



# DEBATES OF THE SENATE

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OFFICIAL REPORT  
(HANSARD)

Thursday, April 3, 2014

The Honourable NOËL A. KINSELLA  
Speaker

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

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## THE SENATE

Thursday, April 3, 2014

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

Prayers.

Minister James Moore, International Trade Minister Ed Fast, his predecessor Stockwell Day, and others before them, the Canada-Korea Free Trade Agreement would not have been possible.

Nearly a decade in the making, the FTA is a dream come true.

[Translation]

### SENATORS' STATEMENTS

#### CANADA-KOREA FREE TRADE AGREEMENT

**Hon. Yonah Martin (Deputy Leader of the Government):** Honourable senators, I rise today to speak about the historic Canada-Korea Free Trade Agreement that was concluded and jointly announced by Prime Minister Stephen Harper and President Geun-hye Park in Seoul, Korea, on March 10, 2014. It is the first trade agreement for Canada in the Asia-Pacific region.

[Translation]

The free trade agreement will benefit both countries, as Canada and South Korea have mutually complementary economic structures. This agreement will spur economic growth in every sector in Canada, including agriculture, food products, seafood, the aerospace industry, medical devices, mining and precious metals as well as forestry products.

[English]

Economic models predict that an FTA will increase the sales of Canadian products to Korea by nearly one third, generating \$2 billion Canadian GDP annually. B.C., Alberta, Manitoba, Saskatchewan, Ontario, Quebec, the territories and Atlantic Canada will benefit from an FTA with Korea. It will provide Canadians with thousands of new jobs in a wide range of sectors.

The FTA will provide significant strategic value for Canada's global trade agenda and a strong platform for Canadian companies to pursue opportunities in the fastest growing markets of Asia.

As a Canadian of Korean descent, it was an honour to witness the announcement of the concluded FTA in Seoul, the city of my birth, as Prime Minister Harper and President Park stood side by side to share the long-awaited news.

Prime Minister Harper said, "Our deep friendship in the theatre of war has led to a commitment to peace and prosperity."

Indeed, without the sacrifices of our veterans of the Korean War, the tireless efforts of the pioneering community leaders in Canada, the leadership and vision of our Prime Minister, Industry

The year 2013 was designated as the Year of Korea and the Year of the Korean War Veteran. It was the 50th anniversary of diplomatic relations and the 60th anniversary of the Korean War armistice. Signing this free trade agreement is the first major chapter of Canada-Korea relations in 2014. It is the start of a new era of possibilities and 50 more years of friendship and prosperity.

[English]

#### WORLD GLAUCOMA WEEK

**Hon. Elizabeth Hubley:** Today I rise to speak to an issue that affects me and millions of people around the world. Known as the "thief of sight" and the "silent blinding disease," glaucoma is a group of diseases that cause progressive damage to the optic nerve at the point where it leaves the eye to carry visual information to the brain.

Glaucoma is the second leading cause of irreversible blindness in the world, blinding an estimated 4.5 million of the 60.5 million people affected globally by glaucoma today. With our aging population, this disease has the potential to blind 11.2 million out of a potential 80 million people who will be affected by glaucoma by 2020, according to the World Health Organization and a study by the *British Journal of Ophthalmology*.

What is especially troubling is that while 90 per cent of the cases of glaucoma are preventable, 50 per cent of affected persons in the developed world are unaware they have the disease and receive no treatment. Sadly, this number rises to 90 per cent when looking at the developing world.

Last month, the sixth annual World Glaucoma Week took place from March 9 to 14. During this week, the World Glaucoma Association and the World Glaucoma Patient Association worked together to promote this year's campaign titled "B-I-G — Beat Invisible Glaucoma."

The purpose of this campaign is to raise awareness of the disease and its prevalence around the world. This year there were close to 700 events held to raise public awareness of glaucoma, ranging from interviews to movie screenings to lectures to eye screenings.

Colleagues, the best way to prevent glaucoma is through regular eye exams. Unfortunately, there is no cure for glaucoma yet, though through early detection and treatment, the disease can be

controlled before vision loss or blindness occurs. I encourage all senators to raise awareness of glaucoma in their communities and promote the importance of regular eye exams.

• (1340)

## CANADA-KOREA FREE TRADE AGREEMENT

**Hon. JoAnne L. Buth:** Honourable senators, today I rise to call your attention to new opportunities in trade. On March 10 the Prime Minister of Canada announced that Canada and the Republic of Korea had concluded negotiations for a bilateral free trade agreement. This agreement will significantly boost trade and investment ties between the two countries, creating jobs and opportunities for Canadians in every region of the country.

Consumers across Canada will benefit from a greater variety of goods at lower prices, as the agreement will cover virtually all aspects of the Canadian-Korean trade including goods and services investment, government procurement, environment and labour cooperation and other areas of economic trade and activity.

[Translation]

A wide range of sectors will benefit from the Canada-Korea Free Trade Agreement; however, I would like to focus on agriculture and the benefits for Manitoba's agri-food producers.

[English]

Over the past several years, Manitoba's agricultural exports to South Korea averaged just over \$100 million annually, led by wheat and pork. Manitoba will benefit from expanding exports of these products, among others, including pulses, beef, special crops, pig fats and canola oil.

Canadian agricultural exports to South Korea currently face high tariff rates, which averaged 52.7 per cent in 2012. The new partnership will eliminate tariffs on 86.8 per cent of agricultural tariff lines. This duty-free access will give Canadian and Manitoban agricultural products, including wheat and other grains, canola, pork and beef, preferential access to the South Korean market. This will create a level playing field on which Canadian producers can compete with South Korea's current free trade partners like the United States and the European Union.

With a GDP of \$1.1 trillion, South Korea is a key market for Canada. It's the world's fifteenth largest economy and the fourth largest in Asia, with a population of 50 million people. Tariff elimination will be particularly advantageous for Canadian business, as average Korean tariffs are three times higher than Canada's.

Honourable senators, please join me in supporting this free trade agreement that is sure to bolster Canadian trade and economy for years to come.

[ Senator Hubley ]

## MISSING AND MURDERED ABORIGINAL WOMEN AND GIRLS

**Hon. Lillian Eva Dyck:** Honourable senators, the first Senate Liberal open caucus was held last Wednesday on the important topic of missing and murdered Aboriginal women. This issue has received a lot of national media coverage in the last few weeks due to the tragic death of Loretta Saunders, a university student who was writing a thesis on missing and murdered Aboriginal women.

As you know, Aboriginal women in Canada are three to four times more likely to be victims of violence and to be made missing or murdered. Despite calls for a national commission of inquiry to understand the root causes and find ways to prevent the increased vulnerability of Aboriginal women, who are more likely to be made victims of violent acts, the federal government has refused to launch a national inquiry.

The speakers at our first Senate Liberal open caucus were Sue O'Sullivan, Federal Ombudsman for Victims of Crime; Maryanne Pearce, author of *An Awkward Silence: Missing and Murdered Vulnerable Women and the Canadian Justice System*; and Irene Goodwin, representing the Native Women's Association of Canada.

Honourable senators, the speakers affirmed the need for a national commission of inquiry, fully funded so as not to fail, and a national action plan to address the issue of missing and murdered Aboriginal women. The speakers noted that a national inquiry is essential in order to identify and understand the factors, processes, systemic racism and structures that underlie the increased vulnerability of Aboriginal women. The speakers affirmed the need for a reliable and comprehensive database of missing and murdered Aboriginal women.

It was noted that there was a need for a yearly forum, a special Senate committee or a joint working group, and it was also noted that there should be some kind of reconciliation committee that includes all necessary parties who are involved in cases of missing and murdered Aboriginal women, such as victim services, social services, the family, friendship centres, the RCMP, police, band councils, educational authorities, ministers in the provinces and territories, and so on.

It was noted that there is a need to address the systemic barriers, the racism which leads to increased rates of violence against Aboriginal women. And it was suggested that relaunching a special parliamentary committee will not work. The evidence is clear, but the Harper government refuses to take it seriously.

A novel suggestion was made by our esteemed colleague, Senator Serge Joyal, to initiate a Supreme Court challenge based on the violation of section 25 of the Canadian Charter of Rights and Freedoms, proof of systemic discrimination. A favourable decision would initiate a national commission of inquiry into missing and murdered Aboriginal women and would outline remedial actions.

Honourable senators, if ever there was an issue of protecting minorities that the Senate should seize upon to remediate, it is this issue — the tragedy of the epidemic of missing and murdered Aboriginal women.

[Translation]

### CATHOLIC CHURCH OF QUEBEC

**Hon. Jean-Claude Rivest:** Honourable senators, I would like to draw your attention to the fact that the Catholic Church of Canada has received another honour. His Holiness Pope Francis has signed the decree for the equivalent canonization of another two distinguished founders of the Catholic Church of Quebec, namely Monsignor François de Montmorency-Laval, the first bishop of Quebec, and Mother Marie de l'Incarnation, who founded the Ursulines convent.

[English]

Oddly, all the saints are coming from Quebec, and none are from the rest of Canada. Shame on you. As you know, Quebec is a distinct society. I can say that is the only land in Canada, but all the saints are coming from Quebec. There is something to think about.

[Translation]

I would simply like to say that this gesture is greatly appreciated by every believer and Catholic in Quebec because Monsignor François de Montmorency-Laval is extremely important for the Church, not only in Quebec, but also in all of Canada.

[English]

### CANADA-KOREA FREE TRADE AGREEMENT

**Hon. Norman E. Doyle:** Honourable senators, last week Senator Wells and I had the honour of doing a press conference in St. John's on the importance of the new Canada-Korea Free Trade Agreement to the economy of Newfoundland and Labrador. At the moment, of course, total exports from our province to the South Korean market are pegged at about \$21 million annually, more than half of which are various seafood products. However, seafood exports from Canada can face tariffs of up to 47 per cent upon entry in the Korean market, so it has historically been a very difficult market to penetrate.

In general terms, the Canada-Korea Free Trade agreement will eliminate tariffs on almost all our province's main exports to Korea, and thereby provide increased market access for our business sector. The agreement also provides for mechanisms to address the non-tariff barriers to trade that often arise from very different agricultural and regulatory standards in our two countries.

Honourable colleagues, the chief benefits of the Canada-Korea Free Trade Agreement for the province of Newfoundland and Labrador are as follows: duty-free access to the Korean market for fish and seafood, including such products as mussels and squid, snow crab, shrimp and lobster; duty-free access for industrial goods such as marine electronics; enhanced market access for agricultural and agri-food products, including seal oil and seal meat; improved access to areas such as marine sciences, engineering and technology sectors; improved access to the

Korean government's procurement sector; and the removal of non-tariff barriers to trade, including the establishment of a predictable regulatory regime and dispute-settling mechanism.

The Association of Seafood Producers is very supportive of the Canadian government's efforts on the free trade front, most recently in Europe, and now in the growing Asian markets such as Korea.

Honourable senators, Newfoundland and Labrador does not export significant quantities of agriculture and agri-food products to the rest of the world. However, many senators represent provinces in Canada that have strong agricultural and agri-food sectors in their respective economies. Like the fisheries and marine sector in our province, those sectors stand to benefit tremendously from the Canada-Korea Free Trade Agreement.

• (1350)

In closing, the Canada-Korea Free Trade Agreement, like all free trade agreements, is about strengthening our economy while expanding Canada's global trading options. Whether we are selling wheat, butter, fish or marine radar sets, the more markets we have, the better our opportunities for economic progress. In a word, free trade is about creating opportunities.

In pursuing an aggressive free trade policy, our government has certainly created many opportunities for Canadian businesses. As the old saying goes, "When opportunity knocks, take it."

## ROUTINE PROCEEDINGS

### CANADIAN FOOD INSPECTION AGENCY

#### USER FEE PROPOSAL—REPORT TABLED AND REFERRED TO AGRICULTURE AND FORESTRY COMMITTEE

**Hon. Yonah Martin (Deputy Leader of the Government):** Honourable senators, pursuant to section 4 of the *User Fees Act*, I have the honour to table, in both official languages, a User Fee Proposal from the Canadian Food Inspection Agency respecting overtime fees.

After consultation with the Deputy Leader of the Opposition, the designated committee chosen to study this document is the Standing Senate Committee on Agriculture and Forestry.

**The Hon. the Speaker:** Honourable senators, pursuant to rule 12-8(2) this document is deemed referred to the Standing Senate Committee on Agriculture and Forestry, and, pursuant to rule 12-22(5), if that committee does not report within 20 sitting days following the day it received the order of reference, it shall be deemed to have recommended approval of the user fee.

## LINCOLN ALEXANDER DAY BILL

Thursday, April 3, 2014

SIXTH REPORT OF SOCIAL AFFAIRS, SCIENCE AND  
TECHNOLOGY COMMITTEE PRESENTED

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

Thursday, April 3, 2014

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

## SIXTH REPORT

Your committee, to which was referred Bill S-213, An Act respecting Lincoln Alexander Day, has, in obedience to the order of reference of Tuesday, March 25, 2014, examined the said bill and now reports the same with the following amendments:

1. *Preamble, page 1*: Add after line 13 the following:

“Whereas Colonel The Honourable Lincoln MacCauley Alexander was the first Black Canadian to be elected as Member of Parliament in the House of Commons, to be appointed as Cabinet minister and to be appointed as Lieutenant Governor;”

2. *Clause 2, page 2*: Replace, in the French version, line 1 with the following:

“2. Le 21 janvier est, dans tout le Canada,”.

Respectfully submitted,

KELVIN K. OGILVIE  
*Chair*

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

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

STATUTORY INSTRUMENTS ACT  
STATUTORY INSTRUMENTS REGULATIONSBILL TO AMEND—FIFTH REPORT OF LEGAL  
AND CONSTITUTIONAL AFFAIRS  
COMMITTEE PRESENTED

**Hon. Bob Runciman**, Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

## FIFTH REPORT

Your committee, to which was referred Bill S-2, An Act to amend the Statutory Instruments Act and to make consequential amendments to the Statutory Instruments Regulations, has, in obedience to the order of reference of Tuesday, March 4, 2014, examined the said Bill and now reports the same without amendment.

Your committee has also made certain observations, which are appended to this report.

Respectfully submitted,

BOB RUNCIMAN  
*Chair*

(For text of observations, see today's Journals of the Senate, p. 648.)

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

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

ENERGY, THE ENVIRONMENT  
AND NATURAL RESOURCESBUDGET AND AUTHORIZATION TO ENGAGE  
SERVICES AND TRAVEL—STUDY ON NON-  
RENEWABLE AND RENEWABLE ENERGY  
DEVELOPMENT IN NORTHERN  
TERRITORIES—FOURTH REPORT  
OF COMMITTEE PRESENTED

**Hon. Richard Neufeld**, Chair of the Standing Senate Committee on Energy, the Environment and Natural Resources, presented the following report:

Thursday, April 3, 2014

The Standing Senate Committee on Energy, the Environment and Natural Resources has the honour to present its

## FOURTH REPORT

Your committee, which was authorized by the Senate on Tuesday, March 4, 2014, to examine and report on non-renewable and renewable energy development including energy storage, distribution, transmission, consumption and other emerging technologies in Canada's three northern

territories, respectfully requests funds for the fiscal year ending March 31, 2015, and requests, for the purpose of such study, that it be empowered:

- a) to engage the services of such counsel, technical, clerical and other personnel as may be necessary; and
- b) to travel inside Canada.

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

Respectfully submitted,

Richard Neufeld  
*Chair*

(For text of budget, see today's Journals of the Senate, Appendix A, p. 656.)

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

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

### NATIONAL SECURITY AND DEFENCE

#### BUDGET—STUDY ON STATUS OF CANADA'S INTERNATIONAL SECURITY AND DEFENCE RELATIONS—THIRD REPORT OF COMMITTEE PRESENTED

**Hon. Daniel Lang,** Chair of the Standing Senate Committee on National Security and Defence, presented the following report:

Thursday, April 3, 2014

The Standing Senate Committee on National Security and Defence has the honour to present its

### THIRD REPORT

Your committee, which was authorized by the Senate on Thursday, December 12, 2013 to examine and report on the status of Canada's international security and defence relations, including but not limited to, relations with the United States, NATO, and NORAD, respectfully request funds for the fiscal year ending March 31, 2015.

Pursuant to Chapter 3:06, section 2(1)(c) of the *Senate Administrative Rules*, the budget submitted to the Standing Committee on Internal Economy, Budgets and

Administration and the report thereon of that committee are appended to this report.

Respectfully submitted,

DANIEL LANG  
*Chair*

(For text of budget, see today's Journals of the Senate, Appendix B, p. 664.)

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

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

#### BUDGET AND AUTHORIZATION TO ENGAGE SERVICES AND TRAVEL—STUDY ON POLICIES, PRACTICES, AND COLLABORATIVE EFFORTS OF CANADA BORDER SERVICES AGENCY PERTAINING TO ADMISSIBILITY TO CANADA—FOURTH REPORT OF COMMITTEE PRESENTED

**Hon. Daniel Lang,** Chair of the Standing Senate Committee on National Security and Defence, presented the following report:

Thursday, April 3, 2014

The Standing Senate Committee on National Security and Defence has the honour to present its

### FOURTH REPORT

Your committee, which was authorized by the Senate on Thursday, December 12, 2013 to examine and report on the policies, practices, and collaborative efforts of Canada Border Services Agency in determining admissibility to Canada and removal of inadmissible individuals, respectfully request funds for the fiscal year ending March 31, 2015 and requests, for the purpose of such study, that it be empowered:

- (a) to engage the services of such counsel, technical, clerical and other personnel as may be necessary; and
- (b) to travel inside Canada.

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

Respectfully submitted,

DANIEL LANG  
*Chair*

(For text of budget, see today's Journals of the Senate, Appendix C, p. 670.)

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

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

BUDGET AND AUTHORIZATION TO ENGAGE  
SERVICES AND TRAVEL—STUDY ON NATIONAL  
SECURITY AND DEFENCE POLICIES, PRACTICES,  
CIRCUMSTANCES AND CAPABILITIES—  
FIFTH REPORT OF COMMITTEE  
PRESENTED

**Hon. Daniel Lang,** Chair of the Standing Senate Committee on National Security and Defence, presented the following report:

Thursday, April 3, 2014

The Standing Senate Committee on National Security and Defence has the honour to present its

FIFTH REPORT

Your committee, which was authorized by the Senate on Tuesday, November 19, 2013 to examine and report on Canada's national security and defence policies, practices, circumstances and capabilities, respectfully request funds for the fiscal year ending March 31, 2015 and requests, for the purpose of such study, that it be empowered:

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

(b) to travel inside Canada.

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

Respectfully submitted,

DANIEL LANG  
Chair

(For text of budget, see today's Journals of the Senate, Appendix D, p. 676.)

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

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

[ Senator Lang ]

• (1400)

BUDGET AND AUTHORIZATION TO ENGAGE  
SERVICES AND TRAVEL—STUDY ON ISSUES  
CONCERNING VETERANS' AFFAIRS—  
SIXTH REPORT OF COMMITTEE  
PRESENTED

**Hon. Daniel Lang,** Chair of the Standing Senate Committee on National Security and Defence, presented the following report:

Thursday, April 3, 2014

The Standing Senate Committee on National Security and Defence has the honour to present its

SIXTH REPORT

Your committee, which was authorized by the Senate on Tuesday, November 19, 2013 to study issues concerning Veterans' affairs, respectfully request funds for the fiscal year ending March 31, 2015 and requests, for the purpose of such study, that it be empowered:

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

(b) to travel inside Canada.

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

Respectfully submitted,

DANIEL LANG  
Chair

(For text of budget, see today's Journals of the Senate, Appendix E, p. 682.)

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

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

INTERNAL ECONOMY, BUDGETS  
AND ADMINISTRATION

FOURTH REPORT OF COMMITTEE PRESENTED

**Hon. George J. Furey,** Deputy Chair of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:



Thursday, April 3, 2014 [English]

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

## FOURTH REPORT

Your Committee recommends that the following funds be released for fiscal year 2014-2015.

**Banking, Trade and Commerce (Legislation)**

General Expenses	\$ 6,800
Total	\$ 6,800

**Scrutiny of Regulations (Joint)**

General Expenses	\$ 3,378
Total	\$ 3,378

Respectfully submitted,

NOËL A. KINSELLA  
*Chair*

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

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

## INTER-PARLIAMENTARY UNION

MEETING OF THE STEERING COMMITTEE OF THE  
TWELVE PLUS GROUP, FEBRUARY 10, 2014—  
REPORT TABLED

**Hon. Salma Ataulhjan:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Inter-parliamentary Union respecting its participation at the Meeting of the Steering Committee of the Twelve Plus Group, held in Paris, France, on February 10, 2014.

[Translation]

## VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I wish to draw your attention to the presence in the gallery of a delegation led by His Excellency Dr. Mustapha Ben Jaâfar, President of the National Constituent Assembly of the Republic of Tunisia.

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

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

## QUESTION PERIOD

## PRIME MINISTER'S OFFICE

## SENATE REFORM

**Hon. Terry M. Mercer:** Honourable senators, today I have a question from a concerned Canadian who has tapped into our offer to ask questions on their behalf. The question today comes from Helen Jackson of Armstrong, British Columbia.

Helen would like to ask the Leader of the Government in the Senate the following:

Would the Government consider allowing Provincial Premiers to put forward several names for consideration as potential Senators, with the PM being required to choose from the list? If not, why not?

[Translation]

**Hon. Claude Carignan (Leader of the Government):** I thank Ms. Jackson for the question. As you know, the proposed reform of the Senate and the senator appointment process is currently before the Supreme Court of Canada. The case has been argued by the parties, federal government lawyers, several interest groups and associations, and, of course, by a number of provinces. We are awaiting the Supreme Court of Canada's ruling on the constitutionality of an elected Senate and senator term limits. Once we have the Supreme Court ruling, then the government can take a position.

[English]

**Senator Mercer:** I am sure Ms. Jackson will appreciate no actual answer to her question from the government leader.

The government's Senate reform proposals are stuck in limbo as we await the Supreme Court's decision on whether the government may proceed unilaterally. The Prime Minister and your government have sat on these proposals for quite some time before they were even referred to the Supreme Court. It seems that support for some of these proposals has fallen from the members of your own caucus.

A recent *Ottawa Citizen* article points to Senator Eaton, who now believes that the Senate should remain an appointed chamber. I applaud Senator Eaton for her bravery in thinking independently of the PMO. In fact, there may be more Conservative senators who feel the same way.

My question to the leader is: Why do you not think it is time to allow all Conservative senators to speak their minds, rather than muzzling them with talking points from the PMO?

[Translation]

**Senator Carignan:** I imagine that is not Ms. Jackson's question. Considering the nature of the question I have to assume it is coming from you and not from the concerned Canadian.

Senator Mercer, I would ask you to show more respect to your colleagues. You say that we are using talking points to answer certain questions when you yourself read a question that was likely written by someone else. I would ask you to be more respectful. As far as the question on Senate reform is concerned, we believe it is best to wait for the Supreme Court's ruling.

We are the party promoting a real reform. The only change announced by your friend, Mr. Trudeau, is that unelected senators will become unelected senators that are Liberals. The Liberal leader and his party continue to support an unelected, unaccountable Senate. We do not think that is the right attitude.

• (1410)

Based on the statements many of you have made about how you are still Liberals, it is perfectly clear that the changes announced in January were merely cosmetic. Voting results since then tell the same story.

[English]

**Senator Mercer:** Well, I want to tell His Honour and all of our colleagues that these questions are written by me and my office with the assistance of my office staff and nobody else, other than the beginning part of the question that came from the nice woman in British Columbia. That's who writes the questions over here, not the boys in short pants over at the PMO. The work is done here in this caucus, and if on occasion we collaborate, that's fine too. Every question is written here.

Let me go on to my next supplementary.

**Senator Campbell:** One of the boys with the short pants is gone.

**Senator Cordy:** Who writes the answers?

**Senator Mercer:** There are several senators who have made proposals for reforming the Senate without having to obtain constitutional approval. Some ideas, such as mine to meet as regional caucuses regardless of political party, are on the table for discussion. In fact, Senator Greene agrees with that idea as well. Some ideas, like that of Senator Nolin in reviewing the roots of the Senate and the history of its origins and evolution, are on the table as well.

**Senator Robichaud:** That's two.

**Senator Mercer:** Other ideas, like Helen Jackson's, are there as well, as I proposed earlier. They all deserve to be debated here in the Senate by all senators.

When will the Stephen Harper government understand that senators are here for a purpose? We are appointed for a purpose and we need to have debates on these ideas.

When will the Senate be able to function without such things as time allocation motions in order to fulfill its role as the chamber of sober second thought?

[ Senator Carignan ]

[Translation]

**Senator Carignan:** First of all, Senator, I can assure you that all of my notes are written by my own staff too. That is very professional.

Second, since you have quoted some of my colleagues, you have given me the opportunity to quote some of yours. On January 29, 2014, your colleague, James Cowan, the opposition leader, appeared on CTV news and said, "I suspect that not a great deal will change. I'm not a former Liberal. I'm a Liberal and I'm a Liberal senator."

Another senator said, "...I am still a Liberal. I carry the card and it is what I am." That was Liberal Senator Grant Mitchell in the *Edmonton Journal* on January 30, 2014.

Also, on January 30, 2014, in Charlottetown's *The Guardian*, Senator Callbeck said, "We are Liberals and we will continue to have Senate Liberal caucuses the same as we have been doing."

Lastly, when Senator Cowan appeared on CTV News on January 29, 2014, he said, "We are members of the Liberal Party.... We intend to remain active in the Liberal Party and we hope to see Mr. Trudeau elected as prime minister, and we'll do everything we can to do that."

[English]

**Senator Mercer:** Thank you very much, senator. That's the first time I get to stand up and say "thank you" to you. Thanks for putting that back on the record again. If you'd like, I'm sure that I can convince all my colleagues here to stand up one at a time and profess their membership in the Liberal Party.

We are members of the Liberal Party. We are proud members of the Liberal Party and we remain so. We no longer sit in the national caucus of the Liberal Party. We have individually chosen to come together as a caucus on this side.

**Senator Campbell:** We are free! We are free as birds. We soar like eagles.

**Senator Mercer:** I want to compliment you, Mr. Speaker, for your wise decision to recognize that members on this side are members of a recognized political party and that we form the official opposition in this place.

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

**Senator Mercer:** Senator Carignan, take the shackles off of these good people and let them do their work.

**Senator Campbell:** Let my people free!

**Senator Tkachuk:** That's not what his leader says.

[Translation]

**Senator Carignan:** It is quite interesting to listen to people ask themselves, in a chamber of sober second thought, “who am I?”

[English]

## DEMOCRATIC REFORM

### FAIR ELECTIONS BILL

**Hon. Grant Mitchell:** Honourable senators, my question concerns the bill that has been euphemistically termed “the fair elections act” which would more appropriately be called the “unfair elections act.” It has been criticized recently by Sheila Fraser, the former Auditor General of Canada, who has huge stature and credibility and certainly tremendous depth of experience in the proper functioning and accountability processes of a democracy. She says, “It’s just astounding to me.” Ms. Fraser goes on to say:

Elections are the base of our democracy and if we do not have truly a fair electoral process and one that can be managed well by a truly independent body, it really is an attack on our democracy and we should all be concerned about that.

When someone with her credibility, stature and experience in democratic processes raises this kind of red flag about a bill so intensely, does that not at least give the Leader of the Government in the Senate some cause for concern?

**Senator Day:** It does me.

**Senator Tkachuk:** Not really.

**Senator D. Smith:** Not him; wise men, yes, but not him.

[Translation]

**Hon. Claude Carignan (Leader of the Government):** Your point of view is interesting even if I do not agree with Ms. Fraser, whose opinion you quoted, because I fundamentally believe that the Fair Elections Act will improve the democratic system. You asked me whether that did not give me something to think about. That is exactly what you are being asked to do, to think about it. A motion has been moved to help us think about it and you are going to vote against that motion. Frankly, I do not understand you.

[English]

**Senator Mitchell:** The former Auditor General goes on to say:

When you look at the people who may not be able to vote, when you look at the limitations that are being put on the chief electoral officer, when you see the difficulties, just the

operational difficulties that are going to be created in all this....

And I quote her again:

... I think it’s going to be very difficult to have a fair, a truly fair, election.

Given that she reflects so much of the sentiment that we’re hearing across this country that is fundamentally critical of this piece of legislation, this unfair elections bill, does it not strike the Leader of the Government in the Senate that at the very least Canadians will lose confidence in the democratic process because they will lose confidence in the fairness of their elections because that’s the general sentiment that has been taken away by Canadians about this bill?

[Translation]

**Senator Carignan:** I believe that what Canadians are losing confidence in is the kinds of things you keep saying about a bill that will protect voters against fraudulent calls and political imposters; guarantee the independence of the Commissioner of Canada Elections; eliminate the influence of big money in politics; crack down on electoral fraud; and make rules easy to follow by providing better service to clients and voters and by respecting democratic elections and defending freedom of expression.

It seems to me that a bill that achieves those objectives has the opposite effect and bolsters confidence in the democratic system. I believe that the testimony of Senator Fraser, who told us she had been the victim of identity theft when someone else voted in her place, should instead make you more aware of electoral fraud, of how easy it is to vote in someone else’s name, and of the necessity of asking, at a minimum, for pieces of identification. There are 39 pieces of ID that can be used. If people are asked for ID when they go to a video store to rent a movie, then why not ask them for a piece of ID when it is time to exercise their constitutional right to vote?

[English]

**Senator Mitchell:** The courts and experts who have been consistently misquoted by the minister have said that vouching has not resulted in any electoral fraud and there is no evidence of it to that extent.

• (1420)

On the other hand, the courts were very clear that the Conservative government’s database, SIMS, was at the root of the robo-calls initiative, and that was fraudulent. There is no question that they have ruled that that process would be fraudulent.

If this government really wanted to get to the root of voter fraud, why haven’t they opened up an inquiry into the use of their own Conservative Party database that was at the basis of that serious electoral fraud? If you want to solve the electoral fraud problem, why do you not open it up and have a look at why your database was used and why you don’t seem to be the least bit worried about it?

[Translation]

**Senator Carignan:** Senator, the investigations that should have taken place did take place, and findings were made. What is important here is that we have an electoral bill that is fair and that ensures that the democratic process can be followed with the greatest possible freedom. That is why 38 recommendations made by the Chief Electoral Officer were included in the bill, as were as a number of provisions to promote voting.

Quite frankly, if you consider yourselves democratic, I do not understand why you do not want to examine this bill as quickly as possible in order to put forward your views, and pass it here in this chamber, with or without amendments. I hope we at least have the chance to study it.

I have been a candidate, I have been a campaign organizer, I have been an officer at a polling station, I have been an assistant returning officer at the federal level. I also sat on the Chief Electoral Officer's advisory committee as a member of the Elections Canada Advisory Board, and I can assure you that this bill is a very good bill.

Perhaps we can do even better, and you could certainly submit your suggestions when it goes to committee for study. It appears, however, that for partisan reasons, you do not want to examine the bill. You seem to be enjoying playing partisan politics and criticizing this bill without really reading it.

**Senator Mitchell:** The Leader of the Government in the Senate keeps saying that this bill is fair. Can he identify one person who is not a member of the Conservative Party of Canada who agrees with him?

**Senator Carignan:** I think that if you were to meet with the people of your Senate division — sometimes we wonder if you represent Alberta — you would find that many people support this bill.

[English]

**Hon. Jane Cordy:** I have gone out and about in my riding, my constituency and my region. I have gone out in my region of Nova Scotia. I have listened to people. They are not happy with this bill.

You've told Senator Mitchell that he is asking questions for partisan reasons. I am listening to people in my riding, who are of all political parties or who are not involved politically but who feel strongly about the importance of voting and the democratic process in Canada.

You told Senator Mitchell that he was being partisan in his questions. Are you saying that Sheila Fraser is partisan with the comments that she has made, that Jean-Pierre Kingsley is being partisan in his comments, that Marc Mayrand is being partisan in his comments? If you are saying that Marc Mayrand is being partisan, then maybe you will bring forward something to say that he will leave his position because he is not allowed to be partisan in that job. There are 160 experts who have signed a paper saying that this bill is flawed and needs to be changed. Are they all being partisan?

[Translation]

**Senator Carignan:** You are trying to put words into my mouth, and that is a problem we've encountered on a number of issues. Let's limit the discussion to what is set out in the bill. The specific objective of this bill is to protect voters from misleading calls and to provide for the creation of a mandatory public registry for mass calling, prison sentences for people who impersonate elections officials, and harsher penalties for people who mislead voters in order to prevent them from voting. It also eliminates the political loans loophole, which allowed your party to accept hundreds of thousands of dollars in illegal contributions by simply describing them as unpaid debts.

Canadians can choose two of the 39 possible pieces of identification to vote, including student ID cards. There are many provisions in this bill that will improve the electoral process, among others, clause 21, which creates an advisory committee made up of all parties whose role will be to provide the Chief Electoral Officer with advice and recommendations on the application of the act. This is similar to what is currently being done in Quebec. There are all sorts of changes that will improve the electoral process.

[English]

**Senator Cordy:** You are absolutely right, leader. There are many provisions in this bill that will help. Unfortunately, there are many provisions that will hurt democracy and will disenfranchise many Canadians, who will not be able to vote in the next election.

You spoke about this bill closing loopholes. Unfortunately, this bill also creates a huge loophole which will allow political parties to spend far more than they are currently able to spend. I know that the former Auditor General, Sheila Fraser, is very troubled by the provision that will allow political parties to exempt any monies spent in fundraising for people who have donated \$20 in the past five years.

This means that any candidate can have a huge party, a huge gathering in the middle of an election campaign, and invite anybody who, in the past five years, has donated \$20 to the party. They will not have to pay to go to the party because that money will be exempt because they don't have to claim that as an election expense. They don't have to claim that as an election expense because they are using it to raise money from people who have donated \$20 in the past five years. That is wrong. That is a loophole that Sheila Fraser has noticed, and we certainly know from experience, her past history in making sure money is accounted for, that she has a good handle on this. She refers to it as a huge loophole that is being brought forward in this bill. Could you comment on that please?

[Translation]

**Senator Carignan:** I see that you have already begun your pre-study. I hope that you will be able to continue it with us in the context of the motion that will be moved. Now, if you go back to your riding this weekend, try to find a single person who does not have at least one of the following forms of identification: a driver's licence; a health card; a Canadian passport; a Canadian citizenship certificate; a birth certificate; an Indian status card; a

social insurance card; an old age security card; a student ID card; a provincial or territorial identification card; a liquor identification card; a hospital or medical clinic card; a credit or debit card; an employee card; a public transportation card; a library card; a Canadian Forces identification card; a Veterans Affairs Canada health card; a Canadian Blood Services or Héma-Québec card; a CNIB ID card; a firearms possession and acquisition licence or possession-only licence; a fishing, trapping, or hunting licence; an outdoors or wildlife card or licence; a hospital bracelet; a parolee identification card; a utility bill, such as a telephone or cable bill or a bill for public utilities — hydro, gas or water; a bank card or credit card statement; vehicle ownership or insurance papers; correspondence from a school, college or university; or a claim for government benefits.

Should you find someone who does not have any of those documents, please introduce that person to us.

• (1430)

[English]

**Senator Cordy:** I guess that answer actually is better than the minister's answer, where it seems like you push a button and he comes out with the answer. His response to people who ask that question is that the bill is terrific, so at least you've itemized things.

But that wasn't even my question. My question was related to the loophole that Sheila Fraser has brought notice to and that we have heard about in the past. The question I asked you was related to political parties being able to raise funds during the middle of an election campaign — which is fine. Every political party is raising funds during a campaign. But they're not going to have to use the money that they spend in raising that money as an election expense.

Sheila Fraser believes this is a loophole. You've spoken about this bill closing loopholes. According to Sheila Fraser, this is a huge loophole that will allow political parties to spend far more money during an election campaign than Election Canada allows.

[Translation]

**Senator Carignan:** Senator Cordy, there are strict limits to how much the parties can spend during an election campaign. Parties should not reach that limit just to be able to raise funds. Parties will only be able to exclude the costs of asking for donations from former donors who donated \$20 or more in the past five years.

[English]

## ORDERS OF THE DAY

### BUSINESS OF THE SENATE

**Hon. Yonah Martin (Deputy Leader of the Government):** Honourable senators, pursuant to rule 4-13(3), I would like to inform the Senate that as we proceed with Government Business,

the Senate will address the items in the following order: Motion No. 26, followed by all remaining items in the order that they appear on the Order Paper.

### CANADA ELECTIONS ACT

#### BILL TO AMEND—MOTION TO AUTHORIZE LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE TO STUDY SUBJECT MATTER AS AMENDED— VOTE DEFERRED

On the Order:

Resuming debate on the motion of the Honourable Senator Martin, seconded by the Honourable Senator Marshall:

That, in accordance with rule 10-11(1), the Standing Senate Committee on Legal and Constitutional Affairs be authorized to examine the subject matter of Bill C-23, An Act to amend the Canada Elections Act and other Acts and to make consequential amendments to certain Acts, introduced in the House of Commons on February 4, 2014, in advance of the said bill coming before the Senate;

And on the motion in amendment of the Honourable Senator Runciman, seconded by the Honourable Senator Mockler, that the motion be amended by adding, immediately before the final period, the following:

“;

That the committee be authorized to sit for the purposes of this study, even though the Senate may then be sitting, and that rule 12-18(1) be suspended in relation thereto;

That the committee be authorized to sit for the purposes of this study, even though the Senate may then be adjourned, with the application of rule 12-18(2) being suspended in relation thereto; and

That, notwithstanding usual practices, the committee be authorized to deposit with the Clerk of the Senate its report on this study if the Senate is not then sitting; and that the report be deemed to have been tabled in the Senate”.

**Hon. Yonah Martin (Deputy Leader of the Government):** Honourable senators, I rise today to speak to Motion No. 26. As we have heard our colleagues speak about Bill C-23 over the past few days, be it during Question Period, within caucus meetings, or within the debate which took place yesterday in our chamber —

**An Hon. Senator:** Independent caucus meeting.

**Senator Martin:** Suffice to say that Bill C-23, which is at the committee stage in the house, has garnered much attention. In light of the importance and complexity of the bill, a pre-study while it is at the committee stage in the House of Commons is timely and purposeful.

In consultation with my colleague opposite, Senator Joan Fraser, the Deputy Leader of the Opposition in the Senate, as we meet daily for scroll, as we meet in private after scroll, and as we go back and forth between our offices sometimes twice, three times, as many times as needed in a day, there are some differences in opinion, but we all have paid much attention to this very important bill.

This bill is timely and it is important. As I have said before, Canadians expect their parliamentarians and the Senate of Canada to take all steps necessary to conduct a thorough and complete study of such an important piece of legislation, and a pre-study can be part of that process. This is why we believe that the Senate, through its Standing Senate Committee on Legal and Constitutional Affairs, should start the pre-study at this time. I encourage all honourable senators to adopt this motion.

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

**Hon. James S. Cowan (Leader of the Opposition):** Honourable colleagues, I spoke at length yesterday and explained why I believe a pre-study of Bill C-23 is neither necessary nor appropriate. I was and remain disappointed that I have still not heard any explanation from the government as to why this bill requires special treatment.

The only speaker from the government side has been the deputy leader, Senator Martin. She has spoken now three times, including the speech that she just delivered here a moment ago. Here is what she told the chamber on Tuesday as the reason why a pre-study was required:

The adoption of this motion will allow the pre-study of Bill C-23 prior to the said bill coming before the Senate. As we all know, this bill is complex and raises several technical issues on how Canadians can exercise their right to vote, how the elections officials are to conduct themselves and other topics of importance.

Canadians expect their parliamentarians to take all steps necessary to conduct a thorough and complete study of such an important piece of legislation. This is why we believe that the Senate, through its Standing Senate Committee on Legal and Constitutional Affairs should start the study now to allow ample time to deal with the legislation now, as well when it comes to us in this chamber.

She gave a variation of that yesterday and a shorter version of it again today, but no additional information, no explanation, despite the requests of colleagues from this side, the concerns that have been expressed asking for the reason why this special treatment ought to be accorded to this bill.

As I said yesterday, I would hope that Canadians expect parliamentarians to conduct a thorough and complete study of every piece of legislation that comes before us. That, frankly, is our job. Under our parliamentary system, our part in that "thorough and complete study" is as the chamber of sober second thought.

Senator Martin says the bill is complex and technical. Many of the bills that come before us fall in that category. That complexity and technicality would certainly justify extensive hearings with the

minister and officials responsible for a particular bill but, to my knowledge, has no application, no relevance, to the request here that we deal with this by way of pre-study.

We have been told that the pre-study will afford us an opportunity to have an impact upon the bill. Senator Martin's words were that we would have "some impact." Frankly, that would be the only legitimate reason for this chamber of sober second thought to take the unusual step of conducting a concurrent study, this proposed pre-study.

Our Legal and Constitutional Affairs Committee already has other actual legislation before it for consideration. Surely we would not wish to ask it to take time away from those matters to conduct a pre-study if this is really an exercise in futility and that our efforts are fated to go unheard and unheeded.

We have heard that the government is open to our suggestions for improvement of the bill. However, yesterday, the Minister for Democratic Reform, Mr. Poilievre, was reported as saying, "I think the bill's terrific the way it is. The Fair Elections Act is common sense."

And of course, in an op-ed published in *The Globe and Mail*, he previously dismissed the extensive criticism of the bill as "hysteria." One might have thought that the government would by now have reconsidered the appropriateness of applying that word to dismiss the legions of senior professors, our current and former most senior electoral officers, editorial boards, and the masses of Canadians united in opposition to this bill. However, far from any reconsideration, yesterday, Senators LeBreton and Eaton joined Minister Poilievre, dismissing criticism as so much "hysteria."

Well, colleagues, the latest news is that the former Auditor General of Canada, the very eminent Sheila Fraser, has apparently, in the eyes of the Harper government, also succumbed to this national hysteria. She believes Bill C-23, if allowed to pass without significant amendments, would constitute an attack on Canada's democracy. She has urged Canadians to speak up against the bill.

• (1440)

In her words:

Elections are the base of our democracy and if we do not have truly a fair electoral process and one that can be managed well by a truly independent body, it really is an attack on our democracy and we should all be concerned about that....

When you look at the people who may not be able to vote, when you look at the limitations that are being put on the chief electoral officer, when you see the difficulties, just the operational difficulties that are going to be created in all this, I think it's going to be very difficult to have a fair, a truly fair, election.

Is Sheila Fraser, whom Mr. Harper earlier commended for her "competence and courage," now, inexplicably, prone to bouts of hysteria in the view of my colleagues opposite?

[ Senator Martin ]

Jeffrey Simpson wrote a piece on March 14 about the bill, entitled, “With so many critics, how can this bill be fair?” With every passing day, more and more Canadians are asking the same question.

This motion for pre-study will pass, colleagues, if not today, then early next week. We all can count. We know how the votes go in this place.

As I said yesterday, we on this side will participate, trusting — hoping — that indeed the government was serious in saying that it will listen to our recommendations for improving the bill. Otherwise, colleagues, we’re engaging in a sham. And given that Canadians’ concern over this bill centres on what they believe it will do to undermine our democracy, proceeding to study the bill in a process tainted by a sham of committee study would only reinforce those concerns.

Those of us on this side of the chamber have absolutely no intention of being complicit in any sham proceeding. Many of us have stood in this chamber and elsewhere, defending the value of the Senate. If we are not to stand and defend Canadian democracy in that most fundamental of democratic rights — the right to vote in a fair election — then when would we stand for Canadians?

In closing, I’ll repeat what I said yesterday. Although we oppose pre-study, we will participate in what we trust will be a serious, thoughtful and thorough committee study. We will trust that we will be able to ensure that those witnesses who wish to be heard, can be heard. I hope the steering committee will seriously consider travelling to enable Canadians to express their views on this bill, which strikes at the heart of every Canadian’s most fundamental democratic right.

At the end of the pre-study, we trust that the committee will produce a report that fairly and honestly reflects the evidence it has heard. And we take the government at its word when it says that it will listen to suggestions that we make. That, of course, is the whole point of the exercise.

And finally, I hope that none of this will in any way be taken as a reason to cut short our study of the bill as is passed by the other place when we are called upon to exercise our traditional role of sober second thought.

**Hon. Bob Runciman:** Will Senator Cowan accept a question?

**Senator Cowan:** Of course, Senator Runciman.

**Senator Runciman:** I’m not sure whether you’ve reached a conclusion about it being a sham proceeding. I certainly want to know why you feel that way. I will inform you that there is no government legislation at the moment in the queue before the Legal Committee.

I know Senator Fraser referenced this in her comments. She talked about the history of pre-studies and that this was an unusual practice. I’ve done a little research on this and I know Senator Salter Hayden, a Liberal, was referenced, I think by Senator Nolin. He was chairman of the Standing Senate Committee on Banking, Trade and Commerce, which Senator

Nolin referenced. In 1971 he began the practice of pre-study and it has spread to many different types of bills. Based on the pre-study, the Senate would give advice informally to ministers in charge of bills, changes would be made during passage in the House of Commons, and the pre-study mechanism worked best when the Senate maintained its ultimate right to make amendments. It was a way to improve bills and prevent conflict between the two houses of Parliament.

That process was stopped, if you will, and undermined when Allan MacEachen joined the Senate in 1984. He convinced the folks opposite, who had the majority in here while there was a Conservative government in the house, to drop the procedure. I think there was some merit to the argument that MacEachen was primarily motivated by partisan concerns.

I’m just wondering if you’re aware of the history initiated by the Liberal Party and how well it has served this place in the past.

**Senator Cowan:** Thank you for your question. When my colleague Senator Fraser was speaking yesterday about this being unique, I think she was referring to the time allocation on the pre-study motion. I don’t think she was saying that pre-studies themselves are unique.

**Senator Runciman:** You were resisting it.

**Senator Cowan:** No, I think pre-studies are appropriate. We’ve agreed to pre-studies in some cases.

All I’m arguing is that it seems to me, Senator Runciman — and I would hope you would agree with this — that if the government requests a pre-study, it is — and I think you would also agree — unusual. Our usual practice is to look at legislation once it comes to us from the House of Commons. I’m sure you would agree with that. That is the usual practice.

On occasion, we would do a pre-study, and the government is normally the one that would ask for the pre-study to be done. That’s correct. It seems to me only sensible that, when the government asks us to do something other than follow the usual practice of sober second thought, they would explain why it is that it’s necessary to do the pre-study. You’re asking us to change our practice, and why is that necessary?

Senator Martin has risen on three occasions and given us a variation of the same skeleton of an argument as to why it is necessary: it’s technical and complex. That would apply to any bill that might come before us.

It seems to me, if the government wants us to do this, as is their right to do, then they ought to provide a more fulsome explanation as to why it is necessary for us to depart from our usual practice.

I’m not arguing against the principle of pre-study. Pre-study has been used by governments, and Mr. MacEachen I’m sure used it when he was in that position, and he might have opposed it on other occasions. It is not our usual practice to do it, it’s not the norm, and it’s incumbent upon the government, it seems to me, to provide an explanation to us when they ask us to do this. That simply has not been provided.

**Senator Runciman:** Senator Cowan, the steering committee met today with a representative of your party, an excellent one: Senator Baker. I wonder if you would agree that there is merit. The minister has encouraged the Senate to offer its advice with respect to the legislation prior to it receiving clause-by-clause approval in the house committee.

I think the direction the committee is moving in, it's the direction the minister would encourage feedback in, is to areas that the house committee will not be touching upon. That's the sort of thing we are looking at as a committee so that we can provide input and advice from individuals and organizations — political parties, for example — that will not have an opportunity in the house because of their very full schedule. I think this is a real opportunity for us to have meaningful input into the ultimate shape of the legislation.

**Senator Cowan:** I take your assurances, I respect your judgment and I respect your leadership of that committee, sir. I expect that your committee will live up to that advanced billing and that they will, in fact, do that kind of thing and that the report, which you will in due course file here in this chamber, will reflect the evidence that you heard. I'm sure your committee will do a good job.

My comments were not intended in any way to reflect upon your chairmanship or the work of your committee. I'm sure they'll do a good job. I'm not satisfied that the case has been made, in this case, for this unusual proceeding and this departure from the norm. I'm sure your committee will do a good job, and I hope to attend as many of those committee meetings as I can. Thank you.

**Hon. Terry M. Mercer:** I'm actually almost at a loss for words, honourable senators.

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

**Senator Mercer:** I knew you wouldn't believe it. I know somebody finds it hard to believe, but I hope I will not disappoint with my comments.

• (1450)

This attempt by the Conservative government to push through a motion on a pre-study of a bill using time allocation is unheard of. There is no urgent need to do a pre-study on this bill. This is not the budget, nor the Main Estimates. Those types of bills are rarely even amended here in this place and can't be in some cases, unlike Bill C-23, which can and should be amended quite a bit.

We do not know what the government will end up doing in the other place. There has been talk now about amending it in there and then moving forward. Minister Poilievre was on CBC Radio this morning and said that he is quite happy with the bill. He sees no need for any changes to the bill. When questioned about the pre-study, he said, "They do pre-studies all the time in the Senate, all the time."

We don't do them all the time. We do them once or twice a year. If we did them all the time, we would have all the legislation before our committees.

This will set a dangerous precedent in the Senate. While we're at it, why do we not just propose a pre-study on the Trudeau bill to regulate marijuana, which will happen soon after the 2015 election? I think we should do a pre-study on that now. Why do we not do a pre-study on the Supreme Court's decision on prostitution while we wait for the government to respond to that?

My point is that we could end up doing pre-studies on this, that and any other thing.

Honourable senators, the very nature of the Senate dictates that when the other place has finished its deliberations on a piece of legislation like Bill C-23, then we, as the chamber of sober second thought, take the bill and do a thorough examination of it. I know if it goes before Senator Runciman's committee they will do a good job and examine it closely.

Having a pre-study right now is really putting the cart before the horse with this bill.

Would the government also be suggesting that we do not hear from the same witnesses that those in the other place have heard from? Let's delete those experts from the list now, because the Conservative government will probably not want to hear from experts like them.

Honourable senators, there will be plenty of opportunities to discuss the merits or lack thereof of Bill C-23, so I will save my comments until that time, but I would like to put my opposition to Bill C-23 on the record now.

I've worked for many years with Elections Canada and have a deep respect for the job they do. Indeed, while I was the national director of the Liberal Party of Canada, an ad hoc committee was formed by the former Chief Electoral Officer, Jean-Pierre Kingsley, that gave advice to him, where we would have representatives from all the political parties in the room at the same time. We would have a representative of every party, the Progressive Conservative Party, the Reform Party, the Bloc Québécois, the New Democratic Party and the Liberal Party. We would sit around and talk about problems. Quite frankly, it worked very well when we explained to him and his officials how some of the regulations that they were putting in place affected how we did our jobs of trying to get Canadians to vote.

He was listening to us, and I think that we should be listening to the current Chief Electoral Officer when he says that there are problems with this legislation. I think we should listen to Jean-Pierre Kingsley, who has said the same thing.

I remember back when we passed significant amendments to election financing laws. I appeared as an individual before the committee in the other place to defend the decision of the Prime Minister to make those amendments.

I didn't have many friends in the room that night, including members of my own caucus, the members of the government caucus at the time, because some of them weren't very happy with it. It was my first opportunity, by the way, to meet Senator Gerstein, who was there representing the Progressive Conservative Party on the same panel I was on. We found ourselves in a position where we agreed with each other, and he and I have done so at other times.



In an email I received from a resident in Halifax, this is what they had to say about Bill C-23.

I am absolutely outraged by the quick pace that Harper is trying to pass through the “Fair” Elections Act. It is all but fair to pass a bill through without proper consultations without Elections Canada and with the citizens of Canada.

He has already ruined our reputation as a nation with stringent environmental laws and practices, as a nation who cares to face the threat of climate change, and who is passionate about science. Why ruin our representation as a democratic nation?

Indeed Canada’s reputation on the world stage as a liberal democracy is being threatened by this bill.

Why does the government not trust anyone? Our election officials are some of the best in the world. Indeed, we’ve all received an application. You have it on your desk or on your computer back in your offices. This is an application from the Canada-Europe Parliamentary Association, an organization which many of us here are members of. What have they asked us to do? I could apply to do this.

I wish to present my candidacy for the OSCE - Canada-Europe Parliamentary Association’s delegation for the following activity: Election Observation Mission, Ukraine, May 25, 2014.

Just think about that. So we’re being invited to go and observe in Ukraine. How can anyone look themselves in the eye if they agree to Bill C-23 and then even consider going to Ukraine to try to help them run a proper election?

Stephen Harper’s Conservatives do not trust people. They do not trust Canadians. People are starting not to trust them either.

Honourable senators, this bill undermines the election process. It is an attack on how people vote, how people identify themselves, and even how they get information on how and when and where to vote.

Former Auditor General Sheila Fraser, and we heard earlier, has just said:

Elections are the base of our democracy and if we do not have truly a fair electoral process and one that can be managed well by a truly independent body, it really is an attack on our democracy and we should all be concerned about that.

Honourable senators, the pre-study the Conservative government is proposing is an attack on the democratic rules and values of this very chamber, just as the bill itself is an attack on the democratic rules and values of this great country.

In an editorial in the *National Post*, a great Liberal newspaper as we all know, about 150 professors in areas of law, history,

political science, philosophy, et cetera, from across the entire country, had this to say about Bill C-23:

While we agree that our electoral system needs some reforms, this Bill contains proposals that would seriously damage the fairness and transparency of federal elections and diminish Canadians’ political participation.

I couldn’t have said it better myself.

So, in closing, honourable senators, let’s let the other place do its job and then we should do ours. As a matter of fact, if honourable colleagues would like, I could read the names of every one of those 150 professors into the record, the universities and the institutions they work for, to tell that you this is not a crowd of political partisans off in the corner criticizing this bill. These are some of the best academic minds in the country telling us that this is a bad piece of legislation.

In closing, let’s let the other place do their job and we’ll do ours.

I would like everyone to take note of one last thing. Because we on this side do not agree with pushing through a motion to approve a pre-study or even on the pre-study itself, the Conservative government is threatening to possibly sit on Monday.

While I hope all my colleagues in this place from the Province of Quebec have already voted, Monday is election day in Quebec. In fact, I’m sure that all 23 of the Quebec senators would want to be in their ridings in Quebec on Monday to help defeat the separatists, including the current speaker. I suspect he would want to be in his riding doing that.

How ironic that we may be debating a bill that will radically change how our elections are run in this country on the very day an election is taking place. Elections in Quebec are important to Quebecers, but elections in Quebec are also important to Canadians. There are no other provincial elections happening in this country where the rest of the country stops and says, “How is it going? Who is winning? How important are the results?”

Elections in Quebec are important to me as a Nova Scotian. They’re important to Senator Day as a New Brunswicker, to Senator Eggleton as an Ontarian and certainly to Senator Mitchell as an Albertan. Yet you have the gall to have us sit on Monday afternoon, when our colleagues should be in Quebec doing what they do best, which is getting the vote out for whichever non-separatist party they care to support. I have a party that I would recommend; you guys can figure that out.

● (1500)

In the end, honourable senators, the Senate will do its duty one way or another, but why don’t we do it the proper way? Let the other place do its job, and then we should do ours. Let me tell you, I am looking forward to doing my job.

**Hon. Nick G. Sibbeston:** Honourable senators, my points are not on the issue of whether or not there should be a pre-study, rather about two aspects of the bill that, if eliminated, would be

very detrimental to the Aboriginal people of Canada and in the North. I wanted to point these out.

The first is the elimination of the vouching system, which would allow a registered voter to vouch for the identity of a voter whose name is not on the electoral list. The government argues that obtaining two pieces of identity is simple, and no one who has the right to vote is likely to be prevented from voting. But in many northern and First Nations communities, many individuals don't have access to these identification cards.

Moreover, a lot of communities don't have street addresses or even postal boxes. Proving where you live is not as simple when your mail comes through general delivery, yet in most of these communities, people know who you are and know where you live. An elder or a neighbour can easily say, "This is so and so, I have known him all my life and definitely he is of age and should vote." Without vouching, it is almost certain that many Aboriginal people will miss out on the opportunity to exercise their vote.

The situation in urban areas, where many Aboriginal people move from address to address on a regular basis, is even worse. Without vouching, a group of people whose voices are too often silenced will be silenced again.

Of course, Aboriginal people will have to know that they can vote, that they should vote and that their vote is important. For many, this takes a certain amount of convincing. In the past, I have seen in Aboriginal papers special efforts aimed at Aboriginal people, encouraging young people to vote and to participate in elections. Under the new regime, I take it this will not be possible.

The elimination of the ability of the Chief Electoral Officer to conduct campaigns in Aboriginal communities and to get out the vote will further reduce already low participation rates by Aboriginal people in elections.

The government says that this is a job for political parties, but I think the right and the duty to vote rises above partisan activities.

Honourable senators, I have been involved in elections with Aboriginal people since the 1970s when I first ran for the territorial council. Since then, there have been elections every four years, so slowly the people in the North are getting used to the election process. However, the election and voting of Aboriginal people is a new phenomenon for them; it is not something with which they have had many decades of experience. It is a new experience for them. I saw that in my home community. Oftentimes, I went to all the little houses and even to tents, encouraging people to come out and vote.

There were federal elections in the Northwest Territories, but only after 1960 were Aboriginal people able to vote. Before that, they couldn't vote in federal elections. After 1960, there was little participation because many people were in the bush or out on the land, with no knowledge or understanding of political philosophy. They certainly didn't know the candidates, so there was no real incentive, motive or reason for them to vote. Locally, there were no ballot box voting systems in place. The band council elections were often held simply by a show of hands.

Territorial election came into existence when the territorial government moved into the Northwest Territories in 1967. After that, there were elections every four years, so slowly people got used to the process of an election.

I ran in the territorial elections of 1970. Voting was a new experience for people. The idea of marking their "X" on a piece of paper was unfamiliar. Oftentimes people weren't able to read, but with some help, I would be able to get them to place their "X" in the right column.

At least by 1970, when I ran, as did others like me, people had a reason to vote for somebody they knew. That helped the process quite a bit. The notion of political efficacy, the idea that you can vote for somebody and this person would speak for you in a place like this, came to be and took a while to be understood and adapted. Over the decades, people in the North became familiar with the elections process.

I know most northerners don't have IDs, and if they do, they don't carry them. As an example, a year ago, a young person in Simpson worked for me. I paid him, and when he went to the local bank to cash his cheque, and the bank wouldn't do so because they wanted to see an ID, even though the person was well-known. The banker insisted that he show ID and because he didn't have any, he wasn't able to cash his cheque.

It is a similar situation when voting time comes around; people simply don't carry IDs like southern Canadians do. People use cash when they go to stores. Old people certainly don't drive, so they don't have driver's license. The only way for such people to be able to vote in an election would be if people were able to vouch for them. If this is eliminated, it will stop many people from voting.

At a time in our history when we are trying to get Native people more involved and become part of mainstream society, as it were, it would be a real step backward, a deterrent, to take out of the present elections bill that portion that provides for vouching.

Without question, with respect to people living in the North and Aboriginal people living on reserves, it is not like the South where there are millions of people and there is a need to perfectly identify everyone because they can cheat and so forth. In the North, it is not like that; everybody knows one another, and it would be very good if they could vote.

I hope the government will come to its senses and realize that in the remote places of our country where Native people live, vouching is presently used, and it can continue to be the way they are able to participate in elections.

[Translation]

**Hon. Joan Fraser (Deputy Leader of the Opposition):** Could I ask a question, Mr. Speaker?

**Hon. Ghislain Maltais (Acting Speaker):** Do honourable senators agree?

**Hon. Senators:** Agreed.

[English]

Senator Sibbeston, would you take a question?

**Senator Sibbeston:** Yes.

**Senator Fraser:** It is very important for us to hear firsthand information such as you have just given us.

• (1510)

If we assume for the purposes of my question that this pre-study is going to happen, given the numbers on the two sides in this chamber, how important do you think it would be for members of the committee to go to the North to hear from the people there, on the ground, about what is unique about their circumstance and what they need in federal elections law?

**Senator Segal:** There is a toughy.

**Senator Nancy Ruth:** Absolutely.

**Senator Sibbeston:** Senator Patterson is from Nunavut and he would understand what I am saying. It would be wonderful and significant if your committee could go into areas of the North and talk to the people themselves and see that what seems like a simple issue in the South is sometimes difficult in the North, where you insist on IDs, and people simply don't have it.

I can just imagine, and I have seen people being turned away for different reasons and it is a sad kind of feeling that they are not able to do something that they have been asked to do. First, it is very hard to get people to the polls and, second, to be rejected is very difficult.

I think it would be wonderful if the committee could go into the rural parts of our country, maybe some reserves, and also into the further North among the Inuit and Dene people to see what I am talking about. I think you would then understand and become more sympathetic to what I am saying.

**Hon. Jane Cordy:** Will you take a question?

**Senator Sibbeston:** Yes.

**Senator Cordy:** Your speech was fascinating, because of what those of us who live in cities or large towns take for granted in terms of identification. The leader earlier, in answer to one of my questions — it was not really to my question — read the list of all the forms of ID that would be accepted. Yet, we know from your speech — and you are one of the senators representing a remote northern area — that, in fact, having an ID is not necessarily the norm in the North. You spoke about the importance of vouching, so that if somebody doesn't have a piece of ID that is on the list that the Leader of the Government in the Senate was speaking about and that Mr. Poilievre was speaking about, vouching is the only way that they can actually vote in the North.

I agree with your comment about getting from poll to poll also not being easy in the North, so it would be devastating when they have taken that amount of time to get to the poll to exercise their right to vote and they are rejected.

You probably don't have the specific number, but what proportion of people do you think would be affected by not being allowed to have somebody vouch for them on election day in the North?

**Senator Sibbeston:** I would guess that of any population in a community of, let's say, 1,000 people, maybe 200 or so people would not have proper IDs. These would be elderly people; these would be people that we in the South know as "street people," people who are not that well organized and often have a drinking problem — people like that. I would say up to 20 per cent or 25 per cent of people would be in a situation where they would need to be vouched for.

As I said, it is not difficult because those at the polls know these people. There is not an error or mistake. It is not a situation where they would cheat and not be eligible to vote. It's simply that they don't have an ID and they are known. They are perfectly eligible to vote and want to vote, but would be denied. I would guess a quarter of the population.

**Senator Cordy:** That is a lot of people in the North who would be disenfranchised even before they got to the poll. That is, 25 per cent of the people would not be eligible to vote because they wouldn't have the ID that I would have because I live in the Halifax Regional Municipality.

**Senator Tkachuk:** You need ID in the Yukon to vote. You need ID in the Yukon.

**Senator Cordy:** I thought you did a great job also of explaining —

[Translation]

**The Hon. the Acting Speaker:** Senator Cordy, you have the floor. We will establish that only you may speak right now.

[English]

**Senator Cordy:** Thank you, I appreciate that, Your Honour, because I was having a difficult time hearing. I thought perhaps Senator Tkachuk wanted to make the speech, himself, but maybe that will be a bit later.

Senator Sibbeston, thank you very much for your comments. I thought it was interesting when you spoke about the importance of the Chief Electoral Officer. If this bill comes into effect, the Chief Electoral Officer will no longer be able to campaign to get people out to vote. We heard a question that Senator Munson asked last week about the student vote. The Chief Electoral Officer will not be allowed to do that. You talked about ads in the newspaper and that kind of thing.

If my candidates for whatever political party live in the city of Dartmouth, then I've likely heard about them, or I can certainly read about them, or I know where they live. But you spoke about

how when you ran, it was in your community, so people knew who you were so they were more likely to go out to vote. However, if you live in the North and you are far away from the person who is running, which is likely going to be the case because it's so expansive, they need an incentive to vote. What role has the Chief Electoral Officer played in the past that he — because the current one is a he — will no longer be able to do if this bill passes?

**Senator Sibbeston:** I have seen ads in papers, particularly those that are aimed at Aboriginal people before an election, encouraging young people in particular to vote.

[Translation]

**The Hon. the Acting Speaker:** Senator Sibbeston, your time is up. Do you need another minute or two?

**Senator Sibbeston:** Yes.

**The Hon. the Acting Speaker:** Do the honourable senators agree to extend Senator Sibbeston's time?

**Some hon. senators:** Agreed.

[English]

**Senator Sibbeston:** Honourable senators, as I have said, I have seen signs and I think they are very effective. If you can imagine yourself on a remote reserve or in a small community in the North, the general feeling you have is all this is happening away from you, very far away in the South and it doesn't really affect you. These advertisements are directed at young people, in particular, telling them that they can have a say; they can have an effect. I think it does encourage young people in particular to vote. I think it is effective.

In the Northwest Territories, where I live, we have reasonably good participation in the elections — federal and territorial. I do not know the situation in the northern parts of the provinces, where they are even more remote than in the Northwest Territories. So, I have seen these ads and I do think they're effective, because I have seen that they're earmarked or targeted toward making people think that their vote is worth it, that it is part of being Canadian, and so forth.

**Hon. Wilfred P. Moore:** Honourable senators, this Prime Minister of Canada has a very long and confrontational history with the caretakers of our electoral system, Elections Canada. As President of the National Citizens Coalition, a group created to stop universal health care in Canada, Mr. Harper took Elections Canada to court regarding third-party advertising. That case is referred to prophetically by the Supreme Court of Canada as *Harper v. Canada*.

You see, Mr. Harper felt that his right to spend on ads attacking the Liberal government of the day was infringed upon by the spending limits imposed by Elections Canada. He lost in *Harper v. Canada*. *Harper v. Canada*, indeed. Now it is *Harper v. Elections Canada*. There is a pattern here.

[ Senator Cordy ]

• (1520)

Mr. Harper found another front from which to attack Elections Canada when he wrote a letter in support of repealing section 329 of the Elections Act. That section is the ban on the transmission of election results from one region of the country to another before the conclusion of voting in the other.

In that letter, he referred to “The jackasses at Elections Canada being out of control.”

**Senator Mitchell:** What did he call them?

**Senator Moore:** “The jackasses at Elections Canada being out of control.”

**Senator Mitchell:** Is that the Prime Minister? That shows bad judgment, using that kind of language.

**Senator Moore:** And “Pierre Kingsley is a dangerous man.”

Interestingly, the repeal of section 329 is in Bill C-23.

The 2006 election became known as the in-and-out scheme. Elections Canada investigated the Conservative Party of Canada for exceeding the national campaign spending limit for the election. An RCMP raid on Conservative Party headquarters was probably the tipping point.

Incidentally, the Minister of Democratic Reform accused Elections Canada of tipping off the opposition. In any case, on March 6, 2012, the Conservative Party pled guilty and was convicted, but struck a plea deal which saw the party forced to pay back \$230,000 for the scheme, the largest fine in Canadian electoral history, for breaking electoral law, and the case being dropped against others.

The 2011 campaign is now known for the robo-call scandal. This involved misleading voters as to times and locations of polls. While the case is ongoing, a Federal Court has ruled that the only plausible source of the information used to make the calls was from the Conservative Party database. The Federal Court judge also found that the Conservative Party made little effort to assist in the investigation.

Bill C-23 does provide for a registry to be maintained for one year of these calls, but does not include the telephone numbers of those called. A political party would only have to deny calling that number to avoid investigation.

More importantly, Bill C-23 does not grant Elections Canada the power to compel witnesses to testify, something which would have helped get to the bottom of the robo-call scandal.

Many Conservative MPs have run afoul of Elections Canada as well. To name a few: Dean Del Mastro, accused by Elections Canada of knowingly exceeding spending limits; Shelly Glover, accused of overspending; Peter Penashue was exposed for

exceeding the spending limit. Budget 2013 cut Elections Canada's resources by 8 per cent, at a time when more funding was required by the agency to uphold election laws, not less.

When Bill C-23 was introduced, the Minister for Democratic Reform referred to Elections Canada investigators as "wearing a team jersey," insinuating that a bias exists toward his Conservative Party.

Bill C-23 has been acknowledged across the spectrum as being payback by the Conservative Party for what they perceive as past slights on them by Elections Canada.

Earlier today, we heard comments regarding the well-known and respected Sheila Fraser, former Auditor General, who is also a member of the Elections Canada Advisory Board that gives non-partisan advice on matters relating to Canada's electoral system. She has expressed her grave concern with the provisions contained in Bill C-23:

It is crucial to the credibility of Elections Canada that the chief electoral officer have the independence to say and do what he —

— or she —

— feels necessary to ensure the integrity of the electoral system.

She continues:

... provisions restricting Elections Canada say to me that this is really an attack on Elections Canada.

Mr. Harry Neufeld, former Chief Electoral Officer of British Columbia who wrote the report for Elections Canada on which the government is basing its voter fraud arguments, says not only are they misquoting him but that the Conservatives are trying to tilt the electoral playing field away from the control of Elections Canada and to themselves.

Professor Emeritus Paul Thomas of the University of New Brunswick, who is also a member of the Elections Canada Advisory Board, expressed his opposition to Bill C-23 and its proposed changes to Elections Canada stating:

This should not happen in Canada which has one of the strongest reputations in the world for staging fair and free elections under the supervision of Elections Canada, the oldest independent and impartial national election body among established democracies.

Is anybody seeing a pattern here? Bill C-23 is merely an extension of Harper versus Elections Canada.

Why should the Senate of Canada enable such a partisan attack on a government agency like Elections Canada? Why should we allow this chamber to be used to further a war which the Prime Minister has been waging for 15 years?

In no circumstances should the Senate of Canada be seen to expedite legislation which attacks the people who defend fair elections in this country.

**Senator Mitchell:** May I ask a question? I was very interested in Senator Moore's quoting of Mr. Harper when he used the word "jackass," and I am wondering if that might be an indication of very poor judgment on his part.

**Senator Moore:** I fully expect it is one he would like to have back.

**Hon. Jim Munson:** I wish to speak on this.

In the last few weeks or in the last month or so we have had a rather novel approach to Question Period. We have had Canadians ask questions and then put them to the Leader of the Government in the Senate. We have not had too many answers, but at least Canadians are speaking through us and asking the questions of the government. I think that, too, is democracy.

I would also like to talk about this unfairness act. This is a concern from one Canadian, and all Conservative senators have received these letters as well.

I am a concerned Canadian, one of many who are becoming increasingly concerned about changes being made by the Harper Government. One of the Harper Government changes being proposed is the "Fair Elections Act;" under the guise of making it better and less susceptible to fraudulent activities, the government is proposing drastic changes to the Elections Act of Canada. Despite sharp criticisms and strong recommendations from experts as well as ordinary Canadians, Pierre Poilievre, Minister of State for Democratic Reform, repeatedly states that everyone else is wrong, that he knows best, and PM Harper supports him.

National and international academics and experts have publicly stated their valid objections to the proposed Act; included in their objections is the plan to silence the Chief Elections Officer, and to place the department's Commissioner of Canada Elections within a government office where the ability to speak publicly about investigations would be severely limited, nor would Elections Canada be given their requested power to compel witness testimony.

Just as troubling is the Government rationale behind this Act, to prevent fraud. The only proven fraud in the last election —

And these are the words from the Conservative Canadian:

— was that committed by the Conservative Party, the very people now making these questionable changes. Their proposal to eliminate Vouching (never a source of election fraud) will instead disenfranchise large numbers of voters, especially those considered to not vote Conservative.

Never before has such an important Act been rushed through the House so rapidly without unanimous consent among all parties. Why now? Why such speed?

As the purpose of the Canadian Senate is to give “sober second thought” to bills passed by the House of Commons, I ask all the Senators to do exactly this, to stand up for Canada and all Canadians not just Mr. Harper and his Conservatives, and to very carefully give much thought to this so-called Elections Act.

Please do not allow this partisan bill to be rushed through, please do not allow many Canadians to be disenfranchised, please stand up for Canada!!

That is one Canadian. There are literally tens of thousands of Canadians.

• (1530)

This is the one that we have all received, as well, in our debates.

Dear Sir / Madam,

I'm a Canadian and have been since my birth 57 years ago and rarely have I been more offended by the Federal Government than I am by the Fair Elections Act C-23.

I believe the following notions, concepts and ideas be given an full and complete evaluation prior to accepting this Bill;

- 1) Remove from the Act all provisions allowing political entities to recommend names for election officers
- 2) Leave vouching in the Act
- 3) The voter information card should be allowed to be used to prove residence in combination with one other piece of identification
- 4) An amendment should be added to clarify that no elector will be prevented from voting as a result of not wanting to show his or her ID to a candidate's representative
- 5) The bill should be amended to authorize the CEO to ask a party to produce the documents and provide the information that he considers necessary in order to verify that the party and its chief agent are compliant with the Act's requirements with regard to election expenses returns
- 6) For the Commissioner to operate effectively, it is sufficient that the confidentiality of his or her investigations be affirmed, subject to such disclosure as the Commissioner finds necessary for carrying out his or her duties under this Act
- 7) No changes required that would separate the two officers, clear mechanisms both for the CEO to transfer information to the Commissioner, and for

the Commissioner to request information from the CEO — such as occurs currently while both reside in Elections Canada — are required.

- 8) Yes, a power for the Commissioner to compel testimony upon court order should be added to the bill, as currently exists for the Commissioner of Competition under s. 11 of the Competition Act
- 9) Yes the bill should include a provision extending commonly accepted privacy protection principles to political entities and requiring that parties exercise due diligence when giving out personal information contained in their databases.

Thank you for your time.

May our democracy remain strong.

Obviously, this particular person has put a lot of thought into writing down these points of view. I was just thinking about, in my opposition to Bill C-23, a few points. There was once an opinion piece that was titled “Unleash our political process!” and it was published in *The Globe and Mail* in 2002. The authors were Chuck Strahl and Stephen Harper, and they had this to say about my old boss, Jean Chrétien's, parliamentary practices. Here is what they wrote:

More than any other government in Canadian history, the Chrétien government has used time allocation and closure routinely and cavalierly to shut down debate. Private members' business is supposedly outside of the control of the PMO, but cabinet and caucus abuse procedural chicanery in the House, Senate and standing committees to postpone, eviscerate and hijack the effort of individual MPs.

Well, guess who is hijacking the agenda now? Pierre Poilievre and Mr. Harper. It's rather compelling that the same man who wrote this is leading a government that has the all-time record for use of time allocation.

**Senator Segal:** You can't live in the past.

**Senator Munson:** A senator here says you can't live in the past. Guess what? We all are. But it is the present.

Speaking of the past, last June *Maclean's* predicted that the Conservative government would likely reach 100 uses of time allocation before the next federal election. We're well on our way to that. This government has to be aware of the harmful impact of restricting debate on democracy. A decade ago, Stephen Harper described this as an abuse of power and he opposed it, and he knows full well what he's doing. To know it and still carry through with it again and again betrays an utter disregard for Canadians, for democracy, for the wisdom and progress that can be realized with free exchange of ideas, not under this guillotine.

The Conservative government is a majority government, so we all know that the bills it wants passed will be passed. But this isn't enough for this government. It has to go farther — too far — and invoke one motion after another for time allocation on debates

over its bills, even after hearing from tens of thousands of Canadians. It is the style and modus operandi of our government to bully and bulldoze through the legislative process. Subjected to time allocation, we are each of us being hindered from thoroughly fulfilling a crucial pact with those who we are here to serve. We are here to serve — Canadians. This is a blatant disregard for democracy and Canadian values. It's no wonder that public trust in our parliamentary system is falling away.

With all these emails I received — and there are many more and I'm sure other senators will bring them up — they write these emails with a mix of trust and hope that, as a senator, I can carry out my responsibility to scrutinize bills and ensure they undergo due process. I am but one person, one parliamentarian among hundreds on the Hill. My perspectives, insights and inclinations are distinct, and my freedom to express them in this chamber is both my right and my duty to the people of this country.

I don't expect my Senate colleagues to unanimously agree with what I have to say. I do not want that. I simply want my voice to be part of exchanges of ideas and opinions with anyone here who chooses to share his or her own point of view. This is what democracy is, and this is how we arrive at decisions in good conscience, not in great haste — decisions that best reflect the interests and needs of Canadians. Full debate is one of our essential roles, and procedures should not be used to stifle that role.

In the words of John Diefenbaker —

**Senator Mercer:** Oh, oh.

**Senator Munson:** You finally paid attention. Senator Tkachuk had a great article in the *Citizen* today about John Diefenbaker. Here is another quote for Senator Tkachuk from John Diefenbaker, one of the first persons I ever interviewed on Parliament Hill. Here is what he said:

Parliament is more than procedure — it is the custodian of the nation's freedom.

Let's not act in haste with this unfairness act.

**The Hon. the Acting Speaker:** Will you accept a question?

**Senator Munson:** Yes.

**Senator Cordy:** Thank you very much for agreeing to take a question. A lot of discussion we have had so far has been about things that are in the bill, like doing away with vouching. But I thought that part of one of the letters that you read out was quite interesting because they were suggesting something that should be in the bill in order to truly make it a fair elections bill. That was ensuring that Elections Canada could compel testimony.

This was one of the concerns in the robo-calls incident that we all have heard about, which took place in the last election. Elections Canada said, when they came out with the report, that

one of the challenges they had throughout this whole robo-call investigation was that they had people who were not forthright in the discussions that they had with Elections Canada, and it was very challenging to get the correct information as to what actually happened. I know that you read that from somebody who wrote to you, but I wonder if you could further expand on the importance of Elections Canada having the ability to compel testimony and why you think that has been left out of this bill, which you call the unfair elections bill. And I think inclusion of that would actually help to make it a better bill.

**Senator Munson:** Thank you for your question, senator. Obviously, there are answers that could come from the commissioner. Hopefully he will give strong answers to your question, and I think the only way that I can answer it is here is what this person said:

Yes, a power for the Commissioner to compel testimony upon court order should be added to the bill, as currently exists for the Commissioner of Competition under s. 11 of the Competition Act.

I think we should have the opportunity to hear the people who are writing these things to all of us. We're reflecting their voices right now. And I support this. I have to do more study of this. That's why we have to take a strong, hard look at this. This person here should be in Ottawa, or we should visit them, to get testimony from Canadians. I haven't seen for an awfully long time this much email traffic from all Canadians. I know people will say, "They're Liberals," but they're not Liberals; they're Canadians who want to participate in this debate.

• (1540)

The question that has to be asked of all of us is this: What's the hurry? Is there another agenda here? Some of us might think that Mr. Harper certainly has not obeyed his own timetable when it comes to election days; he can move them around. I have this feeling that perhaps they want to get this done in a hurry so they get to an election in a hurry and lose in a hurry.

Thank you.

**Senator Cordy:** You made reference to this, and I certainly had indicated in this chamber that I believe it — that if we're going to take the time to do a pre-study we should consult with Canadians, I said that if this committee were to travel to my region of Nova Scotia, I would be the first person to stand up and support it.

When I read the letters to the editor in *The Chronicle Herald*, the Halifax newspaper, which is now being published in Cape Breton, which is also very good —

**Senator Mercer:** Where is that?

**Senator Cordy:** A high number of the letters to the editor are related to this particular bill. I always gauge what's important to people in my region based on what people are going to talk to you about after church on Sundays, because they're not necessarily partisan political people. I don't know how they vote. I wonder if you could ask for more time.

**Senator Munson:** I would like to have a little more time.

**Hon. Senators:** Agreed.

**Senator Cordy:** When I'm leaving church, or if I go downstairs afterwards for coffee with the members of my congregation, the number of people who come up to me regarding this bill is extremely high. They are non-partisan people who are greatly concerned about democracy.

When I go out to public functions in Nova Scotia, people come up to me expressing concern about the bill. They are truly engaged in the discussions surrounding this bill. They are greatly concerned about some of the things that are being brought forward in this bill or, in the case of compelling testimony, the things that are being left out of the bill.

Given the interest we have seen through emails and people in my region of Nova Scotia who are talking to me, do you think it would be extremely important for a Senate committee to go and hear directly from Canadians? Looking somebody in the eye when they're giving testimony has tremendous value.

**Senator Munson:** Thank you, senator, for that question. I just have a couple of personal anecdotes. I still play old-timers' hockey. I play twice a week. I actually played basketball with my tall friends on Saturday. Here is what has happened in the last six or seven months. During the issues and controversy we had in the Senate in the fall, I would walk into the dressing room, and the hockey team, from all walks of life, would have some pretty nasty things to say — and you had to take it — about the issues that were going on in the Senate. You had to take that.

Guess what? I couldn't believe this. As recently as two Saturdays ago, I wasn't in church, but I was in a tavern having a pint with my friends after playing. This gentleman you would not think of as being involved in a political conversation came over and sat down. He said, "I've been vouching for these people in my area who have a hard time to explain things — who and what they are and what they're doing." He has been doing that.

He was really angry, and I never expected that or that kind of conversation. Usually after those occasions, we're talking sports and only sports, but he was serious. This guy is a roofer. He spent all his life in different parts of the city, fixing roofs. And he was really angry. He said he wanted me to bring it up, and you've given me the opportunity to bring it up.

In my work as a reporter for 35-odd years — and I think Senator Fraser will vouch for this — when a boss says, "Can you cover a story taking place somewhere else across the country," could you do it from Ottawa? I can't do it very well, because I'm not talking to people who are living on the street and experiencing either a disaster or whatever is going on. You've got to be there to cover the story. You can't do it without covering the story.

These Canadians, by the way, who came here yesterday on their own money and were supported by all parties — it was regarding autism — they paid their own way here. They've paid their own way here. I don't think Canadians would mind paying our way to go there or to go elsewhere to get that kind of information and

feedback. The feedback we got yesterday — and Senator Joyal's testimony on autism was the most gut-wrenching, heartfelt feeling that had a reverse psychology to it. The people who came to tell their stories heard our stories, too; we exchanged them. That happened here.

We can and should go across this country. It would be fair to this "unfairness act" to have those voices heard.

And if Senator Tkachuk stacked a meeting in Saskatoon with a whole bunch of Conservatives and they supported it, let's hear them, too. But let's hear all voices in this country. There is nothing better, as we say in the old news business, than a good, informative road trip.

**Senator Mercer:** I have a question for Senator Munson.

We heard an interesting speech from our good friend, Senator Sibbeston, and he talked about the people in the North and out in the land having difficulty with finding identification. It's a little easier for us who live in big cities. Isn't that the kind of place that the committee should visit when the bill gets before the committee? Shouldn't the committee be out there, visiting those communities? Shouldn't they be visiting the Lower East Side in Vancouver, St. James Town in Toronto, North End Halifax, talking to people who have these problems on a regular basis?

**Senator Munson:** Yes.

[Translation]

**Hon. Céline Hervieux-Payette:** After listening to the wise words of my colleagues, I would like to add my francophone voice to theirs and quote from a journalist whom I have always admired: Manon Cornéliier. Yesterday, she wrote an article in *Le Devoir* entitled "My party first". I felt that that party was not mine. If it is not mine, it must be the other one. She wrote, and I quote:

The debate going on in Ottawa about reforming the Elections Act is clearly little short of absurd.

I cannot say that I find this very flattering in the light of our current exercise. If a distinguished woman like Manon Cornéliier writes that, I feel that we too must give some thought to the way in which our debate is unfolding.

As I participate in this discussion, I find it important to remember that the right to vote, as our leader has mentioned, is a fundamental right. I remember that when I was a member of Parliament here I voted on the Constitution of Canada, which recognized this basic right. I am equally convinced that this right cannot be granted arbitrarily.

It is at the foundation of our system. Clearly, we must acknowledge that there are political parties. But the government of the day does not have the exclusive right to draft a bill, prepare a bill, discuss a bill and come to a consensus. I feel that a responsible government must make sure that all political parties are ready to be governed by the Elections Act. This is no ordinary act; it is an act that guarantees the first rights that we are given in the Constitution.



Honourable senators, we must recall that in a number of countries around the world many have died to obtain this right that we have and cherish.

• (1550)

We must remember that this is not simply a formality. We need to do everything we can to ensure that every Canadian has the opportunity to have a say on how their country is governed.

I would like to thank my colleague, Senator Mercer, for reminding us that an election will be held in Quebec on Monday, even though it appears as though we will have to sit that day. If you want my opinion, I think that is an iniquitous decision, since a referendum is on the agenda. We are talking about Quebec's future in Canada, and a vote is being scheduled in the chamber. This is a day on which all Quebecers — that includes you, Mr. Speaker — should be there to support the federalist forces. I think that is our duty, and I think it is absolutely shameful that we are being forced to come to Ottawa, even if it is for a pre-study.

How does a bill that will probably pass in a few weeks outweigh an election that is deciding the fate of a province? The Leader of the Government in the Senate should take that into account.

I remind honourable senators that in the past we have sat into July without any problems. I do not understand why it is so urgent for both chambers to sit at the same time. Do we truly need to rest all of July and August? We will sit as long as we need to, since this bill needs to be carefully studied.

We are going to vote, and the majority on the other side, which is not independent, will in turn vote along party lines. The members of that party should think about Canadians, who find this right so very important to their future.

I need to talk to you about the bill itself because we are going to debate it anyway. First, I do not understand why the two chambers have to sit at the same time. Shouldn't we wait to get the amendments from the House of Commons before we study them? Isn't that how things usually go? It seems to me that this isn't really that difficult to understand. This is a completely inappropriate way of studying a bill that, when you get down to it, is being studied by the House of Commons at the same time.

It is a fundamental principle that this bill meet a broad Canadian consensus and not be directed, piloted and voted on by the majority in the House. This government was elected by 38 per cent of Canadians. Therefore, the 62 per cent of the population that did not vote for that party want this bill to be examined in depth.

This government's practice of hitching words to bills to make us believe in a narrative that does not exist is of great concern to me. Surely, you will remember the famous words "accountability" and "transparency" in a certain bill? I remember quite well that the parliamentary budget officer was the first to tell us that there were no similarities whatsoever in government

between "accountability" and "transparency" and the bill that was passed. I think the same thing is happening with this bill and that its title is just a smoke screen.

Canadians have followed the debate on this reform, they have been informed about it by experts, and they are quickly realizing that there is a double standard when it comes to funding rules. Instead of weakening the system, we need to strengthen it. Instead of spending six months with Elections Canada managers and public servants to develop and improve a bill, the minister barely met with the Elections Canada official. There was no real consultation with this official, any more than there was with all the parties that could be consulted. At this point, we still do not know what consultations will be held across Canada.

A decision was made to emasculate the role of Elections Canada, an independent body lauded throughout the international community of democracies. New democracies around the world routinely turn to Elections Canada to change their system, to make it fair and equitable. If Elections Canada is recognized around the world for its system, it is rather odd that it is not consulted by the government of the day.

In addition, instead of encouraging greater participation by Canadians, Elections Canada will no longer be able to promote voting and educate the public about voting. We have trouble promoting higher voter turnout among young people and I am sure the same thing is happening across the provinces. During every election, it is unfortunate to see how many young people under the age of 25 do not exercise their right to vote.

I have not done the research myself, but I was told that this bill is based on an American model. It seems that a number of states adopted all sorts of methods — which may not be the same as here, mind you — as barriers to ensure that certain minorities could not exercise their right to vote. Barriers are imposed upon the illiterate, persons with disabilities, the homeless and northerners. My colleague gave me a most compelling example, saying that, in an Aboriginal community with only five streets to identify, it must be fairly easy to recognize people. Why ask for a piece of identification from those who do not have one because they do not need it to function? It is really simple.

Canada has spent decades building its international reputation as a great democracy, but this piece of legislation will tarnish that reputation. I feel ashamed. As a result of this piece of legislation, the participation rate will drop. It is even sadder to look at the way the legislation will administer the electoral process.

This bill will weaken the public education powers of Elections Canada instead of strengthening them. We will no longer have adequate means to enforce the law, or the investigative powers and measures allowing Elections Canada to take corrective action and to support Canadians who want an independent organization. No, the government will appoint someone who reports directly to the government. This seemed so ridiculous when I read it that I thought I had misunderstood. The vast majority of experts in this area find that this new position is not at all credible. There is a cloud hanging over independence, especially when it comes to redress in the event that an offence is committed. As they say, the scale always tips in the same direction.

This also applies to the appointment of election officers at polling stations. According to the Chief Electoral Officer, appointing a partisan person to such a strategic position is unthinkable.

• (1600)

I must say that the media agrees. This is like having the fox guard the henhouse. All the returning officers at every polling station will have to answer to and receive instructions from a person appointed by the government in power. It is totally unacceptable.

Another measure that tips the scales in the Conservatives' favour is the one that excludes certain people from election expenses when it is a matter of small donations. I think everything should be accounted for, especially after the infamous in and out scheme. It seems to me that instead of creating holes, we should be plugging holes. How can we provide exemptions for a fundraising method knowing that this measure goes against the very spirit of the law, in other words, the integrity of the system?

When I read the bill, I looked into what our Canadian media thought about it and I must pay tribute to the *Globe and Mail* for its exemplary work analyzing this bill for Canadians. Their headline reads:

[English]

"Fair Elections Act: Slow it down, Mr. Poilievre."

[Translation]

There are five like that. The next one is:

[English]

"Ontario's top electoral official flags concerns about federal Fair Elections Act."

[Translation]

That is someone who should know a thing or two about this. The other headline reads as follows:

[English]

"Scholars denounce Conservatives' proposed Fair Elections Act."

[Translation]

And now, for a rather strong headline:

[English]

"The Fair Elections Act: Kill this bill."

[Translation]

There is another one — I will read them all because everyone should go read these:

[ Senator Hervieux-Payette ]

[English]

"Why the hurry to pass the Fair Elections Act?"

"With so many critics, how can the Fair Elections Act be fair?"

[Translation]

Usually, when something is just and fair, nobody criticizes it and everyone supports it.

The last article is about the bill we are now pre-studying.

[English]

"Conservatives move to fast-track study of Fair Elections Act in Senate."

[Translation]

I wanted to point that out because I think that if this legislation is going to be just and fair, it has to undergo a thorough study and amendment process to restore Canadians' confidence in our electoral system. This legislation will be a feather in our democratic cap only if there is a strong Canada-wide consensus in favour of it. I think that Canadian voters deserve the respect of parliamentarians, whose primary function is to serve Canada, not their party.

**Senator Fraser:** Can you request more time so I can ask you a question?

**Senator Hervieux-Payette:** Honourable senators, can we have a few minutes? Thank you.

**Senator Fraser:** You have a wealth of political experience not only in the House of Commons and here in the Senate, but also in our province, Quebec, at all political levels, both in the upper echelons of our party and on the ground.

I'll never forget how you dragged me to Rimouski in the middle of winter because, you said — and you were right — we have to go to the people. I participated in that series of gatherings to hear from people in, if I remember correctly, Rimouski, Quebec City, Gatineau, Sherbrooke, Montreal and many other places, because you thought it was essential to go to the people to really understand where they were coming from.

We know that Quebec is by far the largest province, and that Quebec's regions vary dramatically. We cannot presume that by listening to just one Quebecer, we can understand the reality of all Quebecers. Do you think that if we do this pre-study, the committee should travel to the regions to hear from people on their home turf and learn how this will affect them in their communities?

**Senator Hervieux-Payette:** That is fundamental. I would like to add that when I chaired school boards, I was proud of the fact that 45 per cent of the population came out to vote, when the Quebec average is only 10 per cent. It is no accident that people come out to the polls even when they are not directly affected.

Many people vote in school board elections even if they don't have children. In this case, the entire future of the country is at stake, as are all the measures the future government should adopt for each region. It is extremely important that we go to the people in every region.

I had actually organized this tour across Quebec. I attended all the meetings except those that took place the same day in two different locations. I can't be everywhere at once. If we want to do our job properly, we need to go and listen to not only the people of Rimouski, but also the people of Sept-Îles, of Nunavut. In fact, every province deserves to have a certain number of visits from us so that Canadians can follow us; this would also fit in with the idea of educating people.

**The Hon. the Acting Speaker:** Are you rising, Senator Day?

**Hon. Joseph A. Day:** Senator Mitchell said he has to leave, so I could speak after him.

**The Hon. the Acting Speaker:** Would you accept a question, Senator Hervieux-Payette?

**Senator Hervieux-Payette:** Yes.

[English]

**Hon. Wilfred P. Moore:** I know that you have been working for years with business people and with government people in Central America and South America, and indeed you have been honoured for your work. In the face of this proposed bill — and we don't know what it's going to say yet — in the rumoured version, how do you think you would be received or Canada would be received by your colleagues in those states in view of these changes that look to me to fly in the face of democracy?

**Senator Hervieux-Payette:** Thank you for your question, Senator Moore.

I've worked with parliamentarians who were elected in new democracies. Some countries even had a quota for women. It was part of their system. In many countries there was outside influence. In fact, I must say that to be credible, to help them to really change that kind of system and take their future into their own hands, they needed to have education. They needed to understand the process and they needed some technical support that Canada provided.

This was the number one reason I worked with this organization for 10 years. I stopped for personal reasons. Giving them the gift of democracy — a system that has been proven to serve our country well — was part of my role, my duty and my dream as a politician.

**The Hon. the Acting Speaker:** Your speech? Senator Smith, a question?

**Hon. David P. Smith:** Yes, I have a question.

Senator Hervieux-Payette, you may recall when we were MPs together over 30 years ago —

**Senator Tkachuk:** Time, time. Senator Mitchell.

[Translation]

**Hon. Grant Mitchell:** I take no pleasure in participating in this debate. It really saddens me that we have to have this debate. The idea of imposing a time allocation motion on a bill like this means there is a serious problem with the democratic process in Canada.

[English]

I'm not happy to have to speak to this, the fact that this government would use, ironically, for its "showcase" democratic reform bill one of the greatest affronts to the democratic process in the parliamentary process, which should only be used on very rare occasions. That is, of course, time allocation.

• (1610)

I was challenged by the Leader of the Government in the Senate earlier today to ask Albertans what they thought about this particular bill. I tweeted that request and I got some answers, one of which I just can't read into the record.

**Some Hon. Senators:** Yes, you can.

**Senator Mitchell:** Okay, I am being challenged to read this into the record. This is a direct quote; these are not my words. This is a direct quote from an Albertan who responded to Senator Carignan's request that we solicit the opinions of Albertans on this "Unfair Elections Act." This is what he wrote:

This Albertan thinks it sucks donkey balls.

That gets to the nub of the point.

Another said that even his Conservative-voting friends think the bill is terrible.

Those are common sense Albertans giving their opinions on that, in response to a request by the Leader of the Government in the Senate. It is such elegant evidence of the way that the democratic process could work. Imagine if we were televised. Imagine if people could have seen him make that request on television? That would have further connected with Albertans and further emphasized his solicitation of input from people from Alberta.

Imagine if the committees went to Alberta and gave that Albertan a chance to present, as a witness, direct testimony to the committee. Now, I can see, maybe, why they are a little bit concerned about going out there. How is that put? "You can't stand the truth." There is the truth.

In any event, there are two points that I would like to make, perhaps more seriously.

One is just the logistics of vouching. Think about how much conspiracy would have to go into vouching in a way that would amount to any kind of quantity of voter fraud. First, a vouching person would have to lie about where the vouchee is from. That would be the first thing. Then, the vouchee would have to be prepared to lie about what riding they live in.

One would assume that, if you wanted to make that process efficient, you would have one voucher vouch for hundreds of vouchees before it would ever become relevant. Surely, they would get on to that one voucher quite quickly, don't you think? All of a sudden, it would be kind of a repetitive thing, and they would begin to think, "How could this person be vouching for all of these people?" Then, you would have to have all of these other people prepared to lie about where they come from.

When you look at the logic of the logistics, it makes no sense, and it underlines, logically, what the courts have said and what Mr. Neufeld, the person who did that detailed report, said, that there is no evidence that vouching has amounted, in any way, to any kind of serious fraud or, in fact, to any fraud at all.

On the other hand, what is very interesting is that the courts have said that robo-calling was evidence of voter fraud, evidence of fraudulent voting technique. The judge went on to say was that it was passing strange that somehow the Conservative Party's own database, CIMS, on the one hand, had to be used in that robo-call fraud. On the other hand, the Conservative Party didn't once raise a concern about that fact. It's absolutely a fact that their database had to be used. The courts have established that and, yet, this government that is so concerned about crime absolutely passes that over.

You would think that, if they didn't consciously have something to do with that, somehow they would be really concerned that their database was hacked, but there is no evidence whatsoever that this government has expressed a concern that their database, which is worth millions of dollars in supporting their efforts to raise finance, was hacked.

If they really wanted to get at voter fraud, vouching certainly isn't the way to do it, or anti-vouching technique certainly isn't the way to do it. What that will do is disenfranchise people for all of the reasons that we have heard over and over again. Whereas, getting at how somebody hacked into, if that is what happened, the government's database would certainly be a breakthrough in diminishing the potential for voter fraud. What if it was a hack, and what if somebody decides to do that again? Is the government not concerned that that could happen again? What steps have they taken to make sure that the perpetrators of that first presumed hack have been apprehended or that they won't do it again? None, zero, zip. Not only is that intrinsically illogical, but it also raises the question of just how disingenuous the motivation behind this bill actually is.

The other thing that I think is relevant, and I raised it in Question Period, is the aggressive statements by Sheila Fraser, the former Auditor General. I would like to read this one quote again:

When you look at the people who may not be able to vote, when you look at the limitations that are being put on the chief electoral officer, when you see the difficulties, just the operational difficulties that are going to be created in all this, I think it's going to be very difficult to have a fair, a truly fair, election.

That is significant in two ways. First, it is significant because Sheila Fraser has huge stature and credibility in our country. Certainly the government believed everything she said for periods

of time and was very determined, when they were in opposition, to believe that what she was saying was true. All of a sudden, apparently they have changed their tack on that.

What is also very key is that she has added her name to a list of very significant people across the country, people who would know, including Mr. Ian Binnie, Ms. Lise Bissonnette, Ms. Roberta Jamieson, Mr. John Manley, Mr. Preston Manning, Mr. Bob Rae, Mr. Roy Romanow and Mr. Hugh Segal. Am I misquoting him?

**Hon. Hugh Segal:** Point of order, Mr. Speaker. Sheila Fraser expressed her own point of view as co-chair of that advisory committee. She did not speak for the members of that committee, and she certainly did not speak for me. Thank you.

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

**Senator Mitchell:** Okay, I withdraw that, but it does underline that she is certainly not just speaking as the former Auditor General. She is speaking as a member of the Chief Electoral Officer's advisory board, the Elections Canada Advisory Board. So she comes to this with even more credibility than I'd originally considered.

I apologize to Senator Segal for suggesting that she was speaking for him.

It also reflects what we are hearing across the country from many people who have significant expertise in this area, but also from a sentiment among Canadians and that is that they think that this bill will undermine the fairness of elections. To the extent that a population in a democracy begins to think that their elections are undermined, that the fairness and adequacy of elections are undermined, that becomes a serious problem for democracy. Democracy, as much as it has structures that reflect it and represent it, like parliamentary buildings, is also very much a spirit and it needs to be supported and defended. When you have an act this widely criticized, it is not as though there is even any third party standing up outside of government and defending it. When you have an act of this significance, which directs itself right at the heart of the democratic process, and it gains no public support, zero public support — quite the contrary; profound public criticism — the logical, inevitable conclusion is that it will undermine people's confidence in the democratic process.

• (1620)

What this institution is all about, what that institution on the other side is all about, and what each of us know in our heart of hearts is that our priority is to defend the democratic process and to defend the nation's intense desire to have fair elections which reflect the strength and validity of that democratic process.

This is not a game. It shouldn't be reduced to some kind of political game, as is often the want of Mr. Poilievre. He thinks politics is a game. This is very serious business, and it is particularly serious when it comes to this kind of democratic reform, with this kind of implication.

Historically and traditionally in democratic and parliamentary processes, there has always been an effort to achieve consensus over this kind of legislation, for precisely the point I am making,

so that it cannot be construed as intrinsically partisan, as intrinsically supporting one party over other parties. Much has been made of the fact that this bill is stacked in favour of the Conservative Party, in favour of the Conservative government.

**Senator Nancy Ruth:** You cannot fudge anymore, you Liberals.

**Senator Mitchell:** Why don't you stand and make the point? You can speak after me, Senator Nancy Ruth, absolutely. You're welcome to do that.

**Senator Nancy Ruth:** Good for you.

**Senator Mitchell:** I'm not surprised that you're so intense about it, because I think it's probably deeply bothering you that you're part of a party and you're not standing up to resist it.

**Senator Nancy Ruth:** No, I ran against Liberals, believe you me. Shut up and sit down.

**Senator Mitchell:** It certainly seems to me that you are very, very intense about the criticism as you hear it, and it's getting under your skin.

**Senator Nancy Ruth:** It is just a pack of lies.

**Senator Mitchell:** I'm glad to see that, because I have great faith in your sense of justice and integrity; I absolutely do.

She showed that intensity in Bill C-377 when she voted against that, so I congratulate her on that and I look forward to her voting against this.

Having been interrupted, the fact is that these kinds of changes in the parliamentary process have practically always been done with consensus. That isn't just to make sure you're getting it right; it's also to make sure that you avoid exactly the kind of criticism that has been raised against this bill across the country by significant people, by very many Canadians, by experts who would know, and that is the suggestion of bias in something that could begin to erode the quality, integrity and strength of our democratic process.

I'm surprised that any member of that house, or any member of this house, would want to be part of that. I think it isn't a coincidence that they have Mr. Poilievre as the lead, because he will take this kind of case without any compunction. I want to make that point.

I also would like to point out that there is, I think, real power to this idea that it will diminish voter turnout and that it is stacked against certain constituencies. I think the case can be made that some of those constituencies would, if they vote, be inclined not to vote Conservative. I don't know that that's a coincidence, but I would fear that it's not in fact a coincidence, that it's found in this bill.

It's also interesting that there is much analysis in the United States of efforts made by certain groups to diminish voter turnout to support their possible voting advantage, and so on.

I want to say that I think the logistics of vouching are almost impossible to imagine being able to support widespread fraud. You would have to have too many people lying, too frequently.

Could I have five more minutes, please?

**Hon. Senators:** Agreed.

**Senator Mitchell:** Thank you.

You would have to have too many people lying, far too frequently, too much conspiracy, for it ever to be of the kind of consequence, rated against the risk of disenfranchising so many people who will very likely be disenfranchised.

What is also telling — and I would like to summarize that again — is that while the government is concerned about that kind of potential, lack of vouching, which really has very little potential for widespread fraud, on the other hand, it pays not one whit of attention to the fact that their database, which I've been told has as many as 2 million people in it — which we would think must have been hacked; otherwise, the Conservative Party was consciously involved in that — that they would want to look into how it is that it was hacked and they would want to do something about that. Because that would be widespread, and that is 2 million people who could be affected if it were ever done again and done in an efficient manner.

It is striking, that juxtaposition: on the one hand, concern about vouching, which logically can't have that breadth of impact on fraud, and not being concerned at all with the fact that their database must have been hacked.

**Senator Day:** I'd like to thank my honourable colleagues who have spoken before me on this particular matter. I will resist going into the bill itself and talking about some of the issues that have arisen there. I will try to bring us back to the issue at hand and what we will be called upon to vote on in the not-too-distant future, and that is, honourable senators, Motion No. 26.

Motion No. 26 in our Order Paper is found at page 4:

That, in accordance with rule 10-11(1), the Standing Senate Committee on Legal and Constitutional Affairs be authorized to examine the subject matter of Bill C-23....

We have heard at length discussions about what is in the current Bill C-23, but of course that's still in the House of Commons and still under debate, not out of committee yet. But there's another part to Motion No. 26 that I want to bring to your attention, and that is the part that was added by a motion in amendment by the Honourable Senator Runciman. That allows for committees to sit out of their normal time and to sit while the Senate is sitting. That amendment will be the first amendment, and the first vote that will be taken is that particular matter.

There are two parts — and I want you to keep that in mind — to Motion No. 26.

How has all of this come about? This has come about by virtue of Motion No. 28 on the Order Paper yesterday that we voted on. That is important for us to look at:

That, pursuant to rule 7-2, not more than a further six hours of debate be allocated for consideration of motion No. 26....

Those are the two parts to Motion No. 26.

Let's take a look at 7(2) of our Rules, because that's what's driving all of this, honourable senators, and that, I think, is important for us to take a look at.

Rule 7(2):

At any time during a sitting, the Leader or the Deputy Leader of the Government may state that the representatives of the recognized parties have failed to agree to allocate time to conclude an adjourned debate....

Then it goes on to say: on either a bill or other items of Government Business. I would take this as another item of Government Business.

Rule 7(2) refers us to what was in the motion, and the motion says No. 26, two parts.

• (1630)

My recollection, honourable senators, is that the Deputy Leader of the Government in the Senate made the statement that there could not be agreement between the parties with respect to the bill. But, honourable senators, just before that statement was made, there was the amendment of Senator Runciman. If Senator Runciman's amendment was not part of the discussion, then how can the statement that was made immediately following that be true?

If the statement is not true, then we have two options: either this entire process is out of order, or we cannot consider the item that we're debating right now. That is the second portion of Item No. 26. I just wanted to bring that to your attention, honourable senators. It is somewhat legalistic, but clearly within the Rules. The Rules are very clear that the Deputy Leader of the Government is required to try to work with the leadership of the other recognized parties to reach some sort of an accord and then to make a statement, and presumably the statement is a truthful one. But if the amendment by Senator Runciman was not part of the discussion, then how can the statement be truthful, and how can this motion be before us right now?

Honourable senators, I could move a point of order on this, and we could have some interesting times and interesting debate, but that's not my interest. And it's not my interest to delay this. I'm quite disappointed that we are being forced to deal with the Rules and look through debates for the next six hours and that we had to have closure on this particular matter in order to deal with this.

I would much rather get on with the debate of the bill, but there are serious concerns about the accommodations that we have made in the past in relation to pre-studies. I have myself, in opposition, as chair of Finance, requested that we do pre-studies. It's not out of the ordinary that we do pre-studies, but it is not the norm. It should not become the norm.

Honourable senators, I have said in this chamber on that side, when I saw several members of the opposition make exactly the same statement that I am making right now, that pre-studies are an extraordinary type of procedure and should not be gone into lightly. I can hear Senator Lynch-Staunton, Senator Kinsella and Senator Stratton sitting here saying that. I was a young senator sitting where Senator Wells is right now, listening and learning about procedure and the understanding of respect for a small group when in opposition, the tools that they have to use in order to make this chamber function, and how there must be accommodation between us in relation to matters.

Closure is one process that we should use very infrequently. Pre-study is another that should be used very infrequently.

Let me tell you the difficulty I see with respect to the addition of Senator Runciman. We also see that in the next motion, in 27, the same provision that the committee do a pre-study — and this is Finance — and the committee is able to sit while the Senate is sitting, and to not be here, not be part of the process of this chamber. This is our number one responsibility, to deal with the laws here, but rather take all of those committee members out. All the members of Legal and Constitutional Affairs are also going to be out of this chamber. We understand that there is likely to be pre-study and closure with respect to other legislation coming along in relation to immigration.

Honourable senators, who is going to be here? Who is going to be in this chamber to deal with the business — I hope so, Senator Segal, but somehow I feel that may not be the case. I would hope that all of us understand that these extraordinary processes, when they become ordinary, undermine the entire function of this chamber and the business that we're here for.

What is almost the second name of the Senate of Canada? It's the chamber of sober second thought. We've heard it many times. We've all used it. How are we, when we do a pre-study of a bill that has not yet been resolved in final form in the other place, going to be a chamber of sober second thought? That's the fundamental reason why Senators Lynch-Staunton, Stratton, Kinsella and many others brought to our attention that we can't be using this tool frequently. We lose our role and our respectability as a chamber of sober second thought.

Those are some of the points, honourable senators, that I wanted to make. We can get into issues about travel, we can get into issues about — and you've heard many points made on this — why we have to do a pre-study; why can't we wait?

Just for a moment, think about the particular bill we're dealing with here, which is Bill C-23. When we pass this motion — and it will pass, because that's what you want — is it the then state of Bill C-23 that will be pre-studied, or will it be something else? Will you have to come back and get an amendment to allow us to study the new Bill C-23, which has been amended in the other

place? That kind of confusion arises when we don't have a settled piece of legislation and you're asking us to take a quick jump into the unknown.

Thank you, honourable senators.

[Translation]

**Hon. Marie-P. Charette-Poulin:** Honourable senators, I rise today to speak to Motion No. 26 on time allocation. I would like to use my 10 minutes to summarize — yes, summarize — three of my concerns.

My first concern has to do with the request for exceptions to the rules. The second concern has to do with the very nature of the bill we will be studying, and my third concern has to do with the sad consequence of this motion.

My first concern is that, once again, Conservative government representatives in the Senate have moved a time allocation motion for our debate on a bill. Yes, once again. The motion was adopted yesterday.

We have seen so many requests to limit debate in recent years that the exception is becoming the new rule. However, there are three other exceptions in Motion No. 26. I thank Senator Day, who just spoke, because I wanted to talk about the three other exceptions set out in Motion No. 26.

• (1640)

I did not hear a single reasonable argument that would help us understand why all of these exceptions to the Rules are necessary. It is not the opposition's responsibility to demonstrate the importance of a Senate rule; it is the responsibility of those in favour of the motion to demonstrate the importance of making an exception to the rule and to our Rules, especially when the bill to be studied has to do with the very foundation of Canadian democracy.

Yes, honourable senators, my second concern stems from the fact that Bill C-23 pertains to a fundamental aspect of our country: its democracy. Many of my colleagues have spoken about the value of our democracy. They wisely and eloquently explained the fragility of any democratic system.

Bill C-23 would amend the law that governs the federal agency responsible for our democratic framework, the election of members of the House of Commons, including an individual's choice to run as a candidate, and the privilege every Canadian enjoys to vote for a candidate.

Yes, it is a privilege to vote for and choose your representative in the House of Commons. As we all know, the results will determine the next prime minister, the person responsible for governing our country. Unfortunately, many Canadians seem to be losing their appreciation for and understanding of that privilege.

Over the last 20 years, Canada has had seven federal elections. The participation rate for eligible voters is steadily declining. I want to quickly share some numbers with you: October 1993,

69.6 per cent; June 1997, 67 per cent; November 2000, 61.2 per cent; June 2004, 60.9 per cent; January 2006, 64.7 per cent; October 2008, 58.8 per cent; May 2011, 61.1 per cent.

My dear colleagues, as they always say on the CBC, "if the trend continues," we will be forced to make voting mandatory in order to maintain the very credibility of future prime ministers. Bill C-23 is going to prevent the agency responsible for conducting elections from encouraging Canadians to exercise their right to vote.

There is quite a gap between the words and the actions of the government of the day in terms of the importance of our democracy.

Honourable senators, I have a third concern about the current motion: the consequence it will have and the silence it will impose. By limiting the time for study, we are limiting not only the length of a debate in the Senate, but also the number of witnesses who can appear before the committee charged with the study. How many Canadians will we be forcing to remain silent? How much expert analysis will we be forgoing? If the committee had the permission to sit at the same time as the chamber, as my colleagues have pointed out, that would prevent senators who are not members of the committee from participating in the study of a bill that is so important to the very foundations of our country.

I therefore beg the honourable senators who have declared their intention to vote in favour of Motion No. 26 to reconsider the wisdom of that decision.

[English]

**Senator Cordy:** Would the honourable senator take a question?

**Senator Charette-Poulin:** Yes, I would, Senator Cordy.

**Senator Cordy:** In the past, when changes were being made to an elections bill, there was always consultation with all the political parties, on the house side at least, so that with all this consultation the bill would finally come to fruition and come together, and it would be a compilation of all of the input from all of the political parties.

Do you think perhaps consultation while the bill was being developed, with input from all the political parties on the house side, would work better for democracy than time allocation?

**Senator Charette-Poulin:** That's a very interesting question, Senator Cordy.

The past practice of *inter partes* pre-writing of the bill has always been very beneficial. It has been beneficial not only for the preparation of a bill, but also for the future debate on the bill. Rarely have we seen, such as for Bill C-23, so much surprise on the part of experts at the content of the bill, making major changes to the enabling legislation of Elections Canada.

My question is: What's the objective of time allocation? Is the objective to rush this through because of all the attention that Bill C-23 has received from Canadians? I'm just asking the question.

Even when I'm looking at the motion and the permissions that we are requesting regarding the current Rules, everything seems to be related, with all due respect, to the rushing of a study and to the rushing of a process, and that to me is very worrisome.

**Senator Cordy:** I also wonder, in light of the fact that there were no consultations — in fact, even Elections Canada and the Chief Electoral Officer were presented with the done deal, the bill. Certainly that's not consultation, in my mind — here's the bill; deal with it — rather than him being an active participant in developing what would have been truly a fair bill.

I'm wondering if you feel, in light of the lack of consultation prior to the bill being developed, that it would be a good idea if a Senate committee would consult with Canadians and travel to the regions.

I know you're from northern Ontario. We heard Senator Sibbeston speaking earlier about the challenges in northern communities. I know that Sudbury is not as far north as the Northwest Territories. Nonetheless, it is not like where I live, in Dartmouth, for example, which is a city.

Do you think it would be important, since consultation was not done before the bill was developed, and that it would be helpful to Canadians to have a Senate committee visit them in their communities so they can look the senators in the eye and talk to them about their concerns about this bill? Maybe they all love the bill; we don't know that. Certainly any communications I've had with the people from Nova Scotia have been regarding the concerns they've expressed to me.

• (1650)

**Senator Charette-Poulin:** That's also a good question, Senator Cordy. I'm wondering if there was consultation between the chair of the committee that will be studying the bill and the Prime Minister. If I were a prime minister, I would definitely like to leave Canadians with the impression that when such an important issue is being studied, I am really listening to what they have to say about their concerns regarding the whole electoral process.

So I'm very surprised that not only have other political parties not been consulted but the Chief Electoral Officer and former Chief Electoral Officers — and there are two of them still living —

**Senator D. Smith:** All the experts.

**Senator Charette-Poulin:** — and all the university experts, including the electoral experts and consultants, have not officially been consulted. It's a very sad state indeed.

**Senator Mercer:** I was wondering, do you think taking away the power of Elections Canada to promote voting to young people will help increase voter turnout in the next campaign?

**Senator Charette-Poulin:** Thank you very much, Senator Mercer, for your question. I think that bringing attention to the voter turnout is key in this discussion, and it will be key as we review Bill C-23.

I'm hoping that the committee will even bring marketing experts before the committee. With social media today, many individuals using it are so busy receiving information that if information is not part of the package received, the absence of the information makes the issue unimportant. Therefore, voting becomes unimportant because it's not part of the public debate; it's not part of the marketing approach by Elections Canada; and it's not part of the marketing approach of the governing party.

**Senator Mercer:** Would you not agree that the flexibility the Chief Electoral Officer currently has is beneficial in contacting young Canadians who are very active on social media?

In our study on the CBC, we were talking about the Olympics. During the Vancouver Olympics, there was no such thing as an iPad. The iPad came out after the Vancouver Olympics, but today, most people watched the Sochi Olympics on their iPads.

Are we not taking away an opportunity for the Chief Electoral Officer to communicate with tens of thousands of Canadians, particularly young Canadians, in the Twittersphere and all the other avenues out there to contact them?

**Senator Charette-Poulin:** Thank you, Senator Mercer. That's key. What you are also bringing out is that we are transforming the role and responsibility of the Chief Electoral Officer from a person responsible for the good conduct of elections. We are actually making the future head of Elections Canada a technocrat because he or she will never again be permitted to fight for an important value that he or she will be managing.

**Hon. Art Eggleton:** Honourable senators, Bill C-23 is a very important piece of legislation. It touches upon many aspects of the electoral process in this country. It's controversial, as we have seen over the last while since it was introduced; and it does require a full, thorough examination. It should not be rushed; it's something that we should get right.

Why would we be rushing to get this pre-study done? The Deputy Leader of the Government in the Senate has not given a single reason in her statements on this, and when the Leader of the Government in the Senate responded to questions in Question Period yesterday and today, absolutely no reason was given as to why this pre-study is needed.

I can understand pre-studies in the context of budget bills and things where we get them late. That is to say, it's just before the recess and the government needs to have them through because it's all part of the necessary approval process for spending. We have done that on numerous occasions, but there's no such purpose in this case. There's no reason to rush this through. We're in the early part of April; we still have plenty of time to be able to deal with it in the normal course of events.

Some may think it might be good to look at it early because we may have some influence with what they do in the other house. Well, I'm sorry, but my experience with the current government is quite the contrary; I don't see any evidence of that. I don't know of any time with a majority of Conservatives in this Senate and in the other house where any government bill has been sent back by this house. The only one that we were able to send back was a



private member's bill, Bill C-377, thanks to some on the other side. Thankfully, we got the chance to do that. The only other times in the history of the Harper Conservative government have been when we had the majority here.

Therefore, I don't hold out any hope. There's no credibility. There's no track record that would back up the suggestion that Senator Runciman and others have made that, in fact, this is an opportunity to influence things. If that's not going to be the case, then I think we fall back to our basic fundamental purpose of sober second thought. It's not sober first thought; it's sober second thought, and I think this is a bill that's going to need sober second thought. This chamber has a fair bit of partisanship, but at least it has a little less partisanship than that other chamber. So I think that sober second thought will be vitally needed, and you can't do sober second thought until they finish it over in that chamber and send it down here. I think this is the wrong way to go.

Another reason this is the wrong way to go is that it brings in time allocation or closure. That has always been used by both parties, no matter who is in government, but it has never been used more by any government than this current one. This current government has used that particular weapon an extraordinary number of times, and it is not justified the number of times they have done it, particularly the very first time it has ever been used to bring about closure with respect to a pre-study.

When we do get the bill, I say it's controversial and requires complete and thorough thought. I think we've heard from a number of people why that's the case. We've heard about the group of academics who have said that if this bill becomes law, it will "undermine the integrity of the Canadian electoral process, diminish the effectiveness of Elections Canada, reduce voting rights, expand the role of money in politics and foster partisan bias in election administration." That's quite an accusation, and that comes from quite a substantial number of people in the community.

• (1700)

I can't also help but mention *The Globe and Mail*. It's not a Liberal newspaper, either; it might have been at one time, but it hasn't been in recent history — well, maybe in George Brown's day. I have never seen the *The Globe and Mail* do so many editorials denouncing a bill. They did a series of four editorials, and they've done two of them since then. They really are quite agitated about this and not without a lot of cause.

Today, we have had mention of Sheila Fraser, the former Auditor General, and a number of distinguished and knowledgeable Canadians who have stuck their neck out and said this is a bad bill.

Of course, the Leader of the Government in the Senate says it's a good bill. It sounds like he's already made up his mind, and he has said this on several occasions.

**An Hon. Senator:** He hasn't even seen it.

**Senator Eggleton:** He hasn't formally seen it; that's quite true.

Mr. Poilievre has said it's an excellent bill.

Again, I go back to what I was saying a few moments ago: What evidence is there that they're then willing to amend it? Nothing whatsoever would give you the confidence that that was going to happen.

I am concerned with what I heard from Senator Sibbeston today about the vouching process as it relates to Aboriginal communities. He, of course, talks from his experience in the North, but there are many other Aboriginal communities in remote places on reserves throughout this country. I suspect that they would also have considerable difficulty with respect to producing the kind of proof and identity that the government leader, Senator Carignan, refers to when he says there are all these different documents; not everybody has those documents. A lot of people in those kinds of remote communities, including rural communities in general, may not have a specific address that they can then identify themselves with to be able to vote in a particular poll in a particular constituency.

Not everybody has a driver's licence. A lot of people don't have a driver's licence. It is hard for us to believe that; most of us here do have one.

I got a letter from a lady who said she felt that about 35 per cent of Canadians don't have a driver's licence. That's the sort of gold standard for identification because it gives you —

**An Hon. Senator:** Oh, oh.

**Senator Eggleton:** I'm sorry?

**Senator Nancy Ruth:** They will when electric cars come in.

**Senator Eggleton:** Yes, but she looked them all over and she said there is none that can tie her into an address as well as an identification of who she is.

**Senator LeBreton:** No, but —

**Senator Eggleton:** No, she looked at a lot of them. Now, this is the opinion of one person. But you know what, Senator LeBreton? We need to have a very thorough examination of this and hear from people like that, and we can do that, but we don't need to rush it; do we?

**An Hon. Senator:** Oh, oh.

**Senator Eggleton:** Well, I've got my identification, so I am not worried about that, but there are some people that don't.

Did you hear Senator Sibbeston? He was talking about the people in the North and, I think, quite correctly.

There are also people who are low income who might not have much identification. There are people who are homeless. A lot of people who are homeless don't vote because they're obviously struggling to just keep their existence going, but there are some that do.

I remember once I was at a poll in downtown Toronto that included Seaton House. Seaton House is the largest men's shelter in the country, and there were people that came to vote, but they

were people that needed to have people vouch for them, too. Why would we be now excluding those homeless people?

**Senator Nancy Ruth:** We are not.

**An Hon. Senator:** You can't.

**Senator Eggleton:** I'm sorry, but they don't have identification.

**Senator Nancy Ruth:** They don't need identification. They eat there.

**Senator Eggleton:** Well, read the bill.

**Senator Tkachuk:** You can vouch.

**Senator Eggleton:** The bill hasn't come yet. The bill isn't here yet. We're up here debating whether we should do a pre-study on something we haven't received. It isn't here.

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

**Senator Eggleton:** I tell you what. I want to see the bill in the form it comes from those people there, so that in fact we can deal with it as sober second thought. That's what we're here for, sober second thought.

**Senator Mercer:** Let's hear what you have to say, Marjory. Tell us the word from Manotick.

**Senator Eggleton:** There is a lot of concern about this vouching provision, which, of course, when we do get to studying this, whether it's pre-study or regular study, needs to be looked at.

**Senator Segal:** Point of order. I have a very high regard for my colleague across the way; we have worked together on many files, but I just need his help on this point of order with the following logical frame: Dispute about what is in the bill; difference of opinion as to what it means; opportunity to pre-study so we can get at it now, against which he is now speaking.

Help me with that, will you?

**Senator Cowan:** That is a point of order?

**Senator Eggleton:** I understand. I guess what I am saying is that there are many parts of this bill that need thorough examination. We all agree with that. There is a lot of controversy about many aspects of the bill.

In my previous comments, I also said that I see no reason why we need to take this out of the normal processing of a bill. The normal processing of a bill would mean when they're finished with it over there, then it comes over here, and we would provide sober second thought — not sober first thought, but sober second thought.

**Senator D. Smith:** Due process of a bill.

**Senator Eggleton:** Essentially, I don't think we should be proceeding with this at this time until we do get the bill. I have said that; I'm saying it for the second time.

I said that one of the reasons not to rush it, Senator Segal, is the fact that we need to give it thorough and complete consideration. I am just justifying why I think it needs thorough and complete examination in the comments I'm making now about the vouching and about the various other aspects of it. So it's in support of my argument which relates back to the initial argument of let's not rush it. Thank you.

Vouching is, of course, one of the issues. It has been suggested that some experts think it is out of control. I have heard Senator Carignan get up twice and cite Senator Fraser's case of somebody that tried to vote in her name, I guess it was. It's taking one example and saying that that one example is a justification for a whole bill. It's what they call the tyranny of the anecdote.

I am not for one minute suggesting that what happened to Senator Fraser shouldn't be absolutely taken into consideration and condemned, but that is the only justification I have heard him give for this whole bill and for this vouching component of it, which I find kind of strange.

There are other aspects of the bill, too. For example, there is the question of campaign spending laws. I think Senator Cordy referred to it as "loopholes."

The naming of key election officials is one that I think requires a lot of close examination, because that should not be done by the incumbents in the office; it should be done independently by the Elections Canada people.

Then there is this whole question, and I think Senator Mercer touched on this a bit, namely, of voting encouragement, particularly for young people. That is something that we have to have: a continuing independent effort to try to get more young people to vote. It is a struggle, I know. It is going to be very difficult to get the numbers up, but we need every tool in the tool box to help get those numbers up, and that includes Elections Canada being able to do it.

On this question of who investigates the wrongdoing and communicates the results of investigations, taking it over to another party, again, I have not seen the detail of that because I have not seen the bill yet, but that, again, is a worrisome and controversial part of it, and it's one that I think we need to examine further.

So, those are the reasons why it needs thorough examination.

What's the rush? Nobody over there has given us a reason for the rush. Nobody. So why should we start down this path —

• (1710)

**The Hon. the Speaker:** Order. Senator Eggleton's time has expired. Are you requesting —

[ Senator Eggleton ]

**Senator Eggleton:** Yes, I would, please. Thank you.

**The Hon. the Speaker:** Well, request it. I have not heard a request.

**Senator Eggleton:** Okay. I will go to questions, then. Thank you.

**Senator Cowan:** No, you have to ask for time.

**Senator Eggleton:** I am asking for time, yes. I thought I said that.

**The Hon. the Speaker:** Is it agreed?

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** It is agreed. Another five minutes.

**Senator Eggleton:** Thank you.

Again, pre-study is setting a precedent here. It is not a bill that is rushed; it is not the same as a budget bill where we do pre-study or an estimates bill. This does not require this kind of movement. To add it to the list of the record-breaking number of closure motions I think is the wrong thing to do.

It is very disrespectful of the process in this chamber that has been built up over a long period of time. I would hope we would not proceed to adopt this motion but let things flow in the normal course of events and let us do our job of sober second thought.

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

On debate, Senator Campbell.

**Hon. Larry W. Campbell:** I rise today to confirm some of what we have heard from others here. This involves the issue of people not being able to get registered or not having identification. There is some idea that this is a rare event.

I can tell you in 2002 in Vancouver we did an outreach into the Downtown Eastside for people down there who were marginalized because of poverty, drug addiction, abuse, and in many cases age. When we went down there, we were surprised to find that they didn't have any identification, much the same as Senator Sibbeston was talking about here. So it is not a rarity.

To get to the crux of the matter, for some reason there is a lack of trust between the two sides here; that on this side we will subvert it, and as a result, on your side, you need to bring in time allocation or closure.

I believe this is probably more miscommunication than reality. I believe if there is communication between the two sides that we will be able to come to an agreement on how to proceed with this bill. I believe that stands for most bills.

I am advised that at any stage during this process the government can bring in time allocation, and it doesn't matter whether it is first or second reading. I would suggest that if we went forward on that basis and acted in a way that was responsible and you agreed with that, then we could proceed. If we acted in a way you did not think was responsible, then you have the tools at your ready to go forward and bring in closure.

Every time I see closure here, I am uncomfortable with it because there is a sense that you don't trust us. Even though I don't believe it is true, there is a sense that you are afraid of a fulsome debate on an issue that clearly has captured Canadians' attention.

I don't remember any other issue in the nine years that I have been here, save our issue with other senators, that has generated more email and more calls to my office. While, like many of you, I take a look and when I get 150 of the same email, I just assume that somebody's on a list.

When you start reading these emails and going into the background of them, you find that in many of these cases these are well thought out. Citizens who sat there and haven't signed up to a list, and are not being pushed forward to do it, are coming forward because they have really legitimate concerns with this bill.

We always have this term "experts." When I was a Mountie, when an expert came in to testify, we always said that an expert in a court in British Columbia is somebody with a briefcase who is 50 miles from home.

I am always leery of using the term "expert," but when you have names like Kingsley, Fraser, Neufeld and Mayrand, these are people who have some substance and weight when it comes to this issue. When they start coming forward and pointing out the flaws in this bill, it should cause all of us concern because these are not people who you can shrug off or ignore.

While some people here say that the vouchering has not been taken from this bill, these people say it has. While they say that this bill will bring more fairness and more clarity, some people say it doesn't, other people say it does.

To get back to my main point, all of this would have been quite unnecessary if there was a sense between the two sides that our word is our word, that when we say something we mean it; and if we don't live up to that word, you have the ability to bring in closure.

I know there is nothing we can do about this one, but I am under the impression that more bills will be addressed in this manner over the next few weeks.

I would say to you this: If you can show me anywhere where we have tried to stop those bills, if you can show me anywhere where we have tried to stand in the way of progress, then I will vote with you. But until that time, we have to work on this because Canadians are watching.

For some reason, where I am from, they are starting to hear "closure" and "time allocation" and it is bothering them. Where I am from, they think we come here every single day and argue

about important facts of life that go on in Canada. I would be the last one to disabuse them of that thought. In fact, we come here to represent them and to give them the best laws we can, and I believe we should be doing it more often.

I will be voting against this. I would urge all sides to think about what this means, that we may be able to come together and move forward on other bills. The horse has left the barn on this one.

We cannot continue to do this. Otherwise, why don't we just come in, you put the hammer down, and it ends right there.

**Senator Mercer:** Would Honourable Senator Campbell accept a question?

**Senator Campbell:** Yes.

**Senator Mercer:** Senator Campbell, you were the Mayor of Vancouver, and a very popular one.

**Senator Munson:** A good one.

**Senator Mercer:** And a good one, too. How would this non-vouching thing they are proposing affect the people in the Downtown Eastside in Vancouver?

**Senator Campbell:** Well, in many cases, these people had never even voted. That was the really tragic thing. They had never voted because they were addicted, beaten and poor. They didn't think anybody was listening to them. The outreach said to these people, "We do care and want to know what you think."

I don't know any numbers, but I can tell you this: The vote in Vancouver was the highest in many years. That came from the interest that was there, but I think it also came from the outreach. I would think that there are probably 1,500 to 2,000 voters in that part of the downtown area for who the outreach and ability to get them to a voting station and to have somebody vouch for them was important. I hope it has continued.

**An Hon. Senator:** Call the vote!

**Senator Campbell:** No, no.

**Senator Fraser:** On debate?

Colleagues, I am rising at this moment to speak to the motion in amendment of Senator Runciman. I may have some things to say later this evening about the main motion, but the first item on which we will be called to vote is the motion in amendment.

• (1720)

I have looked at that proposed amendment again and again, and it only deepens the sense of mystery and the confusion that surround this whole exercise.

Reading the tea leaves gets harder, not easier, as the days go by. It has been observed many times in this debate that we have never been given an explanation of why the government is taking these

steps, why it imposed time allocation on a motion for a pre-study. That has never been done. We don't know why the government feels the need to rush, and as I said yesterday, I think that Senator Runciman's motion in amendment indicates that the pre-study is also going to be rushed — not just the debate on the motion to hold the pre-study, but the pre-study itself. When you suggest that committees should be able to sit when the Senate is sitting, that they should be able to sit even when the Senate is adjourned and that they should be able to table their report, as we sometimes say, through the back door — that is, with the clerk rather than through the normal procedure in the chamber — this suggests that you are trying to do something very rapidly. But we haven't had that explanation. We have not been told why these unusual provisions for the committee are being asked for.

In fact, Senator Runciman's amendment came as a complete blind surprise to this side. Not only were we not consulted — which is, I repeat, the normal way of proceeding in something as outside of our normal way of operation as a pre-study — but we were not even informed. He just stood up and gave notice of his motion. I have to say that I think that is a very peculiar and unfortunate way to proceed with the workings of the Senate.

As we on this side try to figure out what is actually going on here, we are reduced to reading the papers and listening to broadcasts. It is not through any information that has been provided here but through the mass media that we get glimmerings of information.

For example, the minister in charge of this unfortunate bill, Mr. Poilievre, according to what I think I heard on CBC interviews, said last weekend that amendments would be proposed at the house committee on April 24 or 25 — I cannot remember exactly which it was and I was not in a position to take notes.

That is in a break week, which is interesting enough. So I took note of that and thought, well.

Then Annie Bergeron-Oliver reported in an iPolitics article on April 2 that Senator LeBreton thought committee meetings would begin next week, which would give senators time to propose amendments before May 1. May 1 comes after what I heard Mr. Poilievre say was the deadline for the committee in the other place, which makes a bit of a mockery of Senator Runciman's suggestion that moving rapidly on this pre-study would allow us to get in at the formative stage of the legislation.

Never mind. Senator LeBreton is a senior and well-informed member of the government caucus —

**Senator LeBreton:** Don't count on that.

**Senator Fraser:** — and if that is what she said, I have to believe she had reason for saying it.

Then we learn that *The Hill Times* had an interview with Senator Carignan, who said that the goal to pass this bill entirely at third reading is "by the end of June." Okay. That is nice to know. I wish somebody had told us. It would be helpful to have information if we were going about this in the normal way, which is trying to negotiate in the way that the Senate has historically done on matters as important as this, and if we had some idea of what the government was trying to achieve. They were not willing

to tell us, neither in negotiations outside this chamber nor in the chamber. However, it would appear that they were willing to tell *The Hill Times* that they want the bill by the end of June.

Well, that is interesting and starts to make a little more sense of Senator Runciman's motion in amendment, which I am taking, in the absence of information to the contrary, as a signal that they want the pre-study to be rushed, although not rushed enough to influence the House of Commons committee, which might have been a reason for trying to do it rapidly.

You will recall, colleagues, that I referred earlier in this debate to the work of the special Senate committee that studied the anti-terrorism legislation when it was being brought in. Our explicit goal at that time was to be able to report back on our pre-study of that bill in time to influence its passage through the House of Commons, and we were successful in that.

But we have had no indication — none — that after all these extra hours of sitting in break weeks and reporting who knows when, the Senate pre-study will have any influence at all on the course of this bill.

When I look at the timetable, indeed I find myself suspecting that we will be involved in more time allocation debates as the bill moves through the Senate. I don't quite see, on the basis of the record of this government, how else they are planning to achieve it. It would be wonderful, as Senator Campbell suggested, if we didn't have that record upon which to base suspicions, but we do. So the suspicions are inevitably there.

Why? We hear and read in the papers that there are elements in this bill that need to be passed this spring, but Elections Canada isn't aware of anything in the bill that needs to be passed this spring. It gets stranger and stranger and stranger. The odd process that seems to be set out in Senator Runciman's motion, supplemented by the interview given by Senator LeBreton, only makes it even stranger.

I note again that neither the main motion nor the motion in amendment actually includes any deadline for the pre-study report. That would have been helpful, too. It would have helped us to understand what on earth the rush is, but nobody has bothered to tell the Senate any of these things. This whole matter is being treated with absolute contempt for this chamber of Parliament, and it is no way to run —

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

**Senator Fraser:** Colleagues, on the motion in amendment, in the absence of explanations, I shall be obliged to vote against. Like others on our side, if I believed that the pre-study was going to be truly influential and thorough, and if the committee were going to travel across the country to hear from Canadians where they live and for the committee members themselves to see the different circumstances in which Canadians across the country will be operating under this bill, I could have supported it. But I can't support it — not the main motion and not the motion in amendment — because we have been told nothing. Nothing.

**Senator Mercer:** Shame.

• (1730)

**Senator Fraser:** As you have all heard me say over and over again, I have believed since the day I got here that the Senate should always know what it is voting on. In this case, we don't.

Therefore, colleagues, I have to suggest that the appropriate course for all of us to take is to vote against this mysterious motion in amendment, and subsequently against the main motion for the pre-study.

This is not — I repeat, not — because I am inherently opposed to pre-studies; on the contrary, sometimes they do wonderful work. I served on the Standing Senate Committee on Legal and Constitutional Affairs for many years. I know how carefully its members work and how seriously they take their responsibilities. If there is a committee that could do this work admirably, it is that committee.

But we have no assurance that will happen, and I cannot in good conscience bring myself to vote for a pig in a poke.

**An Hon. Senator:** Call the vote.

**Senator Mercer:** Would Senator Fraser accept a question?

**Senator Fraser:** Sure.

**Senator Mercer:** Senator Fraser, we are curious as to why all of this happened. You will recall that a short while ago there was a leaked document from the Conservative Party war room. In it there was a statement attributed to them that they will do whatever is necessary to win the election in 2015.

Do you think Bill C-23 is part of that devious plan?

**Senator Cowan:** "Surely not."

**Senator Fraser:** As my leader says, "Surely not."

But I must say that the suspicions — and not just among Liberals, but those among impeccably non-partisan people — are that this bill is "slanted," as one of them said, "in one direction." And when asked which direction, he said, "Their direction," meaning the direction of the Conservative Party of Canada.

It is not a good way to run anything. It is certainly not a good way to run elections. I hesitate to say flatly that I think what you are suggesting is true, Senator Mercer, but the suspicions certainly are real.

**An Hon. Senator:** Call the vote.

**Senator Eggleton:** Senator Fraser, if you will take another question, in your comments you said that you learned from *The Hill Times* as opposed to from folks opposite that the goal was to have this done by the end of June, but you don't think there is any compelling reason — nothing that has been given by Elections Canada and the Chief Electoral Officer.

Do you have any thoughts or ideas as to when Elections Canada would need to have these matters dealt with in time for preparations for the next election, which is scheduled — if they follow this for a change — on October 19, 2015?

**Senator D. Smith:** It was a date they picked.

**Senator Eggleton:** Following from that, do you have any sense when it might be necessary to have this completed?

**Senator Fraser:** That would be a question we would have to put to the Chief Electoral Officer. My recollection is that they usually want about a year to implement things.

One way we could have done this properly would have been to have had a committee do a thorough study, eating into some of the summer to do that. We have all participated in summer committee or subcommittee work when the subject in question was important. Have the Standing Senate Committee on Legal and Constitutional Affairs report back to us in September, by which time I gather the bill will be before us, and we will proceed accordingly.

It seems to me that would be a perfectly rational and reasonable way to go, but that is not the opportunity we are being offered.

**Senator Eggleton:** We talked about this idea of traveling to parts of the country to hear from Canadians. I've certainly had a lot of emails from a lot of Canadians from different parts of the country. These are individually written; they are not petitions or commonly worded letters. But there are a lot of people interested in this from coast to coast to coast.

If we didn't have to do this until, say, September, to get it within the one year mark, then I assume you would think we could use part of the summer to do that travelling across the country to hear from Canadians?

**Senator Fraser:** Absolutely. If there's one thing I've said over and over again in this debate and in questions to other speakers, it is that —

I would like two more minutes.

**The Hon. the Speaker:** Agreed?

**Senator Carignan:** It's past 5:30.

**Senator Fraser:** We're not done. We're not done.

I have said repeatedly that I think intensive travel would be a vital part of such a study if it were going to be properly done.

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

**Some Hon. Senators:** Question.

**The Hon. the Speaker:** For clarity, my atomic watch says it's past 5:30 — it's 5:35. That's important, because the rules change after 5:30.

Honourable senators, the question I'm putting is a motion in amendment, moved by the Honourable Senator Runciman, seconded by the Honourable Senator Mockler:

“;

That the committee be authorized to sit for the purposes of this study, even though the Senate may then be sitting, and that rule 12-18(1) be suspended in relation thereto;

That the committee be authorized to sit for the purposes of this study, even though the Senate may then be adjourned, with the application of rule 12-18(2) being suspended in relation thereto; and

That, notwithstanding usual practices, the committee be authorized to deposit with the Clerk of the Senate its report on this study if the Senate is not then sitting; and that the report be deemed to have been tabled in the Senate.”

All those in favour of the motion will signify by say “yea.”

**Hon. Senators:** Yea.

**The Hon. the Speaker:** Those opposed will signify by saying “nay.”

**Hon. Senators:** Nay.

**The Hon. the Speaker:** In my opinion, the “yeas” have it.

*And two honourable senators having risen:*

**The Hon. the Speaker:** Call in the senators. It will be a one-hour bell; therefore, the vote will be at 6:35.

• (1830)

Motion in amendment agreed to on the following division:

#### YEAS THE HONOURABLE SENATORS

Andreychuk  
Ataullahjan  
Batters  
Beyak  
Black  
Boisvenu  
Carignan  
Dagenais  
Demers  
Eaton  
Frum  
Gerstein  
Greene  
Housakos  
Lang  
LeBreton

Meredith  
Mockler  
Nancy Ruth  
Neufeld  
Ngo  
Oh  
Patterson  
Raine  
Rivard  
Runciman  
Segal  
Seidman  
Seth  
Stewart Olsen  
Tannas  
Tkachuk

MacDonald  
Martin  
McIntyre

Unger  
Verner  
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[English]

NAYS  
THE HONOURABLE SENATORS

Campbell  
Charette-Poulin  
Cowan  
Dallaire  
Eggleton  
Fraser

Furey  
Hervieux-Payette  
Mercer  
Munson  
Smith (*Cobourg*)—11

ABSTENTIONS  
THE HONOURABLE SENATORS

Nil

• (1840)

[Translation]

**The Hon. the Acting Speaker:** Honourable senators, we are now on the main motion as amended.

Are honourable senators ready for the question?

**Hon. Senators:** Question.

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

**Some Hon. Senators:** Agreed.

**Some Hon. Senators:** No.

**The Hon. the Acting Speaker:** Will those honourable senators in favour of the motion please say “yea”?

**Some Hon. Senators:** Yea.

**The Hon. the Acting Speaker:** Will those honourable senators who are opposed to the motion please say “nay”?

**Some Hon. Senators:** Nay.

**The Hon. the Acting Speaker:** In my opinion, the “yeas” have it.

Pursuant to rule 7-4(5), the vote is deferred until 5:30 p.m. at the next sitting of the Senate, with the bells to sound at 5:15 p.m.

FIRST NATIONS ELECTIONS BILL

THIRD READING—DEBATE ADJOURNED

Hon. Scott Tannas moved third reading of Bill C-9, An Act respecting the election and term of office of chiefs and councillors of certain First Nations and the composition of council of those First Nations.

He said: Honourable senators, if history has taught us anything it's that the answer to building stronger First Nations governments and communities is providing them with the tools they need to respond to their own unique challenges and opportunities to shape a better future for themselves and their children. That's exactly what Bill C-9, the First Nations elections act, proposes to do. This bill will provide First Nations with the opportunity to opt out of the outdated provisions of the Indian Act that govern elections on reserve and instead use the modern, robust election regime that is set out in this act — something we heard that First Nations have been requesting for over six years.

Of the 617 First Nations in Canada, 238 hold their elections under the Indian Act. The weaknesses of this 1950s-era election system present a significant challenge for First Nations governments elected under it. In fact, that system undermines the legitimacy, credibility and effectiveness of First Nations governments.

Bill C-9 reflects, incorporates and is informed by the ideas and improvements brought forward by two regional First Nations organizations, the Atlantic Policy Congress of First Nations Chiefs and the Assembly of Manitoba Chiefs, witnesses whom my fellow members of the Standing Senate Committee on Aboriginal Peoples heard at the committee. They lauded the fact that Bill C-9 is an example of a bill that originated with First Nations themselves.

This is the second time the bill has been before the Senate and the Senate Committee on Aboriginal Peoples for review. Both times the bill was before the committee, one of the clauses of the bill was the source of much discussion, that being paragraph 3(1)(b), which provides the minister with the authority to add a First Nation to the schedule of the act where:

the Minister is satisfied that a protracted leadership dispute has significantly compromised governance of that First Nation;

— and thereby order an election be held pursuant to the First Nations elections act.

As several witnesses rightly noted, the minister already has this power to order elections under the Indian Act. However, Bill C-9 provides the minister with a more limited and more strictly defined authority to add a First Nation to the schedule than does the Indian Act, where the minister can force an election whenever he deems it advisable for the good governance of a band.

• (1850)

Similarly, clause 3(1)(c) also provides the minister with a power he already has under the Indian Act. Under section 79 of the Indian Act, if the cabinet chooses to set aside an election as a result of corrupt practices in connection with that election, the First Nations elections act would give the minister the opportunity to add the First Nation to the First Nations elections act schedule, rather than forcing them back into the elections system under the Indian Act, which everybody agrees is broken.

These discussions were addressed in a series of observations that are included in the committee's reporting of the bill. Primarily, the observations note that the ministerial action, pursuant to clause 3(1)(b), could, depending on the application and circumstances, be subject to review by the courts. Further, they clarify that the wording "protracted leadership dispute has significantly compromised governance" represents a high standard for the minister to satisfy in order to justify the use of this power.

In summary, there was a great general consensus that Bill C-9 reflects the government's commitment to work with First Nations to develop the alternative regimes to the outdated Indian Act. It proposes of the kind of electoral system that First Nations have been asking for and that builds confidence and trust, a system that leads to strong, stable governments and helps to attract investors and partners. It is also precisely the kind of system that underpins self-sufficient and prosperous communities.

**Hon. Jim Munson:** Thank you for that sitting ovation. I wish to adjourn the debate in the name of Senator Dyck.

(On motion of Senator Munson, for Senator Dyck, debate adjourned.)

#### ALLOTMENT OF TIME—NOTICE OF MOTION

**Hon. Yonah Martin (Deputy Leader of the Government):** Honourable senators, I wish to advise the Senate that I was unable to reach an agreement with the Deputy Leader of the Opposition to allocate time on Bill C-9. Therefore, I give notice that, at the next sitting, I will move:

That, pursuant to rule 7-2, not more than a further six hours of debate be allocated for consideration at third reading stage of Bill C-9, An Act respecting the election and term of office of chiefs and councillors of certain First Nations and the composition of council of those First Nations.

#### CRIMINAL CODE NATIONAL DEFENCE ACT

#### BILL TO AMEND—THIRD READING— DEBATE ADJOURNED

**Hon. Paul E. McIntyre** moved third reading of Bill C-14, An Act to amend the Criminal Code and the National Defence Act (mental disorder).

He said: I am pleased to speak today at third reading in support of Bill C-14, the Not Criminally Responsible Reform Bill. The overarching objective of Bill C-14 is to ensure that the safety of the public is the primary concern in the Criminal Code mental disorder regime, and, for this reason, I fully support this bill.

I urge my fellow senators to join me in supporting and voting in favour of Bill C-14 so that this bill can be quickly passed into law. The Standing Senate Committee on Legal and Constitutional Affairs has reported this bill back to the Senate with no amendments.

As you will recall, Bill C-14 proposes amendments to the mental disorder regime in the Criminal Code. To ensure consistency in federal legislation, it also proposes the same amendments to the mirror mental disorder regime in the National Defence Act, which applies to individuals who are found not fit to stand trial, NCR, under the military justice system.

As you will recall, Bill C-13 proposed three main amendments to the mental disorder regime. These include amendments to section 672.54, the decision-making provision in the mental disorder regime, to, among other things, codify the principle that public safety is the paramount consideration with respect to decisions made about mentally disordered accused and to replace the terms "least onerous" and "least restrictive" with clearer, easier to understand language.

The creation of the high-risk NCR accused designation will ensure that the most dangerous NCR accused persons do not have unescorted access into the community and will enhance victim involvement in the mental disorder process, including increased notification to victims when mentally disordered accused persons are discharged. The amendments with respect to public safety in the disposition-making provision were introduced, in part, to respond to serious concerns from provincial and territorial attorneys general that the overarching principle of public safety was not being consistently applied across the country.

To remind senators, the disposition-making provision sets out the factors that must be considered when determining which type of order to make with respect to an NCR accused, including the available dispositions and the test to be applied when deciding which disposition to order.

The provision provides that courts and review boards must consider four factors, of which public safety is one, when determining which disposition, or order, to make with respect to an NCR accused. The minister indicated that there were reports that some jurisdictions were placing other considerations, such as the reintegration of the accused into society, ahead of the safety of the public. This is of great concern, and so Bill C-14 aims to codify, and thereby clarify, that public safety is indeed the paramount consideration when dealing with mentally disordered accused persons.

The committee heard from some witnesses who testified that this change was unnecessary as the Supreme Court of Canada has already made this determination in a number of cases. Although it is true that the Supreme Court has made it clear, in at least three cases, that public safety is the paramount consideration, I am of



the view that, due to the uncertainty surrounding this principle, as articulated by provincial and territorial attorneys general, the more clarity that can be found in the legislation, the better.

One of the major proposals in Bill C-14 is the new high-risk NCR accused designation. This proposed designation could be made by a court on application by the Crown, and, if the designation was made, it would effectively result in a disposition requiring detention of the accused in a hospital until the finding is revoked by a court. The key element of the high-risk designation is that a person who is designated as a high-risk NCR accused would not be permitted to leave the hospital except with an escort and then only in narrow circumstances. Bill C-14 proposes that the court could designate an NCR accused person as high risk in two circumstances: if the court is satisfied that there is substantial likelihood that the accused would use violence that could endanger the life or safety of the public or if the court is of the opinion that the acts that constituted the offence were of such a brutal nature as to indicate a risk of grave harm to another person. The high-risk designation can be revoked once the elevated risk level has been mitigated.

The revocation would happen through a two-step process. First, the review board, after holding a review hearing, would have to be satisfied that there is no longer a substantial likelihood that the high-risk NCR accused would commit violence that could endanger the life or safety of another person. If the review board is so satisfied, it will refer the case to the Superior Court of criminal jurisdiction for a hearing. The court will then also hold a hearing to determine whether there is no longer a substantial likelihood for violence; and if so, the court would revoke the finding.

• (1900)

I would like to mention just one more issue with respect to the proposed high-risk designation. One of the witnesses before the committee suggested that the high-risk designation process contained a reverse onus such that the burden would be on the accused person to demonstrate to the court that they do not pose an elevated level of risk.

The minister testified that there was no reverse onus in the bill and pointed out that, in fact, when the Crown makes an application to designate a particular accused as a high-risk NCR accused, the burden rests on the Crown.

The minister further clarified that the revocation hearing before the court does not follow the same process as the initial designation. In fact, he stated that as the revocation hearing is initiated by the review board, there is no burden assigned to a particular party.

The process is more akin to an inquisitorial approach, whereby the burden is on the court or review board to seek out the information it needs to make a determination. This inquisitorial approach is the same approach taken already in the mental disorder regime and one with which I am confident the courts will be comfortable.

The remaining elements of Bill C-14 seek to improve the involvement of victims in the mental disorder regime, as well as to ensure that their safety is specifically considered.

[Translation]

As I mentioned, the committee heard from a number of witnesses who, as victims, have experienced the mental disorder regime from the inside, as well as from the ombudsman for victims of crime. Those witnesses strongly supported all the proposals in Bill C-14, not only those specifically focused on victim involvement. They expressed their support for the efforts that the government is making to try to increase their involvement and to improve their access to information about an NCR accused in the mental disorder regime. The amendments dealing with victims specifically require them to be provided with a notice of an absolute or conditional discharge, including the accused's intended place of residence. The victims of an accused found not criminally responsible say that they are afraid of meeting the accused unexpectedly because they have not been informed that the individual has been released. With those amendments, the government intends to allay some of those concerns.

A second amendment designed to increase victims' safety would require courts or review boards to pay particular heed to victims' safety during hearings held to establish conditions. That should provide some assurance to victims who are afraid that courts or review boards do not adequately consider their interests. Finally, Bill C-14 requires courts or review boards to consider whether it is desirable, in the interests of the safety of victims, to require the accused to abstain from communicating with victims or to refrain from going to a specific place. At the moment, a review board can make such an order; however, under the criteria proposed in Bill C-14, it will be required to examine this issue of safety in all cases.

[English]

I would like to make a final comment with respect to Bill C-14. Let me state clearly that Bill C-14 would in no way impact mentally disordered accused's access to mental health treatment. The bill does not seek to punish individuals who have been found by the courts to be NCR or unfit, nor does Bill C-14 seek to stigmatize the mentally ill.

I urge all honourable senators to support this bill.

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

[Translation]

**Hon. Roméo Antonius Dallaire:** Would Senator McIntyre take a question, please?

**The Hon. the Acting Speaker:** Would Senator McIntyre take a question?

**Senator McIntyre:** Yes.

**Senator Dallaire:** On page 13 of the bill, at subparagraph 2, I see that both sides have the French version. There is no English version for this subparagraph. Has this been corrected by the committee?

**Senator McIntyre:** Thank you for your question, Senator Dallaire. As far as I know, the bill included both versions: the French version and the English version.

**Senator Dallaire:** I'm an old artilleryman. I did not understand your answer.

**Senator McIntyre:** As far as I know, the bill included both versions: the English version and the French version.

**Senator Dallaire:** In the bill I have with me, on page 13, both sides of this subparagraph are in French. I see that there is no English version of this paragraph. I just wanted to make sure that this had been corrected.

**Hon. Joan Fraser (Deputy Leader of the Opposition):** May I ask a question?

**Senator McIntyre:** Yes, please.

**Senator Fraser:** Sometimes when we pass a bill we include corrections to an earlier version of the legislation in either of the official languages. For example, if the Criminal Code contained a mistake in the French in section X, the next time the Criminal Code was amended, we would include an amendment to correct the typo — sometimes it is not a typo, it's a mistake, but that is less common.

It seems to me that I saw an example of that when I read the bill. They wanted to correct a mistake in the existing text of an existing bill. Is that what this is about?

**Senator McIntyre:** Not that I know. I read the bill, and I don't remember seeing anything like that, Senator Fraser. There were always two versions: the English version and the French version.

**Senator Dallaire:** Can you look at page 13 of the bill and tell me if the problem has been fixed? I just asked for a new copy of the bill, and the third paragraph on page 13 does not have an English version.

This is about soldiers, people trained for combat, people skilled with weapons. This is about people who come back from missions with mental injuries. We are talking about the possibility of creating courts at the provincial level to deal with these accused, courts designed to take care of them. These are soldiers struggling with mental problems.

Have you defined this aspect differently given that these are people with mental injuries? We are talking about people who know how to use weapons and extreme force. Will they be dealt with differently than the general population?

**Senator McIntyre:** Thank you for your question, Senator Dallaire. The Act to amend the Criminal Code and the National Defence Act will have an impact not only on the courts, but also on review boards across Canada, including in the provinces and territories.

According to section 672 of the Criminal Code, once a court has declared an accused unfit to stand trial or fit to stand trial, but not criminally responsible on account of mental disorder, that person is detained in hospital, released on parole or released subject to conditions.

• (1910)

Then, the review board has 45 or 90 days, depending on whether the court issued an order to examine the case.

We have here a bill with three components, Bill C-14. The first is public safety. The second is high-risk designation, and the third is the enhancement of victim involvement.

We are dealing here with people who have been found not criminally responsible on account of mental disorder, whether they are accused under the Criminal Code or the National Defence Act.

As you know, there is another system for dealing with individuals who are found criminally responsible. Here we are talking only about individuals who have been found unfit to stand trial or who have been found fit to stand trial but not criminally responsible on account of mental disorder.

In my opinion, the bill contains 33 provisions and affects not only people who have been accused under the Criminal Code but also those who have been accused under the National Defence Act (mental disorder).

**Senator Dallaire:** I look forward to seeing that. Have you met with representatives of the Judge Advocate General of the Canadian Forces to find out more about how to enforce this legislation in the context of the National Defence Act?

**Senator McIntyre:** Perhaps I am mistaken, but I do not believe so. However, when we held the hearings, we always took into consideration amendments to both the Criminal Code and the National Defence Act with regard to mental disorders.

**Senator Dallaire:** I have participated in court martial proceedings. Prison sentences were handed down. I did not see a difference between the civilian version and the military version when it comes to people who are criminally responsible but who have been psychologically affected by military operations. I would be a bit uncomfortable saying that I support the bill without knowing what the Judge Advocate General has to say about it so that we can ensure that injured soldiers and military personnel are considered under the three components that you mentioned.

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

[English]

#### ALLOTMENT OF TIME—NOTICE OF MOTION

**Hon. Yonah Martin (Deputy Leader of the Government):** Honourable senators, I wish to advise the Senate that I was unable to reach an agreement with the Deputy Leader of the Opposition to allocate time on Bill C-14. Therefore I give notice that at the next sitting I will move:

That, pursuant to rule 7-2, not more than a further six hours of debate be allocated for consideration at third reading stage of Bill C-14, An Act to amend the Criminal Code and the National Defence Act (mental disorder).

**ADJOURNMENT****MOTION ADOPTED**

**Hon. Yonah Martin (Deputy Leader of the Government),** pursuant to notice of April 2, 2014, moved:

That, when the Senate next adjourns after the adoption of this motion, it do stand adjourned until Monday, April 7, 2014, at 4 p.m.; and

That rule 3-3(1) be suspended on Monday April 7, 2014.

**MOTION IN AMENDMENT**

**Hon. Stephen Greene:** Honourable senators, in amendment, I move that the motion be amended by adding, immediately before the final period, the following:

“; and

That committees of the Senate scheduled to meet on Monday April 7, 2014, be authorized to sit even though the

Senate may then be sitting, and that rule 12-18(1) be suspended in relation thereto”.

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

**Hon. Senators:** Agreed.

(Motion in amendment agreed to.)

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

**Some Hon. Senators:** Agreed.

**Senator Fraser:** On division.

(Motion as amended agreed to, on division.)

(The Senate adjourned until Monday, April 7, 2014 at 4 p.m.)

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