



DEBATES OF THE SENATE

2nd SESSION • 41st PARLIAMENT • VOLUME 149 • NUMBER 58

OFFICIAL REPORT
(HANSARD)

Thursday, May 8, 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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Publications Centre: David Reeves, National Press Building, Room 926, Tel. 613-947-0609

Published by the Senate
Available on the Internet: <http://www.parl.gc.ca>

THE SENATE

THURSDAY, MAY 8, 2014

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

Prayers.

SENATORS' STATEMENTS

CANADIAN INNOVATIONS IN DIABETES CARE

Hon. Kelvin Kenneth Ogilvie: Honourable senators, approximately 2 million Canadians have diabetes, and based on current trends this number will rise to 3.7 million by 2019. Type 1 diabetes is usually diagnosed in children and adolescents and accounts for approximately 10 per cent of diabetic cases. Type 2 diabetes makes up approximately 90 per cent of diabetic cases and is often linked to obesity. It is one of the fastest growing diseases in Canada with more than 60,000 new cases per year. Because of its wide-ranging impact on the health of individuals and the economic burden it places on the health care system, diabetes is a very serious medical condition.

Complications from diabetes include blindness, heart disease, stroke, kidney disease, nerve damage and depression. Diabetes care had its first major breakthrough in Canada with the discovery of the role of insulin by Sir Frederick Banting in 1922, and innovations in diabetes care continue to be developed in Canada. For example, Canada has contributed significantly to the development of insulin pumps. Insulin pumps allow for continuous insulin treatment rather than periodic injections. Another important Canadian development is the funding of the Canadian Clinical Trial Network by the Juvenile Diabetes Foundation in partnership with the Government of Canada. Based around three clinical hubs in London, Toronto and Ottawa, the network has funded trials that fill important care gaps in the management of diabetes, particularly in the use of insulin pumps. New generations of drugs, developed as a result of research initiated in Canada, mobilize the patient's own insulin release. Multiple, promising strategies are being developed to better prevent and control diabetes. These have the capability to increase lifespan and quality of life while reducing care and treatment costs.

This coming Monday, I will be hosting a kiosk event where we have asked leading Canadian health researchers and innovators in diabetes to join us so they can tell you first-hand how they are helping to prevent the disease in Canadians in the first place, where they are in finding a cure for those who have diabetes, and how they are helping Canadians with diabetes live healthy and productive lives.

Please join us on Monday, May 12, between 4 p.m. and 7 p.m. in Room 256-S, Centre Block, for our Health Research Caucus kiosk event on Diabetes Research and Innovation in Canada.

HEALTH COUNCIL OF CANADA

Hon. Catherine S. Callbeck: Honourable senators, it has been a little more than a month since this government allowed the 2004 health accord to expire without discussion, without negotiation and without any attempt on the federal government's part to create a new accord with the provinces. The end of this health accord is just another indication of this government's lack of interest in health care. I would like to draw attention to another casualty: the end of the Health Council of Canada.

The Health Council of Canada's funding also expired at the end of March. Originally set up in 2003 by then Prime Minister Chrétien and the premiers, it was established to ensure accountability and equality of access to health care by Canadians regardless of where they live. Later, as the federal and provincial governments came to new agreements, the council's role was expanded to measure progress on the 2003 and 2004 health accords.

Over more than a decade, the Health Council completed and publicly released dozens of reports on a wide range of important health-related topics. They covered the progress made in the implementation of the health accord. They also did specific research and reporting on areas like First Nations health, maternal health and home care. The council was a trusted voice of accountability and provided governments and individuals with valuable information about best practices. Indeed, the Health Council's work was one of the best ways for anyone with an interest in health care to know what had been done and how it was working.

Sadly, the Health Council of Canada is just another worthwhile organization that has seen its demise under this government. The International Centre for Human Rights and Democratic Development, or Rights & Democracy as it was known, died in Budget 2012, as did the Public Appointments Commission Secretariat, though it never really got going after this government set it up. Gone are the First Nations Statistical Institute, the Canadian Council on Learning, the National Council of Welfare and the National Round Table on the Environment and the Economy.

I find it extremely disheartening to know that these organizations, whose purpose was to engage and inform Canadians, have been eliminated. The loss of the most recent victim, the Health Council, is simply one more blow to our already troubled health system. I can only hope that it does not contribute to increasing disparities and inequities for access and quality of care across the country.

VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the Governor General's gallery of Ms. Maria Corina Machado, a member of the opposition party

in Venezuela, elected with a notable number of votes in the Venezuela election.

[English]

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

Hon. Senators: Hear, hear!

[Translation]

NATIONAL ASSEMBLY OF QUEBEC

THIRTIETH ANNIVERSARY OF TRAGEDY

Hon. Jean-Claude Rivest: Honourable senators, I would like to remind this chamber that today, May 8, is the 30th anniversary of the tragedy at the National Assembly of Quebec during which three people were killed and 13 others wounded by Corporal Lortie.

At the time, Senator Maltais and I were members of the National Assembly. I would like to mark the loss of the three National Assembly workers who died that day, namely Camille Lepage, Georges Boyer and Roger Lefrançois.

I also want to take this opportunity to acknowledge the remarkable work of then Sergeant-at-Arms René Jalbert, who negotiated with Corporal Lortie and probably saved a considerable number of lives. His efforts were noted and appreciated by all Quebecers and Canadians.

• (1340)

Sergeant Jalbert died in 1996, and all Quebecers and Canadians recognized the merits of this officer of the National Assembly of Quebec.

This event is personally meaningful to me because, at the time, I was a member of the National Assembly and chair of the institutions committee. At 10 a.m., when the event took place, I was supposed to chair a meeting of the committee right in the National Assembly. However, thanks to a fortuitous encounter with Mr. Parizeau at the parliamentary restaurant, I ended up being a few minutes late. I witnessed Corporal Lortie climbing the stairs and firing his machine gun. It was an absolutely desperate situation.

Following the incident, security measures in all Canadian legislatures and here on Parliament Hill were tightened to protect all Canadians and Quebecers.

On this solemn anniversary, I would like to express our gratitude to all security personnel, to the men and women, including those here on Parliament Hill, who keep the Parliament of Canada safe. Perhaps we do not tell them often enough how important their work is. Thank you.

MARCH FOR LIFE

Hon. Norman E. Doyle: Colleagues, today marks the occasion of the seventeenth annual March for Life here on Parliament Hill. The National March for Life here in Ottawa began in the 1990s and it continues today. When it began, back in 1997, I believe it attracted approximately 3,000 to 5,000 people. Last year, about 25,000 people came here, and I believe similar if not greater numbers will be recorded for today's event.

I also want to say that the largest annual event on Parliament Hill has also become a celebration — a celebration of the culture of life. I think it is worth mentioning that a lot of these young Canadians who gather and demonstrate their views out here each year are young people who are very concerned about the protection of the unborn child. The young people gathered today are saying we need change. They're asking isn't it about time we came to the full realization that no one's rights have ever been made more secure by denying fundamental human rights to another? The right to life is a fundamental human right.

Hopefully change will occur. The numbers continue to be encouraging, as evidenced by the numbers we saw on the Hill today, and the polling numbers across the country are encouraging as well.

So we live in hope.

NATIONAL HOSPICE PALLIATIVE CARE WEEK

Hon. Jane Cordy: Honourable senators, this week, May 4 to May 10, is National Hospice Palliative Care Week. End-of-life care is an issue that affects all, whether it is a family member, a loved one or even planning for our own end-of-life preferences. End of life can be a stressful time, which can bring additional hardships to the patient, their family and caregivers.

It is important today to recognize our former colleague Senator Sharon Carstairs for the incredible work she has done and continues to do for end-of-life care in Canada.

Hospice palliative care programs provide patients with more control over their lives in their final days, helps them to manage pain and symptoms more effectively, and provides support for family and caregivers.

Only 30 per cent of Canadians requiring end-of-life care currently have access to or receive palliative hospice care and end-of-life care services. Unfortunately, access to these services relies heavily on where they live in Canada.

Statistics Canada estimates that by the year 2020 there will be 33 per cent more deaths in Canada each year. The number of Canadians requiring end-of-life care is increasing drastically and the palliative care system will continue to strain under this increased demand.

National Hospice Palliative Care Week is a good time to engage Canadians about end-of-life care issues and work toward improving access to quality of life care. It is estimated that only 13 per cent of Canadians have an advance care plan prepared. This must change. Studies show that the vast majority of Canadians believe that end-of-life care is very important, yet the number of Canadians who plan for end of life is relatively small.

The Canadian Hospice Palliative Care Association is working to bridge this gap. As someone once said to me, the question is not if you die but rather when you die.

During this week, the Canadian Hospice Palliative Care Association is encouraging professionals, caregivers and family members to work together as an interdisciplinary team to ensure that loved ones nearing end of life receive the best possible care.

On Wednesday, May 14 from 9:30 to 11:30 on Parliament Hill, in room 160, the Senate Liberal caucus will be holding our open forum discussion and our topic will be end-of-life care and end-of-life choices. We will be hearing from the Honourable Steven Fletcher, P.C., MP; Dr. Derryck Smith, Director of Dying with Dignity; David Baker and Amy Hasbrouck from the Canadian Association for Community Living; and Rick Firth, Vice President, Canadian Hospice Palliative Care Association.

Honourable senators, Conservative and independent, I invite you to join our Liberal open caucus and participate in the non-partisan, open forum discussion. Please also join me in support of National Hospice Palliative Care Week.

[Translation]

BATTLE OF THE ATLANTIC

SEVENTY-FIRST ANNIVERSARY

Hon. Ghislain Maltais: Honourable senators, I would like to add my memories and my gratitude to Senator Rivest's. I remember the friends we lost and the people who were wounded, and I will always remember Mr. Jalbert's tremendous courage.

Last Sunday marked the 71st anniversary of the Battle of the Atlantic. It was a key battle for Canada, Europe and world peace. Thanks to thousands of Canadian army sailors, soldiers and merchant marines — from Montreal, Trois-Rivières, Quebec City and Halifax, which was the munitions and food distribution centre — we finally won the battle of Europe.

Let us remember these people. I had the privilege of being accompanied by two veterans who fought in the Battle of the Atlantic. They were 94 and 96 years old. What they experienced cannot be truly explained, but they taught me something that is very valuable. As a Canadian, I must pass it on. Their message is as follows: "Mr. Senator, it is unfortunate that we are being forgotten. In five years, there will be no one left with first-hand experience of these events and we will be forgotten."

[Senator Cordy]

Our schools and colleges neglect to remind Canadians today that they live in a democratic country and that we are here in this House because thousands of people gave their lives for this freedom. It is our duty to remember them.

Therefore, I invite all of you, on May 8, to think of the thousands of people who gave their lives for our country and for freedom.

[English]

BRUNEI

SHARIA PENAL CODE

Hon. Daniel Lang: Colleagues, I want to bring to your attention a very serious political event that is taking place in another part of the world, far, far away, and that's the "Talibanization" of Brunei.

Last September, my colleague Senator Plett and I visited the Kingdom of Brunei as part of an interparliamentary delegation representing Canada.

For those who have not been there, the Sultanate of Brunei Darussalam is situated in the northwest corner of the Island of Borneo. Brunei is just less than 6,000 square kilometres in size and divided into two parts, both of which are surrounded by the Malaysian state of Sarawak.

• (1350)

Relatively little of Brunei's land mass is cultivated, and around 60 per cent is covered by primary forest. Yet, it is one of the richest countries per capita in the world as a result of oil and gas.

It is said that the Sultan of Brunei is one of the richest men in the world. Brunei is constitutionally an absolute monarchy. It is ruled by the Sultan Haji Wadula, who is both the head of state and the Prime Minister, and also the head of the Islamic faith in Brunei.

Our visit to this former British protectorate of 406,000 people was informative and our hosts were kind and gracious. The women and men we met were positive, progressive and appeared to be forward thinking.

Colleagues, in October 2013, the Sultan announced that a shariah penal code would be phased in, starting April 2014. Earlier this week, he affirmed this decision.

Under the code, the jurisdiction of the Islamic courts will expand to deal with offences and penalties prescribed in the code. These offences include, but are not limited to, apostasy, abandonment of Islam, robbery, rape and murder. The new penal code includes corporal punishment, stoning to death for adultery, cutting off limbs for theft, and flogging for violations such as abortion, alcohol consumption and homosexuality. There's also capital punishment for rape and sodomy.

The code will apply to Muslims and non-Muslims, including Buddhists, Christians, Hindus and a small number of people who practise indigenous religions, who may be charged under the code for certain offences, including, but not limited to, drinking alcohol in public and adultery committed with a Muslim.

Colleagues, the Talibanization of Brunei is deeply disturbing. Prime Minister Stephen Harper and Minister John Baird, as we all know, have been strong advocates for democracy, the rule of law, human rights and freedom.

On behalf of all Canadians who cherish these values, I call on our government to take strong, swift and unflinching actions to send a message to Brunei's Sultan that shariah law and the Talibanization of Brunei will not be welcomed by Canadians.

Colleagues, I'm sure you will agree with me when I say that the world needs religious pluralism, not more religious fundamentalism.

ROUTINE PROCEEDINGS

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

STUDY ON SOCIAL INCLUSION AND COHESION—
TWENTY-SIXTH REPORT OF THE COMMITTEE
TABLED DURING THE FIRST SESSION OF
THE FORTY-FIRST PARLIAMENT—
GOVERNMENT RESPONSE
TABLED

Hon. Yonah Martin (Deputy Leader of the Government): Honourable senators, I have the honour to table, in both official languages, the government response to the twenty-sixth report of the Standing Senate Committee on Social Affairs, Science and Technology entitled: *In From the Margins, Part II: Reducing Barriers to Social Inclusion and Social Cohesion*, which was tabled during the First Session of the Forty-first Parliament.

CRIMINAL CODE

BILL TO AMEND—SEVENTH 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:

Thursday, May 8, 2014

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

SEVENTH REPORT

Your committee, to which was referred Bill C-444, An Act to amend the Criminal Code (personating peace officer or public officer), has, in obedience to the order of reference of Tuesday, February 11, 2014, examined the said bill and now reports the same without amendment.

Respectfully submitted,

BOB RUNCIMAN
Chair

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

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

[Translation]

STUDY ON BELL CANADA'S USE OF CUSTOMER DATA

FOURTH REPORT OF TRANSPORT AND
COMMUNICATIONS COMMITTEE
TABLED

Hon. Dennis Dawson: Honourable senators, I have the honour to table, in both official languages the fourth report of the Senate Standing Committee on Transport and Communications regarding the practice of collecting and analyzing data from Bell Canada customers for commercial purposes including targeted advertising.

[English]

CRIMINAL CODE

BILL TO AMEND—FIRST READING

Hon. Bob Runciman introduced Bill S-221, An Act to amend the Criminal Code (assaults against public transit operators).

(Bill read first time.)

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

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

PARLAMERICAS

MEETING OF THE BOARD OF DIRECTORS, MARCH 19-21, 2014—REPORT TABLED

Hon. Michael L. MacDonald: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the ParlAmericas respecting its participation at the Thirty-third Meeting of the Board of Directors, held in Santo Domingo, Dominican Republic, from March 19 to 21, 2014.

THE RIGHT HONOURABLE BEVERLEY MCLACHLIN, P.C.

NOTICE OF MOTION

Hon. Anne C. Cools: Honourable senators, I give notice that, pursuant to Rule 5(j), at the next sitting of the Senate, I shall move:

That,

Whereas, discord and enmity between high leaders of the body politic are undesirable, and are odious and injurious to the balance and proper functioning of the constitution of Canada, and are to be avoided absolutely because of their terrible and negative consequences for the population, governance, and the persons afflicted or damaged, and also for their potential for creating a large, and fatal, constitutional crisis: and

Whereas, constitutional comity is the ordained and prescribed condition for relations between the coordinate institutions of our constitution, namely the Ministry, the Senate, the House of Commons, and the judicature, which all owe to each other by their sworn duty that is the *comitas*, which means the duties of civility, courtesy and consideration, most indispensable and necessary to maintain and sustain the balance, equilibrium and equipoise of the constitution, and which is the first duty of officeholders: and

Whereas, the Chief Justice of the Supreme Court of Canada is also a vice regal of our sovereign, Her Majesty, Queen Elizabeth II, and by the Governor General's Letters Patent 1947, also acts as the deputy of His Excellency, the Governor General, respecting the Royal Assent to bills and other royal prerogative affairs, and who is, by these Letters Patent, Section VIII, also decreed as Our Administrator for Canada, that person and officer who, in the absence, death, removal, or incapacity of the Governor General, acts in his stead as Her Majesty's representative for Canada: and therefore

Be it resolved, that the Senate uphold our oaths of allegiance to Her Majesty, and also the high principles, which are constitutional comity, judicial independence, and equity, fairness and justice, and that the Senate express its deep respect and confidence in the Right Honourable, the

Chief Justice of the Supreme Court of Canada, one Madame Justice Beverley McLachlin, for decades a faithful servant in the public service of this country, its Supreme Court, its public, its sovereign peoples, and its sovereign Queen Elizabeth.

• (1400)

[Translation]

MYANMAR

PERSECUTION OF ROHINGYA MUSLIMS— NOTICE OF INQUIRY

Hon. Mobina S. B. Jaffer: Honourable senators, I give notice that, two days hence:

I will call the attention of the Senate to the persecution of the Rohingya Muslims in Myanmar, and the mandate of Canada's Office of Religious Freedoms.

[English]

QUESTION PERIOD

HEALTH

MENTAL HEALTH COMMISSION

Hon. James S. Cowan (Leader of the Opposition): Honourable senators, my question is another question that we received from the public, and it has to do with the Mental Health Commission of Canada.

The question is from Michael Da Silva of Toronto. Mr. Da Silva asks the following of the Leader of the Government in the Senate:

The importance of mental health to Canadians takes on numerous dimensions. Negative health outcomes not only affect the lives of those living with mental health concerns and their relatives, but can also have an impact on the economy and the rate of commission of acts many believe should be criminalized in the absence of mental health concerns. It is thus unsurprising that Canada's right to health commitments at international law includes a blanket obligation to ensure people have the highest attainable standard of mental health and specific obligations to provide mental health planning and services. In recent years, the Mental Health Commission of Canada has played an important role in developing Canada's response to this important issue. Perhaps most notably, they developed the first mental health strategy for the entire country, 2012's *Changing Directions, Changing Lives* report.

Does this government continue to believe in the importance of an arm's-length organization committed to the goal of ensuring the mental health of Canadians? If so, will it renew the mandate of the Mental Health Commission of Canada, which is set to expire in 2017?

[Translation]

Hon. Claude Carignan (Leader of the Government): Thank you for your question, Mr. Da Silva. As you know, we cannot emphasize enough how important mental health is to Canadians and their families. Our government has made considerable investments in promoting research and awareness of mental health. As the Honourable Senator Cowan knows, we created the Mental Health Commission of Canada in order to develop a national strategy and share best practices.

Since 2006, we have invested more than \$431 million in mental health research, \$112 million a year in community health promotion for families, and more than \$261 million a year in mental health services for First Nations and Inuit peoples. Furthermore, in Budget 2013 we announced additional funding to increase the number of mental health wellness teams serving First Nations communities.

Given that mental health issues are so important and that our government has invested considerable time and money in addressing or mitigating the effects of mental health issues, I think that it is safe to say that we are committed to protecting mental health and will continue to do so in the future.

[English]

Senator Cowan: Thank you, senator, for your response. I want to place on the record again my congratulations to the government for the establishment of the Mental Health Commission of Canada, which was recommended by our Senate committee some years ago. That's commendable, and the additional funds that have flowed for various mental health services are similarly appreciated. But there is more to be done.

My question was not to ask you to recite again all the things that your government has done in this field but to ask the specific question: Will your government renew the mandate of the Mental Health Commission of Canada, which, as you know, is set to expire in 2017? That was the specific question Mr. Da Silva wanted answered.

[Translation]

Senator Carignan: As I said, we will continue to make significant investments in mental health research and promotion.

[English]

Senator Cowan: But the question, Senator Carignan, was very specific: Will your government renew the mandate of the Mental Health Commission of Canada, which is set to expire not by any action of the government but simply because the Mental Health

Commission of Canada does not have any legislative basis? It was set in place for a period of time. As I said, that's very commendable, but that period of time is coming to an end.

My question was, again, will the government renew that mandate, which is set to expire in 2017?

[Translation]

Senator Carignan: As I already told the honourable senator, we will continue to invest in mental health research and promotion, given the importance of mental health for Canadians and their families. I think that Canadians can count on this government's commitment to promoting mental health.

[English]

Hon. Catherine S. Callbeck: I was a member of the Standing Senate Committee on Social Affairs, Science and Technology that did the study on mental health. Our chief recommendation was to set up this Mental Health Commission. I, too, applaud the government for doing it.

Now, as has been said, it's expiring in 2017. You have not made a commitment that it's going to be renewed. If it's not renewed, then who is going to carry on the work that this commission had been mandated to do?

[Translation]

Senator Carignan: Senator, I think you know that it is 2014, and I did not say that the mandate would not be renewed. I pointed out the importance of mental health for Canadians and their families and I reiterated that our government has made significant investments in mental health research and promotion.

I gave examples, such as the creation of the Mental Health Commission, which is mandated to develop a national strategy and share best practices. I also gave examples of our government's commitment to mental health research and development in the form of a considerable investment — hundreds of millions of dollars — in research. Finally, I mentioned that, as indicated in Budget 2013, we announced additional funding to increase the number of mental health teams.

I therefore think that Canadians can be assured of our commitment to improving mental health in Canada.

[English]

PUBLIC SAFETY

CORRECTIONAL SERVICE CANADA— MANAGEMENT OF PENITENTIARIES

Hon. Joan Fraser (Deputy Leader of the Opposition): On a different topic, although not much more cheerful, many colleagues will be aware of the Auditor General's devastating report yesterday on expenses notably for construction by Correctional Service Canada.

To give you a bit of the chronology here, colleagues, in 2007, an independent review found that many of Canada's penitentiaries were inadequate for managing the inmate population. They recommended closing the older and less efficient ones, and the Correctional Service identified 20 to be closed over time, as replacements were built.

In 2009, at which time the government's tough on crime agenda was swinging into high gear, Correctional Service Canada got approval to spend three quarters of a billion dollars expanding the capacity of existing prisons and also got approval in principle to build five new penitentiaries for nearly \$1 billion, pending development of a long-term plan. This is important: They didn't even have a long-term plan yet. Then in 2012, instead of proceeding with the construction of the needed new penitentiaries, the government announced the closure of three institutions and said no new ones would be built. The following year, the Auditor General found that of the 20 institutions that were initially identified for, as we say, decommissioning, eight were instead expanded.

• (1410)

The Auditor General further found that expansion was not based on criteria such as the ages and conditions of the facilities, existing capacity pressures and the long-term effects of these decisions. The decisions to expand existing prisons was based primarily — often, I gather, only — on whether or not land was available within the premises of the existing penitentiaries.

This is no way to run a prison system. It's not a way to run a dog-catching facility. If it weren't so serious, it would be worthy of a plot in a Three Stooges movie.

Can the leader please tell us who is in charge over there and what's being done to improve the management of these matters?

[Translation]

Hon. Claude Carignan (Leader of the Government): Senator, as you know, what we think is that criminals should be kept behind bars, and by doing that, we save taxpayers' money. The increase in prison population that the opposition predicted in recent years has never materialized.

As the honourable senator knows, we will be adding 2,700 cells that will be safer for front-line correctional officers. Those are the facts, Senator Fraser. We keep dangerous and violent criminals behind bars. The increase in prison population has been modest, significantly less than anticipated and, moreover, we will be adding 2,700 new cells.

[English]

Senator Fraser: It was the correctional service itself that initially predicted that the prison population would increase by more than, in the event, it has increased. But the fact remains that these

expansions occurred with no attention being paid to where they were needed or to whether the institutions in question were suitable for expansion. The fact remains that many of Canada's penitentiaries, even after the expansion program, are going to be operating at above their rated capacity; that is, they're going to be officially overcrowded.

In an effort to try to cope with this mess, CSC has been moving people around the country from overcrowded areas to less crowded areas, and it's costing the taxpayers a mint of money. In 2010-11 they moved 529 offenders, at a cost of \$1.5 million. But in the first nine months of 2013, they had transferred getting up towards double the number of offenders, 908, and had spent more than twice as much money as they had in the full fiscal year preceding. The 908 cost \$3.4 million to transfer.

I repeat: Who is in charge over there? What's being done to improve the management system under which these decisions have had to be made?

[Translation]

Senator Carignan: I will repeat my answer, Senator. We will be adding 2,700 cells that will be safer for front-line correctional officers. We will continue to incarcerate criminals, which will save taxpayers' money. You have surely noticed that Canada's crime rate is decreasing, which demonstrates that when we put criminals behind bars, they cannot commit additional crimes.

[English]

Senator Fraser: Nobody is talking about turning axe murderers loose to wander the streets, leader. We are talking about facing the true consequences of policy decisions that the Government of Canada has made.

One of the impacts of that decision, which I have raised before in this chamber, is the phenomenal increase in the number of prisoners who are double bunked. This is not me talking. This is not even the Correctional Investigator talking. This is the Auditor General of Canada talking, and he is not exactly famous for being a bleeding heart. He reports, with evident concern, that double bunking is occurring in our prisons, in segregation cells, which are really not suitable for anybody, let alone for two people. It's occurring in some cells that are as small as five square metres or less. For those of us who are more comfortable in the pre-metric system, that's less than 50 square feet for two people to live in, two people who wouldn't even be there if they weren't already criminals, which implies that a certain number of them already have unstable mental health and some anti-social tendencies.

The Auditor General — not me — repeats the correctional services warning that double bunking has serious implications, including increased levels of tension, aggression, and violence, plus increased safety and security concerns not just for the offenders but for staff, for the people whom we trust and pay to maintain order in prisons. It stands to reason: If I were locked up in 50 square feet for most of my life with another person, I'd probably go berserk, and in very short order, and I suspect that would be the case for many people.

[Senator Fraser]

When is this government going to realize that it has to live up to the consequences of the policies that it has insisted upon adopting? If you're going to put people in prison, put them in conditions where, when they finally get out — which most of them do — they will not be increased risks to the safety of the public, but they will be in a better position to rejoin society as constructive, cooperative and contributing citizens.

[Translation]

Senator Carignan: It is my understanding that there was a question somewhere in your comment. As you pointed out, the increase in prison population wasn't even one-quarter of what the Correctional Service predicted and it is nowhere near what the opposition predicted. Double-bunking is a totally normal, well-established practice in many Western countries.

As you know, we do not believe that convicted criminals are entitled to private rooms. As for your comments about mental health in prisons, our government believes that dangerous criminals must be incarcerated, but that prisons are not the ideal place for treating serious mental illnesses. That is why Minister Blaney announced the Mental Health Action Plan for federal offenders, which is based on five pillars and will ensure that the correctional system corrects criminal behaviour. The five pillars of the strategy are the following: first, timely assessment; second, effective management; third, sound intervention; fourth, ongoing training; and fifth, robust governance and oversight.

The action plan is based on measures to improve access to mental health treatment and training of correctional officers in prisons. We have also expedited mental health screening, created a mental health strategy for inmates, expanded mental health counselling and improved staff training.

I believe that all the tools are being used, together with a rigorous approach to prison management, to achieve the objectives of prison system management, and also to ensure that convicted criminals stay behind bars. You say that your position is not to release criminals. No, that's true. Your position is rather to not send them to prison.

[English]

AGRICULTURE AND AGRI-FOOD

EXHIBITION FUNDING—PRODUCT MARKETING

Hon. Terry M. Mercer: Honourable senators, the Department of Agriculture is budgeting almost a quarter of a million dollars for a booth at the Salon International de l'Agroalimentaire, which is a large agri-food exhibition that takes place in Paris in October of this year. According to the Department of Agriculture, the number of exhibiting companies is 6,000, from 106 countries and 140,000 buyers and sellers from around the world.

While I understand we must market Canadian agriculture abroad because it's a good idea, could the leader tell us what our delegation will actually be using that funding for?

• (1420)

[Translation]

Hon. Claude Carignan (Leader of the Government): Sometimes the members opposite ask strange questions. The other day, when Senator Mercer's colleague was asking a question, she said that the government was not doing enough to promote international trade. She specifically mentioned agriculture and her concerns about the free trade agreement with the European Union.

Today, the colleague on the backbench is criticizing us for organizing and participating in international trade shows to promote international trade and agriculture. Clearly, there is a lack of coordination among the members opposite.

[English]

Senator Mercer: Coordination doesn't exist over here because we are all independent senators and can ask any questions we want. That's the benefit of being over on this side. You'll enjoy it when you're over here.

Honourable senators, I read that the budget for this event includes 1,600 glasses of free wine and beer, 2,500 glasses of juice and soda and 1,500 cups of coffee, which will all be served in a lounge at the exhibit. It sounds like a great party to me.

Could the Leader of the Government in the Senate tell us if he thinks that's useful spending of taxpayers' money?

[Translation]

Senator Carignan: Senator, as you know, our government makes sure that every dollar is spent where it will benefit Canadians the most. I hope, Senator Mercer, that you are not criticizing the fact that we are promoting agriculture abroad.

[English]

Senator Mercer: I'm certainly not criticizing the objective of marketing Canadian agriculture around the world. We're spending a quarter of a million dollars in Paris at a conference.

The question I'm going to get to eventually is who else should be helping to pay for this?

What are they serving at this event? They've got beer on the list. Is that beer from Nova Scotia? I hope so. They're serving hors d'oeuvres. Are there potatoes from Prince Edward Island? Is there moose meat from Newfoundland? Are there blueberries and cranberries from New Brunswick? Are there cheeses from Quebec? Maybe some Ontario wine, which would be nice, maybe some pork from Manitoba, some pulse products from Saskatchewan, Alberta beef and perhaps some nice juice from SunRype in British Columbia?

Are they going to be serving Canadian products when they're spending a quarter of a million dollars of Canadian taxpayers' money?

[Translation]

Senator Carignan: I would like to thank you for your question, Senator Mercer. It gives me the opportunity to point out that I have a bottle of wine from Nova Scotia in my cellar. I therefore invite you to Saint-Eustache this summer. We can open it and drink it together.

[English]

Senator Mercer: You heard him: Everybody is invited. We were looking for a spot for a summer caucus meeting. It's at the Leader of the Government's private place in Saint-Eustache. We'll cancel our plans for a summer caucus elsewhere; we're coming to Saint-Eustache and we're drinking his booze.

Honourable senators, I'm well aware that marketing our agricultural products is important, but there are combinations of other things that need to be marketed along with our products. With the new agreement that may someday come into play with the European Union, we need to get the products there. We also need to market the idea of getting people from the EU to come here.

Are groups like the Port of Halifax and the Canadian Tourism Commission invited to attend and help market what they do as well?

[Translation]

Senator Carignan: Your question gives me the opportunity to talk about the important economic and trade agreement with the European Union signed by Prime Minister Harper and President Barroso on October 18, 2013. They announced that Canada and the European Union had reached an agreement in principle, a trade agreement that would generate hundreds of millions of dollars in economic benefits to Canada and would provide Canadian businesses with access to half a billion new customers; this obviously includes agricultural companies.

Hon. Senators: Hear, hear!

[English]

Senator Mercer: I thank him again for the invitation to his place for our summer caucus and access to his extensive wine cellar.

Since the Conservative government is keen on cost sharing and cost recovery for services of many things, are the members of the Canadian delegation to this party in Paris sharing the costs of marketing themselves at the exhibit in Paris?

[Translation]

Senator Carignan: Senator, as you know, we want to market Canadian products properly. We will do everything we can to be worthy representatives while respecting Canadian taxpayers.

CANADIAN HERITAGE

NET NEUTRALITY

Hon. Marie-P. Charette-Poulin: Honourable senators, my question is from a Torontonion and it is for the Leader of the Government in the Senate.

[English]

Mr. Leader, our question is from the public. It is from a Mr. Edwin Mok in Toronto, Ontario. This is his question that was received:

The European Parliament recently passed what is touted as a strong net neutrality bill. The current government's stance on the issue of net neutrality seems non-committal one way or the other, notwithstanding its importance in the balance of expression and commerce in the Internet age. Given that the United States is currently studying this issue in an in-depth manner, when can Canadians expect our government to take a proactive stance on net neutrality, and what would that stance be?

[Translation]

Hon. Claude Carignan (Leader of the Government): Thank you for that question. I will share the concerns of this Torontonion with the minister responsible.

[English]

Senator Charette-Poulin: I guess we're all in the same situation here, Mr. Leader, because I have to admit my very limited knowledge of net neutrality. If you're answering that you'll go to the minister, I take it for granted we all have limited knowledge. Just based on my research, let me read into the record what net neutrality is.

Net neutrality is the principle that Internet service providers and governments should treat all data on the Internet equally, not discriminating or charging differently by user, content, site, platform, application, type of attached equipment, and modes of communication.

The term was coined by Columbia media law professor Tim Wu in 2003 as an extension of the longstanding concept of a common carrier. Proponents often see net neutrality as an important component of an open internet, where policies such as equal treatment of data and open web standards allow those on the internet to easily communicate and conduct business without interference from a third party.

A "closed internet" refers to the opposite situation, in which established corporations or governments favor certain uses. A closed internet may have restricted access to necessary web standards, artificially degrade some services, or explicitly filter out content.

For your information, Mr. Leader.

[Translation]

Senator Carignan: Let me reiterate that I will pass on the question to the minister responsible.

CBC/RADIO-CANADA

Hon. Céline Hervieux-Payette: The Leader of the Government knows that there are budget problems at CBC/Radio-Canada. Even our adversaries, namely Pierre-Karl Péladeau, who is not necessarily a great federalist, agree. Recently, Gabriel Nadeau-Dubois, who was a Parti Québécois candidate, wrote the following:

It is irresponsible to make such cuts to a Crown Corporation without extensive public consultation on its funding and organization.

• (1430)

I am unsure about the Parti Québécois agenda, which would have us separate from the rest of Canada, but when I see that two people who support Quebec independence want to save a national Canadian institution, I feel hopeful.

I understand that, from time to time, you feel frustrated with certain news reports. I can tell you that we have experienced it in the past as well. We can't expect reporters—

[English]

Senator Tkachuk: We believe in freedom of speech in our party.

[Translation]

Senator Hervieux-Payette: Excuse me, may I speak?

I believe that from now on French Canadians want national coverage; they want a way to be understood across the country.

I am asking the Leader of the Government whether, in the current context and given the repeated cuts to Radio-Canada, it is time to establish a national consultation process to determine whether Canadians — who provide five times less funding than other OECD countries — would like to be consulted about how much they are willing to spend on national television and radio.

Hon. Claude Carignan (Leader of the Government): Thank you for your question, Senator. You mentioned Gabriel Nadeau-Dubois, but perhaps you meant Léo Bureau-Blouin, who was a Parti Québécois member. As far as I know, Mr. Nadeau-Dubois never ran for the Parti Québécois.

In any case, it is always surprising to hear Pierre Karl Péladeau defend Radio-Canada. However, as Senator Hervieux-Payette knows, our government has nothing to do with Radio-Canada's decisions. It is an independent Crown corporation, responsible for its own operational decisions. According to its president, Hubert Lacroix, the corporation is trying to deal with declining viewership in certain demographic groups and a drop in advertising income.

Radio-Canada has enough money to fulfill its mandate under the Broadcasting Act, and it is responsible for providing Canadians with English and French programming that they want to watch.

I would encourage you to stay informed about the work of the Standing Senate Committee on Transport and Communications, chaired by your colleague, Senator Dawson. The committee is currently studying CBC/Radio-Canada.

POINT OF ORDER

Hon. Joan Fraser (Deputy Leader of the Opposition): Thank you, Mr. Speaker. Earlier, during his very interesting exchange with Senator Mercer, the government leader mentioned my name. He said that I had asked questions about agriculture and trade with Europe. He then corrected himself, but I am not sure whether the correction was clear.

I assumed that my own questions had made such an impression that he could not forget me, but the important thing here is that it was my colleague, Senator Hervieux-Payette, who asked those excellent questions about agriculture and Europe. I just want to make sure that the Debates will clearly indicate that the questions were hers, not mine.

Hon. Claude Carignan (Leader of the Government): That is true. The answers were also very good.

[English]

ORDERS OF THE DAY

PERSONAL INFORMATION PROTECTION AND ELECTRONIC DOCUMENTS ACT

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Housakos, seconded by the Honourable Senator Fortin-Duplessis, for the second reading of Bill S-4, An Act to amend the Personal Information Protection and Electronic Documents Act and to make a consequential amendment to another Act.

Hon. George J. Furey: Honourable senators, I rise today to say a few words about Bill S-4, which has been called the Digital Privacy Act. My comments will be brief.

As you all know, colleagues, this bill has taken the unusual step of originating in the Senate. It has not yet been studied.

This bill amends the already existing Personal Information Protection and Electronic Documents Act, which first became law in the year 2000.

Some media commentaries on Bill S-4 suggest that the real essence of this bill is that it gives immunity to Internet companies and other organizations, like banks, to collect and voluntarily hand over private data to the police without consent.

The minister has stated that there is nothing in Bill S-4 that was not already in the original act. He is, to a large extent, correct in his statement. However, I wish to highlight several items in Bill S-4 which in fact may expand the immunity for disclosing data contained in the original act.

Bill S-4 is being applauded because it introduces penalties against organizations that breach safeguards that companies should have in place to protect the data of private citizens. What this means is that when your bank or your Internet company accidentally allows hackers to get their hands your data, such organizations are open to be fined by the Privacy Commissioner for having inadequate safeguards. This certainly appears to be a helpful addition to the legislation.

I would draw your attention, colleagues, to paragraph 10.1(6) of Bill S-4, which requires notification of the individual as soon as feasible after the organization becomes aware of the breach. This is as it should be.

Before Bill S-4, we were governed by the common law which would require a company to inform a victim immediately or risk a breach of contract and a negligence lawsuit. As such there were protections for victims before Bill S-4. So we must ask ourselves, does Bill S-4 make things better for the innocent victim whose data has been hacked, whose financial security is at risk? We must make sure that Bill S-4 does not make it worse.

I draw senators' attention to paragraph 10.1(6) of the bill, which reads:

The notification shall be given as soon as feasible after the organization determines that the breach has occurred. However, if a government institution or part of a government institution requests that the organization delay notification for a criminal investigation relating to the breach, notification shall not be given until the institution or part concerned authorizes the organization to do so.

What needs to be explained at committee when this bill is studied is that, before Bill S-4, the common law demanded that Internet companies and banks inform people forthwith that their data had been breached. A bank could delay the notification, but, in my humble opinion, such a delay would open the bank to liability for any losses that occurred during such delay.

However, with Bill S-4, it appears that the bank or organization is now immunized from any loss to individuals during a delay before the bank informs the individual that his or her financial

security is at risk. It is no longer the bank that determines when you will be told about the loss of your data. It now appears that it will be done by the police.

Before Bill S-4, our financial security was in the hands of our banks. We were protected by all the common law rules of contract and negligence against anything the bank failed to do. In particular, we were protected by the requirement of notification forthwith. This requires some in-depth analysis at committee study.

As well, senators, there is a clause in Bill S-4, which we ought to look closely at in committee. I turn your attention to clause 5 of Bill S-4, which amends subsection 6.1 of the act. This subsection is aimed at the consent of children. Consent from children shall be written in language that children can understand.

Let's just for a moment consider the world before Bill S-4. In the world before Bill S-4, there was no consent of children under any circumstances. The common law and provincial statutes dictate that no consent can be obtained from somebody under a given age of consent in a particular province. That's the common law, the civil law and the statute law prior to Bill S-4.

• (1440)

What will be the situation after Bill S-4 is quite uncertain. Will this federal legislation amount to paramountcy over the common law and all of the statutes of the provinces on the age of consent? I do not think it is strongly worded enough to accomplish that particular end, even though that appears to be the aim of the legislation. The departmental explanatory note accompanying clause 5 says clearly that it is aimed at the consent of children.

The question this raises is whether this provision is written for the benefit of companies or for the protection of the public. The true effect may be to give immunity to companies and extend protection to companies against citizens that are their clients. As such, Bill S-4 may take away from the common law and eliminate the liability that would otherwise apply to organizations.

In closing, colleagues, I want to repeat that there are strengths in this particular bill that will help enhance public security, but there are also aspects of this bill that will require a critical analysis at committee stage.

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

Some Hon. Senators: Question.

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

Hon. Senators: Agreed.

(Motion agreed to and bill read second time.)

REFERRED TO COMMITTEE

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

Hon. Leo Housakos: I move that we send this bill to the Standing Senate Committee on Transport and Communications.

Hon. Serge Joyal: I heard Senator Furey raise a lot of questions in relation to legal issues. I'm surprised that this bill is being requested to be sent to Transport and not to Legal and Constitutional Affairs.

The Hon. the Speaker: Honourable senators, let's see if we can settle this. I would like to get advice from the Deputy Leader of the Government.

Hon. Yonah Martin (Deputy Leader of the Government): This is something that I have discussed with the deputy leader opposite. In the past, the Transport Committee has also dealt with such bills. We had a discussion this morning, and we have agreed that it will go to the Transport Committee. Both the chair and deputy chair have been consulted.

Senator Joyal: Mr. Speaker, if there is consent in the chamber, I want to raise my opposition that it be sent to the Legal and Constitutional Affairs Committee and not Transport because it raises issues dealing with the Canadian Charter of Rights and Freedoms.

The Hon. the Speaker: Honourable senators, the chamber has received advice from the house leader, who has told us that in her discussions with her colleague, the house leader for the opposition, they have formally concluded — what we have before us is a formal motion — that the matter be referred to the Standing Senate Committee on Transport and Communications.

When we have a vote on it when I put the question, senators can register their pleasure or their displeasure with that motion.

Are you ready for the question?

Hon. Senators: Question.

The Hon. the Speaker: It was moved by the Honourable Senator Housakos, seconded by the Honourable Senator Fortin-Duplessis, that this bill be referred to the Standing Senate Committee on Transport and Communications.

Those in favour of the motion will signify by saying "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: Those opposed to the motion will signify by saying "nay."

Some Hon. Senators: Nay.

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

(On motion of Senator Housakos, bill referred to the Standing Senate Committee on Transport and Communications, on division.)

CANADA GRAIN ACT CANADA TRANSPORTATION ACT

BILL TO AMEND—SECOND READING— DEBATE ADJOURNED

Hon. Donald Neil Plett moved second reading of Bill C-30, An Act to amend the Canada Grain Act and the Canada Transportation Act and to provide for other measures.

He said: Honourable senators, I rise today to introduce to you Bill C-30, the fair rail for grain farmers act. I'm very proud to be sponsoring this legislation in the Senate, as this bill brings a clear solution to the immediate needs of Canadian farmers, grain shippers and our economy as a whole.

Colleagues, allow me to outline the context of the situation or the problem this bill seeks to rectify, exactly what this bill will accomplish and the urgency of the situation, requiring the cooperation of both sides of this chamber to get this passed promptly.

I am very proud of our government's leadership on agricultural issues and their ongoing support for farmers and producers across the country.

Honourable senators may remember that I sponsored Bill C-18, the Marketing Freedom for Grain Farmers Act, or the Wheat Board bill, nearly three years ago. In the first year of marketing freedom, Western Canadian wheat and barley farmers earned up to 20 per cent more from the marketplace than they did in 2011.

Some Hon. Senators: Hear, hear.

Senator Plett: Last year, farmers seeded over 2 million more acres of wheat as a direct result of marketing freedom and choice, while harvesting over a third more bushels. In fact, a Canadian Federation of Independent Business survey found that the vast majority of its agricultural members, over 80 per cent, are positive on the impact of marketing freedom on their operations.

Today, we are here once again to support Canada's world-class grain industry, which is a strong driver of economic growth and job creation in this country.

As honourable senators know, agriculture and agri-food is one of the most important sectors of our economy, contributing over \$100 billion to our exports and employing one in eight Canadians. Our food products are enjoyed in 193 countries around the globe, and most of the top exporting sectors come from the Canadian grain industry, with total exports of over \$20 billion. That is why this legislation is so critical.

This past year, Western Canada produced a record 76 million metric tonnes of grain, 50 per cent higher than the average crop. The marketing freedom that farmers now enjoy as a result of Bill C-18 has contributed substantially to this record crop, as farmers seeded over 2 million more acres of wheat. This record production, however, has led to a backlog in the grain handling and transportation system.

In the fall, the railways were already transporting above-average volumes to port, but by November, the railways were behind 20,000 carload orders. Since December, the harsh winter has diminished that performance significantly, and extreme cold, train lengths and speeds must be reduced for safety reasons. As a result, only 77 carloads have been delivered as of March 9, 68,000 fewer than ordered. To put this in perspective, the value of grain currently sitting in bins is an estimated \$14.5 billion to \$20 billion.

Seeding season is just around the corner, and elevators are currently at full capacity. The pressures in grain handling and transportation are evident across the system, and the implications of this backlog are severe. There is a risk of reduced cash flow and potential lost revenue for farmers and shippers; cash prices that are significantly lower than last year's prices and current world prices; increased storage costs for farmers and grain companies; as well as stiff penalties for demurrage and failure to consummate contracts. Additionally, there is a risk of crop contamination for those who have resorted to temporary grain storage measures, as an estimated 46 million metric tonnes are being stored on-farm. And there is the risk of damage to Canada's global reputation as a reliable grain supplier.

• (1450)

In light of this, Ministers Ritz and Raitt met with numerous rail and grain representatives to develop a solution. While the legislation was being developed, the ministers issued an order-in-council, or OIC, which took effect on March 7, 2014. The OIC set out minimum volumes of grain that each railway company is required to move. The minimum volume requirements have been increased to a combined target of 1 million metric tonnes per week, which more than doubles the volume currently being moved.

The OIC also requires railways to report to the Minister of Transport on weekly shipments and creates legal obligations on railways that could result in penalties for non-compliance of up to \$100,000 per day. While this past year was a record, higher yields and better crop performance are expected to be the normal.

Western grain production has increased approximately 3 per cent per year over the last 30 years. New technologies and better agronomic practices are expected to accelerate growth. Furthermore, with world demand growing, we need to ensure that we are moving grain faster and with reliable and predictable rail service.

For this reason, our government has now introduced the Fair Rail for Grain Farmers Act, which will further contribute to a more efficient, effective and reliable supply chain that will support the competitiveness of Canadian businesses across all sectors.

Under this legislation, the government is moving several short- and medium-term solutions to improve the efficiency and effectiveness of the logistics system now, heading into the next crop year and beyond.

First, the legislation will amend the Canada Transportation Act to extend the minimum volumes of grain that the Canadian National Railway and the Canadian Pacific Railway are required to move, at the joint recommendation of the Minister of Transport and the Minister of Agriculture. The penalty for non-compliance would be up to \$100,000 per day. Further, to address the current backlog, CN and CP will be required to move at least 500,000 tonnes of grain each week beginning April 7, 2014 and ending August 3, 2014.

The Canadian Transportation Agency will be responsible for recommending a minimum volume level to the Minister of Transport over the course of the summer and early fall, as the harvest yield becomes clearer. This recommendation will take into consideration information collected from grain handling stakeholders, including CN and CP, during the agency's new annual consultation.

This amendment is important. It will enhance the reliability and predictability of Canada's grain handling transportation system. It will improve the ability of grain shippers to plan ahead and meet contract obligations with producers and customers. It will improve Canada's international reputation as a dependable shipper of quality grain.

Second, this legislation will create a regulatory authority to enable the Canadian Transportation Agency to extend interswitching distances. Interswitching is an operation performed by railway companies where one carrier performs the pickup of cars from a shipper and hands off these cars to another carrier that performs the line haul.

The extension will be from 30 to 160 kilometres in Alberta, Saskatchewan and Manitoba for all commodities. This amendment will provide 150 primary grain elevators located across the Prairies to be served by more than one railway, including U.S. railways.

With the current interswitching distance limit of 30 kilometres, only 14 primary elevators had this option. That's more than a tenfold increase in elevator accessibility. Increasing the access that farmers and elevators have to the lines of competing railway companies will increase competition among railways for business and will give shippers more transportation options.

OmniTRAX, the railway that serves the Port of Churchill in my province, has said that this bill could potentially extend its service south, approaching the province's northeastern grain growing regions. This is excellent news for grain producers in the province of Manitoba.

Third, we are establishing regulatory power to add greater specificity to service-level agreements, as asked for by all shippers. Currently, shippers have the right to negotiate a service-level agreement with a railway, but the new amendments would give

the Canadian Transportation Agency the authority to regulate prescribed elements and arbitrated service-level agreements, the details of which would be determined through a consultation process. This will enhance shippers' ability to plan ahead and optimize their operations as well as improve service reliability and overall supply chain performance.

Fourth, this bill seeks to amend the Canada Grain Act to enable the regulation of mandatory grain contract provisions. The proposed amendment will also allow the Canadian Grain Commission to regulate compensation the grain company will pay to a farmer if the delivery dates set out in the contract are not honoured in a timely manner.

The amendment will incent shippers to honour contracts with producers and create the potential for producers to receive compensation. This will not need to be used, however, if shippers and producers voluntarily develop contracts with appropriate performance and compensation requirements.

Honourable senators, our government is once again standing up for our farming industry. These measures offer market-based solutions to help farmers get their crops to market, while securing Canada's reputation as a world-class exporter. That is why the agricultural industry supports Bill C-30 and what it sets out to accomplish.

At the Agriculture Committee hearings of Bill C-30 in the other place, shippers of all commodities, who were very supportive of the legislation, asked us to go one step further. They asked us to put more teeth into the service-level agreements, which would bring more accountability to the railways.

Responding to this concern, the committee introduced an amendment that would allow shippers who enter service-level agreements to be directly compensated for any expenses they incur as a result of the railways' failure to meet their service obligations.

The amendment was passed unanimously. The first part of that amendment reads:

... order the company to compensate any person adversely affected for any expenses that they incurred as a result of the company's failure to fulfill its service obligations ...

Colleagues, this actually goes further than the reciprocal penalties that many in the industry have requested, because it applies to any level of service complaint under the Canada Transportation Act.

Even if you do not have a service-level agreement, the railway can still be ordered to cover losses. For example, if a grain shipper has a service-level agreement with the rail company, and that

agreement is not honoured by the rail company, triggering demurrage fees, the rail company would be compelled to compensate the shipper for those fees.

The second part of the amendment reads:

... or, if the company is a party to a confidential contract with a shipper that requires the company to pay an amount of compensation for expenses incurred by the shipper as a result of the company's failure to fulfill its service obligations, order the company to pay that amount to the shipper ...

• (1500)

The second part of the clause is equally important as it allows compensation to be paid within a commercial contract. This will encourage shippers and railways to come to the table and set their own reciprocal penalties if they so desire. This amendment was widely accepted by stakeholders.

The industry was also very clear on the need to place these measures in the context of the wider review of the Canadian Transportation Act. The minister has confirmed she is accelerating this review to begin this summer. This accelerated review will allow the government, with input from stakeholders, to consider further amendments aimed at improving the efficiency and reliability of Canada's supply chain over the long-term.

Honourable senators, the order-in-council issued by Ministers Ritz and Raitt expires at 11:59 p.m. on June 1, just a few weeks away. Because this bill extends the mandatory minimum volume requirements for grain shipments, it is crucial that we work cooperatively and efficiently to pass this important piece of legislation.

Colleagues, let us get this to committee immediately so we can ensure the bill gets the study it requires in the necessary time span. We need to be cognizant of the time constraints we are facing, and I for one am prepared to sit during the break week if that's what it takes to ensure that there is no lapse in service for our farmers and our grain industry. There is no reason that this could not be sent to committee today, so I am disappointed that it appears that this will not happen.

In the spirit of cooperation and recognition of the urgency of the situation, all parties in the other place worked together to quickly pass this important bill. I would encourage all honourable senators to not play partisan politics at the expense of our farmers. We need to cooperate to have this sent to committee no later than the next sitting of the Senate so that it can be studied thoroughly, reported back to the Senate and ultimately passed in the required time frame.

Honourable senators, our grain industry is facing a major setback with the current backlog in the transportation system. The timely transportation of this commodity is essential for the grain industry. Our farmers have delivered and now we must ensure that the rest of the supply chain is doing their part to move the product efficiently to waiting markets around the world.

As Saskatchewan farmer and columnist Kevin Hursh said recently:

The federal government has a historical opportunity to make a real difference in grain transportation efficiency.

Colleagues, let's continue to offer unfettered support to our farmers and send this critical piece of legislation to committee immediately.

Some Hon. Senators: Hear, hear.

The Hon. the Speaker *pro tempore*: I see two senators rising. Is it for a question or for debate?

Hon. Joan Fraser (Deputy Leader of the Opposition): It is to make a small comment and then adjourn.

Hon. Elaine McCoy: Would the honourable senator entertain a question?

Senator Plett: Certainly.

Senator McCoy: I would certainly support your plea to get this bill to committee as soon as possible, but I'm struck with curiosity. It seems to me that you were an able advocate for bringing in a free market regime for wheat sales in Canada, so much so that you wanted to and succeeded in removing any legislated limits through the Canadian Wheat Board last year or two years ago. Is that true?

Senator Plett: Was it true that I was an advocate of this?

Senator McCoy: Yes.

Senator Plett: Absolutely, I was a strong advocate of it and I am today and, of course, the proof is in the pudding. It was a great piece of legislation and our Western Canadian wheat farmers thank all honourable colleagues for their support of that; they truly feel free. As I said, over 2 million more acres of wheat were planted last year than before we passed Wheat Board bill.

Senator McCoy: That is a great tribute to the continued vivacity and goodwill, and most completely defines your spirit of our Western provinces. Once again it proves that when you take government out of business, business prospers.

We've settled that we agree on that principle. Now I'm a little confused with the current bill that you're bringing forward. CN and CP are private businesses. What is government doing interfering in their business?

Senator Cordy: Good question.

Senator Plett: CN and CP certainly are private businesses, and unfortunately we have created a monopoly with CN and CP. There are not a lot of opportunities for other railways to come

along and haul our grain because there aren't other rail lines, which is one of the reasons, senator, that we have increased the interchanging from 30 kilometres to 160 kilometres, allowing many short rail lines to start getting in there to help move these railcars.

I believe that this piece of legislation in fact creates more free enterprise and more open markets to help those farmers that are out there planting their crops, creating the food that we need and generating the economy we need, and that are now being curtailed by two companies that have a monopoly. We need to work to help those farmers do their work.

Senator McCoy: There is no doubt this is a topic that will be explored more at committee, but I would hope that I can hear the honourable senator advocate much more for getting rid of monopolies as opposed to government interference in private business.

Senator Plett: I'm not sure if there was a question there senator, but if there was a comment that we should be advocating for free enterprise, I agree with you and less government interference, absolutely. Let's get this passed very quickly so the government can stop worrying about it, move aside and let the railways haul the grain that they need the haul, get it to market, get it to the ports so we can ship.

Senator Fraser: Colleagues, let the record show that the opposition is not engaging in obstruction of this bill. This bill reached us on Tuesday.

Our critic, who was out of town on Tuesday, agreed on Wednesday, yesterday, to be the critic on this bill. He is having his briefing from officials as we speak, and he has undertaken to speak to this bill on Tuesday. I do not consider this to be obstruction. Therefore, I move the adjournment of the debate in the name of Senator Mercer.

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

Hon. Senators: Agreed.

(On motion of Senator Fraser, for Senator Mercer, 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-30. Therefore, I give notice that, at the next sitting of the Senate, I will move:

That, pursuant to rule 7-2, not more than a further six hours of debate be allocated for consideration at second reading stage of Bill C-30, An Act to amend the Canada Grain Act and the Canada Transportation Act and to provide for other measures.

• (1510)

QALIPU MI'KMAQ FIRST NATION BILL

SECOND READING—DEBATE ADJOURNED

Hon. John D. Wallace moved second reading of Bill C-25, An Act respecting the Qalipu Mi'kmaq First Nation Band Order.

He said: Honourable senators, I am pleased to rise today to speak to Bill C-25, the Qalipu Mi'kmaq First Nation Bill.

As my honourable colleagues may already be aware, passage of this bill is necessary in order to ensure the integrity of the enrolment process for the Qalipu Mi'kmaq First Nation Band. In other words, the proposed legislation will ensure that only those with a legitimate claim to membership will be able to become members of the First Nation.

In order to understand why it is important for the government to move forward with this bill, it is imperative that my honourable colleagues have a sense of the unique history surrounding this First Nation. The roots of this issue go back to 1949, when Newfoundland joined Confederation. At that time, there was no agreement between the province and Canada as to if, how or when the Indian Act system would be applied.

In 1989, the Federation of Newfoundland Indians, the FNI, brought forward a lawsuit against Canada, seeking Indian Act recognition. The Federation of Newfoundland Indians and the Government of Canada settled this court action through the 2008 Agreement for the Recognition of the Qalipu Mi'kmaq Band.

This 2008 agreement provided for the creation of the Qalipu Mi'kmaq First Nation as a landless band under the Indian Act. It also set out an enrolment process to enable those individuals who met specific eligibility criteria for the Qalipu Mi'kmaq First Nation to become members of the band and be registered as Indians under the Indian Act. This registration would give them access to the same programs and benefits that are provided to members of any landless band or registered Indian living off-reserve.

Honourable senators, you may be aware of this, but I do want to remind you that the word "Indian" still continues to be a defined term under the Indian Act.

The 2008 agreement provided for a two-part enrolment process, spread out over four years to give all potential applicants enough time to apply to become members of the First Nation. Both the Federation of Newfoundland Indians and our government intended that the founding membership in the newly recognized First Nation would be granted primarily to individuals living in or around the 67 Newfoundland Mi'kmaq communities named in the agreement. Although individuals living outside of these communities could also apply, the intent of the parties was that non-residents would be required to have maintained a strong cultural connection with a Newfoundland Mi'kmaq community.

The 2008 agreement set out four criteria for founding membership eligibility that were negotiated and agreed upon by both parties. They stipulated that to qualify, individuals would have to have Canadian Indian ancestry, be a member or be descended from a member of a pre-Confederation Mi'kmaq community, self-identify as a member of the Mi'kmaq Group of Indians of Newfoundland, and be accepted by the Mi'kmaq Group of Indians of Newfoundland based on a demonstrated and substantial cultural connection.

Honourable senators, it is important to understand that when the 2008 agreement was reached, the parties estimated that between 8,700 and 12,000 individuals would be eligible to join the First Nation as founding members. These estimates were based on the 2006 Census data and studies conducted by the Federation of Newfoundland Indians.

After the conclusion of the first stage of the enrolment process in November 2009 — only one year after the conclusion of the agreement — a total of 23,877 individuals were determined to be founding members. This figure was higher than the original projections; however, the number was not out of line with the 2006 Census, which found that 23,450 residents of Newfoundland and Labrador self-identified as Aboriginal.

However, there was a second stage of the enrolment process that ran for another 36 months. This second stage was intended to provide eligible individuals ample opportunity to apply to become founding members. This phase ended on November 30, 2012.

Honourable senators, it was during this second stage that issues with the process became apparent. An unexpected and, as the Chief of the Qalipu Mi'kmaq First Nation has stated, unreasonable number of individuals submitted applications during the second phase. Indeed, approximately 75,000 additional individuals applied for founding membership during the 36-month period, bringing the total number of applications to more than 101,000, a number that represents 11 per cent of all registered Indians in all of Canada.

In addition, the majority of these applications — roughly 46,000 — were received only in the final three months before the application deadline. Most of these applications were submitted by individuals living outside Newfoundland.

Honourable senators, I think you can understand why the First Nation's chief and the Federation of Newfoundland Indians were concerned about the credibility of the enrolment process and the integrity of the new Qalipu Mi'kmaq First Nation.

As with the government, they wanted to be certain that the objectives and original intent of the 2008 agreement would be respected. Both parties wanted certainty that those accepted for founding membership fulfilled the agreement's enrolment criteria and that the process would be fair and equitable to everyone involved.

As a result, the First Nation and the government worked together to negotiate a supplemental agreement, which was announced in July 2013. This supplemental agreement was the result of extensive discussions and negotiations between the

Government of Canada and the Federation of Newfoundland Indians and specifically addressed the concerns that arose during the second phase of the enrolment process.

The supplemental agreement provided greater clarity about the requirements of founding membership and the enrolment process. It confirmed that the criteria set out in the original 2008 agreement remained unchanged; however, it provided greater detail on the type of information required in order for individuals to establish that they satisfy the criteria for founding membership. For example, the supplemental agreement clarified that applicants must demonstrate that they were accepted by the Newfoundland Mi'kmaq Group of Indians through their active involvement in the Mi'kmaq community or culture before the Qalipu Mi'kmaq First Nation was officially formed. This information was particularly relevant to applicants residing outside of the Mi'kmaq communities on the island of Newfoundland.

The supplemental agreement also extended the timelines to review all the applications, since the numbers submitted far exceeded expectations. More time was needed to make sure all previously unprocessed applications are properly considered and to ensure fairness and equitable treatment for all those seeking founding membership. This reasonable approach is the only way to ensure the integrity of the enrolment process and to be certain that the rules of eligibility for membership are fairly applied so that all applicants are treated equitably.

This balanced and even-handed approach is also in line with Canadian expectations. Indian status is accompanied by several important social and economic benefits and therefore cannot be taken lightly.

The government has made it very clear that there will be no change in the Indian status for existing members of the Qalipu Mi'kmaq First Nation while the enrolment process is taking place. As long as the review is ongoing, band members currently registered as Indians under the Indian Act will retain their Indian status.

It is entirely possible, however, that at the end of the review process, some of these same individuals may lose their status as a result of the reassessment of their applications. If they have been found not to have a legitimate claim to membership, those individuals would have their membership revoked. Although they would not have to refund any benefits previously received, they would no longer have access to programs and services provided to registered Indians.

• (1520)

This is essential in order to protect the integrity of the Qalipu Mi'kmaq band and that of Indian registration in general. It is important, if individuals are found not to have a legitimate claim to status, that they do not continue to receive benefits reserved for status Indians.

It is because of this possibility that Bill C-25 is required. It would enable the Governor-in-Council to amend the schedule to the recognition order to reflect the final approved names of the Qalipu Mi'kmaq First Nation Founding Members. In other words, it will allow the Governor-in-Council to add and remove names from the schedule. At the moment, it is not clear that the

Governor-in-Council has the authority to remove names. Under paragraph 2(1)(c) and subsection 73(3) of the Indian Act, he or she can declare a body of Indians to be a band for the purposes of that act, but there is no express authority in the legislation to amend an order establishing a band.

Honourable senators, ensuring the legitimacy of those individuals registered as status Indians is absolutely integral to the future integrity and success of the band. Certainty is required to ensure that both the original 2008 agreement and the 2013 supplemental agreement can be fully implemented. That certainty can be obtained only by providing the Governor-in-Council with the authority to make the required corrections to the recognition order.

The purpose of this proposed legislation is really quite simple: It will ensure, as I said at the outset, that only those individuals who are truly eligible to be founding members of the Qalipu Mi'kmaq First Nation are granted that privilege. Most importantly, it will enable the Qalipu Mi'kmaq First Nation to create and maintain a strong foundation of Mi'kmaq cultural growth and development. This will lead to a better future for today's generation and all who follow. This is something that generations of Mi'kmaq residents on the Island of Newfoundland have sought for decades.

It is time to finally settle this matter so that those who truly belong as founding members of the Qalipu Mi'kmaq First Nation can realize this potential. I urge all senators to give their support to Bill C-25 so that the Qalipu Mi'kmaq members can move from goals to meaningful results.

(On motion of Senator Fraser, debate adjourned.)

AGRICULTURE AND FORESTRY

COMMITTEE AUTHORIZED TO MEET DURING SITTINGS AND ADJOURNMENT OF THE SENATE

Hon. Yonah Martin (Deputy Leader of the Government),
pursuant to notice of May 7, 2014, moved:

That, during the month of May 2014:

1. notwithstanding rule 12-18(1), the Standing Senate Committee on Agriculture and Forestry have the power to sit even though the Senate may then be sitting for the purposes of its study of Bill C-30, An Act to amend the Canada Grain Act and the Canada Transportation Act and to provide for other measures, should this bill be referred to the committee; and
2. pursuant to rule 12-18(2)(b)(i), the committee be also authorized to sit for the purposes of this study, even though the Senate may then be adjourned for more than a week.

She said: Honourable senators, I will be brief as the motion is self-explanatory.

We had the sponsor speak to this very important bill, which has a sense of urgency that we all feel. For the agriculture committee to be able to study this bill, and to give them room to do the study that they require, we ask that they be allowed to sit outside the regular sitting time and perhaps even during the break week.

I thank the members of the committee in advance for the work they will do.

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

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

An Hon. Senator: On division.

(Motion agreed to, on division.)

ADJOURNMENT

MOTION ADOPTED

Hon. Yonah Martin (Deputy Leader of the Government), pursuant to notice of May 7, 2014, moved:

That when the Senate next adjourns after the adoption of this motion, it do stand adjourned until Tuesday, May 13, 2014 at 2 p.m.

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

Hon. Senators: Agreed.

(Motion agreed to.)

LINCOLN ALEXANDER DAY BILL

THIRD READING

On the Order:

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

Hon. Art Eggleton: Honourable senators, I rise to speak to the subject of this bill, the Honourable Lincoln Alexander, and to his dedicated public service over many years.

Senator Meredith and Senator LeBreton have talked at some length about his various achievements and the milestones in his career, in particular his time on Parliament Hill. I know him from another dimension. In my days as Mayor of Toronto, for most of those years he was the Lieutenant Governor of Ontario and so we had occasion to meet many times and attend many events, activities and meetings.

I always found that Lincoln Alexander was a very well-liked individual and very well-respected and highly regarded Lieutenant Governor. When we were in public, he was “Your Honour,” and when we were in private discussions, he was “Linc.”

He had a number of distinctions that the previous speakers have pointed out: He was the first Black Lieutenant Governor, or Vice Regal representative, in Canada. He was the first Black member of Parliament and the first Black federal cabinet minister. Of course, those are very important distinctions and they put a great expectation and responsibility on him, but what’s even more important is what he did with them, which was exceptional. I saw him over many years be able to bring people together.

One of his great objectives during his term as Lieutenant Governor was his commitment to a diverse Canada and to bringing people together to live in peace and harmony in a diverse and multicultural country, which can be particularly important. He was extremely valuable in that regard. When there were challenges, difficulties or conflicts, he could always be called upon to help resolve them; and I think he did it all in an exceptional manner. He did it also with great dignity, grace and with lots of humour all the time. I very much appreciate the service that he provided to this country.

The Province of Ontario decided to name a day for Lincoln Alexander. This bill would then have the two coincide so there would be a national day to honour him. The Ontario Government said in its citation:

His life was an example of service, determination and humility. Always fighting for equal rights for all races in our society, and doing so without malice, he changed attitudes and contributed greatly to the inclusiveness and tolerance of Canada today.

• (1530)

All I can add to that is to say: Well done, Linc!

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

Some Hon. Senators: Question.

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

Hon. Senators: Agreed.

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

DISABILITY TAX CREDIT PROMOTERS RESTRICTIONS BILL

THIRD READING—MOTION IN AMENDMENT NEGATIVED

On the Order:

Resuming debate on the motion of the Honourable Senator Buth, seconded by the Honourable Senator Doyle, for the third reading of Bill C-462, An Act restricting the fees charged by promoters of the disability tax credit and making consequential amendments to the Tax Court of Canada Act;

And on the motion in amendment of the Honourable Senator Hervieux-Payette, P.C., seconded by the Honourable Senator Eggleton, P.C., that Bill C-462 be now read a third time, but that it be amended in clause 2, on page 2, by replacing line 14 with the following:

“a disability tax credit request, but does not include a person who is a member in good standing of a professional association established by or under an Act of the legislature of a province and entitled to provide health care in the province.”.

Hon. Art Eggleton: I rise to speak about this bill and first of all to note that, as I said at second reading, some 12.5 million Canadians are disabled. As a social group, disabled Canadians face many obstacles and are highly marginalized. I also pointed out at that time that their employment rates and their earning rates are quite a bit less than the rest of our society.

According to Statistics Canada, of those of working age population, 54 per cent are unemployed or are not in the workforce. Almost 50 per cent of those people who do earn some money earn less than \$15,000. What that means is that the majority of the people who are disabled won't qualify for the Disability Tax Credit, which is what this bill is essentially about. It's about people applying for the back pay under the credit, which they're allowed to claim up to 10 years, and it talks about people it calls “promoters” or people who are an industry of third-party consultants, you might say, in this matter. However, it doesn't come to the real point of what is needed here. The real point of what is needed is more substantial support for people who are disabled.

The easiest thing to do of all, and it has been called for by many organizations and by this Senate unanimously, is to make the Disability Tax Credit refundable so that people who have such low incomes that they don't pay enough tax or any tax and so can't get any benefit from the credit but are nevertheless poor can also get something to better support their needs in life.

Making the Disability Tax Credit refundable would have been a far better measure than this one. This is very limited in what it does. It's a private member's bill. It really is a band-aid solution. It is not what is needed for disabled people.

In fact, ultimately what is needed at least for the severely disabled — not all those 12.5 million but certainly for the severely disabled, who are about 0.5 million — is something akin to the Guaranteed Annual Income program we have for senior citizens. That kind of program would be very appropriate for people who are severely disabled. That was also passed unanimously by this Senate. Both of these recommendations came from the *In From the Margins* report from the Standing Senate Committee on Social Affairs, Science and Technology a few years ago and were passed by the Senate.

We came to dealing with this bill, and according to the sponsor of the bill, first it noted that some of these third-party consultants — the bill calls them “promoters” — were extracting as much as 40 per cent of what was being allowed to go to the applicant, the person with the disability. Forty per cent — wow. It was pointed out that there were millions upon millions of dollars involved there — money that would be better going to the people who really needed it the most.

That's what seems to have precipitated this bill.

However, interestingly, when we got to the Finance Committee and this matter was under consideration, the third-party consultants didn't seem to wear horns, and some of them seemed to be legitimate businesses in the accounting profession or legal profession, or some combination of both, who operate under some restrictions in terms of their professional ethics. They said, “Well, 30 per cent.” Even 30 per cent sounds very high, but if that's where we're going to end up after the consultation process that's going to be carried out by the Canada Revenue Agency, then I'm not sure that we've gained all that much with this bill. Nevertheless, it is now going to be a matter of consultation.

I must tell you that I was impressed with the presentation of the CRA representatives who were there, and with their responses to questions. I think they take this matter very seriously and want to do something to help people who are disabled.

We came up with a series of observations that go with the bill. Senator Buth drafted these and I think she did a good job of that, and they include review of the Disability Tax Credit form to consider simplification and online availability. What we're saying there is maybe if we simplify this form and don't make it so complicated for the disabled, they may not have to use these very expensive third-party consultants.

We also said you need to clarify the word “promoter,” which I think we all felt some discomfort about, to more accurately reflect the different groups that fill out the Disability Tax Credit form, for example, health care practitioners, accountants and consultants. Well, the health care practitioners particularly took offence. We got a letter from the Canadian Medical Association to say they were withdrawing and they could no longer support the passage of the bill. They felt it was quite offensive to consider that the small portion of the expense of the fees that were being taken by their practitioners for doing basic health care work in filling out whatever form they had to should be put in the same category as promoters.

I agree with that, as does Senator Hervieux-Payette, who has moved an amendment to that effect, and I intend to support that. Failing that, hopefully this particular observation will help lead to

some distinction of just who is called a promoter. It would have been far better if the proponent of this bill in the other place had not used that word and had made better distinctions at the very beginning.

The next one is to review the service level and the promotion of the credit by the Canada Revenue Agency to increase awareness and reduce the difficulty for applying for the credit. Did you ever try to get through to CRA by phone or use the counter service? There are busy lines all the time, and with cutbacks, gone is a lot of the counter service. Well, imagine the people who are disabled trying to get through.

I believe the people who came in from CRA are sensitive to this situation and want to be able to give people a better opportunity in the first instance, when they're applying, to get through to them and get the help they need. I think they'll have a serious look at that.

The next point refers to discussing with industry the potential of developing a code of practice to improve the level of service and set standards for certain items such as advertising.

Well, here is where the wheat gets separated from the chaff. Some may be legitimate third-party consultants, but, just as we found in the immigration field, there are those who are immigration consultants, some of them are not, and some of them are advertising things that are a little bit misleading according to some of the people from the industry who came before the Finance Committee.

Finally, ensure that the interpretation of clause 3(2) C of the bill is that the claimant is the person repaid for the tax credit, as opposed to its going to the consultant.

• (1540)

These are quite useful. I thank Senator Buth and the colleagues on the Finance Committee who passed that through. It's just too bad that the bill itself wasn't a better way to help the people who are disabled.

The Hon. the Speaker *pro tempore*: Resuming debate.

Hon. JoAnne L. Buth: I would like to speak to the motion on the amendment.

The Hon. the Speaker *pro tempore*: Of course.

Senator Buth: I want to make a few key points with regard to the motion to amend the bill. First, the bill passed through the other place with all party support in the bill's current form. Second, the bill was reported back to the Senate from the Standing Senate Committee on National Finance with no amendments from the committee members.

Last and, I think, most important — and Senator Eggleton has also mentioned this — the committee also attached a list of observations that were meant to guide the consultation with

Canada Revenue Agency so that they will take a look at these observations prior to conducting the consultation for setting the maximum fee that can be charged. One of the observations, as mentioned by Senator Eggleton, was specifically to clarify the word "promoter," because the committee did hear that the health care practitioners were not keen on being included in that definition. This is something that the Canada Revenue Agency can clearly do.

It's for these reasons that I urge all senators to vote against the amendment and to vote in favour of passing Bill C-462 in its current form.

The Hon. the Speaker *pro tempore*: Resuming debate.

Are honourable senators ready for the question?

Senator Martin: Question.

The Hon. the Speaker *pro tempore*: Is it your pleasure to adopt the motion in amendment?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

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

Some Hon. Senators: Yea.

The Hon. the Speaker *pro tempore*: Those who are against the motion in amendment please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker *pro tempore*: Definitely the "nays" have it.

Some Hon. Senators: On division.

The Hon. the Speaker *pro tempore*: On division. The motion to amend Bill C-462 is rejected.

Are honourable senators ready for the question on the main motion?

Some Hon. Senators: Question.

The Hon. the Speaker *pro tempore*: It was moved by the Honourable Senator Buth, seconded by the Honourable Senator Doyle, that this bill be read the third time.

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker *pro tempore*: Carried, on division.

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

CRIMINAL CODE

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Hervieux-Payette, P.C., seconded by the Honourable Senator Fraser, for the second reading of Bill S-206, An Act to amend the Criminal Code (protection of children against standard child-rearing violence).

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

Hon. Senators: Question.

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

Some Hon. Senators: Agreed.

Some Hon. Senators: On division.

The Hon. the Speaker *pro tempore*: Carried, on division.

(Motion agreed to and bill read second time, on division.)

REFERRED TO COMMITTEE

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

(On motion of Senator Hervieux-Payette, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.)

CONFLICT OF INTEREST ACT

BILL TO AMEND—SECOND READING

On the Order:

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

Hon. Linda Frum: Honourable senators, I rise today to address Bill S-207, An Act to amend the Conflict of Interest Act. Senator Day, the sponsor of this bill, has said that Bill S-207 would fix what he calls a “gaping hole” in the Conflict of Interest Act.

May I respectfully suggest that there is no such gaping hole and that there is no problem that needs fixing. In fact, it was this government that, as its first substantial order of business in 2006, plugged a great many holes by introducing Bill C-2, the Federal Accountability Act.

The Federal Accountability Act includes within it the Conflict of Interest Act, which Senator Day proposes to amend. It is worth noting that the Canadian Conflict of Interest Act is among the most robust passed by the Westminster-system parliaments. Among its features, section 67 required a parliamentary review of the act within five years of it coming into force, a review recently completed by a committee in the other place. The government’s response to that report is pending.

Let us look at the Conflict of Interest Act as it stands. Section 11(1) states:

No public office holder or member of his or her family shall accept any gift or other advantage, including from a trust, that might reasonably be seen to have been given to influence the public office holder in the exercise of an official power, duty or function.

This makes good sense. A public office holder should not accept any gift that might reasonably be seen as an attempt to influence him or her in exercising his or her official power, duty or function. The act, however, grants certain reasonable exceptions to the rule, and it is subsection 2(b) which has been bothering Senator Day.

Senator Day: Still does.

Senator Frum: So I understand.

Subsection 2(b) says:

Despite subsection (1), a public office holder or member of his or her family may accept a gift or other advantage . . . that is given by a relative or friend.

So public office-holders or their family members may receive gifts from relatives or friends.

Senator Day sees a problem with this. He would amend the act to narrow the circumstances in which public office-holders and their families may accept such gifts. Specifically, he would remove the exception for “friends.”

Moreover, with his proposed amendments, Senator Day would require that “reporting public office holders” disclose within 30 days any gifts from friends valued at over \$200 and that a public declaration be made identifying the gift, the donor and the circumstances. Let us consider the implications of this.

Honourable senators, among other things, we're talking about personal matters such as wedding gifts, baby shower gifts, birthday gifts, Hanukkah gifts, Christmas gifts — any gift or series of gifts from friends worth more than \$200 would have to be disclosed and declared.

Honourable senators, is there any evidence of a need to make these changes? Senator Day raises the question what is a friend and how do we define it? He concludes that since it isn't defined, it should therefore be stricken from the act and that even the wording "close personal friend," as found in previous codes of ethics, is undefined and therefore unacceptable.

That seems to me to be an unreasonable supposition. The word "friend" may be difficult to define, but I think we all know what a friend is and who our friends are. I believe we all understand the intent of the exception for friends.

Senator Day's proposed amendments are not only unnecessary, but they would place a heavy and unreasonable burden on public office-holders as defined in the act.

The proposed changes would also needlessly burden the Office of the Conflict of Interest and Ethics Commissioner.

• (1550)

Removing the word "friend" from the exceptions to the disclosure and declaration requirements of the act would significantly expand the disclosure and declaration requirements.

All gifts over \$200 in value, or a series of gifts totaling \$200 or more, received from friends by reporting public office holders or members of their families would have to be disclosed to the Commissioner and publicly declared. These public office holders would be obliged to say what the gifts were, their value, who gave them the gifts, and the context in which they were given.

Yes, public office holders must be accountable to the people of Canada and absolutely avoid any conflicts of interest, but they similarly should have an expectation for themselves and their families of a degree of privacy in certain aspects of their lives, and not to have to keep track of gifts that they receive from friends.

Rather than approve Senator Day's bill, may I suggest that we instead await the government's response to the five-year parliamentary review of the Conflict of Interest Act which I mentioned earlier.

It is important to note that the reviewing committee, after due consideration of the act, did not recommend removing the exception for friends from the act, which Senator Day proposes be done. Even witnesses such as Mary Dawson, the Conflict of Interest and Ethics Commissioner, did not recommend changes to the "friends" exception, and specifically said that the word "friend" need not be defined within the act. She told the committee that she had already interpreted what it meant. She said:

Friend includes individuals who have a close bond of friendship, a feeling of affection or a special kinship with the public office holder concerned and does not include

members of a broad social circle, business associates or colleagues unless such a relationship has developed.

Indeed, while the word "friend" came up in some committee questions and testimony, with a brief discussion of how to define the word, no definition was suggested nor was there any concern expressed about gifts from friends being granted an exception from the rules. Furthermore, the Office of the Conflict of Interest and Ethics Commissioner already provides clear guidance to public office holders on what gifts they should and should not accept.

It is also worth noting that the government has further articulated ethical guidelines for all public office holders, including ministers and ministers of state, through *Accountable Government: A Guide for Ministers and Ministers of State*, which includes guidelines for political activities.

Thanks to the Harper government's Bill C-2, there is already a high standard to which public office holders must adhere. For these reasons, honourable senators, I submit to you that Bill S-207 is a bill we need not adopt.

Hon. Joseph A. Day: Would the honourable senator accept a question?

Senator Frum: Certainly.

Senator Day: First, let me congratulate you on your speech and your resumé and précis of my concerns. You touched on them precisely and I have only a couple of questions.

First, you indicate in Bill C-2, the Federal Accountability Act, the first piece of legislation of the current government when it first came into power, that you've had a chance to review some of the debate that took place at that time, obviously, from your comments. Are you aware that two previous ethics commissioners, Harold Wilson and Bernard Shapiro, both of whom were witnesses at committee with respect to Bill C-2, were concerned about the term "friends"?

Senator Frum: No, senator, I was not aware of that but, as I said in my remarks, the current Ethics Officer did not share the concern that you've expressed in this bill.

Senator Day: I heard your comments with respect to Mary Dawson, the current Ethics Commissioner's definition of "friend." Are you suggesting that the government is content with that definition?

Senator Frum: Again, as mentioned, we are waiting for the government's response to the report and the review, so we will have to see about that. Speaking for myself, it makes good sense to me.

Senator Day: Thank you. My final question is, would you accept an amendment — and perhaps we could describe this as a "friendly" amendment because I could probably live with that amendment as well, as long as we had some definition of what a "friend" was. Would you accept that amendment to this particular bill and then support the bill with that amendment?

Senator Frum: My understanding is this bill is coming to the Rules Committee. I'm a new member there. I'm sure we will all discuss possible amendments with our colleagues and we will take it from there.

Senator Day: Thank you. I look forward to your cooperation when it goes to committee.

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

Some Hon. Senators: Question.

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

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

Some Hon. Senators: Agreed.

Senator Carignan: On division.

(Motion agreed to and bill read second time, on division.)

REFERRED TO COMMITTEE

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

(On motion of Senator Day, bill referred to the Standing Committee on Rules, Procedures and the Rights of Parliament.)

INDIAN ACT

BILL TO AMEND—SECOND READING— DEBATE CONTINUED

On the Order:

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

Hon. Joan Fraser (Deputy Leader of the Opposition): Honourable senators, the particular subject matter of this bill is of considerable interest to a great many of us, including, I think, almost everyone on this side and probably the same on the other side. As you know, Senator Dyck is the critic on this bill. In light of recent events in connection with the laws affecting Aboriginal peoples, I think we are all doubly conscious of the need to redouble our efforts in terms of research and reflection on bills of this importance.

Senator Dyck is, as you know, unfortunately absent right at this moment, but I would seek leave of the chamber for the debate to be adjourned in her name for the remainder of her time.

The Hon. the Speaker *pro tempore*: Is leave granted?

Hon. Senators: Agreed.

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

Hon. Senators: Agreed.

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

• (1600)

INEFFECTIVENESS OF NON-REFUNDABLE TAX CREDITS FOR LOW-INCOME FAMILIES

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Callbeck, calling the attention of the Senate to the ineffectiveness of non-refundable tax credits for low-income families.

Hon. Catherine S. Callbeck: Honourable senators, over the course of the last eight years, the Conservative government has repeatedly introduced — to great fanfare — personal tax credits that are not useful to the countless Canadians who need them the most.

In order to take advantage of these credits, a person's income must be high enough that he or she owes taxes to the federal government. The non-refundable tax credit can only be used against taxes owing.

In fact, every tax credit introduced since 2006 has been non-refundable. We have had the child tax credit, the Children's Fitness Tax Credit, the Home Renovation Tax Credit, the Canada employment credit, and more.

In recent years, the government continued the practice with the Volunteer Firefighters Tax Credit, the Family Caregiver Tax Credit, and the Children's Arts Tax Credit, and the recent budget introduced a search and rescue volunteers tax credit, as well as the adoption tax credit. But low-income Canadians who do not pay income tax cannot benefit from any of them.

As I have said many times, I do not have any concerns about these tax credits. In fact, I agree that it's great to lower the tax burden on many Canadians. My complaint is that low-income people cannot benefit from them.

The fact of the matter is that non-refundable tax credits do not help the people who could use them the most. All in all, about 34 per cent of Canadians earn so little that they do not pay federal taxes. The families that need a real break — those with the lowest incomes — are the ones who cannot qualify for these tax credits.

In my home province of Prince Edward Island, about 110,000 Islanders file income tax returns every year. Of those people, more than 30,000 — roughly 30 per cent — do not pay any federal income tax. That means that almost a third of Islanders cannot take advantage of non-refundable tax credits.

Let us look at two of these credits.

The Volunteer Firefighters Tax Credit is available to any volunteer firefighter who serves at least 200 hours per year. It can be worth up to \$450. I think this is a commendable initiative, but the fact remains that this tax credit is non-refundable. So a volunteer firefighter who earns just \$20,000 a year, with one dependent, would not be able to take advantage of this tax credit.

I asked officials from the Department of Finance about this particular credit when they appeared before the Senate Finance Committee back in November 2011. They testified that there are about 85,000 Canadian volunteer firefighters, and they estimate about 30,000 will be eligible for the full amount.

That means that 55,000 volunteer firefighters across the country who regularly put their lives on the line cannot take full advantage of this credit. In my own province, roughly 20 per cent of our Island firefighters will not be eligible for the credit at all because their income is too low. I think these firefighters all deserve this credit. They provide a tremendous service, putting their lives at risk in all kinds of weather.

Another such credit is the Family Caregiver Tax Credit, which is available to caregivers of all types of infirm dependent relatives, including spouses, common-law partners and minor children, with a mental or physical impairment. It can be worth up to \$309. But again, it is non-refundable. A mother earning \$20,000 with one dependent would not qualify for any help as a caregiver.

I think that a person who cares for an ailing family member should not be penalized because they do not make enough money. But I'm not the only one. When this tax credit was announced, the Canadian Association of Retired Persons, the Victorian Order of Nurses, the Multiple Sclerosis Society of Canada and others also called for this tax credit to be made refundable.

There are, in fact, a number of people who question the value of non-refundable tax credits. Dr. Robin Boadway, a professor in the economics department at Queen's University, testified before the House of Commons Finance Committee during its study of income inequality in April last year. He advocated for making all non-refundable tax credits into refundable ones. He said:

There is no region in logic why non-refundable tax credits should be non-refundable.

I asked Ted Menzies, former Minister of State for Finance, about the Children's Arts Tax Credit during a Finance hearing on Bill C-13, one of the budget implementation bills, in November 2011. He acknowledged the following:

To be very honest with you, the children's arts text credit will benefit many higher income individuals, probably more so than really low income, or non-tax paying, families.

Even the government is aware that its non-refundable tax credits are not useful to everyone. These tax credits will certainly benefit high- and middle-income people, but it's the low-income people who need them the most. Why should a millionaire get a benefit when a person barely scraping by cannot benefit from that credit?

A Caledon Institute report after the 2011 Budget went further in questioning the usefulness of non-refundable tax credits to low-income Canadians. The report was called *When is \$500 not \$500?* It noted that the very people who would most benefit from tax credits are unable to use them because they cannot afford the activity required to claim the credit in the first place.

In one section, the report looked specifically at the Children's Arts Tax Credit, which was announced in that budget. It said:

The intent of this measure is good. It recognizes the value of arts and culture in contributing to the well-being of children, their self-esteem and positive development, and the expression of their identity.

Yet it is low-income children — excluded from the Children's Arts Tax Credit — who would benefit most from arts programs because they typically do not have access to various personal enrichment activities. These families simply cannot afford what might be considered a "frill" when they struggle daily with the choice of paying the rent or feeding the kids.

The report also noted that tax credits like these also likely have little impact on people's choices — those who are using them would be doing that activity anyway.

Most people eligible for the maximum tax savings from non-refundable tax credits likely do not need them: They would undertake the activity that the government wants to encourage whether they received a modest tax cut or not.

Benefits go to people whose behaviour is exactly the same as it was before the tax credit became available. The Caledon Institute is not the only one to find that these tax credits are not particularly effective in promoting the desired activity among those who would not otherwise engage in it.

• (1610)

Dr. John Spence of the University of Alberta, an expert in physical inactivity and obesity, has co-authored papers on the subject of the children's fitness tax credit, which provides a value of up to \$75 to a parent who enrolls a child in an eligible program of physical activity, like hockey or soccer. Dr. Spence and his colleagues have found that a non-refundable tax credit is not likely to assist low-income families.

The report, called *Non-refundable Tax Credits Are an Inequitable Policy Instrument for Promoting Physical Activity Among Canadian Children*, found that non-refundable tax credits simply do not allow low-income families to participate. The report states:

... because the credit is non-refundable, low-income families may have no tax liability to reduce, or prepayment of taxes to refund, and thus will not receive any benefit from the tax credit.

The authors go even further in voicing their concerns with regard to the physical activity and the health of Canadians. The report points out that Canadian families in the lowest income quartile are two and a half times less likely to have enrolled their child in organized physical activity programs. Canadian children from low-income families are also more likely to be physically inactive than children from middle- to high-income families.

As a result, Dr. Spence and his colleagues are worried about the consequence of introducing non-refundable tax credits that favour high-income families. They say:

Unless Canadian governments address the refundable nature of these credits and consider other mechanisms for sponsoring low-income families, these tax credits are in danger of creating more of a health inequity among Canadian children.

I'm certain that is not the government's intent, and I hope it will take this kind of information into consideration.

In another paper, entitled *Research article Uptake and effectiveness of the Children's Fitness Tax Credit in Canada: the rich get richer*, Dr. Spence and his co-authors found that the tax credit is unlikely to increase physical activity in children and that it targets those who need assistance the least.

The report concluded that:

It appears a tax credit such as the CFTC will only benefit those people who can afford to pay the costs of registration for a PA program and carry that burden through to the end of the tax year.

My criticism of the children's fitness tax credit, the Volunteer Firefighters Tax Credit, and all other non-refundable tax credits that the Harper government has introduced, is that they cannot be used by those who need them the most. Their income is so low that they do not owe federal taxes and cannot use non-refundable tax credits.

The families who could most use a break — those with the lowest incomes — are the ones who cannot qualify for these tax credits. The solution is very simple: make these tax credits refundable. That way, the people who need the cash the most, low-income Canadians, will receive it.

I will continue to urge the federal government to simply change these credits to refundable credits. That way, even if a person does not owe any income tax they can still claim the credit. Every

family, regardless of income, should have the opportunity to benefit from these tax credits.

(On motion of Senator Fraser, debate adjourned.)

THE HONOURABLE CHARLIE WATT AND THE HONOURABLE ANNE C. COOLS

THIRTIETH ANNIVERSARY OF APPOINTMENT TO SENATE—INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Cowan, calling the attention of the Senate to the 30th anniversary of the appointment of Senators Charlie Watt and Anne Cools.

Hon. Catherine S. Callbeck: Honourable senators, this stands adjourned in Senator Watt's name, but I would like to speak today and have it adjourned in his name.

It gives me great pleasure to join with my colleagues in recognizing the thirtieth anniversary of the appointments of Senator Cools and Senator Watt. This is indeed an incredible milestone. They are currently the longest-serving members of this chamber. Both have had distinguished careers in the Senate. I would like to say a few words about each of them.

Over the past 30 years, Senator Charlie Watt has made an immeasurable contribution to the proceedings in this chamber. As Senator Cowan noted in his remarks, Senator Watt, as well as former Senator Willie Adams, helped to bring their native tongue as an official language to the Senate. I think that Canadians, myself included, have benefited from its addition to our proceedings.

There's no doubt Senator Watt's dedication and commitment to the people of Nunavik has never wavered during his tenure here. For three decades he has represented them as well as Aboriginal people across the country with unparalleled passion and integrity. He has been a vocal advocate, and for that I would say he has made an unquestionable difference in the lives of countless Canadians.

Senator Anne Cools is also well-known for her contributions in the Senate. She has a profound knowledge of the rules and procedure in this place, and I believe our proceedings have benefited from her input on those questions before us.

On issues of legislation, every speech she offered is well-researched and well-considered. Her participation in our debates only enhances the discussion.

We all know that over the years Senator Cools has been a tireless advocate on behalf of families in crisis and fathers' rights. She has provided a strong and compassionate voice for the children of divorce and separation. I'm sure that her determined efforts have had far-reaching benefits and positively impacted the lives of countless individuals.

Both these senators have made many significant contributions to their respective provinces and to the country, shown great integrity and dedication in their dealings here and regularly demonstrated a deep-seated commitment to the service of others.

I congratulate and extend my sincere best wishes to both of these senators.

(On motion of Senator Callbeck, for Senator Watt, debate adjourned.)

SENATE REFORM

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Mercer, calling the attention of the Senate to Senate Reform and how the Senate and its Senators can achieve reforms and improve the function of the Senate by examining the role of Senators in their Regions.

Hon. A. Raynell Andreychuk: Honourable senators, I rise today because I was compelled to respond to some of Senator Mercer's comments in the context of his inquiry, and this matter stands at the fifteenth day.

The inquiry calls attention to how the Senate can improve the way it functions by examining the role of senators in their regions. Without question, this is a topic worthy of debate, and Senator Mercer presented his case well.

Senators' provincial and territorial roles are critical. They are central to the way the Senate functions and complements the work of the other place, as well as the social compact upon which our confederation was constructed. Senator Nolin made some excellent points on this matter when he spoke to a similar inquiry on the Senate's role in representing the regions of the Canadian federation.

I would like to add a precautionary note to one of the key premises put forward for this debate. I would like to respond to Senator Mercer's inference that partisanship has eroded senators' abilities to uphold their regions' best interests. My own reading of Canada's political history and institutions yields a different perspective.

Canada's democracy is deeply rooted in the Westminster parliamentary system. This is a system in which partisanship and party discipline constitute a critical organizational mechanism. Parties help structure our parliamentary democracy into government and opposition. They also help Canadians identify, relate to and participate in politics.

As aggregators of public interest, political parties provide a mechanism through which public opinion is refined and developed into policy proposals and positions. Our parties are where we organize our defence of policy ideas, as well as our counter-arguments and rebuttals.

• (1620)

Discipline within governing parties brings stability to the political system by legitimizing individuals and institutions in government. Opposition parties, for their part, provide a legitimate outlet for dissent and the exercise of public accountability. So, although I do not consider myself overly partisan, I am surprised to see the rush to criticize partisanship.

Professor Lori Turnbull, the late Professor Emeritus Peter Aucoin and University of Victoria PhD candidate Mark Jarvis are particularly articulate on this issue. In their 2011 book, *Democratizing the Constitution, Reforming Responsible Government*, they wrote:

Party discipline has been a fact of parliamentary democracy in Canada from the outset of responsible government.

... By design, the accountability process of responsible parliamentary government is adversarial and thus partisan.

Yet, in ongoing discussions about Senate reform, the Senate is often said to have grown excessively partisan. It is argued that the Senate is independent from the so-called "confidence chamber." It is said, therefore, that senators should resist party discipline and use our privileges to speak freely.

Senator Lowell Murray had a useful response to this perspective. He used to say that political parties provided the best defence of the freedom of speech, because no single group could influence the perspective of an entire political party.

Senator Mercer proposes that partisanship has compromised our abilities to represent our provinces and regions. Using Senator Lowell Murray's logic, however, I suggest that partisanship does not constitute an imposition on our ability to speak freely. It is, rather, a vehicle that we use by choice. We use our political affiliations to advance our regions' interests within the context of a broader framework for upholding the national good.

Partisanship is part of the process that helps us move from diverse and often competing interests towards well-reasoned positions and, ultimately, policy decisions, and it helps us to do so without descending into the sort of fragmented stalemate that is so common in less disciplined or structured legislatures.

Allow me again to quote from Jarvis, Aucoin and Turnbull:

Partisanship is to robust democratic politics what competition is to an open economic marketplace.

Partisanship flows from the fundamental democratic right to have one's own political views, to organize politically with others of similar views, and, most important, to stand in opposition to others, whether these others are in power or not, and in the majority or not.

The authors later add:

Any efforts to improve democracy by eliminating partisanship are doomed to failure.

The entire parliamentary process is predicated on partisan politics, which sees institutionalized adversarialism as the best means of securing democracy.

I am not opposed to senators meeting in multi-partisan regional caucuses, as proposed by Senator Mercer. A great deal of valuable work is done in all-party parliamentary associations. These groups are formed on the basis that their members share an interest or belief in a certain cause or issue that transcends political ideology. But, as senators know, when we walk out of our all-party associations, we use the information in a manner that is generally translated into our own political positions.

It is in our party caucuses that we further refine the merits of our perspectives. Working with our fellow caucus members, we look for ways to bring those ideas forward as parts of a broader political vision.

My guess is that we would see the same process unfold around meetings of senators in regional groupings. All parliamentarians have certain perspectives, ideologies and opinions. They hold these points of view as individuals first and foremost, but they will tend to advocate the positions in coordination with like-minded parliamentarians.

Decades of experience show coordination within party structures to be an expedient way of working within our parliamentary system.

The same calculus applies to our regional interests: No matter how they organize themselves, different senators will arrive at differing opinions as to the policies that would be best to promote their regional interests. It is through parties that we have organized ourselves over decades, if not centuries, to settle such disputes.

Our parties provide the broad ideological frameworks for advancing our policies, be they rooted in regions, electoral districts or minority communities. Regional caucuses may provide useful space for discussion, but they will not supplement the usefulness of party caucuses in developing our ideas as part of a broader political framework, nor will they supplant our use of partisan advocacy to argue the merits of our perspectives. The institutionalized adversarialism of our Westminster parliamentary system ensures that we do this.

I would, therefore, suggest that the problems so many people have pointed out in the way the Senate operates are, in fact, not a result of partisanship at all. They are, rather, the consequences of some questionable parliamentary behaviours. Could it be the

demonization, disrespect and misrepresentation of our political competitors and the parliamentary functions they perform that is the problem?

If recent commentary from the press and various interest groups is anything to go by, Canadians believe such behaviours to be unbecoming of a civilized, discursive Parliament. It is this sort of behaviour, not partisanship, against which we should fight to restore our legitimacy in the eyes of the public.

Some senators have suggested that if we are less partisan, we will be more independent. To this I respond that it is not partisanship but how it is practised that should be scrutinized.

In welcoming Senator Mercer to this chamber in 2003, the Senate leadership on both sides of the chamber detailed his deeply rooted Liberal credentials, and I was very impressed with these. Both leaders spoke of these credentials as an asset, as proof of a history of public service. I remember being impressed with Senator Mercer's dedication and work for his party and, indeed, for the country.

More recently, when members opposite found themselves in a new situation in this chamber, many took out their Liberal Party cards and declared they were still part of their party and proud of it. What they were forced to do and how it changed their practices in this chamber, I must respect that, but if some of us on this side choose to function within our party structures, that should also be respected.

Although I choose to coordinate within my party, my independence is exercised in my every action in this place. I must constantly weigh my personal integrity and responsibilities against the positions of my party and my constituents. Throughout this process, I place particular emphasis on my responsibilities towards my region. Whatever choices I make in discharging my duties as a senator, as I have for more than twenty years, come with consequences that I alone must live with.

History suggests that partisanship is here to stay, but respect for individuals and institutions that make up this place is something that we must all constantly work at. So let us look at our duties to uphold the needs and interests of our regions as a constant challenge for each of us, and let us acknowledge that not only one change in this place will make that task easier. Let us instead commit to understanding the full complexity of the issues that must be addressed in our ongoing efforts to make the Senate a more accountable and effective institution.

Thank you.

Some Hon. Senators: Hear, hear!

Hon. Leo Housakos (Acting Speaker): If no other senator wishes to speak, the item —

Hon. Pierre Claude Nolin: Would the honourable senator accept a question?

• (1630)

Senator Andreychuk: Yes.

Senator Nolin: Senator Andreychuk, the Supreme Court discussed at length the responsibility of senators to give a second, independent look at what comes from the House of Commons.

How do you reconcile what you just said with what the Supreme Court ruled three weeks ago?

Senator Andreychuk: I would not quite take your interpretation on what the Supreme Court said. However, I may address that in another one of my speeches.

I believe that the Supreme Court is justifying that we are different from the House of Commons and that we should be ever mindful of that. Those of us who have perhaps mimicked or followed too closely the behaviour, tactics and approaches of the House of Commons should reconsider. That's the essence of what I'm saying. We know we're a different house, and it is our responsibility to act that way.

To say now I'm independent, when I came into this place, I was independent. It is not easy to part company with one's party. I suggest in some cases it's not easy to stay within the context of one's party. To say that if I claim suddenly that I'm independent I will be better off, I don't think so.

I feel that I've been independent throughout my time here. Independence to me means that I have a right and a responsibility. So I have a responsibility to the people of Saskatchewan, my region; I have a responsibility to other senators here; I have a responsibility to this institution; I have a responsibility to my leader and to my party. I must take into account what the House of Commons is doing in legislation. I do not take that we should ignore what they do; I think we should take it into account.

There has been a rush from the uninformed press to say "if we were just more independent." I think those who want to be more independent are really saying, "I'd like to be more independent, do what I would like and not suffer the consequences."

I've lived through 21 years in this place, as you have, Senator Nolin — we came here together — weighing and judging all of these competing responsibilities, and I've done it as independently as I have wanted to. I have never felt threatened. I have sometimes been cajoled. I have been told I'm on the wrong side of the issue, but that's what debate is all about. Whether the debate is in our caucus, in the public or here, I go home and I ask myself, "What should I do?" I have never felt that I couldn't take action that I firmly believed in. What more independence do I need?

Senator Nolin: I definitely agree with you. Basically, you're saying, "I'm partisan, but I'm not blinded by being partisan." Do you agree with that?

Senator Andreychuk: I'm going to take that as a compliment coming from you, Senator Nolin, because that's precisely it.

I also know that I have taken action that there have been consequences for. I may be removed from a committee or I may not participate in some activity here because the leaders and the whips have some control, but I've taken that as a small price for doing what I want to do.

Hon. Joseph A. Day: I see that the time is up.

The Hon. the Acting Speaker: Do you have a question, senator?

Senator Day: I have a short question, and I'm sure the answer will be equally as short.

The Hon. the Acting Speaker: Would you like to request five more minutes?

Senator Day: It won't take us five minutes.

The Hon. the Acting Speaker: Senator Day.

Senator Day: Thank you. I wanted to thank the honourable senator for her thoughtful presentation and remarks, and I look forward to reflecting on a number of the points that you made.

One point that jumped out at me, and I thought I would ask you to clarify, you indicated fairly early on in your speech that we are an adversarial body and thus partisan. Is it your thesis that we must be partisan if we're an adversarial group and there's no other way to have an adversarial organization that has adversarial parts to it other than by being partisan?

Senator Andreychuk: That's not an easy answer. Perhaps we could continue this debate because it's very important to me.

I think we start with beliefs, values and ideologies. What the Westminster model does is provide a mechanism through a party structure to have reasoned debate so that we can come to some consensus and decision.

Theoretically, we could organize ourselves with absolutely no parties here, but I would still suggest that we would find ourselves in ideological groupings, and that's still somewhat a partisan idea.

But we're under a Westminster model, and that — as Senator Joyal can tell you — does lead to some organized activity, and that's what political parties are. I think it is a disservice to political parties today to be saying that they're negative. Maybe we haven't been operating appropriately in them, but I think the Westminster model is a structure that has withstood the test of time. So if we completely destroy political parties, where would we go?

I've lived in Africa where the experiments were to have only one party, wherein everyone will be in the party and have discourse and debate. The problem was that there was one leader, elected by whatever mechanism. What you got was one voice in the end because it synthesized down to the person who ultimately had to take decisions in the government.

I think, to this point, parties have their place. Can we have other structures complementing them? Can we diminish them, change them and put more democracy into party politics? Of course we can, and that's where I want the emphasis to be, rather than this very quick answer of "get rid of parties, be independent."

You're sitting on that side because you believe in certain things, and I respect that. I'm sitting here because I believe in certain things. I don't believe everything everyone over here believes, nor do you over there. The parties help us organize.

Senator Day: Those comments will be helpful in interpreting your comments. I suppose the point that we can all agree on is the definition of partisanship, and Senator Nolin in his questioning brought that out as well. The public has a view of what partisanship is these days, which may not be the same definition you're using in your comments.

Senator Andreychuk: That's our challenge.

The Hon. the Acting Speaker: Senator Lang, do you have a question?

Hon. Daniel Lang: I think we have a couple more minutes here, and I would like to ask a brief question of Senator Andreychuk.

First, I agree with a lot of what you've said. As a preamble, I was in a legislature that was totally independent. I spent four years as a member in that particular political environment, and we then moved on to party politics.

I can tell you, in those four years, every night was the Night of the Long Knives. You didn't know who your friends were or who was going to support you. At the end of the day, very few people took responsibility for the big decisions that had to be made. In fact, everybody did what they could to avoid decisions because that way they weren't responsible.

So my question to Senator Andreychuk would be this: Let's look at the Senate hypothetically and say there is no partisanship here; we have 105 members who are totally independent. Does the senator think that we could get our work done in a timely manner and provide leadership for the people of Canada if we did not have organized political parties?

Senator Andreychuk: I think you've answered my question by the way you've stated it.

Yes, if we had 105 independent senators, I think we would be drawn toward creating some organization, and we would have to delegate a lot of our responsibilities to that party. We wouldn't have whips. We wouldn't have leaders, I guess, at the start. If you read some of the previous history, you go from chaos to organized chaos to some rules and responsibilities, and I think the parties are where there is movement and change, and you can influence your party.

[Senator Andreychuk]

What we've lost, I think, are the good debates we used to have and being very proud that we have different opinions. I've watched over the years where you either agree with me or somehow your opinion doesn't have weight. So I think it's a question of respect of the differences because our society is so diverse.

• (1640)

We should find some way to express opposing points of view and understand that we reflect the Canada of today. It isn't just about us; it's about representing all those diverse points of view, and it is sometimes very emotionally difficult. I agree with you that we need organization.

(On motion of Senator Fraser, debate adjourned.)

[Translation]

THE SENATE

MOTION TO STRIKE SPECIAL COMMITTEE ON SENATE MODERNIZATION—DEBATE ADJOURNED

Hon. Pierre-Claude Nolin, pursuant to notice of May 6, 2014, moved:

That a Special Committee on Senate Modernization be appointed to consider methods to make the Senate more effective, more transparent and more responsible, within the current constitutional framework, in order, in part, to increase public confidence in the Senate;

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

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

That the committee be authorized to hire outside experts;

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

That the committee be empowered to report from time to time and to submit its final report no later than December 31, 2015.

He said: Dear colleagues, on April 25, in a unanimous decision, the Supreme Court of Canada responded to the reference submitted by the government in April 2013 with regard to the Senate.

The government asked the court to give its opinion on the amendment procedure applicable to the provincial consultative elections for appointments to the Senate, various formulas to reduce the length of senators' terms, changes to the real property qualifications of senators and the abolition of the Senate.

[English]

The Supreme Court reiterated the opinion that it delivered in December of 1979, regarding a similar series of questions and ruled that the Parliament of Canada cannot unilaterally amend the Constitution Act, 1867.

Based on the various amendment procedures set out in the Constitution Act, 1982, to varying degrees and depending on the amendment concerned, the consent of one, several or even all the provinces would be necessary.

The court found that:

The Senate is one of Canada's foundational political institutions. It lies at the heart of the agreements that gave birth to the Canadian federation.

[Translation]

The court briefly introduced the institution and then first noted that the upper legislative chamber, which the framers of the Constitution named the Senate, was modeled on the British House of Lords but adapted to Canadian realities.

Second, it noted that, as in the United Kingdom, the Senate was intended to provide "sober second thought" on the legislation adopted by the popular representatives in the House of Commons.

Third, it noted that the Senate played the additional role of providing a distinct form of representation for the regions that had joined Confederation and ceded a significant portion of their legislative powers to the new federal Parliament.

Fourth, it noted that, while representation in the House of Commons was proportional to the population of the new Canadian provinces, each region was provided equal representation in the Senate irrespective of population.

Fifth, it noted that this was intended to assure the regions that their voices would continue to be heard in the legislative process even though they might become minorities within the overall population of Canada.

[English]

The court noted rightfully the following with regard to the Senate:

Over time, the Senate also came to represent various groups that were under-represented in the House of Commons. It served as a forum for ethnic, gender, religious, linguistic, and Aboriginal groups that did not

always have a meaningful opportunity to present their views through the popular democratic process: . . .

In its ruling, the court repeatedly recognized that senators require independence in order to give legislative proposals the sober second thought that is both necessary and expected.

Dear colleagues, some people are disappointed by the decision, while others are delighted.

I am among those who are pleased that our institution has been recognized and defended in this way. The government has said that it is a decision for the status quo. It is certainly a "constitutional status quo."

The government also recognizes that the public clearly wants our institution to be much more effective, and we must all work to fulfill this legitimate aspiration. We must pursue this goal quickly and without delay. It may be status quo in terms of the Constitution, but the Senate's institutional transformation must move forward.

[Translation]

That is exactly what my motion proposed. It is important for you to know that Senator Ringuette, who moved a similar motion, and I have been in constant contact to analyze the text of our respective motions. Senator Ringuette understands and accepts the wording of my motion, which has a broader and less focused mandate.

Since I gave notice of my motion, a number of senators have shared their comments with me and some have even suggested amendments.

Senator Joyal, who generously agreed to second my motion, and I would like to see some sober second thought given to this motion. We also think it is important that the decision to appoint the special committee be made as soon as possible.

In order to satisfy as many colleagues as possible and allow all those who wish to continue their analysis in caucus or elsewhere to do so, I move adjournment of the debate. I will use the rest of my time on Tuesday. At that time, it is highly likely that I will propose some amendments to clarify, change, or adjust the wording following discussions that will take place in each caucus.

[English]

Colleagues, thank you very much. I will ask for the adjournment of debate in my name for the remainder of my time so that everybody can have a proper discussion in their caucuses, or otherwise, to make sure that this motion is properly adopted as soon as possible and that we can move along and create that committee.

(On motion of Senator Nolin, debate adjourned.)

(The Senate adjourned until Tuesday, May 13, 2014, at 2 p.m.)

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