 C-15, Chapter 2, 2014*)

[English]

### VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, it is a distinct pleasure for me to rise and draw your attention to the presence in the gallery of a delegation led by the Honourable Yuli-Yoel Edelstein, Speaker of the Knesset of Israel, who is accompanied by some of his colleagues from the Knesset of Israel.

On behalf of all honourable senators, I welcome you, Mr. Speaker, and your colleagues, to the Senate of Canada.

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

**The Hon. the Speaker:** Honourable senators, I wish to draw to your attention the presence in the gallery of a delegation led by His Excellency Laurent Kavakure, Minister of Foreign Affairs and International Cooperation of the Republic of Burundi.

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

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

[English]

**The Hon. the Speaker:** Honourable senators, through our special guests we underscore that the senators of Canada welcome the opportunity to greet students from across Canada. Today, I draw your attention to the presence in the Speaker's Gallery of Tyrone MacNeil, Brittany A. Polzer, Jordin Wurtah, Dave Shears, Paul Brake, Johnny Henderson and Ursula Bheil.

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

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

[Translation]

## SENATORS' STATEMENTS

### INTERNATIONAL DAY OF LA FRANCOPHONIE

**Hon. Claudette Tardif:** Honourable senators, on Thursday, March 20, francophones in over 50 countries celebrated the International Day of La Francophonie. This international celebration was part of the sixteenth edition of the Rendez-vous de la Francophonie, a major celebration of French language and culture, which took place from March 7 to 23. This year's theme was "a love of life, from yesterday to tomorrow."

In Alberta, over 6,000 francophones and francophiles gathered together at flag-raising ceremonies, performances, concerts and educational activities.

I am very proud to point out that, this year, for the first time in several years, the Franco-Albertan flag was flown at Edmonton's city hall for the duration of the Rendez-vous de la Francophonie.

• (1410)

The Mayor of Edmonton, Don Iveson, took advantage of the opportunity to recognize the vitality of the francophone community. I want to pay tribute to the City of Edmonton,

which not only recognizes the history and heritage of its francophone community, but is also making a tangible contribution to its development by helping to revitalize its French quarter. This commitment shows that the City of Edmonton really cares about its francophone community.

Honourable senators, I would like to reiterate that our Canadian francophonie is an invaluable asset for which we are known throughout the world. As Chair of the Canada-France Interparliamentary Association, I am honoured to represent our country and foster a collaborative relationship with France that enriches Canada's francophonie in all areas and benefits all Canadians.

The evolution of the francophonie in Canada is reflected in the quality of the French programs in our schools, colleges and universities, in an increasingly accessible network of French-language health care services across the country, in the arrival of francophone immigrants who choose to settle in our official language minority communities, in an artistic and cultural environment fueled by francophone artists and artisans, and in economic development generated by francophone entrepreneurship.

I want to pay tribute to all those who actively promote and raise the profile of the Francophonie. Let's show how much we care about the Francophonie by celebrating its richness and diversity.

[English]

## CANADIAN ARMED FORCES

### VETERANS OF AFGHANISTAN MISSION—TRIBUTE

**Hon. Daniel Lang:** Honourable senators, I rise to pay tribute to the women and men of the Canadian Armed Forces for their contributions in Afghanistan. Following the horrific terrorist attacks on New York and Washington, D.C., on September 11, 2001, the United Nations Security Council stated that the United States had been attacked and that it was entitled to defend itself.

Canada, along with Britain, France, Germany and Australia, was called upon to provide assistance. Under the leadership of the Right Honourable Jean Chrétien, Canada agreed to join the NATO-led effort to defeat the terrorists. The government of the day was supported by Her Majesty's Loyal Opposition, which provided a strong and united Canadian voice at a time of crisis.

Under our current Prime Minister, the Right Honourable Stephen Harper, this mission has continued and efforts to support development, the rule of law and democracy have been further emphasized. Canada contributes significantly to the education of girls and women in Afghanistan, the promotion of democratic elections, the building of democratic institutions, the eradication of polio, and the building of the Dahla Dam. Our military also played a leading role in combatting the Taliban and training the Afghanistan police force.

At this important point, as our flag is lowered in Kabul and our soldiers have returned home, we must take stock. One hundred and fifty-eight members of the Canadian Armed Forces have made the ultimate sacrifice at the request of their country, and

many more returned home injured, physically and mentally. No greater price could be paid and no greater request could be asked of the Canadian Armed Forces, especially of the wives, mothers, fathers and children who have continued to live with loss and injury.

Last week Prime Minister Harper announced at the welcoming home ceremony in Ottawa that May 9 has been designated as a National Day of Honour by Royal Proclamation in recognition and commemoration of Canada's military mission in Afghanistan.

The Prime Minister stated:

Through this National Day, Canadians will have the opportunity to reflect on the courage and sacrifices made by our soldiers.

Colleagues, I am sure that I speak for everyone in this chamber when I say that our Afghanistan veterans have made Canada a prouder, stronger and freer country through their sacrifice and service, which will be remembered and honoured for generations to come.

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

## THE LATE MARY MAJKA, C.M., O.N.B.

**Hon. Joseph A. Day:** Honourable senators, I would like to tell you today about a great New Brunswicker, a woman and a conservationist, Mary Majka.

An adopted daughter of Canada, Mary was born in Czystochowa, Poland, in 1923 to a well-to-do family; her mother was a Czech countess and her father was a school principal. That picturesque lifestyle was not to last, however. With the combination of her father's death and the beginning of World War II, Mary was sent to Austria to a forced labour camp where she worked in a kitchen, a hospital and later as a farmhand.

Following the war, she attended the University of Innsbruck where she studied medicine and met her husband. Labelled as displaced persons, the two immigrated to Canada in 1951. They initially took up residence in Hamilton, Ontario, while looking to other parts of Canada in which to settle. They eventually chose Caledonia Mountain, in New Brunswick, where they were the only residents at the time. Mary never entered the medical profession as she had planned, choosing instead to stay at home with her young children.

Mary often said that she did not regret that decision as the path she chose ended up being far more interesting than anything she could ever have imagined as a young woman.

Mary had a profound love of nature, a love that continued to grow as she passed the days hiking in the mountain area which was her home. When the family moved to Mary's Point, a wetland at the head of the beautiful Bay of Fundy in New Brunswick, she took it upon herself to protect the surrounding area and wildlife. Mary would frequently visit her son's school, giving lessons to the pupils. She had a talent for explaining nature's complicated mechanics in everyday language. This talent would be utilized in

the form of a television show she participated in that was aired in Moncton, New Brunswick, from 1967 to 1974. Her guests would often have four legs and she would explain to the viewers every aspect of their behaviour and habitat. As noted by her son Chris, Mary was unwavering in her resolve to “leave the world in a better place than she found it.”

This resolve meant that while she had the patience and temperament to teach, Mary was a force to be reckoned with as a conservationist. When she witnessed young boys chasing and throwing rocks at migratory birds, Mary helped to create a reserve, which became the first western hemisphere shore bird reserve. She had a great respect for history, as well, and worked intensely and tirelessly to preserve historic buildings in New Brunswick.

Appropriately, Mary was awarded the Order of Canada in 2006 for her work in conservation. Undoubtedly, the Order of Canada was in recognition of how fortunate Canada was to be the adopted home for this remarkable human being.

Mary Majka died on February 12 of this year at the age of 90 in Moncton, New Brunswick.

### WORLD DOWN SYNDROME DAY

**Hon. Tobias C. Enverga, Jr.:** Honourable senators, on Friday, March 21, the CN Tower in Toronto was lit up in bright yellow and royal blue. It is with great pride that I rise today to remind this chamber and Canadians of the reason why. March 21 is World Down Syndrome Day, so chosen because of the extra twenty-first chromosome that 95 per cent of the people with Down's syndrome have.

Honourable senators, this is the ninth anniversary of World Down Syndrome Day since its inception, and this year's theme is Health and Wellbeing — Access and Equality for All, a theme that is essential to the continued work of raising awareness about the challenges and opportunities that people with Down's syndrome face in their lives. We may think there are equal opportunities for people of all abilities in Canada, but unfortunately this is not always the case.

Honourable senators, some of the issues that this year's campaign is highlighting are the facts that having Down's syndrome does not make a person unhealthy; that Down's syndrome is a genetic condition and not an illness; that health professionals must be aware of the specific issues when treating a person with Down's syndrome and that health professionals should not discriminate against people with Down's syndrome by refusing to treat them, blaming health issues on Down's syndrome in general, or considering only specific known health issues that may affect people with Down's syndrome.

• (1420)

Honourable senators, CoorDown Onlus, which coordinates the Italian National Association of People with Down Syndrome, leads an international project which includes ten associations from nine different countries: Croatia, England, France,

Germany, Italy, New Zealand, Russia, Spain and the United States. In response to a letter from a pregnant woman who learned that the child she carries has Down's syndrome, they made a powerful video. The title is *Dear Future Mom* and answers the question: What kind of life will my child have?

I encourage my honourable colleagues and the Canadian public to watch this video. I have posted it on my website, [senatorenverga.sencanada.ca](http://senatorenverga.sencanada.ca), and it is found on Twitter under #DearFutureMom. It shows clearly what a blessing children and young people with Down's syndrome are, like my own daughter, and that they laugh, hug, travel, work, make their own decisions and plans, and make those around them feel special, just like everyone else.

### THE HONOURABLE JOSEPH A. DAY

#### CONGRATULATIONS ON ENGINEERS CANADA FELLOWSHIP

**Hon. Jane Cordy:** Honourable senators, it is my pleasure to rise today to recognize our colleague Senator Joseph Day. On February 21 of this year, Senator Day was honoured with an Engineers Canada Fellowship by the engineers and geoscientists of New Brunswick.

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

**Senator Cordy:** The Engineers Canada Fellowship was established in 2007 and recognizes those who have contributed through volunteer work, either with Engineers Canada or its provincial and territorial regulatory bodies, to the profession of engineering. This helps to create a network of individuals in the field who have played and continue to play a significant role in the promotion of the profession. It also aims to recognize non-volunteers as well as non-professional engineers who have made significant contributions to Canada's engineering profession.

Senator Day holds his Bachelor of Electrical Engineering degree from the Royal Military College of Canada. He is the first individual who is not an active board member or volunteer to be awarded this prestigious honour.

Engineers Canada CEO Kim Allen had this to say about Senator Day:

Senator Day has truly played a significant role in promoting the profession as a professional engineer and parliamentarian. He has always been there to offer broad advice and guidance when needed, making introductions and connections, and was gracious enough to speak at our Diamond Jubilee presentation ceremony in Ottawa last year in February.

Honourable senators, please join me in congratulating Senator Day on this wonderful achievement.

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

[ Senator Day ]

**ROUTINE PROCEEDINGS***[Translation]***THE HONOURABLE PATRICK BRAZEAU****COPY OF INDICTMENT TABLED**

**The Hon. the Speaker:** Honourable senators, I have received a copy of the indictment relating to Senator Brazeau, certified by the Ontario Court of Justice on March 12, 2014. Pursuant to rule 15-4(1)(b), I now table the document.

**PRIVACY COMMISSIONER****EMPLOYMENT AND SOCIAL DEVELOPMENT—  
SPECIAL REPORT TABLED**

**The Hon. the Speaker:** Honourable senators, I have the honour to table, in both official languages, the Special Report of the Office of the Privacy Commissioner of Canada in relation to the investigation of the personal information handling practices of Employment and Social Development Canada, pursuant to section 39(1) of the Privacy Act.

*[Translation]***THE ESTIMATES, 2013-14****SUPPLEMENTARY ESTIMATES (C)—FIFTH REPORT  
OF NATIONAL FINANCE COMMITTEE TABLED**

**Hon. Joseph A. Day:** Honourable senators, I have the honour to table, in both official languages, the fifth report of the Standing Senate Committee on National Finance on the expenditures set out in the Supplementary Estimates (C) for the fiscal year ending March 31, 2014.

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

*[English]***THE ESTIMATES, 2014-15****MAIN ESTIMATES—SIXTH REPORT OF NATIONAL  
FINANCE COMMITTEE TABLED**

**Hon. Joseph A. Day:** Honourable senators, I have the honour to table, in both official languages, the sixth report of the Standing Senate Committee on National Finance on the expenditures set out in the Main Estimates for the fiscal year ending March 31, 2015.

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

**THE ESTIMATES, 2013-14****MAIN ESTIMATES—SEVENTH REPORT OF NATIONAL  
FINANCE COMMITTEE TABLED**

**Hon. Joseph A. Day:** Honourable senators, I have the honour to table, in both official languages, the seventh report of the Standing Senate Committee on National Finance on the expenditures set out in the Main Estimates for the fiscal year ending March 31, 2014.

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

**APPROPRIATION BILL NO. 5, 2013-14****FIRST READING**

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons with Bill C-28, An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2014.

(Bill read first time.)

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

**Hon. Yonah Martin (Deputy Leader of the Government):** Honourable senators, with leave of the Senate and notwithstanding rule 5-6(1)(f), I move that the bill be placed on the Orders of the Day for second reading at the next sitting of the Senate.

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

**Hon. Senators:** Agreed.

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

*[English]***APPROPRIATION BILL NO. 1, 2014-15****FIRST READING**

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons with Bill C-29, An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2015.

(Bill read first time.)

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

**Yonah Martin (Deputy Leader of the Government):** Honourable senators, with leave of the Senate and notwithstanding rule 5-6(1)(f), I move that this bill be placed on the Orders of the Day for second reading at the next sitting.

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

**Hon. Senators:** Agreed.

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

### CANADA-UNITED STATES INTER-PARLIAMENTARY GROUP

#### ANNUAL NATIONAL CONFERENCE OF THE COUNCIL OF STATE GOVERNMENTS, SEPTEMBER 19-22, 2013—REPORT TABLED

**Hon. Janis G. Johnson:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canada-United States Inter-Parliamentary Group respecting its participation at the Annual National Conference of the Council of State Governments, held in Kansas City, Missouri, United States of America, from September 19 to 22, 2013.

• (1430)

[Translation]

### NATIONAL SECURITY AND DEFENCE

#### NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY THE MEDICAL, SOCIAL, AND OPERATIONAL IMPACTS OF MENTAL HEALTH ISSUES AFFECTING SERVING AND RETIRED MEMBERS OF THE CANADIAN ARMED FORCES AND THE SERVICES AND BENEFITS PROVIDED TO MEMBERS AND THEIR FAMILIES

**Hon. Roméo Antonius Dallaire:** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the Senate Standing Committee on National Security and Defence be authorized to study and report on

- (a) the medical, social, and operational impacts of mental health issues affecting serving and retired members of the Canadian Armed Forces, including operational stress injuries (OSIs) such as post-traumatic stress disorder (PTSD); and

- (b) the services and benefits provided to members of the Canadian Armed Forces affected by OSIs, and to their families; and

That the Committee report to the Senate no later than December 31, 2015, and that it retain all powers necessary to publicize its findings until 90 days after the tabling of the final report.

### THE SENATE

#### NOTICE OF MOTION TO STRIKE SPECIAL COMMITTEE ON SENATE TRANSFORMATION

**Hon. Pierrette Ringuette:** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That a Special Committee on Senate Transformation be appointed to consider:

1. methods to reduce the role of political parties in the Senate by establishing regional caucuses and systems to provide accountability to citizens;
2. methods to broaden participation of all senators in managing the business of the Senate by establishing a committee to assume those responsibilities, and to provide for equal regional representation on said committee;
3. methods to allow senators to participate in the selection of the Speaker of the Senate by providing a recommendation to the Prime Minister;
4. methods to adapt Question Period to better serve its role as an accountability exercise; and
5. such other matters as may be referred to it by the Senate;

That the committee be composed of nine members, to be nominated by the Committee of Selection and that four members constitute a quorum;

That, the committee have power to send for persons, papers and records; to examine witnesses; and to publish such papers and evidence from day to day as may be ordered by the committee;

That, notwithstanding rule 12-18(2)(b)(i), the committee have power to sit from Monday to Friday, even though the Senate may then be adjourned for a period exceeding one week; and

That the committee be empowered to report from time to time and to submit its final report no later than June 30, 2015.



With the consent of His Honour the Speaker, I am also tabling an appendix containing the proposal on the transformation of the Senate of Canada.

## QUESTION PERIOD

### JUSTICE

#### SUPREME COURT—APPOINTMENT OF JUSTICES

**Hon. Céline Hervieux-Payette:** Honourable senators, my question is for the Leader of the Government in the Senate. Leader, together with the Prime Minister we are reacquainting ourselves with the longest word in the French language: “anticonstitutionnellement.” According to the Supreme Court decision, Justice Nadon was unconstitutionally appointed to the highest court of the land by Prime Minister Harper. That is a serious setback for a Prime Minister who, since 2006, has used judicial and parliamentary institutions and rewarded his friends and supporters in order to further his political interests.

Justice Nadon was the only justice to support the Harper government’s decision not to repatriate Omar Khadr, a Canadian citizen, from Guantanamo, which was a clear violation of fundamental rights and international conventions.

Will the Prime Minister commit to complying with the Canadian Constitution when he appoints the next Supreme Court justice?

**Hon. Claude Carignan (Leader of the Government):** I thank the honourable senator for the question she so tactfully prefaced. Before Justice Nadon was appointed, the Minister of Justice sought a legal opinion from two former Supreme Court justices, and that opinion was reviewed and supported by another constitutional lawyer who, I should point out, was a Liberal candidate and who came to the conclusion that the appointment was constitutional.

This explains why we were so surprised to hear the decision from the highest court in the country. I think that all parties would agree that Justice Nadon is a distinguished and well-respected legal expert. I also think that we came up with a qualified pool of candidates. We consulted the Attorney General of Quebec, Quebec’s Chief Justice, the Chief Justice of the Quebec Superior Court, the Chief Justice of the Federal Court of Appeal, the Chief Justice of the Federal Court, as well as representatives of major legal organizations, such as the Barreau du Québec and the Canadian Bar Association. The all-party committee, which included Liberals, gave us a list of three names chosen from among the long list of candidates.

The entire process was followed to the letter. That said, the Prime Minister made a statement today and answered a question on this topic. He said that the government would respect the letter and the spirit of the Supreme Court’s decision.

**Senator Hervieux-Payette:** I will not comment on your comments. We are all familiar with the story, and we followed this case at the Supreme Court. I would remind you that the Liberal senators were the ones who asked the Prime Minister to seek information. If the issue had been very clear, there would not have been a case. Now especially, with the election in Quebec and talk of a referendum, this decision reinforces the federalist position in Quebec, and the in-depth examination of the issue by the Supreme Court justices validated the Government of Quebec’s position.

To conclude, I would like to know if, when he said he would respect the decision, the Prime Minister promised to appoint an eligible judge in accordance with the Supreme Court decision as soon as possible, and well before the Supreme Court hands down its decision on Senate reform?

**Senator Carignan:** I think that both the Prime Minister and the Minister of Justice were clear that there was a vacancy to be filled on the Supreme Court and that it would be filled in accordance with the applicable process.

**Hon. Jean-Claude Rivest:** The Leader of the Government in the Senate talked about the consultations that were held. Perhaps the government should have consulted the Constitution. That would have been simpler, since it turned out to be unconstitutional.

If I’m not mistaken, the Minister of Justice sponsored a bill that was studied in the Standing Senate Committee on Legal and Constitutional Affairs in order to clarify whether the appointee had been a member of the Quebec Court of Appeal, in the case of appointments like Justice Nadon’s. Did the Supreme Court decision also nullify the bill the government had passed?

Does the government plan to continue its efforts to further clarify the situation? Or rather, as the Leader of the Government in the Senate just said, will it abide by the Supreme Court decision and follow the usual practice of appointing judges who are members of the Barreau du Québec, the Superior Court and the Court of Appeal, as required by the letter of the law?

**Senator Carignan:** You should be careful about what you said in your introduction regarding the usual practice. As you know, other judges who were sitting on the Federal Court have been appointed to the Supreme Court. You should be careful in your introduction when you talk about precedents. As for the rest, as the Prime Minister has indicated, we intend to respect the letter and the spirit of the Supreme Court decision.

• (1440)

### PUBLIC SAFETY

#### MISSING AND MURDERED ABORIGINAL WOMEN AND GIRLS

**Hon. Claudette Tardif:** Mr. Leader of the Government in the Senate, as you know, we recently invited Canadians to submit questions they would like to ask the government. I would like to

ask a question sent to us by Rowena Kirk, from Elliot Lake, Ontario. This is her question:

[English]

I cannot understand the ongoing Government's refusal to open a National Inquiry into our epidemic of missing and murdered indigenous women in Canada. My question is:

How can we prove the Canadian government is not racially biased and prejudiced against Aboriginal women in their continued and determined refusal to address the shockingly high proportion of loss of so many Aboriginal women in Canada?

There is no adequate justification or explanation for denying a full National Inquiry into all aspects of our missing and murdered indigenous women.

Mrs. Rowena Kirk asks: "Why is the government rejecting appeals for a full National Inquiry?"

[Translation]

**Hon. Claude Carignan (Leader of the Government):** I would like to thank the honourable senator for her question and for being a voice for that individual. As I have already explained on behalf of the government, we continue to take meaningful action on the tragic issue of missing and murdered Aboriginal women and girls.

For example, as part of our Action Plan 2014, we have committed an additional \$25 million over five years to continue efforts in this area. We have committed more than \$8 million over five years to create a DNA- based missing persons index, and we have passed more than 30 measures pertaining to justice and public safety, including stiffer sentences for murder, sexual assault and kidnapping.

We have created a national website for missing persons, developed community safety plans in partnership with Aboriginal communities and supported the development of public awareness materials. We also created a special committee, which studied the issue and produced a report containing 16 recommendations. I would invite those interested to consult the report and its recommendations, which include awareness campaigns, support for the victims' families, community support, police services, measures to curb violence against women and girls, other support measures and meaningful government action.

I would say that most of the recommendations begin as follows: "That the federal government continue strengthening the criminal justice system"; or "That the federal government maintain its commitment to develop... initiatives" on criminal justice matters and so forth.

I think this is a difficult and complex issue, one that calls for concrete action. That is what our government is doing and will continue to do.

**Senator Tardif:** The recommendations of the report you refer to provide a series of statements aimed at maintaining the status quo. As you know, the Native Women's Association of Canada

was very disappointed in the final report of this committee. What is more, a dissenting report was written by NDP and Liberal members. Everyone is calling for a public inquiry, but the report makes no mention of one. Instead, the report mainly makes reference to existing government programs. This is what Claudette Dumont-Smith, Executive Director of the Native Women's Association of Canada, said about the report:

[English]

We continue to be, I find, treated as second-class citizens.... An aboriginal woman could be disposed of — and that's it, that's all.

There is no new action, just a continuation of what is in place. So what's that going to change, really?

[Translation]

Why does the government keep ignoring the general consensus that there should be a national inquiry?

**Senator Carignan:** Senator, I must disagree with you on the matter of status quo. Take for example recommendation 4 of the report, which reads as follows:

That the federal government implement a national DNA-based missing person's index.

That recommendation led us to include in the action plan, in the budget, the creation of this DNA-based missing person's index. It is an example among many that illustrates the concrete actions taken by the government and is far, as you say, from the status quo. We are taking the lead on this file.

**Senator Tardif:** Leader, Aboriginal women are three times more likely than non-Aboriginal women to be victims of violence. They also represent a disproportionate number of homicide victims. In addition, approximately 50 per cent of violent crimes against Aboriginal people are not prosecuted as compared to 24 per cent for the general population.

In light of these significant discrepancies, Ms. Kirk would like to know why you continue to refuse to set up a national inquiry.

**Senator Carignan:** As I said, we prefer to take concrete action on the ground that will have a direct impact. I mentioned a few examples earlier. I can also add to that list the Family Homes on Reserves and Matrimonial Interests or Rights Act, which gives women living on First Nations reserves the same real property rights as all Canadians, and access to emergency protection orders in violent situations. Unfortunately, the opposition parties voted against this legislation.

#### BAND CONSTABLE PROGRAM—TERMINATION

**Hon. Lillian Eva Dyck:** Honourable senators, I have a supplementary question. You say that the government is taking concrete actions to address this problem. At the same time, the

[ Senator Tardif ]

government has also decided to terminate the on-reserve Band Constable Program. Of course, for women in violent relationships, you rely upon whatever police services are available to you. If you are trying to increase the safety of women on reserve, then why are you cutting the Band Constable Program? It doesn't make any sense.

**Hon. Claude Carignan (Leader of the Government):** As I said earlier, more than thirty measures pertaining to justice and public safety have been adopted. Furthermore, we have introduced preventive measures, worked with Aboriginal communities to develop community safety plans, and prepared documents to raise public awareness. Therefore, there are many comprehensive and concrete actions aimed at preventing violence and raising awareness in Aboriginal communities to promote prevention in ensuring personal safety.

#### MISSING AND MURDERED ABORIGINAL WOMEN AND GIRLS

**Hon. Grant Mitchell:** Honourable senators, I have a question as well on the leader's repetitive refrain that his government is taking concrete action. As I listen to that, I am reminded of spinning wheels, which is action as well, but it doesn't get you anywhere, certainly not to an objective or a result. What we hear over and over again on so many issues is talk about action but no focus on results.

So, the action that has been done really hasn't got to where we need to get. Why would this government not understand that there is a difference between talk, action and getting results, that they need to do something different, and what they should do is listen to the preponderance of opinion among the people of Canada that we need a special inquiry to give us new direction and get some results on this important issue?

**Hon. Claude Carignan (Leader of the Government):** You mentioned spinning wheels. I believe that the people going round and round are the ones who repeat the same question and do not consider the multitude of answers and actions on this file. No one on our side is going round and round.

• (1450)

[English]

**Hon. Wilfred P. Moore:** Leader, you mentioned that the government has given certain real property rights to Native women on reserves. I don't know how that ties in with the question of Senator Tardif about an inquiry and the reluctance to date to have an inquiry, but you also mentioned that you are collecting information. Is it possible that that collection of information may lead to the establishment of an inquiry?

[Translation]

**Senator Carignan:** Now you see why it is important to carefully study a bill before voting against it. The matrimonial real property bill grants access to emergency protection orders in situations of violence. It is a tool in the bill that is given to victims of violence, allowing them to get emergency protection orders. That is one aspect of this law that I wanted to highlight.

[English]

**Senator Moore:** I agree with that and I think it is important, leader, but what about the second part of my question with regard to the gathering of very important information and whether or not that could possibly form the foundation needed to move to an inquiry?

[Translation]

**Senator Carignan:** I'm not sure where you are getting that part of the answer about collecting data. I don't think I mentioned that. I did mention the national DNA-based missing persons index, which was part of the budget bill and a commitment by our government in response to the recommendations made by the House of Commons special committee.

[English]

#### ENVIRONMENT

##### CLIMATE CHANGE STRATEGY

**Hon. Grant Mitchell:** Colleagues, there is an interesting irony here that the small "c" Conservative, and probably would be large "C" Conservative Premier of Alberta Brad Wall touted — sorry, Saskatchewan. We don't have a premier right now. We will probably be getting a right-wing premier.

Premier Brad Wall of Saskatchewan, ironically touted as one of the potential successors of the current Prime Minister, has come out recently and said that a levy on the oil and gas sector might help secure Washington's support for the Keystone XL pipeline. He goes on to say this might provide "environmental elbow room" for the Obama administration to approve Keystone and that it might be easier to get approval from the President if he can point to some Canadian action on the environment.

This from a Conservative, right wing, pro-business, pro-oil and energy sector Premier of Saskatchewan.

Have the Prime Minister and the government in some way approached Premier Brad Wall of Saskatchewan to discuss this particular initiative, or is it still something that they simply deny would be helpful in getting an initiative like the Keystone XL pipeline?

[Translation]

**Hon. Claude Carignan (Leader of the Government):** I think that you should hear Brad Wall's statement, in which he said this:

[English]

Contrary to a media story, I did not call for a carbon tax today or any other day. Here is my statement:

I did not call for a carbon tax or levy for Canada to assist KXL approval.

I answered several questions about whether oil and gas regulations in Canada might help with the pending Keystone decision by the US administration.

My answer was unchanged.

[Translation]

If you like, I can send you his statement instead of reading it in its entirety.

[English]

**Senator Mitchell:** It's kind of a classic Conservative thing to try to have it both ways: "I didn't really say it, but I was asking about it; I was not really going to take responsibility for it."

The fact of the matter is it that he was going down that road, and he raised that question in a very public environment, in the United States of America, so it was not lost on them.

I wonder whether this government has done any study whatsoever to determine how much money has been lost because that pipeline was not built four or five years ago when it might have been if we had proven to the Government of United States, if we had proven to the people of the United States, that, in fact, we were responsible about the environment and that we had earned the social licence to build that pipeline? How much money has been lost because that pipeline wasn't built four or five years ago when it could have been if we had come up with initiatives like the carbon tax.

[Translation]

**Senator Carignan:** As you know, we are focused on jobs, economic growth and environmental protection. That is why we have clearly expressed our support for the pipeline. We respect the American process. The U.S. State Department concluded that the project is in the interests of both countries and that it can be carried out in an environmentally friendly manner. The Keystone XL project has a critical mass of support in both countries. It is a simple way of transporting energy products. It is an environmentally responsible solution, and it is an incredible economic opportunity for communities throughout the continent. We will continue to support this project.

[English]

**Senator Mitchell:** There is growing evidence certainly in our economy and amongst our industry, but very outspoken and high-profile evidence in the United States economy as well, that money is being lost by major corporations because of climate

change. Coca-Cola, for example, has come out and said they can't depend upon water sources in many places in their international business because of climate change and what it is doing to water sources.

Nike has come out and said they cannot depend upon the supply of cotton because the cotton crops have been devastated in so many places in what appear to be inconsistent ways year to year. Has this government undergone any effort whatsoever to talk to Canadian industry, other than just the oil industry, about what might be the impact of climate change and climate change costs on their businesses and their profitability and the jobs they can create and the jobs that are being lost because of climate change?

[Translation]

**Senator Carignan:** You are asking whether we are talking about the issue. The answer I feel like giving you is that what we are doing is taking action. Unlike when the Liberals were in power and greenhouse gas emissions went up, we have taken meaningful action to reduce them. As I have said previously, because of our action, emissions will be reduced by 130 megatonnes compared to what they were under the Liberals.

We are taking concrete action. We have introduced new vehicle emission regulations. We have harmonized vehicle emission regulations with the United States for new cars and light trucks. As honourable senators know, Canada has become the first major coal user to ban the construction of coal-fired power plants. We are taking concrete action, and I encourage you to support our action.

[English]

**Senator Mitchell:** We are back at the concrete action answer, and now I see a car spinning its wheels, spewing greenhouse gases. That is the kind of concrete action you are talking about.

Given the costs of the floods in southern Alberta and Toronto, which were probably expected once in 100 years and are occurring, it seems, once every two or three years across this country now, has the government done anything to investigate the impact and the cost to jobs, economies and industries that climate change is having, the disastrous effects of the weather on infrastructure and business and jobs across this country? Do you have any idea of what that might be costing us?

• (1500)

[Translation]

**Senator Carignan:** Senator, we are taking concrete action to improve the situation with respect to the elements we can control. I would add that, seeing as you are now making the government responsible for rain and the amount of rainfall, I have to conclude that we are doing an excellent job.

[English]

#### DELAYED ANSWER TO ORAL QUESTION

**Hon. Yonah Martin (Deputy Leader of the Government):** Honourable senators, I have the honour to table, in both official languages, a response to the oral question raised in the

[ Senator Carignan ]

Senate on February 6, 2014, by the Honourable Mobina S.B. Jaffer concerning peace talks and protection of Syrian children.

## FOREIGN AFFAIRS

### PEACE TALKS—PROTECTION OF SYRIAN CHILDREN

(Response to question raised by Hon. Mobina S. B. Jaffer on February 6, 2014)

How much money has Canada invested and will it invest multilaterally and bilaterally, specifically for the well-being of children?

Since January 2012, Canada has committed \$353.5 million to international humanitarian assistance efforts in Syria and neighbouring countries. As of March 5, 2014, there were approximately 2.5 million registered refugees, of which around 50 per cent are children (under 18). The United Nations estimates that 46 per cent of the 9.3 million people in need of humanitarian assistance inside Syria are children. Because of these numbers, it is fair to estimate that half of Canada's humanitarian assistance has gone to support the well-being of children. Support has specifically reached children through UN humanitarian agencies such as UNICEF, the United Nations World Food Programme and the United Nations High Commissioner for Refugees, the International Red Cross & Red Crescent Movement and non-governmental organizations, many of which, such as World Vision and Save the Children, have child-focused mandates.

As Prime Minister Harper announced on January 24th, 2014 during his recent trip to the Middle East, \$50 million of our assistance is being earmarked specifically to support the well-being of children through UNICEF's *No Lost Generation* campaign.

In addition to the humanitarian assistance referred to above, since March 2013, Canada has also committed \$210.6 million to support development projects in Jordan and the region to strengthen government services and infrastructure stressed by the influx of Syrian refugees, specifically in education and the delivery of basic services. Support is being delivered through Canadian organizations and multilateral organizations such as UNICEF and the World Bank. It is difficult to determine the proportion of Syrian children benefitting from this development programming as it is aimed at supporting government service delivery and the resilience of host communities. The *Support for Jordan School Feeding* initiative in Jordan is an example of assistance being provided. It will provide 530,000 primary school girls and boys in areas with high poverty rates with high energy rations. The rations will be distributed through public schools which are currently serving both Jordanian and Syrian refugee children. The initiative will also help Jordan develop a sustainable national school feeding strategy. The remaining \$25 million will be provided to Jordan, Lebanon and other neighbouring countries to build resilience of government services and infrastructure, including in health, education and the delivery of basic services currently under severe stress because of the influx of Syrian refugees.

What efforts are being made by Canada to make sure that women are at the peacekeeping table?

This government views and actively supports the realisation of women's and girls' human rights and their full and equal participation in all levels of society, including their engagement in political and economic decision-making, as fundamental and as prerequisites for achieving sustainable peace, democracy, development and prosperity. Women must be included in all aspects of society, and Canada prioritizes efforts to support women's empowerment in peacemaking.

Canada has been working with like-minded countries to encourage the Joint Special Representative for Syria, Mr. Lakhdar Brahimi, to make all possible efforts to ensure the meaningful participation of Syrian women in the Geneva talks. Canada brought this matter to the attention of Mr. Brahimi and has participated in several discussions on the issue.

In December 2013 in Geneva, Canada co-sponsored a roundtable on *The Role of Syrian Women in Resolving the Crisis*. This event brought together women representatives of Syrian civil society, Mr. Brahimi, UN Women, as well as the Office of the High Commissioner for Human Rights, and highlighted the positive role that Syrian women can play in the ongoing Syrian peace process. Canada continues to monitor closely all developments in this regard and to support efforts to ensure that women's voices are heard in the Geneva II process.

In addition, Canada regularly engages with women leaders from countries in conflict and transition, such as Libya and Afghanistan, and actively supports their participation in peacebuilding processes. Minister Baird has met with women's groups from Libya and Afghanistan, and Canada has provided financial support for members of the Afghan Women's Network to participate in international conferences to ensure that women's voices were heard.

Canada has pledged \$227 million in assistance to Afghanistan from 2014-2017 to support programming in education, maternal health, and human rights, particularly as these sectors support the advancement of women and girls. This is in addition to the \$300 million of Canadian programming from 2011-14 to support work in these areas in Afghanistan.

As another example, the former Department of Foreign Affairs and International Trade's (DFAIT) Stabilization and Reconstruction Taskforce (START) has committed more than \$56M since 2006 toward stabilization and reconstruction projects related to women, peace and security. For instance, Canada is providing support to UN Women to increase the involvement of women mediators in conflict resolution efforts.

The future stability and development of all countries will be the direct result of engagement and leadership of women, not despite it.

## ORDERS OF THE DAY

### THE SENATE

#### MOTION TO CALL UPON MEMBERS OF THE HOUSE OF COMMONS TO INVITE THE AUDITOR GENERAL TO CONDUCT A COMPREHENSIVE AUDIT OF EXPENSES—SPEAKER'S RULING

On the Order:

Resuming debate on the motion of the Honourable Senator Downe, seconded by the Honourable Senator Chabut:

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.

**The Hon. the Speaker:** Honourable senators, on Tuesday, March 4, Senator Tkachuk raised a point of order respecting motion 55. The motion, moved by Senator Downe, proposes that the Senate call upon the members of the other place to invite the Auditor General to conduct a comprehensive audit of their expenses, along the lines of the audit currently underway in the Senate. After preliminary consideration of the point of order, the Speaker *pro tempore* indicated that he would hear further arguments at a future sitting, and this occurred on March 6.

[Translation]

Senator Tkachuk's essential objection was that the motion is an instruction to the House of Commons. This would not respect the autonomy of the houses in a bicameral Parliament.

Senator Andreychuk also emphasized the independence of the two houses, within the bounds of the Constitution and the law, and the right of each to regulate internal proceedings and to establish binding rules.

Senator Martin shared these concerns, offering a historical perspective by noting that the independence of the houses has been recognized as fundamental since Confederation.

[English]

Senator Downe, on the other hand, argued that the point of order did not have a basis in the actual text of his motion. The adoption of the motion would not amount to an instruction or an order by the Senate to the House of Commons. Referring to a

case from February 2008, he also noted that the House of Commons has in the past called upon the Senate to take specific actions within a certain period of time.

For her part, Senator Fraser reviewed a range of issues relevant to the point of order. She urged that the motion merely proposes a point of view on which the Senate can decide, but does not — indeed it cannot — bind the House of Commons. Senator Fraser characterized it as an opinion, a suggestion, or an invitation, and nothing more. She also emphasized that the motion refrained from reflecting upon proceedings of the House of Commons. Rather than being out of order, she argued that the motion was an exercise of Senator Downe's freedom of speech. Along this line, she drew the Senate's attention to the general pattern of allowing debate to continue unless it is clearly demonstrated that an item of business is out of order. Senator Fraser did not consider this to be the case with Senator Downe's motion.

[Translation]

Senator Cools also spoke to the acceptability of the motion. She was worried that the motion draws in a third party, the Auditor General, without the Senate knowing whether that officer wishes to be involved in the proposed process.

She questioned whether the motion might weaken the independence of the Auditor General. She then emphasized the foundational nature of the independence of the two houses, and their right to conduct business independently.

This motion, she suggested, proposes to speak directly to the Commons, bypassing the usual vehicle of a message, used in the 2008 case mentioned earlier. She concluded that the motion is out of order in both substance and form.

[English]

The issue at the heart of this point of order is the principle of comity between the two houses. This principle encompasses courtesy, civility and respectful behaviour of one body towards another. We generally think of this in relation to the restraint that Parliament and the courts both show in commenting on the actions of the other. But the idea is also useful in understanding the relationship between the two houses of Parliament. They are, and must be, independent, and free to set their own rules and procedures. But even more than this, each house, and its members, must be careful about commenting on the actions of the other place.

The parliamentary literature recognizes the importance of this mutual respect. The second edition of *House of Commons Procedure and Practice* indicates, at pages 614-615, that:

Disrespectful reflections on Parliament as a whole, or on the House and the Senate individually are not permitted. Members of the House and the Senate are also protected by this rule. In debate, the Senate is generally referred to as "the other place" and Senators as "members of the other place". References to Senate debates and proceedings are discouraged and it is out of order to question a Senator's integrity, honesty or character. This "prevents fruitless arguments between Members of two distinct bodies who are

unable to reply to each other, and guards against recrimination and offensive language in the absence of the other party”.

[Translation]

Ersine May, at page 517 of the 24th edition, states that in the Lords “Criticism of proceedings in the House of Commons or of Speaker’s rulings is out of order, but criticism of the institutional structure of Parliament or the role and function of the House of Commons may be made.”

Similarly, at page 440, one reads that in the Commons:

[English]

It is considered undesirable that any Member of the House of Lords should be mentioned by name, or otherwise identified, for the purpose of criticism of a personal nature in relation to reflections on Members of either House.

Members are restrained by the Speaker from commenting upon the proceedings of the House of Lords. When a Member raised the question of the handling by the Government of a bill which had been sent to the Lords, he was advised that the business of the House of Lords was their concern and not a matter for the Speaker.

[Translation]

As a final point, senators will also wish to refer to Standing Order 18 of the other place. It reads as follows:

No Member shall speak disrespectfully of the Sovereign, nor of any of the Royal Family, nor of the Governor General or the person administering the Government of Canada; nor use offensive words against either House, or against any Member thereof....

The basic independence and mutual respect of each chamber must be adhered to. Comments about the actions of one house or its members ought to be framed with care, so as not to unduly stretch or violate the principle of comity. Honourable senators are generally aware of this when making speeches or formulating questions.

[English]

Just as honourable senators are expected to demonstrate respect for the Commons through the care with which they formulate remarks, so too should senators be entitled to similar consideration from members of the other place. However, any departures in this regard ought not to influence our behaviour. We should always seek to uphold the highest standards of parliamentary practice on such a basic point.

• (1510)

The principle of comity may sometimes seem at odds with other basic parliamentary principles, for example, that of freedom of speech. This freedom is essential. It is at the heart of our vibrant parliamentary democracy. Without it, parliamentarians would be unduly restricted in the conduct of the wide-ranging debates

required in the legislative and policy processes, and in holding government to account. In practice, of course, we are able to reconcile these two basic principles. Indeed we recognize that bicameral comity raises the tone of our proceedings and strengthens Parliament.

[Translation]

It is these two basic principles that are at play in the point of order. The essential issue is whether Senator Downe’s proposal, an exercise of his freedom of speech, respects intercameral comity. The motion calls upon the Commons to take certain actions. The term “call upon” may seem strong. If debate does continue, an honourable senator may wish to propose an amendment to moderate the language of the motion to make it less abrasive. This would help set a tone for constructive relations between the two houses in the future.

[English]

The Senate thus faces a situation in which two basic approaches structuring parliamentary business — mutual respect between the houses and freedom of speech within each house — can seem to be at odds. As noted, it may be possible to resolve this by changing the text of the motion. In such ambiguous situations, it is generally desirable for honourable senators to have the final say, allowing debate to continue unless the Senate decides otherwise. This ensures that this house maintains control of its own business, and provides a basis for how this point of order can be dealt with. The debate can thus continue, unless the Senate does not so wish.

## CONFLICT OF INTEREST ACT

### BILL TO AMEND—SECOND READING— ORDER STANDS

On the Order:

Resuming debate on the motion of the Honourable Senator Day, seconded by the Honourable Senator Moore, for the second reading of Bill S-207, An Act to amend the Conflict of Interest Act (gifts).

**Hon. Yonah Martin (Deputy Leader of the Government):** Honourable senators, I wish to inform the Senate that Senator Frum will be the critic of Bill S-207. Therefore, I move that further debate be adjourned until the next sitting in the name of the Honourable Senator Frum.

**The Hon. the Speaker:** For the fullness of clarification, my understanding is that the item that has been called is Order No. 1, under Senate Public Bills - Second Reading, and No. 1 is resuming debate on the motion of Senator Day, seconded by Senator Moore, for second reading of Bill S-207, which is the act to amend the Conflict of Interest Act. Is that the one you are referring to, senator?

**Senator Martin:** Yes, Your Honour. It’s currently adjourned in Senator Andreychuk’s name and I wanted to clarify that it is actually Senator Frum who will be critic.

**The Hon. the Speaker:** Is it agreed that this item stand in the name of Senator Frum?

**Some Hon. Senators:** Agreed.

(Order stands.)

[Translation]

## PAYMENT CARD NETWORKS ACT

### BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Ringuette, seconded by the Honourable Senator Smith, P.C. (*Cobourg*), for the second reading of Bill S-202, An Act to amend the Payment Card Networks Act (credit card acceptance fees).

**Hon. Ghislain Maltais:** Honourable senators, I am very pleased to rise here today to speak to this bill. It has come up on the Order Paper every spring for the past six or seven years. It is finally time to really debate this issue.

Honourable senators, this bill seeks to protect merchants from rising credit card company fees. At the same time, there is no doubt that Canadians are fed up with hidden costs and they deserve to know the real cost of their credit card payments.

As the Governor General said in the Speech from the Throne, our government wants to help consumers by requiring disclosure of the cost of different payment methods so that Canadians know what it really costs them to use their credit cards.

However, our government believes that the proposals contained in this bill do not strike a fair balance between consumers' and merchants' needs. Simply put, this is nothing more than a band-aid solution. We must ensure that the bill protects both parties involved.

Since the Competition Tribunal submitted its detailed ruling on credit cards, the government has been holding discussions with stakeholders in order to identify the options available and the next steps in responding to merchants' concerns about credit card acceptance fees. Among other things, our government has already taken and continues to take measures to protect merchants and consumers.

Honourable senators, allow me to begin by explaining why we are here. On December 15, 2010, the Competition Bureau asked the Competition Tribunal to do away with the restrictive and anti-competitive rules that Visa and MasterCard impose on merchants, namely the no surcharge rule and the honour all cards rule.

We could talk for hours about this bill, but my intent is to ensure that, when this bill goes before the Banking, Trade and Commerce Committee — and I hope that the bill's sponsor will

make that recommendation following my speech — we will finally be able to strike a fair balance for consumers and merchants, since it addresses the concerns of both these parties.

First, we must not rush to meet a worthwhile objective when doing so would create a greater administrative burden or would be much more costly for either of the two parties.

We need to listen to what the Consumers' Association, the merchants' association and the association of credit card issuers, namely financial companies and banks, have to say. We also need to listen to the opinions of ordinary Canadians, small business owners in rural areas, and gas station and convenience store owners in order to find out how much this will really cost them. We must not just think about big businesses in big cities. We also have to think about small local businesses and the consumers who frequent them and who will have to pay the price because merchants who do not sell large quantities of goods must often make a profit by raising their prices, which is completely normal.

However, Prime Minister Harper's government — and I am going back to a speech I gave on financial literacy in response to a budget bill that was passed in 2013 — had already expressed its intention to keep a close watch on what was going to happen in this bill. The government was concerned about what was bothering merchants and consumers.

• (1520)

I believe that, calmly and quietly, we will be able to work together progressively on this bill, in order to produce a bill that, instead of being put on a shelf, will apply to every city, every town and every small community across our great country. This will have to be done in a spirit of openness and non-partisanship so that the real winners will ultimately be Canadian consumers and merchants.

I will have much more to say in committee, but I already know that all the senators here have the best interests of Canadians at heart.

Thank you.

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

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

**Hon. Senators:** Question!

**The Hon. the Speaker *pro tempore*:** It was moved by the Honourable Senator Ringuette, seconded by the Honourable Senator David Smith, that this bill be read the second time.

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

**Hon. Senators:** Agreed.

(Motion agreed to and bill read second time.)



## REFERRED TO COMMITTEE

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

(On motion of Senator Fraser, bill referred to the Standing Senate Committee on Banking, Trade and Commerce.)

[English]

## LINCOLN ALEXANDER DAY BILL

## SECOND READING

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. Yonah Martin (Deputy Leader of the Government):** Honourable senators, both the sponsor and critic have spoken. Therefore, I would like to refer this bill to committee.

**The Hon. the Speaker pro tempore:** Let us do it by stages. Let's adopt the second reading first. Are honourable senators ready for the question?

**Hon. Senators:** Question.

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

**Hon. Senators:** Agreed.

(Motion agreed to and bill read second time.)

## REFERRED TO COMMITTEE

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

(On motion of Senator Martin, bill referred to the Standing Senate Committee on Social Affairs, Science and Technology.)

## STUDY ON ISSUES PERTAINING TO HUMAN RIGHTS OF FIRST NATIONS BAND MEMBERS WHO RESIDE OFF-RESERVE

## THIRD REPORT OF HUMAN RIGHTS COMMITTEE ADOPTED

The Senate proceeded to consideration of the third report of the Standing Senate Committee on Human Rights entitled: *Recognising Rights: Strengthening Off-Reserve First Nations Communities*, tabled in the Senate on December 12, 2013.

Hon. Mobina S. B. Jaffer moved the adoption of the report.

She said: Honourable senators, I rise today to speak on the consideration of the third report of the Standing Senate Committee on Human Rights entitled: *Recognising Rights: Strengthening Off-Reserve First Nations Communities*. The report was tabled in the Senate on December 12, 2013.

Across Canada, there are more First Nations people living off-reserve than living on reserve. In the 2006 Census, 60 per cent of the First Nations population reported living off-reserve. According to the 2011 National Household Survey, approximately 850,000 Canadians identified as First Nations, 62.4 per cent of whom lived off-reserve.

Off-reserve First Nations people comprise a largely urban population. The census data indicate that three quarters of off-reserve First Nations people live in urban areas. The census data also suggest that First Nations people living off-reserve face particular social, economic and health-related challenges. As a group, First Nations people living off-reserve score lower on virtually all social and economic indices than do non-Aboriginal people. In addition, this population is less likely to report being in good health than the non-Aboriginal population and is significantly more likely to report living with chronic illnesses, including arthritis, asthma, diabetes, heart problems, cancer and emphysema.

The off-reserve First Nations population is a distinct group of Aboriginal Canadians. However, off-reserve Aboriginal people may also be members of other segments of the Aboriginal population. Off-reserve First Nations people may or may not be members of a First Nations band and may or may not be registered as status Indians under the Indian Act. Of the off-reserve First Nations population in 2011, for example, 60.8 per cent were registered Indians while 39.2 per cent were not registered Indians. The study focused on the rights of the off-reserve First Nations population as a distinct group. This was the first parliamentary study of this group of Aboriginal Canadians.

Concerning the rights of off-reserve First Nations people, First Nations people have rights that are protected under section 39 of the Constitution Act, 1982. These include the rights that flow from the historic treaties signed between First Nations and the Crown. The rights of First Nations people living off-reserve also receive a level of protection under the equality provisions, section 15, of the Canadian Charter of Rights and Freedoms.

In the case of *Corbiere v. Canada*, 1999, the Supreme Court of Canada held that First Nations people cannot be excluded from voting in the First Nations communities simply because they do not live on a reserve. The voting rights of First Nations people living off-reserve are thus protected against discrimination based on residency off-reserve. In addition, the important recent decision of the Federal Court in *Daniels* held that Metis and non-status Indians are "Indians" within the meaning of section 91.24 of the Constitution Act, 1867, and therefore within the exclusive legislative authority of Parliament.

As noted previously, 39.2 per cent of the off-reserve First Nations population in 2011 were non-status Indians. Therefore, this decision, if upheld, would, according to the statistics just

cited, affect close to 40 per cent of the off-reserve First Nations population.

The *Daniels* decision may also reflect a broader evolution towards greater recognition of Aboriginal groups who have been overlooked or under-represented in the Canadian legal and political discourse. In this regard, the rights of the Metis were the subject of the Supreme Court of Canada's decision in *Manitoba Metis Federation*, 2013.

My colleagues in the Standing Senate Committee on Aboriginal Peoples released a report last year examining the recognition of the identity and the rights of the Metis. In undertaking its study, the Standing Senate Committee on Human Rights was concerned with better understanding the rights of First Nations people living off-reserve, as well as the experiences of this group in exercising their rights and accessing federal programs and services.

• (1530)

We hope that our report will generate an ongoing dialogue with the off-reserve First Nations people and their representative organizations, and contribute to greater overall understanding of the issues affecting this segment of the Aboriginal population.

The Committee's Study: General. The Standing Senate Committee on Human Rights is concerned with ensuring that federal legislation and policies adhere to the Canadian Charter of Rights and Freedoms and international human rights standards. The committee also has a mandate to help educate the public and provide a forum for dialogue on human rights issues in Canada. In connection with its general mandate, the committee undertook in March 2012 to examine and report upon issues respecting the rights of off-reserve First Nations people and their ability to access services, with an emphasis on the current federal policy framework.

In the course of the study, the committee held hearings in Ottawa, as well as in Winnipeg, Saskatoon and Vancouver. We heard from 84 witnesses, including governments, academics, service delivery organizations and individuals. The committee also heard from a large number of friendship centres because of the considerable role this network of organizations has played in the lives of off-reserve First Nations people for over 50 years.

The study aligned with several of the committee's previous studies, which considered issues affecting Aboriginal people. For example, in the committee's 2011 report entitled, *The Sexual Exploitation of Children in Canada: the Need for National Action*, the committee played special attention to the realities facing many Aboriginal youth, especially girls and young women, which make them particularly vulnerable to sexual exploitation. In addition, in its report, *Cyberbullying Hurts: Respect for Rights in the Digital Age*, the committee also noted the particular vulnerabilities of Aboriginal children due to such factors as racism, living conditions, poverty and domestic violence.

Evidence Heard: Aboriginal women and girls. As in previous studies undertaken by the committee, the study on the rights of off-reserve First Nations people included a focus on the particular experiences and challenges faced by Aboriginal women and girls.

The committee heard from many witnesses that off-reserve First Nations women and girls continue to carry a heavy burden. The report examined the intersecting issues of sexism, racism, violence and poverty that may affect off-reserve First Nations women. In addition, the committee heard that women face economic strains associated with primary responsibility for child rearing and caregiving.

Programs and services. The federal government runs several programs that are either specifically designed for or accessible to the First Nations people living off-reserve. These programs are offered in many areas, including health, education, training and employment, youth, and housing.

One example is Health Canada's non-insured health benefits program, which is available to status First Nations people living on- and off-reserve. In all, over 30 federal departments and agencies provide services to Aboriginal people in Canada. However, the committee heard that the challenges experienced by off-reserve First Nations people include a lack of access to federal programs and services for First Nations people.

The committee also heard of a lack of programs and services targeted to the specific needs of off-reserve First Nations people. As the report notes, there is a lack of clarity regarding federal and provincial responsibility for program and service delivery to off-reserve First Nations populations. As a result, this population may experience difficulty accessing both federal services provided on-reserve and provincial programs available to the general public.

At an individual level, many who leave their reserve communities may lose access to certain programs available on-reserve. They are often the victims of jurisdictional disputes that may result in the failure of governments to provide adequate services off-reserve.

Voting rights. Despite the charter protections for the voting rights of off-reserve band members, the committee heard that off-reserve First Nations band members do not have uniform access to band elections. This inconsistency in the inclusion of off-reserve members in band elections indicates that there is a gap between the existence of the right in law and its existence in practice. It also highlights a barrier to the participation of off-reserve band members in band decision making.

Friendship centres. The committee sought input from many friendship centres across Western Canada because of the crucial roles they play in the lives of First Nations people living off-reserve. As the committee heard, they provide a wide array of social and cultural services to First Nations people. Services may include programs related to health, education or employment, as well as child care, youth initiatives, emergency housing, food banks, cultural and spiritual activities, and access to elders.

In connection with the exercise of voting rights, some friendship centres also facilitate participation in elections, both band and mainstream — municipal, provincial and federal.

In addition to the important current role they play in the lives of off-reserve First Nations people, some witnesses envisioned a future role for friendship centres that included a greater role in

coordinating and administering federal programs for urban Aboriginal people.

The report surveys the evidence provided by various stakeholders consulted, as well as the personal stories of several community members. We were able to include and felt it important to include both individual and policy-level perspectives in the final report. The report also makes observations with respect to several issues surveyed in the report. These include observations respecting the role of friendship centres in continuing to provide important programs and services to off-reserve First Nation communities. The report notes the often limited budgets of friendship centres and notes that the strain on them will increase along with the rapid growth of the off-reserve First Nations population.

In addition, the report observes that First Nations people living off-reserve are not always able to access the services they need or services needed to facilitate the exercise of their rights, for example, voting.

The report's findings are preliminary. This is, in part, because the committee was not able to hear from all of the interested parties on these issues. As well, the committee undertook its study on the rights of off-reserve First Nation band members at a time when the law surrounding these issues is undergoing important development. In particular, the *Daniels* case, in which the Federal Court declared that Metis and non-status Indians fall within the jurisdiction of the federal government, is currently under appeal. Issues respecting the rights of off-reserve First Nations people and programs and services to meet their particular needs and challenges are in flux.

The committee hopes that this report will help to generate greater understanding and dialogue on the important issues affecting the human rights of off-reserve First Nations' band members.

The committee also hopes that the federal government and the relevant stakeholders take into account the preliminary findings in this report as they consider these evolving issues. The committee also undertakes to remain updated on these issues as they develop.

Honourable senators, in conclusion, I would like to share with you something that will stay with me all my life. Ever since I came to this great country almost 40 years ago, I have often visited Winnipeg and Manitoba, and I've always felt that in Winnipeg or in Manitoba all communities are welcome. The multicultural program, the multicultural community and the welcome of refugees are the best in the country.

While doing the study, we visited Winnipeg and we went to the friendship centre in Winnipeg, and I will never forget what I saw. The day we arrived at the friendship centre, they were having a celebration, a celebration on the deaths of five year-olds, six year-olds, and seven year-olds who were killed senselessly just because they were in the wrong place.

Honourable senators, we are supposed to be a chamber that looks after the rights of minorities. What is happening to Aboriginal people who are living off-reserve, the kind of life

they are leading? I urge all of us to look at this issue seriously because this is not the Canada we all wish for. Every child should have equal access to education, health and well-being.

• (1540)

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

**Hon. Senators:** Agreed.

(Motion agreed to and report adopted.)

## THE SENATE

### MOTION TO RECOGNIZE MAY AS NATIONAL VISION HEALTH MONTH ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Seth, seconded by the Honourable Senator Plett:

That because vision loss can happen to anyone at any age and as a result thousands of people across Canada are needlessly losing their sight each year, and because many Canadians are not aware that seventy-five per cent of vision loss can be prevented or treated, the Senate recognize the month of May as "National Vision Health Month," to educate Canadians about their vision health and help eliminate avoidable sight loss across the country.

**Hon. Yonah Martin (Deputy Leader of the Government):** Honourable senators, I rise today to speak in support of Senator Asha Seth's motion to recognize the month of May as national vision health month to educate Canadians about vision health and to help eliminate avoidable sight loss across the country.

Vision loss affects people of all ages. More than 817,000 Canadians are currently living with vision loss. Within the next 20 years, this number is expected to double. As we get older, the risk of developing an eye disease that can cause vision loss increases. I'm reminded of this potential risk for my mother every time I am with her. As she ages, her cataracts develop. A very simple task is the use of a toothpick after a meal. When I give her the toothpick, she tries to break it apart because she says there are three of them, when there is just one. Her eyesight will continue to deteriorate as she ages. This issue poses potential risks for many of us as well as for those whom we love and care for.

In a world where most of us are born with the ability to see, we often forget that not everyone is given this luxury and that sight is not guaranteed. Many people suffer from visual impairment at some point in life. For many, it may simply require corrective

lenses. In extreme cases, a person may lose the ability to see and must learn to adapt to a new way of life. However, with the right support, they can do almost anything. I commend all of these individuals. They are an inspiration to all of us and showcase the true meaning of courage, strength and dedication. They do not see vision loss as negative or as a disability. Instead, they are empowered and determined to live their lives to the fullest.

Vision loss can happen to anyone regardless of gender, income, ethnicity, culture, other disabilities or age. Together we can educate Canadians about the importance of early detection and vision health research; and we can provide resources to those living with vision loss.

Finally, I would like to acknowledge our honourable colleague, Senator Asha Seth, for her leadership, dedication and passion to this important cause. I encourage all honourable senators to join me in supporting Senator Seth's motion to recognize the month of May as national vision health month to educate Canadians about their vision health and to help eliminate avoidable sight loss across the country.

**Hon. Mobina S. B. Jaffer:** Honourable senators, I would like to thank Senator Seth for raising the motion on vision loss in Canada. It is a very important issue, which should be discussed.

Senator Seth is absolutely right: We need to do more to make sure that Canadians are aware that most causes of vision impairment are treatable and preventable. Current estimates suggest that 1 million Canadians are living with blindness or significant loss of vision. This number is expected to grow in the future. I think her motion to create a national vision health month is a good idea that I fully support.

While the situation for vision loss in Canada is dire, vision impairment around the world is ten times worse. Millions of people around the world fail to get the care they need to deal with vision loss. This is often due to lack of knowledge or funds, or access to medicine and facilities. This is especially true in developing countries where 90 per cent of the world's visually impaired people live. According to the World Health Organization, 285 million people are estimated to be visually impaired worldwide: 39 million are blind and 246 million people have low vision; and 82 per cent of all blindness around the world occurs in people who are 50 and older. As the world elderly population grows, these already staggering numbers are expected to rise.

Globally, uncorrected refractive errors such as myopia, hyperopia or astigmatism are the main causes of visual impairment. Cataracts remain the leading cause of blindness in middle- and low-income countries. As you know, with the right care, cataracts are curable with an operation.

Although significant gains have been made over the past 20 years, curable diseases such as trachoma continue to painfully weaken the eyes of the world's poorest populations. Perhaps most tragic is that an estimated 19 million children are visually impaired. Of these, 12 million are visually impaired due to refractive errors, a condition that could be easily diagnosed and corrected; and 1.4 million are irreversibly blind for the rest of their lives.

I would like to share the story of one of these children with you. The story is about a two-month-old baby named Yang Jiajian who lived in mainland China. Jiajian was diagnosed as needing cataract surgery costing 20,000 Chinese yuan, or \$3,500, when a white spot was discovered in one of his eyes while only a few weeks old. A full cataract surgery involves not only taking away but also replacing the muddy lens with an artificial substitute. Sadly, despite scrimping and saving for two years, Jiajian's poor family could only afford to pay 10,000 yuan for the removal of the cloudy lens. The little boy was condemned to spend the next decade of his childhood with very little vision.

This story, however, has a happy ending. Through the work of the Red Cross and other NGOs, Jiajian was able to get the rest of his cataract surgery and regain his vision; but by that time he was already 12 years old. In Canada, we would never expect a child to wait 10 years to deal with a correctable vision issue; but in the developing world, Jiajian would be considered lucky.

Honourable senators, the World Health Organization estimates that 80 per cent of all visual impairment around the world can be prevented or cured. Over a short period of time, we have seen what the world can do when we work together to eradicate diseases. Although there is still much to be done, polio, TB and HIV have been significantly reduced over the past decade. Honourable senators, if we make vision loss a significant global priority, I have no doubt that we can gainfully reduce the amount of vision loss both here at home and around the world.

Again, I support Senator Seth's motion and thank her for bringing this to our attention.

**Hon. Norman E. Doyle:** Honourable senators, I'm pleased to make a few remarks on this motion by Senator Seth. I know she is very concerned, and I feel that that we should be concerned as well about the fact that many Canadians are needlessly losing their sight every year. When you read the motion, it's astounding how it makes us fully aware that 75 per cent of vision loss can be prevented or treated.

• (1550)

Now, given that fact, I believe that recognizing a special month as a national vision health month would be tremendously helpful in raising awareness among Canadians that we have to be vigilant in recognizing the signs of vision impairment in the early stages, so that we might be able to avoid becoming part of the frightening statistics that reveal just how widespread the problem really has become.

It's amazing that more than 817,000 Canadians are currently living with vision impairment. On top of that, it's an eye-opener, so to speak, that about 3.5 million people live with some form of age-related macular degeneration, glaucoma or cataracts. They might not yet have vision loss, but if left untreated, most of these people will be at very high risk.

It could be argued that merely drawing attention to a problem does not necessarily mean that the problem immediately goes away. It does not. However, drawing attention to the problem in this way — by way of a motion — has the same effect as placing a

sign on a highway that says, “Slow down, rough road”: You sit up, take notice and hopefully take action by obeying the warning signs.

This motion will have that kind of effect. It will warn us each year that vision loss is preventable and that it's time to pay attention to the warning signs.

The issue is clear, the motion is a good one, and I want to offer congratulations to my colleague on this initiative.

Vision loss is widespread and often overlooked in Canada. If eye care problems are left untreated, most of these people are at very high risk. Vision loss imposes a substantial amount of suffering on Canadians from lost quality of life, and the real financial cost to vision loss in Canada was estimated in 2007 to be about \$15.8 billion, which is 1.1 per cent of Canada's GDP. That breaks down to \$500 for every Canadian or \$19,000 for every Canadian with vision loss in 2007. Unless we do something about it, the cost of vision loss is only going to rise rapidly in the future, making our health care system even more overburdened and taking a greater toll on Canadians.

In the next 25 years, the number of Canadians with vision loss is projected to double. The number affected will top 1 million in the next five years and continue to escalate. So Canada needs to be more vigilant when it comes to the vision health crisis because vision loss places an enormous burden on society. By elevating vision health as a public health issue, Canadians could become much better informed about vision loss and take significant steps to reduce that risk.

It should be noted also that a demographic shift has led to a mounting epidemic of age-related eye disease in Canada as well as a growing resource problem in vision health care. People of all ages can experience that, but as we age, the risk of developing eye disease that can cause vision impairment increases. The vision health care system in Canada has been severely put under pressure by an almost 40 per cent increase in the need of the population for vision care in the last 10 years.

The country is in the middle of an epidemic of age-related eye disease, and the number of blind and visually impaired Canadians has increased 37 per cent in the last 10-year period. It's projected to double in the next 18 years.

Eye care utilization has increased also, stretching the system to the breaking point, as indicated by the extended waiting times for assessment and treatment. The aging workforce in vision care, already overburdened, faces severe human resource shortages in the future. Even with large increases in residency training positions, the number of Canadians over age 65 per ophthalmologist will increase by 76 per cent in 15 years.

A rise in diabetes leading to diabetic retinopathy is at the root of increased vision loss among Canadians, especially in Aboriginal communities. We are told that because of poor diet, the Aboriginal group is developing diabetes earlier in life. From 1996 to 2006, Canada's Aboriginal population grew six times faster than other populations. That is a problem on its own.

Unless Canadians rise to meet the challenge of this gathering storm, the quality of our vision health care will erode, and the number of Canadians needlessly experiencing avoidable blindness will surge. Raising awareness and educating Canadians about their vision health is a key strategy to reduce the impacts of the problem.

The objectives are clear: Tell all Canadians about the importance of preventative eye care and treatment; create awareness of the rising number of blind and partially sighted people in Canada, which currently stands at nearly 1 million people; promote the expansion of Canadian research in vision health, which is often forgotten and neglected; encourage dialogue on the extent of the vision loss epidemic in Canada and its financial and personal costs; propose strategies for effectively managing the increasing rates of blindness and vision loss among Canadians, especially seniors, visible minorities, Aboriginal communities and socio-economically vulnerable sectors of society; and call on all Canadians to do one thing simple thing that could save their sight — get an eye examination by a doctor of optometry. By doing so, we can save the sight of millions of Canadians, young and old, rich and poor.

Again, I offer congratulations to Senator Seth on her initiative.

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

**An Hon. Senator:** Question!

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

**Hon. Senators:** Agreed.

(Motion agreed to.)

## **RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT**

**MOTION TO AUTHORIZE COMMITTEE TO STUDY CHANGES TO SENATE'S RULES AND PRACTICES THAT WILL HELP ENSURE SENATE PROCEEDINGS INVOLVING DISCIPLINE OF SENATORS AND OTHERS FOLLOW STANDARDS OF DUE PROCESS—  
DEBATE CONTINUED**

On the Order:

Resuming debate on the motion of the Honourable Senator McCoy, seconded by the Honourable Senator Rivest:

That the Standing Committee on Rules, Procedures and the Rights of Parliament be authorized to examine and report on changes to the Senate's Rules and practices that, while recognizing the independence of parliamentary bodies, will help ensure that Senate proceedings involving the

discipline of senators and other individuals follow standards of due process and are generally in keeping with other rights, notably those normally protected by the *Canadian Bill of Rights* and the *Canadian Charter of Rights and Freedoms*; and

That the committee submit its final report to the Senate no later than November 30, 2014.

**Hon. James S. Cowan (Leader of the Opposition):** Honourable senators, I am still preparing my remarks for this, and I would ask to adjourn the debate in my name for the balance of my time.

(On motion of Senator Cowan, debate adjourned.)

## HYDROCARBON TRANSPORTATION

### INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Neufeld, calling the attention of the Senate to the safety of hydrocarbon transportation in Canada, and in particular, to the twelfth report of the Standing Senate Committee on Energy, the Environment and Natural Resources entitled: *Moving Energy Safely: A Study of the Safe Transport of Hydrocarbons by Pipeline, Tankers and Railcars in Canada*, deposited with the Clerk of the Senate on August 22<sup>nd</sup>, 2013, during the First Session of the Forty-first Parliament.

**Hon. Judith Seidman:** Honourable senators, on March 4, Senator Neufeld called the attention of the Senate to the twelfth report of the Standing Senate Committee on Energy, the Environment and Natural Resources. He offered his insight into the goals and purpose of our report, and I am pleased to do the same. The report, *Moving Energy Safely: A Study of the Safe Transport of Hydrocarbons by Pipeline, Tankers and Railcars in Canada*, is an outstanding example of the kind of work we do as senators.

In July 2012, the committee completed a three-year study on the current state and future of Canada's energy sector. During this study, it became evident that there were gaps in information regarding the transportation of bulk hydrocarbons in Canada.

• (1600)

Members of the committee agreed this issue was of great importance to Canadians and that it required further investigation. On November 28, 2012, the committee sought authorization to study three modes of transportation of bulk hydrocarbons in Canada: transmission pipelines, tankers and railcars. The report states:

The goal was to examine the current state of emergency and spill prevention, preparedness and response frameworks under federal authority and to make recommendations to improve public safety and the protection of the environment.

This goal was set amidst growing concerns over rapidly expanding oil and gas production. From the outset, it was clear that the committee was engaged in an area of study that was not only timely, but critical for future planning and regulation.

The committee travelled on several fact-finding missions across the country, including visits to Calgary, Hamilton, Saint John, Halifax, Vancouver, Seattle and Valdez, Alaska. Over the course of 18 meetings we heard from 51 expert witnesses including provincial and federal regulators, industry representatives, engineers and scientists, spill response organizations, First Nations, and environmental groups.

The testimony was wide-ranging and informative: Witnesses from industry discussed their safety records; marine spill response service teams outlined their capacity to contain and clean up a spill; and environmental groups expressed concern about the behaviour of spilled bitumen in the natural environment.

When the study began, pipelines were at the forefront of discussions in the media and elsewhere. However, the committee's decision to address three different modes of transportation of oil and gas, particularly rail, proved to be a wise choice. Throughout the course of the study, the committee learned that although the transportation of crude, petroleum products and other dangerous goods by rail is not new in Canada, it has exploded in recent years. According to the rail industry, 160,000 carloads of crude were shipped in 2013, up substantially from 500 in 2009.

Then, on July 6, just 16 days after the committee heard from its last witness, a runaway train carrying 72 tankers of crude oil crashed into the downtown of Lac-Mégantic, killing 47 people. This event has marked a turning point in public awareness of rail transport.

Suddenly, the same questions the committee had put to witnesses began to circulate in national media: Who is liable if a spill occurs? What are the regulations surrounding safety improvements for DOT-111 tank cars? Have industry and regulators responded to the recommendations made by the Commissioner of the Environment and Sustainable Development in December 2011? The section on rail in *Moving Energy Safely* addresses these important questions and makes concrete recommendations on how to move forward. The committee recommends:

That Transport Canada apply appropriate minimum liability coverage thresholds to ensure rail companies have the financial capacity to cover damages caused by a major incident.

That Transport Canada review, in cooperation with the United States Department of Transportation, the use of CTC-111A and DOT-111 tank cars and consider accelerating the transition to the revised standard.

And:

That Transport Canada implement all the recommendations from the December 2011 Report of the Commissioner of the Environment and Sustainable

Development related to the transport of dangerous goods by rail.

It should also be stressed that the strength of this report goes beyond the list of recommendations. As the chapter on rail demonstrates, the committee took a wide-angle view of the industry and its position as a unique transportation network. Unlike other industries, rail “can move products virtually anywhere” and “their capacity to respond quickly with flexible cargo options” provides stability in a shifting market.

Railways reach into remote communities. They provide a complement to pipelines through delivery to niche markets. Let us not forget that this country was united by the railway; it is essential to our history and to our future. And yet there is no question that the tragedy in Lac-Mégantic has changed the way Canadians think about the transportation of dangerous goods by rail. Among other things, it has forced us to re-evaluate how the industry itself monitors safety and actively promotes it. The committee heard much on the subject from rail industry witnesses who spoke readily of the “culture of safety” deeply embedded in all aspects of their corporate culture.

In addition, the committee heard from safety experts about the Swiss Cheese Model of Accident Causation, where defences against accidents are represented by slices of Swiss cheese. Holes in a company’s defences can vary in size and position, and represent the degree of weakness or breach within each defence. An accident is usually caused by a series of failures at weak points in a company’s defences. When these weak points momentarily align in the presence of a threat or danger, an accident occurs.

How then is such risk of failure and the potential accident minimized?

Safety experts testified that each company must be preoccupied with identifying and assessing every small failure in its operations. The committee was told by the National Energy Board that leaders have a particular responsibility to promote safety culture within their organizations. This includes the ability to empower front-line employees to question procedures and investigate safety concerns at any point. Safety experts affirmed that this type of leadership produces an environment of continuous learning and understanding in which holes in safety defences can be identified before an accident occurs.

No doubt Canadians remain preoccupied by the catastrophic series of failures that occurred on July 6, and require assurance from all parties — industry, regulator and government — that all precautions are in place to minimize the risk of recurrence. We know that it can take years to gain “social licence” and, yet, it can take just moments for all that goodwill to be lost.

Honourable senators, the disaster in Lac-Mégantic was of unprecedented proportion. In our report, the committee speculates that this event will incite significant reform in the rail industry, equivalent to the impact that the 1989 *Exxon Valdez* spill had on marine transport.

There is no question that progress has been made. To date, we have seen a number of improvements including tougher standards for DOT-111 tank cars; a push for new emergency response

assistance plans for crude oil; and better lines of communication between municipalities and rail companies.

There is more work to be done, but I am confident that we have the information we need to develop strong regulations to guide industry in their efforts to protect Canadians and the environment. I am confident that we will see the positive effects of these changes in the near future, and I am confident, honourable senators, that this report has made a significant contribution to the future of rail safety in Canada.

Thank you.

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

• (1610)

## CANADIAN CHILDREN IN CARE, FOSTER FAMILIES AND THE CHILD WELFARE SYSTEM

### INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Hubley, calling the attention of the Senate to Canadian children in care, foster families, and the child welfare system.

**Hon. Lillian Eva Dyck:** Honourable senators, I rise today to speak to the important and timely inquiry on Canadian children in care, foster families and the child welfare system, introduced by my colleague Senator Hubley.

I will focus my speech on the work of Dr. Cindy Blackstock, who, along with the Assembly of First Nations, in 2007 initiated a human rights complaint against the Government of Canada for the disparities in funding for on-reserve First Nation child welfare compared to provincial funding.

Dr. Blackstock is the executive director of the First Nations Child & Family Caring Society of Canada. She’s an associate professor, University of Alberta, and she is also the founder of the First Nations Children’s Action Research and Education Service. Dr. Blackstock is a member of the Gitksan Nation. She has worked in the field of child and family services for over 20 years, and she is one of the country’s most committed and respected activists for First Nations children.

In her speech to the House of Commons Special Committee on Violence Against Indigenous Women on February 6, 2014, Dr. Blackstock stated:

We know the statistics. First nations children are more likely to be in child welfare care. They’re placed there at 12 times the rate of non-aboriginal children, driven primarily by neglect that’s fuelled by poverty, poor housing, and substance abuse, all things we can do something about, members. Those are not unsolvable problems.

She continues:

We know that the federal government is directly involved with first nations children. Although we can make the argument that for other children, education and child welfare are a provincial jurisdiction, for first nations children the federal government has a direct role in the provision of child welfare for 163,000 children.

She continues:

We are before the Canadian Human Rights Tribunal at the moment trying to get equality in first nations child welfare funding. I tell people that the most shocking thing about that case is that it's even necessary at all in a wealthy country such as ours.

Honourable senators, Dr. Blackstock filed the complaint against the federal government with the Canadian Human Rights Commission in February 2007, along with the Assembly of First Nations. The First Nations Child & Family Caring Society of Canada and the Assembly of First Nations argued that the services on-reserve should be on par with those off-reserve, which are funded by the province. Instead, there is a gap. Reserve funding is about 22 per cent less.

Dr. Blackstock maintains that children on reserves deserve the same opportunities as those off-reserve. Throughout the process of the complaint, the federal government and its Crown lawyers have tried to slow down hearings with repeated objections on technical matters.

The original discrimination complaint was dismissed in 2011 without hearing any evidence. The tribunal rejected it without hearing any arguments on the grounds that to establish discrimination one needed to compare the provision of the same service to two different groups, but that in this case it was not valid to compare services provided by the federal government with those provided by the provincial governments.

The ruling was appealed, and Dr. Blackstock won a major victory on April 18, 2012, when the Federal Court ruled that further scrutiny is needed to determine whether Ottawa is discriminating against First Nations children on reserves by underfunding child welfare services; in other words, she won the appeal.

The Federal Court ordered the Canadian Human Rights Tribunal to hold a new hearing on the case before a newly constituted panel of adjudicators. The Federal Court ordered the tribunal to review the evidence it had initially refused to hear. After six years of procedural delays, the Human Rights Tribunal began hearing from witnesses in February 2013, just a year ago.

This landmark decision could open the door to similar challenges and have a wide-ranging impact on other services that, on reserves, fall under federal jurisdiction, such as education, health and housing, where there are funding gaps. If the government is found in the wrong — that is, if the government did discriminate against First Nations children based on race and

ethnic origin — this could have a domino effect with all First Nations funding from the federal government for education, health services and social services.

Honourable senators, there is substantive evidence that the federal government's provision of First Nations child welfare is inequitable. The Auditor General of Canada, in 2008 and 2011, confirmed that the federal government's provision of child welfare services on reserves was not comparable to that provided off-reserve. These findings echo other reports commissioned by the Government of Canada itself, as well as findings of the Public Accounts Committee in 2009, and the United Nations Committee on the Rights of the Child in 2003 and in 2012. So there is lots of evidence that there is inequity in funding between on-reserve children and off-reserve children.

After filing a human rights complaint against the federal government, Dr. Blackstock discovered that Aboriginal Affairs and Northern Development Canada had her under surveillance and was sharing information about her with the Department of Justice. She took her story to the media, and it made national headlines.

Government documents obtained by Dr. Blackstock showed that the two federal departments monitored her personal Facebook page, tracked people who posted to her page, and sent staff to take notes on her public presentations, all in an attempt to find information that might help the government fight the discrimination complaint that Dr. Blackstock's organization is pursuing before the Canadian Human Rights Tribunal.

Ten months ago, the Privacy Commissioner concluded that the Department of Aboriginal Affairs and the Department of Justice went too far in their online monitoring of Dr. Blackstock. According to the Privacy Commissioner's report, senior officials overseeing the government response to the tribunal case directed staff to collect screen shots of Dr. Blackstock's personal Facebook page and circulate this material within the departments. The Privacy Commissioner concluded:

By all indications, it was clear to officials in both departments that they were accessing and compiling information about the complainant personally.

The Office of the Privacy Commissioner found that officials in both the Department of Aboriginal Affairs and the Department of Justice began collecting personal information about Dr. Blackstock in February 2010. In the report, the commissioner found that the two departments "repeatedly accessed, viewed, read, copied and recorded personal information" from Dr. Blackstock's personal Facebook page.

Dr. Blackstock has filed a complaint with the Human Rights Tribunal for this intimidating surveillance.

Under section 14.1 of the Canadian Human Rights Act:

It is a discriminatory practice for a person against whom a complaint has been filed under Part III, or any person acting on their behalf, to retaliate or threaten retaliation against the individual who filed the complaint...



These hearings began last month, so additional hearings are in progress.

If found guilty, the government will be facing the embarrassment of retaliating against a First Nations child advocate, and the panel could award Dr. Blackstock and the Caring Society a maximum of \$20,000 each.

• (1620)

To summarize, the human rights tribunals are supposed to provide an alternative to lengthy, costly court challenges. In this instance, however, the federal government has gone to great lengths to challenge the tribunal's authority to hear the complaint, repeatedly forcing the case into the courts and interfering with obtaining a timely and effective solution to address the alleged discrimination.

By June 2012, the federal government had spent more than \$3 million in legal fees to oppose the case. The government's arguments have relied on extremely narrow interpretations of the Canadian Human Rights Act. The federal government has argued, for example, that while the Canadian Human Rights Act prohibits discrimination in the delivery of government services, this shouldn't apply to the government funding decisions that determine the level of services that can be provided.

The federal government also argued that it cannot possibly discriminate in the delivery of services to First Nations children since it doesn't provide services for any other children and therefore does not treat any other children better than it treats First Nations children. Had they been successful, these arguments would have severely limited future applicability of the Canadian Human Rights Act, especially in relation to federal government services in First Nations communities. However, as I mentioned previously, they lost that case.

After the initial complaint was filed seven years ago, hearings into evidence of discrimination only began in February 2013. In May 2013, it was revealed that the government had still not disclosed more than 50,000 documents relevant to the hearings. The existence of these documents was revealed only through an access-to-information request. The lengths that the federal government has gone to delay this case, including gathering personal information on Dr. Blackstock, flies in the face of fundamental principles of human rights protection.

Honourable senators, on reviewing this case, it is clear that the federal government has spent enormous amounts of time, effort and taxpayer dollars trying unsuccessfully to prevent the Canadian human rights complaint from even being heard. Clearly, much is at stake. If the Canadian Human Rights Commission rules in favour of the complainants, the continual underfunding of First Nations child welfare on reserves will have been acknowledged and, presumably, compensation orders will be made.

The federal government can appeal the ruling. However, at this point in time, wouldn't it be wiser to accept such a ruling? Why waste more money trying to deny the reality of chronic

underfunding of basic services such as child welfare, education and health services on First Nations reserves?

Honourable senators, \$106 million was spent by INAC litigating against First Nations. It's time to stop wasting money this way and instead invest it in measures that will actually help solve the problem and that will cost far less in the long term.

Thank you.

(On motion of Senator Jaffer, debate adjourned.)

## PROPOSED QUEBEC CHARTER OF VALUES

### INQUIRY—DEBATE CONCLUDED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Jaffer calling the attention of the Senate the negative effects of the Quebec Charter of Values on Canadians.

**Hon. Jane Cordy:** Honourable senators, I was planning to speak on the Quebec charter of values, but in light of the Quebec provincial election, I believe it's probably best not to speak at this time. This is an important issue, which affects all Canadians, and I would hope that perhaps sometime in the future somebody can raise a similar inquiry when we can speak. Thank you.

**Hon. Mobina S. B. Jaffer:** In light of what Senator Cordy has said, and assuming there is nobody else who wants to speak, I would like to —

[Translation]

**Hon. Ghislain Maltais (Acting Speaker):** Would you like to withdraw the motion, Senator Cordy?

[English]

**Senator Cordy:** It is not my motion. I had the adjournment in my name. In light of the election, I have chosen that my comments today are going to be the extent of my speech on this particular inquiry, so I'm suggesting that unless somebody else wishes to speak on this inquiry, that perhaps sometime in the future Senator Jaffer may once again bring forward this inquiry, but unless somebody else wishes to speak, perhaps this inquiry can just be removed from the Order Paper.

[Translation]

**The Hon. the Acting Speaker:** It would be best if you moved adjournment of the debate in your name.

[English]

**Senator Cordy:** No, I don't think we want the adjournment of the debate. Unless somebody wishes to speak, what we would like, I believe, is that it be removed from the Order Paper in light of the election taking place currently in Quebec, and not that it be adjourned.

The comments that I have made today are the extent of any comments I would like to make at this time on this particular inquiry because of the election in Quebec. I'm asking, unless somebody else wishes to speak, that this inquiry be removed from the Order Paper.

[Translation]

**Hon. Joan Fraser (Deputy Leader of the Opposition):** Mr. Speaker, if no one else wishes to speak to this inquiry, then it is moved that it be withdrawn from the order paper.

**The Hon. the Acting Speaker:** If no other honourable senator wishes to speak, the inquiry is considered debated.

(Debate concluded.)

[English]

## DISPARITIES IN FIRST NATIONS EDUCATION

### INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Dyck, calling the attention of the Senate to the disparities in educational attainments of First Nations people, inequitable funding of on-reserve schools and insufficient funding for postsecondary education.

**Hon. Dennis Glen Patterson:** Good afternoon, honourable senators. I would like to thank Senator Dyck for initiating this inquiry. I welcome the opportunity to respond to her statement of December 10, 2013, because, colleagues, since her statement, significant progress has been made in our government's effort to address the disparities in First Nations education.

On February 7, 2014, in Stand Off, Alberta, Prime Minister Harper announced that the Government of Canada and the Assembly of First Nations had reached a \$1.9 billion agreement regarding First Nations education.

For years, the Government of Canada has been in a stalemate with First Nations regarding education. To me, the government's concern was based on its responsibility to Canadian taxpayers. How could we justify pouring more money into a system that everyone acknowledges does not produce results and that does not deliver success for its Aboriginal students, compared to their provincial peers?

Senator Dyck and I were both part of the landmark study of the Standing Senate Committee on Aboriginal Peoples. This was a major report tabled in the last Parliament entitled, *Reforming First Nations Education: From Crisis to Hope*. It highlighted points that we're all aware of, such as the tremendous human resource potential that is reflected in our growing First Nations population and the lack of success in the present system, which was outlined extensively by Senator Dyck in her introduction to this inquiry.

However, the report also uncovered some inconvenient truths that must be acknowledged, such as the fact that in some First Nations, money earmarked for education has not necessarily been spent on education.

On May 12, 2010, then Auditor General Sheila Fraser stated that, based on several Auditor General audits and an internal INAC audit, "there [is] no assurance... that the money [granted by the government] was going to fund post-secondary education" and agreed that it was possible this was also the case for K to 12 studies. This is because there is a lack of a legislative framework to provide for the channeling of monies for education to First Nation education authorities, nor is there a system established to ensure accountability and transparency. These are hallmarks of the provincial education systems that the First Nation systems have always been compared to.

• (1630)

Currently, the legislation governing on-reserve education is enshrined within the Indian Act, clauses that have not been updated since 1910.

The Senate report states:

The education provisions of the Act, however, deal largely with truancy and make no reference to substantive education issues or the quality of education to be delivered.... the Indian Act does not authorize bands to set up and run their own schools and makes no reference to band councils or First Nations educational authorities.

Over the years, there have been attempts at reform. There have been several jurisdictional agreements that have replaced the provisions in the Indian Act and that provide legal recognition of First Nation authority over education in Nova Scotia in 1998; B.C. in 2006; and among the Cree in northern Quebec in 1975.

In December 2008, the federal government initiated the Reforming First Nations Education Initiative, and following the AFN's June 2010 Call to Action on First Nations Education, subsequently convened a panel of experts to advise on options, including legislation, to improve educational outcomes of First Nations education in December of 2010. This call by the AFN included a desire for the "building of education systems, including professional and accountable institutions."

Time and time again, during our committee's hearings on education, we heard a call for legislation. Bob Atwin, Executive

Director of the First Nation Education Initiative, submitted on October 4, 2011, that:

There is, in fact, no education system for the First Nations... All other children in this country benefit from legal protection in the field of education. The only children deprived of this security are First Nations children living on reserves.

Sheila Fraser noted in her 2011 status report as Auditor General of Canada that:

Provincial legislation provides a basis of clarity for services delivered by provinces. A legislative base for programs specifies respective roles and responsibilities, eligibility, and other program elements. It constitutes an unambiguous commitment by government to deliver those services. The result is that accountability and funding are better defined.

So both our Senate committee and the minister's expert panel recommended a legislative framework for First Nations education.

I will not make excuses for lagging funding or for the invidious 2 per cent cap, though I will note that was put in place by then Finance Minister Paul Martin — who is now a champion of Aboriginal education — in 1996. That, of course, has long been complained about.

However, going forward, I'm confident that the agreement in principle that has been achieved between the Prime Minister and the Grand Chief of the AFN will result in a new and modern legislative framework that I believe all parties acknowledge as necessary; a framework that will address the five elements of concern expressed by the AFN at its December 2013 AGM, namely jurisdiction, funding, language and culture, reciprocal accountability and transparency, and meaningful dialogue. This bill will lead to increased funding, which will move First Nation students closer to parity with their counterparts in provincial schools and also respect the right of First Nations to be in control of their education system.

Honourable senators, this legislation will give Canada the confidence to invest new funding into education, assured that the monies will be targeted at education initiatives and improvements that yield measurable results based on standards established by the First Nations themselves. Provincial parity can be achieved while ensuring First Nation control and respecting the unique linguistic and cultural realities in First Nation students' learning style. We succeed with this approach elsewhere throughout Canada, through school boards where parents and local communities hold educators accountable for delivering relevant and unique curricula and instruction.

There is, no doubt, much work ahead to make this progress a reality. Our government is committed to working with First Nations to draft the First Nations Education Bill in a way that respects First Nation jurisdiction and education goals. This will take some time to draft and implement, which is why there is time allowed for that before Canada's promised new funding begins to flow.

Honourable senators, the challenge for all of us, including those of us in the government and opposition in the Senate and on our Aboriginal Peoples Committee, will be to work through and past what has often been an environment of mistrust and confrontation. We have been able to move beyond these polarities in the past through compromise and through leadership amongst both First Nations and the Government of Canada.

There are some that will call for funding on the basis of education being a treaty right. These people demand funding as a precondition to discussing any other changes.

A *Globe and Mail* report on this subject dated March 21, 2014, quotes Isadore Day, Chief of the Serpent River First Nation in northern Ontario, as saying:

I really feel that, if the Conservative government really wanted to make a difference now, they would have put their money where their mouth is now, not in 2016.

Chief Day, it would seem, belongs to the school of thought that rejects incremental progress and demands large lump sums up front. This was the problem with the Kelowna Accord — a commitment to massive new funding without any assurance that dysfunctions in the current delivery systems would be addressed. I don't think anyone wants to throw good money after bad.

It should also be noted, by the way, that the financial commitment mentioned in Budget 2014 is a larger amount than was promised in the Kelowna Accord.

I myself subscribe to the same school of thought as the head of the AFN Chiefs Committee on Education, Morley Googoo, who was also quoted in *The Globe and Mail* as describing this as an "opportunity for First Nations communities to move forward from the status quo." Indeed, it is an opportunity to address the funding gap that has been complained of for years while being fiscally responsible to Canadian taxpayers.

I also find it difficult to understand how nations such as the Mohawks of Kahnawake can say in that same article that the legislation is a "paternalistic" and "top-down" approach without even having seen the revised draft.

I compare the progress I am confident we will make in the coming years in education to the situation with respect to safe drinking water on First Nation reserves. Until recently, there was no legislative basis for developing safe drinking water standards on reserves. In that uncertain climate, government funding lagged. Some First Nation leaders objected to legislation on safe drinking water as being disrespectful or infringing on treaties and treaty rights. With a strengthened non-derogation clause in the bill and knowing that willing First Nations are committed to the development of water safety regulations, Parliament agreed to pass the legislation, and substantial funds have now been committed to work on remedying water infrastructure deficiencies on reserves. That, too, is a work in progress that will not be completed overnight.

There are others that demand legislation must include built-in financial commitments from governments. That was the case in our review of the Safe Drinking Water Act. Unfortunately, these

demands ignore the fact that in parliamentary democracies, it is the executive branch of government that establishes budgets based on the overall capacity of the nation to finance programs based on the fiscal situation of the nation at a given time. Parliaments cannot dictate spending in legislation; it is only budget bills that can do that.

Honourable colleagues, we are on the verge of taking a giant step forward in education based on compromise, trust and mutual respect. So we must find, through continued compromise and mutual respect, middle ground on which both sides can stand to make progress to replace confrontation. It will be all too easy to fall into the old familiar patterns of negativism and confrontation that have marked Aboriginal relations with successive governments of Canada for many years.

Already, without even seeing a redrafted copy of the First Nations Education Bill, some voices of condemnation are loud and angry. I firmly believe that the agreement reached by the government and Aboriginal leaders is proof that they are tired of this negative approach. They are eager to see progress in dealing with challenges in education, social development and economic development for First Nations. It was an agreement based on a new era of trust and cooperation.

Honourable senators, I believe our government has reached out to First Nations as never before. Canada's commitment for new funding and the development of new First Nations control over First Nations education is not being done to pander to the electorate. I believe that the Prime Minister and Minister Valcourt and his ministry are committing to this bold new initiative because it is the right thing to do.

• (1640)

I would like to salute Assembly of First Nations National Chief Shawn Atleo who himself has a master's degree in education and who has made education a priority during his term. He has a challenging job. As he, himself, said in Stand Off:

Today is about the beginning of a new era of fairness, opportunity and hope for First Nations children, youth and students.... The approach we are announcing today embraces the essential and connected components of First Nations control of First Nations education founded on our rights, jurisdiction and Treaties; and secure, sustainable and fair funding that supports our students' success and strengthens their languages and cultures. First Nations control of First Nations education as envisioned by our leaders and educators for many decades will enable and support the systems and standards necessary to ensure our children are nurtured to achieve their goals through full access to quality education.

Honourable senators, let's do our part here in the Senate of Canada to reach across party lines and work for progress in education, which we all understand is the key to progress in all aspects of life for the rich human resource of our young and growing Aboriginal population.

(On motion of Senator Fraser, for Senator Tardif, debate adjourned.)

[ Senator Patterson ]

## BANKING, TRADE AND COMMERCE

### COMMITTEE AUTHORIZED TO STUDY THE USE OF DIGITAL CURRENCY

**Hon. Irving Gerstein**, pursuant to notice of March 6, 2014, moved:

That the Standing Senate Committee on Banking, Trade and Commerce be authorized to examine and report on the use of digital currency including the potential risks, threats and advantages of these electronic forms of exchange; and

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

He said: Honourable senators, I rise today to seek an order of reference for the Banking Committee to examine and report on the use of digital currency, including the potential risks, threats and advantages of these electronic forms of exchange.

Honourable senators, "digital currency" is two short words but clearly a timely and relevant topic. There is hardly a day that goes by that a reference in one form or another does not appear in the news, but we should not be surprised as we live in a digital age. Even the term "digital currency," or "virtual currency" as it is called in the United States, raises many questions. As a matter of fact, to date, no government has even defined what "digital currency" actually is. Colleagues, feel confused? If so, rest assured you are not alone.

Senator Thomas R. Carper, Chairman of the U.S. Senate Committee on Homeland Security and Governmental Affairs, which is currently examining virtual currency, put it very well when he said:

Virtual currencies, perhaps most notably Bitcoin, have captured the imagination of some, struck fear among others and confused the heck out of many of us.

The *Wall Street Journal* of Tuesday, March 4, 2014 described Bitcoin, one of the better known digital currencies, as:

... a payment system introduced in 2009 that allows computer users to create digital "coins" by solving complex mathematical problems. Owners can send and receive bitcoins using software and swap them on exchanges for dollars or other fiat currencies, and a small but rising number of merchants accept it.

Digital currency is generated on computers, lives on the web and is used to purchase goods around the world. Digital currency is basically digital cash.

Just like cash, digital currency is vulnerable to theft. As the CBC reported on March 10, 2014:

The digital cryptocurrency — which may or may not have been founded in 2009 by a 64-year-old Japanese recluse — was hit by the biggest challenge it's faced so far when Mt. Gox, the world's

largest bitcoin exchange, suddenly announced that hundreds of millions of dollars worth of bitcoins were stolen last month. Unable to handle the loss of that much money, the site has begun formal bankruptcy proceedings.

The following week, something similar happened to a smaller exchange in Alberta, known as Flexcoin.

Honourable senators, make no mistake, digital currency is not a concept of future; digital currency is a reality today. Like most Canadians, I'm no expert on the subject, but I do know that a lot of smart people, both inside and outside of government, view it as a major issue. It's an issue because, as Joshua S. Gans and Hanna Halaburda, writing for the Bank of Canada, say:

... Bitcoin... is a fully convertible, pure digital currency not associated with a given platform. It is explicitly designed to compete with state currencies.

Colleagues, let me tell you: The Bank of Canada has experience in competing with private currency and that's because, as you would know, in the late 19th and early 20th centuries, many private chartered banks issued their own banknotes. However, in 1934, with the establishment of the Bank of Canada, there were changes made to the Bank Act to phase out these private currencies. Interestingly, it wasn't until 1944, 10 years later, that the chartered banks were finally prohibited from issuing notes, the Royal Bank being the last to print notes in 1943.

Regarding the potential risks in the use of Bitcoin, Gans and Halaburda go on to state:

Illegal activity is a concern because the anonymity of Bitcoin allows for untraceable trades.

That anonymity makes digital currency what Chair Carper calls:

... an effective tool for those looking to launder money, traffic illegal drugs, and even further the exploitation of children around the world.

He further states:

Today, a number of similar enterprises that accept bitcoins are still in business, selling weapons, child pornography, and even murder-for-hire services.

Consequently, it should come as no surprise that digital currency is attracting a lot of attention, attention from regulators who wonder what aspects may need regulating; law enforcement officials who see it as a way to purchase illegal goods, launder money or finance terrorism; and investors and entrepreneurs who wonder what happens if the exchange or bank they deal with declares bankruptcy like Mt. Gox and Flexcoin. These questions and more make this an issue worthy of the attention of the Banking Committee.

Honourable senators, like many things that once existed only in the digital world, digital currency has taken on a physical form. Less than one kilometre from this place, in the Byward Market,

you will find a Bitcoin automated teller machine, which allows one to buy or sell Bitcoins for cash. Other Bitcoin ATMs have also been established in Vancouver, Toronto and Winnipeg and, in Montreal, colleagues, you will find the Bitcoin embassy, which includes not only a Bitcoin ATM but also a meeting space and what the operators are calling a "start-up incubator."

Honourable senators, I do not want to prejudge, in any way, the possible outcome of this study, but this does not mean we can wander aimlessly in a digital world. The first step in our study is to try to determine what the concept of digital currency is and what it means in the Canadian context. To do that, we expect to hear from experts from both inside and outside of government, and this will allow the committee to better understand the underlying basis of currency and of digital currency.

The next step in the committee's study will be to explore the potential risks, threats and advantages of digital currency and, subsequently, the study will undoubtedly focus on what other countries are doing. In a digital world, it doesn't matter whether you live in Canada or elsewhere — information is global.

• (1650)

Colleagues, the motion gives the committee a mandate until the end of June 2015, which may seem a long way away, but given the magnitude of the subject, it seems most appropriate. As well, there will be instances where more pressing business will come before the committee that will take priority.

When I stood before honourable senators in February 2011 to seek the adoption of the National Finance Committee's report on the elimination of the penny, I told you how it brought to mind a well-known fable. I know my friend, Senator Campbell, always likes a good fable — a fable written some 2,600 years ago by none other than Aesop. The legendary Aesop wrote of a miser who buried a stash of gold in a field. He checked it every day but never took it out. One day, his gold was stolen. A neighbour who heard of the miser's plight advised him to place stones where the gold had been and simply pretend the gold was still there. After all, said the neighbour, since he had never intended to spend his gold, surely the stones would do him just as well. The moral of the story was just that. I quote the great Aesop who said, "The worth of money is not in its possession but in its use."

Honourable senators, is there any difference between the wisdom of Aesop and the recent pronouncement of Mr. Will Coates, CEO of Digital Tunes, whose website sells digital music to customers around the world over the Internet and accepts bitcoins? He said:

Bitcoiners aren't just a bunch of nerds wanting to buy drugs online. Out there is a vibrant international community of consumers who have realized the advantages of this new kind of money, and it's growing day by day.

Colleagues, your support of this motion will allow the Standing Senate Committee on Banking, Trade and Commerce to move forward with this most timely and relevant study.

**Hon. Joan Fraser (Deputy Leader of the Opposition):** Would Senator Gerstein take a question?

**Senator Gerstein:** With pleasure.

**Senator Fraser:** Good luck to you in this study. Bitcoins and their cousins are subjects that I simply cannot grasp — sort of like the theory of relativity.

I was interested by your reference to how other countries are handling the arrival of this phenomenon. I would like to know whether the committee will need to travel to do its study.

**Senator Gerstein:** Thank you, Senator Fraser, for that question. I would expect that we probably will travel. The study will last until 2015. I'm not sure whether travel will be this year or next year. In some ways this study is an outgrowth of the committee's review of the Proceeds of Crime (Money Laundering) and Terrorist Financing Act. We went to Washington, D.C., for two days, and it was very helpful to our study. In answer to your question, I would suspect that we would do so, but it is not on the drawing board formally at this time.

**Senator Fraser:** Washington, D.C., would be an obvious stop. What about Paris, London or Brussels in the spring?

**Senator Gerstein:** I must say that I appreciate the encouragement. It is giving us many more ideas, and I'm delighted to have you suggesting that.

(Motion agreed to.)

## THE SENATE

### ROLE IN PROTECTING MINORITIES—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 protecting minorities.

He said: Honourable senators, the current inquiry into the Senate's role in protecting minorities is part of a series of debates to provide a better understanding of the Senate's work, its underlying principles and the scope of its roles. In preparing my notes, I relied in large part on a book, *Protecting Canadian Democracy: The Senate You Never Knew*, published in 2003 and edited by our colleague, the Honourable Senator Joyal. In particular, I relied on Gil Rémillard, PhD in Law and a professor at Montreal's École nationale d'administration publique, former Quebec Minister of Justice and author of *Le fédéralisme canadien*; and Paul G. Thomas, Duff Roblin Professor of Government, University of Manitoba.

For everyone to appreciate the importance of minority protection and the constitutional scope of such protection, let me cite Lord Sankey, who in 1932, for the Judicial Committee of

the Privy Council, in *Re: The Regulation and Control of Aeronautics in Canada*, wrote:

Inasmuch as the Act embodies a compromise under which the original Provinces agreed to federate, it is important to keep in mind that the preservation of the rights of minorities was a condition on which such minorities entered into the federation, and the foundation upon which the whole structure was subsequently erected. The process of interpretation as the years go on ought not to be allowed to dim or to whittle down the provisions of the original contract upon which the federation was founded...

The court then went on to say that:

... it is not open to Parliament to make alterations which would affect the fundamental features, or essential characteristics, given to the Senate as a means of ensuring regional and provincial representation in the federal legislative process.

One could argue about the meaning of "preservation of rights of minorities" in 1867. To help us capture that meaning and properly underscore its modern importance, in 1998, giving its unanimous opinion on Quebec secession, the Supreme Court clearly enumerated the founding principles of our constitutional architecture:

Such principles and rules emerge from an understanding of the constitutional text itself, the historical context, and previous judicial interpretations of constitutional meaning. In our view, there are four fundamental and organizing principles of the Constitution which are relevant to addressing the question before us (although this enumeration is by no means exhaustive): federalism; democracy; constitutionalism and the rule of law; and respect for minorities.

[Translation]

In my speech I will try to show that the representation of minorities is at the heart of our confederation, that this architecture has evolved and includes the protection of vulnerable minorities. I will also show why the Senate provides for such representation and protection.

[English]

Canada is a democratic country committed to the rule of law and the preservation of individual rights, as embodied in its Constitution from 1867 to the present and in its Charter of Rights and Freedoms since 1982. The Fathers of Confederation embedded several characteristics of the Senate within the Constitution that remain vital to the effective functioning of the institution. One of these fundamental features and essential characteristics is the representation of minorities.

[Translation]

During the debates leading up to Confederation, the representatives of Lower Canada clearly expressed the important role that the Senate was to have with respect to

linguistic minorities. Sir George-Étienne Cartier believed that one of the essential roles of the Senate would be the protection of the francophone minority. In speaking of the Senate in 1865, he said that the Senate:

...is our security.

• (1700)

Sir Hector-Louis Langevin shared these sentiments. In 1865, he affirmed that:

Under Confederation there will no longer be domination of one race over another, and if one section should be desirous of committing an act of injustice against another section, all the others would unite together to prevent it. But suppose that an unjust measure was passed in the House of Commons of the federal legislature, it would be stopped in the Legislative Council; for there we shall be represented equally with the other sections, and that is a guarantee that our interests will be amply protected.

This theme is still as important today as it was in 1867. Canada's population today is one of the most diverse in the world. The House of Commons is composed of people who have a mandate to represent the electorate of their riding, but is not necessarily representative of the population.

Segments of the population, notably minority groups, may have special needs and concerns but may not be numerous or concentrated enough to elect a representative to the House of Commons. To varying degrees, prime ministers have tried to restore the balance of parliamentary representation by appointing senators.

[English]

The appointment of senators, therefore, complements our electoral system by giving those groups the opportunity to be represented in Parliament.

As to the representation of women in the House of Commons, Dr. Rémillard argues, "... the House of Commons has never been representative of the population on the basis of sex." That statement is still true today. As of January 17, 2014, the percentage of women in the House of Commons was roughly 25 per cent, and in the Senate, the percentage was 40 per cent.

Aboriginal communities in Canada are so few and far between that there is little chance in our electoral system that they could one day elect a representative whose numbers reflect their percentage in the general population. Currently in the Senate there are four representatives of the three "Aboriginal Peoples" recognized by the Constitution Act, 1982.

[Translation]

From a linguistic perspective, the Senate enables better representation of francophones, not only in Quebec, but also across Canada, and of non-francophones in Quebec. This is a good opportunity to discuss an example of how the Senate protects constitutional minorities.

In 1996, the Government of Newfoundland sought to save money by removing protection of denominational education rights even though that was one of the terms of union under which Newfoundland had entered Confederation in 1949. The federal government and the House of Commons agreed to the amendment following two days of speeches and 10 hours of committee hearings.

[English]

This motion to amend took a completely different turn when it came before the Senate. The Standing Senate Committee on Legal and Constitutional Affairs, which held a month of public hearings, including three days in Newfoundland, made sure that members of the religious groups concerned could express their objections.

On the recommendation of the committee, the Senate opposed the motion to amend. Within the constitutional 180-day limit, the House of Commons adopted the same motion again. The courts were brought in and declared that the measure had no force. It became clear to everyone that the Senate had rightfully carried out its responsibilities.

The Government of Newfoundland returned to the issue, but this time it consulted minority religious groups and addressed their concerns. Parliament subsequently adopted a valid constitutional amendment.

[Translation]

Let us look at how this constitutional responsibility has evolved in 147 years. In 1998, in the Reference re the Secession of Quebec, the Supreme Court defined respect for minorities as a constitutional principle. On this topic, I am convinced that our colleague, Senator Joyal, will want to participate in this inquiry.

Given the analysis he made of that Supreme Court ruling and the representations he made before the appeals courts on the principles and roles of the Senate, Senator Joyal knows more about this issue than anyone. We therefore look forward to his participation in this inquiry.

According to Senator Joyal, and no one is questioning this fact:

The protection of minority linguistic, religious and education rights was the basis for the historical compromise that resulted in Confederation.

He goes on to say:

Indeed, minority rights were "an essential consideration in the design of our constitutional structure even at the time of Confederation." The valid fear of assimilation was a decisive factor in the creation of a bicameral Parliament with an Upper Chamber designed to protect sectional and minority interests.

This theory has meaning both because of the way Canadian society evolved over the 20th century and because of the legal decisions resulting from that evolution.

[English]

In a serious and rigorous work examining the worldwide social transformations of the last century from 1914 to 1991, British historian Eric J. Hobsbawm came to the following conclusion:

The third transformation, and in some ways the most disturbing, is the disintegration of the old patterns of human social relationships, and with it, incidentally, the snapping of the links between generations, that is to say, between past and present. This has been particularly evident in the most developed countries of the western version of capitalism, in which the values of an absolute a-social individualism have been dominant, both in official and unofficial ideologies, though those who hold them often deplore their social consequences. Nevertheless, the tendencies were to be found elsewhere, reinforced by the erosion of traditional societies and religions, as well as by the destruction, or auto destruction, of the societies of 'real socialism'.

Such a society consisting of an otherwise unconnected assemblage of self-centered individuals pursuing only their own gratification (whether this is called profit, pleasure or by some other name) was always implicit in the theory of the capitalist economy....

Later on, he added:

At the end of this century it has for the first time become possible to see what a world may be like in which the past, including the past in the present, has lost its role, in which the old maps and charts which guided human beings, singly and collectively, through life no longer represent the landscape through which we move, the sea on which we sail.

[Translation]

This break with the past and its influences, the ignorance of our collective history, the loss of the ability to appreciate the resulting evolution and the disinterest in the social values that, sometimes awkwardly, constituted the constructive energy of our society, lead me to this troubling realization.

Several times since this series of inquiries began, we have stated how and why the House works. In theory, each member of Parliament represents the entire population of his or her riding. In practice, MPs are well aware of which segments of that population voted for them. They are influenced by those segments and make a point of standing up for their interests.

In each riding, these voters make up a majority, or at the very least a plurality, and MPs are therefore dependent on the desires of these majorities.

• (1710)

Honourable senators, may I have five more minutes to finish my text? I have four more pages.

**Some Hon. Senators:** Yes.

[ Senator Nolin ]

**Senator Nolin:** Thank you very much.

These members' caucuses, whether government or opposition, all try to please these majorities.

You will often hear the phrase, the need to "get back to the grassroots," or the importance of "pleasing the grassroots." These popular expressions reflect a very legitimate reality. But who constitutes these majorities? In light of Hobsbawm's remarks concerning social evolution in the past 100 years, these majorities consist of more or less individualistic voters, or as he says:

[English]

... unconnected assemblage of self-centered individuals pursuing only their own gratification (whether it is called profit, pleasure or by some other name)...

[Translation]

When the time comes to vote, voters could lose sight of collective interests, act in their own interests, and even forget about the interests of minorities, the most vulnerable, the others, those who are different from the majority.

My remark should not lead you to conclude that all members ignore the aspirations of their minority constituents and focus only on the ambitions of their majority voters.

Let us rejoice, honourable senators, because the basis for a solution does exist. Need I remind you that the preamble to the Constitution Act of 1982 states,

Whereas Canada is founded upon principles that recognize...the rule of law:

In its famous 1986 ruling in *R. v. Oakes*, the Supreme Court had this to say about the principles that, from then on, would govern the interpretation of our new charter:

The Court must be guided by the values and principles essential to a free and democratic society which I believe embody, to name but a few, respect for the inherent dignity of the human person, commitment to social justice and equality, accommodation of a wide variety of beliefs, respect for cultural and group identity, and faith in social and political institutions which enhance the participation of individuals and groups in society.

[English]

Keep in mind, colleagues, that section 15 of the Canadian Charter of Rights and Freedoms states:

Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination...



[Translation]

As a final point, it is also worth mentioning that a court of competent jurisdiction may grant such remedy as it considers appropriate and just to anyone whose rights or freedoms, as guaranteed by the Charter, have been infringed or denied.

[English]

You will note a mix of values if, like me, you read Hobsbawm's historical texts alongside constitutional principles. How can we reconcile all this? Some people would prefer to leave it to the courts; others would want to rise to the challenge.

Honourable colleagues, I urge we take the second option. Although more demanding, this path is more rewarding and respectful of the *raison d'être* of our institution.

A Senate aware of the fundamental values that shape our political system, a Senate that carries out its role to defend the principles that govern the stability and sustainability of our society, must protect minorities, question any attack on the dignity of individuals who make up these minorities, for any reason whatsoever, and, if necessary, provide an adequate legislative remedy.

Thank you, honourable colleagues, for your attention. I encourage you to actively take part in this debate and I'm ready to take your questions.

[Translation]

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

**Senator Nolin:** With great pleasure, senator.

**Senator Joyal:** Thank you, Senator Nolin, for raising these questions. I think they encourage us to reflect before the Supreme Court decision is handed down following the reference by the Government of Canada. I think this is an extremely important step because, collectively, as a chamber, we will certainly want to reflect once the court decision is made public. I have no doubt that the points you raised here today and in the past and that you will continue to raise, since there are two more inquiries in your name, will help us in our reflections on Senate reform.

My question relates to the context of the reference brought before the Supreme Court. To my great surprise, the Government of Canada submitted two studies that it had commissioned from two well-known political science professors in Canada, including one from McGill University, Professor Manfredi, who is Dean of the political science faculty at McGill. In one of the studies, Professor Manfredi concluded, and I quote:

That the Senate of Canada plays no role and has never had any influence over the protection of minorities in Canada.

The Government of Canada put forward these studies in support of having provincial or national elections for senators.

Did you read these two studies submitted on behalf of the Government of Canada, which fundamentally challenge the Senate's role with respect to linguistic, religious and other minorities in Canada? To my knowledge, that was the first time the Government of Canada took such a clear position against the role of the Senate with respect to minorities.

**Senator Nolin:** Thank you for your question, which I think goes to the heart of the importance of bicameralism in Canada, based on my interpretation of your quote. However, I only took a quick look at the text.

I am certain that you read it, since you intervened before the Supreme Court in the references you mentioned. The professor is forgetting the whole notion of the majority being represented by the individuals elected by the public. That is why I took time to demonstrate how the two chambers complement each other. In other words, we have different clients. From a purely electoral standpoint, the House of Commons must please a voter base, while we have a completely different responsibility. We do not have to please a voter base. We need to meet the needs of the minorities we represent. That is why I quoted the historian Hobsbawm, who offers what I think is a very disturbing analysis of the evolution of society in the 20th century and thereby shows all the depth of the two chambers, how they complement each other and how important it is to have two chambers, one that meets electoral needs — I respect that, as that is the very nature of our system — and one that needs to convince itself of the importance of doing everything in its power to protect the minority rights that would not be protected if we did not take on this responsibility.

That is why I gave a long answer to your question and why I completely disagree with such reasoning as that of Professor Manfredi, who does not appear to understand the importance of bicameralism in Canada.

**Senator Joyal:** Does Senator Nolin still have time?

**The Hon. the Acting Speaker:** Unfortunately no.

(On motion of Senator Joyal, debate adjourned.)

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

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