SENATE SÉNAT

CANADA

DEBATES OF THE SENATE

2nd SESSION • 41st PARLIAMENT • VOLUME 149 • NUMBER 63

OFFICIAL REPORT
(HANSARD)

Wednesday, May 28, 2014

The Honourable NOËL A. KINSELLA
Speaker

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

Debates Services: D'Arcy McPherson, National Press Building, Room 906, Tel. 613-995-5756
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

Wednesday, May 28, 2014

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

Prayers.

SENATORS' STATEMENTS

EDMONTON OIL KINGS

CONGRATULATIONS TO 2014
MEMORIAL CUP WINNERS

Hon. Douglas Black: Honourable senators, I rise today, while Canadians from Yellowknife to St. John's are cheering for the Montreal Canadiens, to share another tremendous hockey story.

Last weekend, the Edmonton Oil Kings won hockey's prestigious Memorial Cup. The Memorial Cup has been awarded annually since 1919 to the top junior hockey team in North America.

The exciting Oil Kings playoff run started with the Western Hockey League championship that saw the Portland Winterhawks take the Oil Kings to Game 7. The Oil Kings won and moved on to the Memorial Cup semifinal game, where they played the Val-d'Or Foreurs in the longest game in the Memorial Cup tournament history. The Oil Kings beat the Foreurs in the third overtime period with a goal from Edmonton native Curtis Lazar, after 102 minutes on the ice.

From there it was on to the final game, where the Oil Kings started the game down 2 to nothing in the first period against the Guelph Storm. The Oil Kings once again showed their perseverance and came from behind to win the game and the Memorial Cup.

With over 60 teams from Canada and the United States competing in the tournament, bringing the Memorial Cup home to Alberta is a proud moment. The players are an inspiration to young hockey players in Alberta and across Canada.

Again, congratulations to the team for winning the Memorial Cup and encouraging young Canadians through the power of sport. Alberta is proud of your accomplishment.

D-DAY

SEVENTIETH ANNIVERSARY

Hon. Joseph A. Day: Honourable senators, how appropriate it is that my statement today deals with the sacrifice and service of Canadians through the Canadian Armed Forces and today being the day that General Dallaire announced that he will be taking on other challenges. He has certainly served Canada well in many different capacities and will continue to do so, I'm sure.

Some Hon. Senators: Hear, hear.

Senator Day: Honourable senators, on May 9 Canadians focused their attention on Parliament Hill for the National Day of Honour. On this day we honoured the men and women in uniform as we marked the end of Canada's engagement in Afghanistan.

On June 6 we will again have the privilege of recognizing our Canadian Armed Forces as we mark the seventieth anniversary of D-Day. Canadians from across the nation will, in their own communities, celebrate this particular date and a number will have an opportunity to return to Normandy to take part in the commemoration ceremonies that will recognize the sacrifice of our brave soldiers who landed on the beaches of Normandy at Juno Beach 70 years ago, on June 6.

Included in this group will be a select group of students who will take part in a two-week study tour of military sites in Europe under the auspices of the Canadian Battlefields Foundation. The Canadian Battlefields Foundation is an educational foundation with the mandate to help to remember Canada's role in the wars — First and Second World Wars — and military operations.

As part of the 2014 program, the foundation awarded 12 bursaries to a carefully selected group of post-graduate students who specialize in Canadian history and, in particular, Canadian military history: They are: from the University of Western Ontario, Allison Weber, Marko Kljajic, Marlee Goyette and Ryan Flavelle; from Carleton University, Matthew Moore and Sarah Hogenbirk; and from Bishop's University, Emilie Bowles;

[*Translation*]

From the University of Ottawa, Julien Labrosse; from the Université du Québec à Montréal, Maryse Bédard.

[*English*]

From the University of Winnipeg, Tyson Ochitwa; from the University of New Brunswick, Amanda Shepherd; and from the Royal Military College of Canada, Jordan Fraser.

From May 30 until June 14, these students will have the opportunity to visit First and Second World War battlefield sites and graveyards, such as Ypres and Somme battlefields, as well as Dieppe and Vimy. They will be in attendance for Canada's official ceremony on Bény-sur-Mer Canadian War Cemetery, where more than 2,000 soldiers are buried.

The objective of this study tour is to ensure that future generations of Canadians will understand the high price that our men and women in uniform have paid for the freedoms we enjoy and sometimes take for granted. It is a once-in-a-lifetime opportunity for these promising young men and women students from Canada, our future historians. I would like to thank them for the time and effort they are putting into remembering the sacrifice that Canadians have made in the past for our freedoms today.

THE HONOURABLE ROMÉO ANTONIUS DALLAIRE

ANNOUNCEMENT OF RESIGNATION

Hon. Roméo Antonius Dallaire: Mr. Chair, I hope you will forgive me that I ask that my wife Elizabeth wave from the gallery. Surrounding her are members of my clan who have been working with me for a number of years, most of them pro bono due to the financial scenarios. George is not here for me to add to that, but I'm very proud of them and the sacrifice and dedication they have demonstrated to me.

I announced that because, although advanced by the media, which was not my plan, in the army they teach us that once you cross the start line, your plan is then moot. Today it is with some sadness and indeed much optimism, however, that I announce that I am resigning from my seat here in the Senate as of June 17. I will speak about that date upon that date and its significance then.

The decision didn't come easily, colleagues. When Prime Minister Paul Martin summoned me to the Senate, he encouraged me, as a senator, to continue advancing the causes that I have championed over the years.

• (1340)

I have attempted to do just that as I have participated in a number of committees, from Human Rights, where I had my first opportunities of intervening in committee, through the Aboriginal Peoples Committee, through the Anti-Terrorism Committee, to the Defence Committee and to chairing the Veterans Subcommittee. I do hope my endeavours on those committees were worthy of this institution and of the essential debate this institution must provide to our system of governance.

I also was happy to take over from Senator Landon Pearson the unofficial committee on the commercial exploitation of children and youth and the abuse of children in conflict that is still ongoing.

I hope that my endeavours as a senator, as well as my contributions to the debate in this chamber, have helped to move the yardsticks of progress and the advancement of our country over these years. Increasingly, I have found that these efforts, along with my regular Senate duties, are limiting my ability to further champion the causes I hold dear in other ways and in other fora in Canada and, particularly, around the world. Indeed, there are so many things to do, as well as increasing opportunities to do them, that I find myself short of that most precious of commodities: time.

I feel that my place of duty has now moved from this august chamber to a more diverse international environment. The areas of child soldiers that many of you are aware of and the eradication of the use of children as weapons of war is and will continue to be my dominant effort internationally. I have a team right now in Sierra Leone training contingents that are going into Somalia.

I am also going to take over more responsibility in my duties as senior fellow at the Montreal Institute for Genocide and Human Rights Studies, at Concordia University, as well as as a member of the UN Secretary-General's Advisory Committee on Genocide Prevention, both of which are expanding. In fact, I have been asked to participate in doing investigations in Central African Republic in the name of the Human Rights Council out of Geneva.

I have been invited by the University of Southern California to do research on PTSD and also on conflict resolution and, ultimately, prevention, which will be a year-long research endeavour a year from now.

I have been also involved in a contract to write two more books, one on PTSD and the other on conflict resolution.

There is also my ongoing work with my own foundation that is helping underprivileged young people in the Quebec City and Lévis areas to build self-esteem and leadership skills, and to give them an opportunity to thrive in our society.

Therefore, in order to take on the increasing demands of all of these causes, to which I am deeply devoted, let alone to find time for my wife, Elizabeth, and family — with her being the daughter of a soldier and third generation army, as I am second generation army, we have known the word "sacrifice" and, particularly, sacrificing our time from family to do these missions — I have decided to resign as a senator. It has been an honour and a privilege to serve Canadians in this capacity and to be part of a team of senators representing my home province of Quebec, in particular.

Although I will no longer be a senator, I want to ensure our country's veterans and their families that I will continue to champion their needs and their mental health, including issues particularly related to PTSD and other injuries that they incur while serving our country, overseas, abroad and also here. I will work to ensure that our government lives up to its commitments to give our veterans and their families, to whom we owe so much, the care and treatment they deserve as part of the covenant that the people of Canada have created between those in uniform and the people of our country.

I would like to thank my deeply devoted staff, both present and past, for all they have done to support me and, most of all, I would like to thank Elizabeth and my children, all three of whom serve in uniform.

I leave the Senate with hope for its future, with hope that the people of Canada will demand an end to the politics of division. I hope they will demand a new type of politics on this hill, politics that is less vindictive and even personal and sometimes just too partisan, a politics that is based on policy and principle and

conducted with transparency, civility, dignity and respect. The Canadian people deserve that. My bible, while serving here, has been Serge Joyal's book, and I think it should be the major reference for all future discussions of how we need, as an essential requirement of our system of governance, this independent chamber.

Hon. Senators: Hear, hear!

Hon. Daniel Lang: Honourable senators, I rise with a great deal of sadness at the announcement by our colleague, Senator Dallaire. I asked the Speaker specifically if I could say a few words, knowing this announcement was going to be made this afternoon.

I want to say, General, that I appreciate your guidance and the spirit of cooperation and comradeship that you have brought to the Standing Senate Committee on National Security and Defence, and I know that I speak for all members, both on that committee and on the Veterans Committee. You helped us turn that committee around from a partisan committee to one that also put the interests of our women and men in uniform first. You also demonstrated, time and time again, the kindness and the spirit of adversity at times when we disagreed and always played fair and by the rules.

I want to say to you, sir, that you, as a senator, have demonstrated what a senator can do. You have affected the general policy of Canada in your commitment to veterans and, specifically, in the area of mental health and the question of PTSD. You have managed, through your efforts and your hard work, to bring it to the attention of all Canadians and now there is a public conversation that is well overdue. I think you will able to take that with you as a legacy when you leave here on June 17.

Honourable senators, I want to say that, as chair of the committee, I can tell you all that, when we had witnesses come to our committee, there were so many of them that came not only to give testimony but also specifically to meet General Dallaire. I recall that, just recently, we had a witness, Michaela Dodge from Washington, D.C., who grew up in Czechoslovakia and said that she had studied the leadership of General Dallaire in Rwanda as a student in Europe and just wanted to meet him.

I also recall many of the veterans who came to our Veterans Committee to witness firsthand the leadership that you provided to that particular committee and the respect they held you in.

I want to say that you're going to be missed, and we're going to miss your gentlemanly ways which you brought to our committee and to the chamber. I want to say that I'm, in one way, happy for you because you will be closer to home and, as you have indicated, to Elizabeth, your three children and your family.

I just want to conclude, senator, by saying that, when the battle starts again for you, looking forward, when the drum beats again, when you go up that hill, I'm one Yukoner who will be there to help you.

Hon. Senators: Hear, hear.

• (1350)

VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Ms. Elizabeth McCuaig Newton of Prescott, Ontario, who is the guest of the Honourable Senator Callbeck.

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

Hon. Senators: Hear, hear.

[*Translation*]

ROUTINE PROCEEDINGS

ADJOURNMENT

NOTICE OF MOTION

Hon. Yonah Martin (Deputy Leader of the Government): Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

> That when the Senate next adjourns after the adoption of this motion, it do stand adjourned until Tuesday, June 3, 2014 at 2 p.m.

CANADA-EUROPE PARLIAMENTARY ASSOCIATION

FIRST PART, 2014 ORDINARY SESSION OF THE PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE, JANUARY 27-31, 2014— REPORT TABLED

Hon. Michel Rivard: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canada-Europe Parliamentary Association respecting its participation at the first part of the 2014 ordinary session of the Parliamentary Assembly of the Council of Europe, held in Strasbourg, France, from January 27 to 31, 2014.

QUESTION PERIOD

JUSTICE

PREVENTION OF VIOLENCE AGAINST CHILDREN

Hon. Céline Hervieux-Payette: Honourable senators, my question is for the Leader of the Government in the Senate. On October 6, 2010, Moussa Sidimé slapped his 13-year-old daughter twice and spanked her to teach her a lesson about not talking back to him when he scolded her for not doing her housework well enough. A few minutes later, his daughter Nouténé fell to the ground and died after an artery in her brain ruptured. According to the coroner's report, the young girl was in perfect health.

Honourable senators, Nouténé Sidimé is a victim of standard child-rearing violence. She is a victim of our tolerance towards parents who hit their children to discipline them. She is a victim of the fact that our society still condones this use of violence by parents, notably under section 43 of the Criminal Code. I am amazed that those who are usually quick to defend victims and amend the Criminal Code have so far remained silent on Nouténé's case.

Children are people in their own right and need government protection. When does the government intend to abolish parents' right to hit children as a way of disciplining them?

Hon. Claude Carignan (Leader of the Government): Senator Hervieux-Payette is referring to someone who was found guilty of a criminal offence. That is the case she is referring to. You will understand that I cannot comment on a case on which a ruling has just been made. We do not know whether the decision will be appealed in this case, particularly with regard to the sentence.

Our government is doing everything it can to bring in tougher sentences for serious crimes, protect our children, make our streets and communities safer, and ensure that our families can live and thrive in a safe environment. We condemn any form of violence against people, against children of course, and against all those in need.

Senator Hervieux-Payette: I am pleased to inform the Leader of the Government in the Senate that the sentence was handed down and that Moussa Sidimé was sentenced to 60 days in prison to be served discontinuously on Mondays and Tuesdays. Why those two days? After hearing the defence lawyer's arguments, the judge decided this would suit Mr. Sidimé.

What message does this send to the public? That hitting a child to the point of killing her is not as bad as killing an animal. What Mr. Sidimé did was illegal, since Nouténé was 13 and the Supreme Court limited the use of physical force to children between 2 and 12. Last winter in Magog, a local man killed his neighbours' cat and was sentenced to a full five months in prison.

I believe that we should conduct a public awareness campaign across the country and clearly tell parents that violence should not be used to discipline children and that there are better and much more civilized means of discipline. What we need is not to pay lip service to this issue, but to ensure that Parliament passes a bill as quickly as possible to rescind section 43 of the Criminal Code, this outdated section dating back to the 19th century. We have to send a clear message to the public to ensure that there are no more victims.

When will the government take action with respect to the issue of parents' authority to hit their children, even with good intentions? Human beings are sacred. I believe that the Leader of the Government in the Senate should inform the government that the legislation I introduced should be passed.

Senator Carignan: I would like to thank the honourable senator for her question. Obviously, I do not wish to talk about this bill because it is already being studied here in the Senate, and it will also be studied in committee.

I would like to underscore the importance of bringing in harsher sentences, because the senator referred to a sentence, and I have heard her criticize minimum sentences in the past. This is a good example of why it is important to send the following message: in the case of certain serious crimes that are committed, sometimes there must be limits on judicial discretion and a minimum sentence must be imposed to send the message that these crimes are reprehensible. I hope that such situations will encourage you to vote with us in order to impose harsher sentences.

Senator Hervieux-Payette: I would ask the Leader of the Government not to avoid the question. As a matter of principle, I am against minimum sentences, and I trust in our courts and our judges in Canada, unlike certain members of the party in power, especially the Prime Minister.

In our system, cases first go to trial court, then to appeal and then make their way to the Supreme Court. I respect the judges of the Supreme Court, the Court of Appeal and the Superior Court. They know that their rulings can be overturned.

I urge the Leader of the Government not to talk about minimum sentences in cases like this one. It would be ridiculous to say that every time a parent hits a child, it is a criminal offence because section 43 was repealed and therefore the parent has to go to prison for a year.

The government must make a commitment to stop legally allowing people to hit children. When will the government change that? When it introduces a bill to make that change, I will support it immediately.

Senator Carignan: First the senator criticizes a light sentence handed down by a judge, and then she says she does not criticize the work done by judges.

• (1400)

You're losing me a little, but one thing is for sure: people on this side of the chamber and in government will always be resolutely committed to putting criminals in jail and punishing them as they deserve.

Senator Hervieux-Payette: I don't mean to belabour the point, but we're talking about children here, not criminals. We're talking about respect for children's rights and making sure that kids get a civilized upbringing in a civilized society that no longer endorses hitting children.

That's my question. This isn't about whether I agree with the first judge — you know very well that I don't. However, we have a system that allows for rulings to be overturned.

In the case of violence against children, when will you take action? When will you launch a national public awareness campaign to make it crystal clear to everyone that all violence against children has disastrous consequences for their future? When will you tell people that these children need the kind of upbringing that our democratic systems should provide them?

When will you launch a public awareness campaign?

Senator Carignan: Your question earlier was: When will you move this bill forward? I replied that the bill was before the Senate. With respect to preventing violence, there is a range of programs and funds that are intended to prevent violence and crime, particularly for people who are not in positions of authority or who might be in places or situations under someone else's authority or who might find themselves in vulnerable situations.

I hope that you'll support us the next time we impose a minimum sentence for a serious offence and limit the discretion afforded to judges.

Senator Hervieux-Payette: I think you forgot that in my first sub-question I talked about the need for a public awareness campaign to not only reduce, but eliminate the use of physical violence to discipline children. It's very simple. Canada has a serious problem with the Aboriginal community. You're well aware of the violence in that community. I know an extended family in which there have been nine suicides. One consequence of violence against children is a lack of self-esteem. Eventually, the child no longer wants to live, and that leads to suicide. I'm talking about an Aboriginal community. There is also violence against women. We've talked about that a lot.

It's no longer legal for a husband to hit his wife. Thank God. That was in the Quebec Civil Code. I don't know what it was like in the rest of Canada, but I can tell you that I was in the faculty of law when the law changed and husbands were no longer allowed to physically discipline their wives. This all happened in the last century, about 50 years ago.

I'm talking about children here. We're simply talking about taking the next step to say that mothers can't hit their children either. Fathers can't hit their wives, but both parents can't hit their children.

My question is very basic. When will you ensure that there will be a public awareness campaign on the negative consequences of hitting a child, and when will section 43 of the Criminal Code be repealed?

Senator Carignan: You mentioned child abuse on reserves. I would like to reiterate our commitment to protecting women and children living on reserves, which has been a priority for our government since we came to power in 2006. I would like to mention some of the measures we have taken in this regard. We implemented a prevention-based approach to the delivery of family and child services. We increased funding for family violence prevention programs by 38 per cent, and we passed the Family Homes on Reserves and Matrimonial Interests or Rights Act, which allows women to obtain protection orders.

Although the federal government provides funding for child protection services on reserves, the provinces and territories are responsible for making sure that all children are safe, whether they live on or off reserve, and we are going to continue working with the other levels of government as they gradually move toward a preventive approach.

[*English*]

ORDERS OF THE DAY

CANADA NATIONAL PARKS ACT

BILL TO AMEND—SECOND READING

Hon. Dennis Patterson moved second reading of Bill S-5, An Act to amend the Canada National Parks Act (Nááts'ihch'oh National Park Reserve of Canada).

He said: Honourable senators, I encourage you to join me in endorsing Bill S-5, the Nááts'ihch'oh National Park Reserve Bill . The legislation proposes to protect a vast swath of pristine wilderness and preserve the link to a way of life that has endured for millennia.

[*Translation*]

As Canadians, we consider ourselves to be northerners. Although most of us don't regularly camp beneath the stars, we see ourselves as hardy outdoor enthusiasts.

[*English*]

Our special relationship with the natural world is rooted in history, of course. Canada's First Peoples lived off the land, and some still do today. Canada's early economy focused heavily on harvesting the bounty of land and sea.

More than 125 years ago, Sir John A. Macdonald moved to protect a spectacular natural feature from development: the Banff hot springs, now recognized as Cave and Basin National Historic Site. It was the initial protection of this special place that lead to the creation of Banff National Park, Canada's first national park. The legacy of that decision lives on today in Parks Canada, established as the world's first national park service in 1911.

At the time, the concept of protecting lands from development was considered a bit odd, particularly in a country with such seemingly boundless geography. Thankfully, though, the early visionaries of our park system took their inspiration from a larger truth, that connecting with the natural world can be a deeply meaningful and moving experience. It stirs the soul, sharpens the mind and energizes the body.

[*Translation*]

Today, Canadians take great pride in our remarkable network of national parks, national historic sites and national marine conservation areas. Our identity is tied in with images of the Rocky Mountains, the Bay of Fundy, Louisbourg, Gwaii Haanas and other areas. We know that celebrating our heritage in this way generates a wealth of economic, social and cultural benefits.

[*English*]

Parks and historic sites create jobs, tax revenues and business opportunities and support local and regional economies. They instill a sense of self-esteem and social responsibility, and they increase public awareness of history and important issues such as sustainable development and environmental protection. Research demonstrates that experiencing nature reduces stress and improves concentration and productivity.

All of these factors led the Government of Canada to table legislation to create a forty-fourth national park in a massive expanse of remote mountains, woods, rivers and lakes along the border between the Northwest Territories and Yukon.

[*Translation*]

In August 2012, Prime Minister Harper visited Norman Wells, Northwest Territories, to announce the creation of the Nááts'ihch'oh National Park Reserve.

• (1410)

[*English*]

The name of the proposed national park reserve, Nááts'ihch'oh, was chosen by the Sahtu Dene and Metis elders of the Tulita District in the Northwest Territories. The word means "pointed like a porcupine quill" and refers to the shape of Mount Wilson, a peak that looms over a series of moose ponds in the proposed reserve, which are the headwaters for the world-famous South Nahanni River. Aboriginal people consider the mountain sacred and have lived off the surrounding lands for millennia.

My honourable colleague, Senator Sibbeston knows these lands and these people very well and much better than I, so I am hopeful he will add his comments on this bill today.

The bill will ensure that the Nááts'ihch'oh National Park Reserve will protect nearly 4,950 square kilometres of the Sahtu Dene and Metis settlement area in the Northwest Territories. The management of the Nááts'ihch'oh National Park Reserve will benefit from the intimate knowledge that Aboriginal people possess about this region. Creating this park helps us build on Canada's Northern Strategy by promoting social and economic development and protecting our environmental heritage.

Two years ago, the Government of Canada and the Sahtu Dene and Metis signed an impact and benefit plan that spells out how Nááts'ihch'oh would be collaboratively operated and managed. The impact benefit plan aims to ensure that the national park reserve provides lasting economic, cultural and social benefits to Aboriginal and northern communities, that it drives growth and prosperity without jeopardizing fragile ecosystems and ongoing traditions.

Ongoing employment to operate Nááts'ihch'oh National Park Reserve will be a combination of seasonal and full-time staff. These employees will be hired among the Sahtu Dene and Metis of the Tulita District. This will allow for a positive economic contribution from the government to support sustainable employment for Aboriginal Canadians.

[*Translation*]

Visitors have the opportunity to take in the spectacular scenery of the upper reaches of the world-famous South Nahanni River and go hiking, climbing, canoeing and whitewater rafting in the new park and the recently expanded Nahanni National Park Reserve.

[*English*]

Canadians would share the land with mountain woodland caribou, grizzly bears, Dall's sheep, mountain goats, trumpeter swans and other animals. They would travel through the upper reaches of the massive South Nahanni watershed, which has been valued for hunting and spiritual importance by the Shutagot'ine and is of great importance to the Kaska Dena in the Yukon and the Dehcho First Nations to the south. With the establishment of Nááts'ihch'oh, more than 85 per cent of the entire watershed would be protected from development.

The Nááts'ihch'oh National Park Reserve has received overwhelming support from stakeholder groups, leadership and community members, and local and regional governments in the areas.

All First Nations and Metis with settled or asserted claims in the area, as well as stakeholder groups, were invited to consultations. Meetings with the leadership and community members from several communities in the Northwest Territories and Yukon were also conducted. The Government of the Northwest Territories is very supportive of this park. Premier Bob McLeod issued a statement after the tabling of this bill stating:

> Our government was pleased to join with Canada and the people of the Sahtu in creating the Nááts'ihch'oh National Park Reserve. Successful collaboration and effective

> partnerships between the territorial, federal and Aboriginal governments will continue to be a critical part of how our government will exercise its new powers and authorities to protect Northern lands and waters while managing responsible, sustainable development.

The Government of Canada recognizes that access to mining areas is important for the economy of the Northwest Territories and provides opportunities for northerners. The government is taking a harmonized approach to the management of mining roads that cross lands within and outside of the national park reserve.

The Northwest Territories Chamber of Mines is very supportive of the park. The former president, Pamela Strand, said:

> It's those non-renewable mineral resources that are the anchor of the NWT's economy, and will provide socio-economic opportunities for future generations. . . .
>
> Our northern economy relies on non-renewable resources. They are our economic strength and will continue to be important to the North's future. So it's tremendously important to future generations that we strike the right balance. We believe the Prime Minister's announcement has done that.

Prime Minister Stephen Harper launched the National Conservation Plan earlier this month. It will provide a shared and coherent vision to advance conservation efforts across the country. It will enable Canadians across the country to conserve and restore lands and waters, and enhance the connections between citizens and natural spaces.

The National Conservation Plan, which was a commitment made in the 2013 Speech from the Throne, will include significant additional support over five years for securing ecologically sensitive lands, supporting voluntary conservation and restoration actions and strengthening marine and coastal conservation. There will also be new initiatives designed to restore wetlands. The Government of Canada continues to increase the amount of land protected through instruments such as the Canada National Parks Act. In fact, the network of protected areas has grown by almost 50,000 square kilometres in the last eight years. The additions include the six-fold expansion of Nahanni National Park Reserve, one of the greatest conservation achievements of this generation, and the Saoyú-ʔehdacho National Historic Site — Senator Sibbeston will correct my pronunciation, I am sure — an important cultural landscape to the Sahtu Dene and Metis.

More recently, senators will recall that legislation to protect the iconic wild horses of Nova Scotia's famed Sable Island as a national park reserve was introduced, debated and passed by this chamber last spring. Now we have shifted our attention from that windswept island to the far North and the remote wilderness of Nááts'ihch'oh.

[*Translation*]

What is more, the creation of the Lake Superior and Gwaii Haanas National Marine Conservation Areas protects aspects of our marine and freshwater heritage.

[*English*]

Our government continues to work with partners and stakeholders to expand our system of national parks and national marine conservation areas. A few years ago the government doubled the number of declared wilderness areas in our national parks by adding four new wilderness areas in Waterton Lakes, Fundy and Vuntut national parks and Nahanni National Park Reserve. To ensure that our expanding network of national parks and historic sites can continue to meet the needs of Canadians, this government continues to invest significant amounts of money: $375 million over two years in 2009, and, earlier this year, another $391 million. The latest investment will fund improvements to highways, bridges and dams located in national parks and along historic canals.

[*Translation*]

Canada's approach to protecting our heritage is gaining international recognition. In 2011, for example, World Wildlife Fund International bestowed its prestigious Gift to the Earth award on Parks Canada for its outstanding conservation achievements.

[*English*]

The legislation now before us is rooted in the same commitment to conservation that inspired this award. Bill S-5 is also rooted in the belief that protecting our heritage is inherently valuable, that making our heritage accessible to Canadians and to visitors from around the world is tremendously beneficial.

• (1420)

Is there any doubt that experiencing nature makes us more complete as human beings? I think not.

Let us support the establishment of Nááts'ihch'oh National Park Reserve so that future generations may enjoy this beautiful land that Canada has to offer.

Honourable senators, please join me in supporting Bill S-5.

[*Translation*]

Hon. Fernand Robichaud: Would the honourable senator accept a question?

I applaud the creation of national parks because I live very close to Kouchibouguac National Park in Kent County, New Brunswick. The people there are concerned because environmental protection services and officers have been cut in

recent years. I would like some assurance that new parks are not being created at the expense of those that already exist, because they are just as important as the new ones being created.

[*English*]

Senator Patterson: Thank you for the question. First, as I mentioned, new money was committed in the budget years 2009-10 and 2010-11. In the most recent budget for the cost of the establishment of this park and the other marine conservation areas, I am told the new park will also create new jobs which are provided for in this budget according to the impact and benefit agreement that was signed with the local Aboriginal groups.

I feel confident in saying to the honourable senator that this initiative is budgeted with new money, and it will not detract from the existing Parks Canada administration system.

Hon. Nick G. Sibbeston: Honourable senators, I am pleased to speak to Bill S-5, which will create the Nááts'ihch'oh National Park Reserve. In Dene this means "pointed like a quill," meaning "porcupine quill."

One of the first things I worked on after coming to the Senate way back in 1999 was a report called *Northern Parks — A New Way*, which was released in September 2001. We went on an extensive trip to Iqaluit, Inuvik and Whitehorse and went to Kluane Park; we examined parks, the way they were operating and functioning in the North.

This study, done by a subcommittee of the Aboriginal Peoples Committee, concluded that Parks Canada had to change its ways. It had to do things differently than the way they were handling and managing parks in the South. Specifically, it had to recognize that in the North a balance had to be found between conservation and economic development, and that southern approaches designed for southern interests were not appropriate and practical in the North. It was also essential that parks be created and managed in full consultation with the Aboriginal people who are most affected in any particular area, taking into consideration their cultural, spiritual and economic needs.

In some cases, parks can be good opportunities for economic development, and we wanted to make sure that the parks recognized that. It is essential that parks be created and managed in full consultation with Aboriginal people, as I said, taking into account all of their cultural and economic situations.

Local Aboriginal people have to be involved and have to benefit. Equally important, they must be allowed to continue their traditional hunting practice and continue the lifestyle they led as they went into these park areas.

The report made a number of recommendations. In brief, it called for changes to Parks Canada to encourage and support co-management structures that had Aboriginal people as equal partners.

It also recommended that Parks Canada provide funds for local capacity building and that hiring practices and approaches be changed to ensure that Aboriginal people living near parks benefit from employment and other economic opportunities.

Finally, it called on the government to ensure that there are adequate funds when establishing parks in the North to allow for the construction of culturally appropriate community infrastructure, such as interpretive centres, to maximize local benefits from and involvement in parks.

How has Parks Canada approached the creation of this new park reserve 12 years later? Have they listened? Have they paid any attention to the report that we made?

In many ways, they haven't done too badly. In this situation of creating this park, they have done extensive consultation with the Dene and Metis of the Sahtu and the Dehcho area people next to it, and the Kaska Dene who are on the other side, close to and in the Yukon.

An impact benefit agreement was negotiated to create infrastructure in the gateway community of Tulita, offering preferential hiring for the six new positions that are deemed to be necessary in running and managing the park. Traditional hunting activities of the Sahtu and Kaska Dene will be preserved. That is so significant, because people go into that area and shoot and kill moose, caribou and sheep. That will be continued.

A co-management board will be created to oversee the operation of the park reserve. This is significant because historically parks have been set up in the North and pretty well run in a southern management style; to an extent pushing the Native people aside, and to a certain extent not letting them go, not encouraging them to go into the area. It seems as if the bears and animals were more important than people. This is the way that they operate in the South; so this has been the practice in the North to a certain extent, and we wanted that to change.

The reserve in this case also will exclude some of the highest-potential mineral areas, and so it will not preclude future development of mines if it was deemed necessary.

Again, this is significant because particularly on the far west, close to the Yukon, there are some good mineral areas, and there is a mine in that area and roads leading to it. That was recognized so that this development could continue.

From all appearances, Parks Canada appears to have followed the good advice of the Senate given to them more than a dozen years ago. However, appearances can be deceiving. We will wait to see. Parks Canada has promised a lot and has agreed to a lot. The question will be whether they will follow through.

I can say to my colleagues that the story of land claims and agreements in Canada is that these become very significant and important for Aboriginal people in our country. Aboriginal

people leave these agreements with a lot of hope for the future, but oftentimes the federal government doesn't live up to its commitments.

Some 10, 15 or 20 years after agreements have been made there is a whole initiative that Aboriginal groups, land claimants get together once a year to meet and talk about the federal government because the agreements have not been lived up to in terms of the spirit and, to some extent, the letter of the law.

We have a problem in our country where the federal government makes agreements and does not live up to them. This is a case where we will have to watch and see. It looks good on paper, it looks good initially, but as to whether they will comply and bring about all the promised things will be interesting, and I will keep a watch on that.

• (1430)

I travelled to Haida Gwaii a number of years ago. A park was created there and a co-management agreement was in place with the Haida Gwaii people and Parks Canada. I found that while some of the community approved of the system and were happy with what was going on, others, particularly some of the leaders, were disappointed and said it didn't come about the way they had hoped. To a certain extent, Parks Canada has a credibility problem it has to face.

Despite some improvements since 2001, I remain a bit skeptical that creating huge national parks is the best way for Aboriginal people and northerners to protect their lands and waters and to benefit economically. What I am saying is that while parks are one approach to setting aside lands and preserving them for the future, there are other approaches that can be used, and I will cite some examples. Protected areas, land use planning, enhanced regulatory protections and negotiated economic zones all provide better options. The approach that the British Columbia government took in creating the Spirit Bear reserve in northern B.C., which brought together governments, Aboriginal people, industry and environmental groups to reach an agreement on environmental protection and sustainable development, is a good example of what can be done in our country.

I have done several studies on how these alternative approaches might benefit the North, which senators can read on my website. One of them is *Seeking Certainty: New Approaches to Land Management in the Northwest Territories*. Another is *Nahanni Forever?* When they were creating the Nahanni park a number of years ago, I dealt with that issue and wrote extensively on that, and particularly one newsletter, which examined options to park expansion.

Parks are primarily created for people from the South. You have to recognize that parks that are created in the North are not really for the people of the North. People presently go there and use the land, so it's a reality that they're using the land and the resources. These parks are really created for people from the South, so that in the summer, in the few months that it's nice and warm up in the North, they can come and visit the park. I've always said that parks are not for northern people; parks are for southern people. Aboriginal people are not affected by the creation of parks because they already have the right to travel and hunt there.

Nevertheless, I understand the desire of Aboriginal people to support parks. It provides a certainty that lands and waters so precious to them will be protected. Parks are like diamonds — they are forever. Once boundaries are set on maps and are surveyed, they can never be changed. I know of a situation in Northern Canada, in the Inuvialuit area. While they were negotiating such a park, minerals were found in one area and the local people wanted to exclude that area and change the boundaries, but the federal government would not let them. That incident made me realize that once lines are drawn on a map for parks, they can never be changed. They are like diamonds; they last forever and ever.

The Sahtu Dene and Metis, their position strengthened by having a settled land claim, have negotiated the best deal they can get with respect to the benefits. Time will tell if they will get everything they negotiated for. I certainly intend to keep an eye on Parks Canada to see if they deliver.

In preparing for this speech that I knew that I would make as critic, I contacted a number of people in the Sahtu area, the area that this park is near. I spoke with Rick Hardy who, along with elders and leaders, negotiated the provisions of the park. He stated that the local people took a practical and balanced approach. While they wanted a park to protect the land, they were cognizant of the potential of a mine in the area. The western part of this park is rich in minerals, and there is a lead zinc deposit, which is considered to be one of the biggest deposits in the world. A small mine called Selwyn presently exists, and companies have expended in excess $200 million developing the mine and the road infrastructure. I spoke with Ethel Blondin-Andrew, whom some of you may know as a former MP for the Northwest Territories, who was involved in the initial plans and negotiations for the park. She said the park area has a special cultural and spiritual significance to the people who live in the area.

I have also spoken to Leon Andrew, who also confirmed that the land is indeed special. He said people have always recognized that the land holds special powers and that powers could be derived from sleeping on this land. This is the land that is going to comprise this park.

The mountain Dene who travelled to this area would take small children there and, while there, tell them about the significance and special powers of the land, and they also instilled in them the teaching and wisdom of the elders. It was part of the Dene history, culture and beliefs that having taken young people there, having been to the special land, they would become good hunters, workers and providers and generally become good, kind and strong people.

Leon told about his grandfather going up the Keele River, which goes into the park, walking in the mountains to the headwaters and then going from there to a number of different areas further west into the Yukon, to Mayo and the Ross River areas. It was an area where they met other groups of Aboriginal Dene people, and sometimes they joined forces to do their hunting, to live there and to travel to areas further away. Leon said his grandfather once went into that area and eventually made his way to the Nahanni River, which is in the Nahanni National Park, and with the South Nahanni River were able to get into Liard and into the Mackenzie River. In the old days, people travelled extensively into areas such as this.

The routine practice for most of these trips into that area was to go into the headwaters, go into the mountainous area, the Moose Ponds, Mount Wilson, O'Grady Lake — these all have Dene names — live there all winter and then in the spring, as spring would come, as ice on the rivers would float away, they would come down these rivers with big moose hide boats. They would kill many moose, and they would take about six moose hides to make one boat where they would put their families and travel down the river, which would take them to the Mackenzie and to the town nearby.

As you can imagine and see, the area is indeed special to the people who have agreed that a national park would preserve these lands. They continue to go into the area for spiritual purposes and to hunt as the area is rich in moose, sheep and caribou. They value and have respect for the land and use the animals for food to sustain themselves and their families.

It is a wilderness park, and the people's right to continue to hunt and trap and live in that area will be preserved. Because of the way in which the park is taking the initiative and the care to properly consult with the Sahtu and K'asho Got'ine people, I am in agreement with this bill.

• (1440)

I think Parks Canada has done a credible and good job to this point. My hope is that once this park is established, they will indeed hire local people, set up a co-management group and set up infrastructure, and that any business opportunities that arise will be given to the local people. I think it's on this basis that the Sahtu people agree to this park. It's now up to Parks Canada and the federal government to come through and do their part in making all of the agreements and promises come to life.

Mahsi cho. Thank you very much.

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.

(Bill read second time.)

REFERRED TO COMMITTEE

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

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

CANADA ELECTIONS ACT

BILL TO AMEND—SECOND READING—
DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Frum, seconded by the Honourable Senator Maltais, for the second reading of Bill C-23, An Act to amend the Canada Elections Act and other Acts and to make consequential amendments to certain Acts.

Hon. Wilfred P. Moore: Honourable senators, I rise today to speak at second reading of Bill C-23, inappropriately entitled the "fair elections act."

Traditionally, in a mature democracy such as ours, any changes made to the Canada Elections Act would be the result of widespread consultation. It would stand to reason that the caretakers of the act, such as officials at Elections Canada, would be included in such a survey. Unfortunately, the Chief Electoral Officer was not consulted.

Furthermore, Bill C-23 was supposed to be a solution of sorts to the concerns of many Canadians that the last election was fraught with electoral fraud, chiefly in the form of automated dialing or robo-calls. It would stand to reason that the Commissioner of Canada Elections would have been consulted, but he was not, despite the concerns of thousands of Canadians. Those robo-calls directed voters to incorrect voting stations and were clearly aimed at suppressing votes. Canadians are incensed by that activity.

There have been some amendments made. The government has seen fit to amend Bill C-23 in several areas after intense pressure and, frankly, the national outrage expressed about the changes Bill C-23 sought to make to our precious democracy. But there remain many outstanding issues, issues that have been unanimously panned by the vast majority of stakeholders concerned with our Canada Elections Act. I would like to briefly address the outstanding concerns as addressed in the minority opinion issued by the Standing Senate Committee on Legal and Constitutional Affairs.

First, we expressed concerns regarding the constitutionality of Bill C-23. We stated that Bill C-23 lacks sufficient safeguards to ensure that citizens of Canada, who have the right to vote under section 3 of the Canadian Charter of Rights and Freedoms, are not disenfranchised. Therefore, the bill is clearly unconstitutional and cannot be saved by section 1 of the Charter.

Appearing before the committee in the other place, Pierre Lortie, the chair of a 1992 Commission on Electoral Reform, stated that "the elimination of vouching "undoubtedly contravenes the provisions of the Canadian Charter of Rights and Freedoms." Whether the amendment to provide attestations can provide that failsafe will require study.

Second, the Chief Electoral Officer's authority to authorize the Voter Information Card as a valid piece of identification as one of the alternatives to a government-issued piece of photo identification should be restored. We know that these cards will continue to be issued by Elections Canada and Canadians will expect that they can continue to use them as a valid piece of identification.

Third, the clauses of the bill which repeal the provisions that enable a voter without the prescribed pieces of identification to enable him or her to register to vote should be struck from the bill. These clauses pertain to the issue of voting, which is one of the more controversial aspects of the bill.

It must be noted that, although there have been no proven cases of voter fraud related to vouching, the government again appears to be relying on anecdotal evidence to justify the removal of the practice of vouching.

What is interesting is that after this federal government's first round of changes to the Canada Elections Act in 2007 regarding voter identification, the government found that legislation is the focus of a challenge in British Columbia, where an application has been made to the Supreme Court of Canada. What is even more interesting is that this same government, which is now moving to end vouching, used the very same practice as a justification for making these changes to voter identification requirements in 2007. The government then agreed that vouching was seen as a failsafe.

Let me quote from *The Globe and Mail* newspaper story of May 5, 2014, about this case and the application to the Supreme Court:

> The government argues the 2007 reforms "serve to make the rare events of fraud and error rarer, which protects the integrity of the vote and maintains public confidence in the electoral system."

That's not the case that has been put to the Canadian public by Pierre Poilievre, the Conservative Minister of State for Democratic Reform. Since introducing Bill C-23 at the beginning of February, Poilievre has repeatedly raised the alarm over voter fraud to justify the elimination of vouching for people without proper identification.

Under the 2007 law, a fully documented voter can vouch for the identity of a voter without full identification. "The risks of vouching are obvious," he told the Commons on March 24, as he championed a further tightening of the rules. Yet government lawyers have been arguing in B.C. courts since 2009 that vouching is a failsafe that protects the constitutionality of the 2007 voter identification rules, a position the government continues to maintain in its current submission to the Supreme Court of Canada. The federal brief lists three ways voting rights are protected under the 2007 law, the third being vouching, and says the system works. The government can't have it both ways.

Fourth, the bill should grant the Commissioner of Canada Elections power to apply to a court for an order to compel witnesses to provide evidence to assist in an investigation of a violation of the Canada Elections Act. The power to compel is a game-changer for officials investigating elections fraud. This power would probably be the difference between a successful investigation and a dead end. Without the power to compel, we know that investigations will eventually stall through lack of evidence. We know from experience now that, if a political party does not want to aid the Commissioner of Canada Elections or a federal court judge to get to the truth, then they simply do not have to.

Mr. Yves Côté, the Commissioner of Canada Elections, stated:

> . . . I want to be absolutely clear: if this amendment is not made, investigations will continue to take time, and . . . . Importantly some investigations will simply be aborted due to our inability to get at the facts.

If the "fair elections act" lived up to its name, would we not be empowering the caretakers of our system with the ability to get to the bottom of cases of election fraud and to do so in a timely way, not months or years after election day?

Fifth, the broad mandate that the Chief Electoral Officer currently has under section 18 of the Canada Elections Act to provide information to the public relating to Canada's electoral process, the democratic right to vote and how to be a candidate should be restored. The government has amended the bill but not to the point where it should. The Chief Electoral Officer, as the bill is now worded, may communicate at the primary and secondary school levels, but Mr. Mayrand, the current Chief Electoral Officer, pointed out:

> I am very preoccupied in this regard with the limitation that Bill C-23 imposes on the ability of my office to consult Canadians and disseminate information on electoral democracy, as well as to publish research. I am unaware of any democracy in which such limitations are imposed on the electoral agency . . . .

Sixth, the Chief Electoral Officer should not be required to go through Treasury Board to hire persons with technical and specialized knowledge who are engaged on a temporary basis.

Seventh, the Commissioner of Canada Elections should not be prevented from disclosing any information relating to an investigation, except under limited circumstances. The key elements of any democracy are transparency and engagement. Our electoral system must be transparent so as to maintain public confidence in it, and that includes an independent Commissioner of Canada Elections having the authority to compel witnesses to provide evidence and not have him or her being a front-line investigative officer required to go through another office which is under government control.

• (1450)

The other imperative is engagement, which means encouraging and ensuring that as many citizens who have the right to vote do in fact exercise their franchise. The work of the independent Chief Electoral Officer in encouraging voter participation is a critical

activity in that regard. This government appears to blame the current Chief Electoral Officer for the recent decline in voter turnout and uses that falsehood as justification for its limits on his issuance of information about our electoral process. In fact, the voter decline is not a Canadian phenomenon but is a trend in many democracies, except those where voting is compulsory. I always thought the mission was to encourage voter turnout and that everything done in that regard was a plus.

Senators, there are other concerns. Mr. Harry Neufeld recommended in his report that Elections Canada should be responsible for appointing all elections officers, giving them proper training and doing so in a timely fashion so that staff is prepared for election day. Bill C-23 does not follow this recommendation. In not so complying, the government has left us exposed to further voting irregularities, which Mr. Neufeld described as "administrative" and having nothing to do with electoral fraud.

Unfortunately, the government continues to maintain that Mr. Neufeld's report considered voting irregularities to constitute fraud. He said no such thing and he made no such association. He stated that training in advance of voting days would be the best manner of dealing with irregularities in voting stations. Instead, this government cut the funding of Elections Canada in its last budget, just the opposite of what's needed.

The dismantling of the Commissioner of Canada Elections office from Elections Canada remains in this bill. This does not make sense. We have heard from the Commissioner of Canada Elections who stated:

> However, in placing the commissioner within the Office of the Director of Public Prosecutions, Bill C-23 would bring under the same roof two functions that are normally kept separate. This is not a natural fit; quite the opposite. When it comes to approving or refusing charges and taking a case to court, it is absolutely essential that the DPP act with a healthy distance from the investigators and the investigation and, crucially, that he be seen as doing so.

It would seem to me that what we have here is a solution in search of a problem.

Senators, I would like to specifically outline my concerns with Bill C-23 and its handling of a type of electoral fraud that has actually been proven to have occurred: robo-calls. We know that in the 2011 election there was widespread use of the practice of automated calling to mislead and deceive Canadians. I bring your attention to the decision of Mr. Justice Mosley of May 23, 2013, in what is commonly referred to as the robo-calls case.

He stated:

> I am satisfied that it has been established that misleading calls about the locations of polling stations were made to electors in ridings across the country, including the subject ridings, and that the purpose of those calls was to suppress the votes of electors who had indicated their voting preference in response to earlier voter identification calls.

Furthermore, Justice Mosley states:

> I find that the threshold to establish that fraud occurred has been met by the applicants.

He went on to say that the most likely source of the information used to make the misleading calls was the CIMS database maintained and operated by the Conservative Party of Canada. Yet, the government's reaction to this fact, as it is addressed in Bill C-23, is completely underwhelming. Indeed, what we have before us in Bill C-23 is a very strange contrast. In the case of vouching, there has never been a proven case of electoral fraud, and the government's reaction is to eliminate vouching. When it comes to robo-calling where fraud has been proved, very little is done.

First and foremost, Bill C-23 does not give the Commissioner of Canada Elections the power to compel testimony. It is this power that would enable the commissioner in a timely manner to get to the bottom of cases where electoral fraud has been alleged to have occurred. The Commissioner of Canada Elections explained how important a tool that would be, and the current implications for investigations which are now conducted without that power.

He said:

> We have hit the wall on a number of investigations, some of which were quite serious in terms of the alleged facts. We hit the wall because people who — we knew — knew things about that refused to talk to us. They refused to talk to us for all kinds of reasons; loyalty might be one of them.

He meant loyalty to a political party. He went on to say:

> I'm saying that if we do not have that power, which you find in Ontario, Quebec, three other provinces and in Australia, we will continue to hit the wall, and investigations will continue to take a lot of time. Unfortunately and regrettably, some investigations will simply be aborted because we will not be able to get at the facts.

We have not heard one reasonable explanation as to why this power is not being granted to restore Canadians' faith in our electoral system. It is regrettable that the government continues to speak out of both sides of its mouth on this issue. You cannot defend the system if you do not provide those charged with that task with the means to do so.

The bill has a provision for the CRTC to maintain a database of scripts of robo-calls sent out during the election period. That database is not without its own shortcomings. In the original legislation, the CRTC was to maintain the database for one year and then destroy it. As our colleague Senator Baker surmised, we are putting into this bill a ready-made defence for those under investigation. The evidence on which the investigation might be resolved could be destroyed before the charges are laid. The government has lengthened the period for retention to three years. Five years would have been more appropriate in light of the difficulty to get those accused to speak to officials.

The database also includes the very serious flaw of not maintaining the phone numbers of those contacted through robo-calls. This makes no sense if the goal was to bring the perpetrators of electoral fraud to justice. Once again, a defence of those accused of electoral fraud through robo-calling is built into the system. All the accused would have to say is that the complainant was not called, knowing that there was nothing in the database to prove otherwise. Really, colleagues, this again confirms that this government is just tinkering around the edges and is not truly intent on making this bill and our electoral process as good as it can be. These loopholes regarding robo-calls should be closed if we are serious about preventing this type of fraud in future elections. You cannot impose stricter fines on the perpetrators of fraud if you cannot bring them to justice.

I remind honourable senators of the reaction to this bill by those we heard in pre-study and those who, without prompting, spoke out to call on the government to hopefully retract this bill and have the proper consultation with Canadians to get it right.

Four hundred and sixty-five academics wrote an open letter to the Prime Minister asking him to withdraw this bill. The letter stated:

> We implore all responsible public office-holders to heed reason, evidence, and experience. The government should withdraw this Bill and begin anew. We urge all conscientious Members of Parliament to work to this end and, if necessary, to vote against the Bill. And failing that, Senators should keep faith with their role in our constitutional order — the voice of sober second thought — and return it to the House of Commons for further amendment.

Sheila Fraser, our former Auditor General said this:

> I am also concerned that should this article be adopted, it could create operational difficulties for the Chief Electoral Officer.

She also said:

> I think it will be very troubling if we see a lot of people being turned away at the polls because they don't have the proper identification, and I think it will start to call into question the credibility of that election.

As for the international implications to legislation such as Bill C-23, Dr. Norris of the John F. Kennedy School of Government at Harvard warned us by saying:

> We need to make sure that Canadian democracy is not damaged. We need to make sure that Canadian elections are not damaged. We need to make sure this is not an example that countries that don't respect human rights, of which there are many around the world, can use to say that if Canada can in any way restrict voters' rights, for example, then so can, for example, Zimbabwe, Belarus, or Kenya, or many other countries that are not strong democracies but that are moving towards the leading example that Canada provides.

• (1500)

We have heard from the majority of witnesses that electoral fraud at the polls is not the greatest threat to the integrity of our electoral system. It is, in fact, the decreasing level of voter turnout that constitutes that threat. The apathy of Canadians to go to the polls to select our government and the leaders of our country is where we must spend our efforts to make our system stronger. If more Canadians are engaged in the system, then their participation makes our democracy stronger.

But we seem to be confronted with cynical politicians who seek to deter participation by as many Canadians as possible in the voting process in determining the future of our country. For example, we have had four by-elections called by this Prime Minister for June 30, 2014. This is the Monday before July 1, Canada Day. It will be, of course, a vacation day for many Canadians stretching out a beautiful, long summer weekend. Only the most naive would not see the calculation in this. What does this do to build the faith in our system?

Colleagues, it is my belief that we can make further adjustments to this bill and make it better for Canadians by further amending some of the problematic sections that I have mentioned. We need to make our electoral system work to promote legal voting, not disenfranchise those who would be eligible to vote. We should not be cracking down on the potential vote; we should be promoting it. The right to vote is guaranteed to Canadians in the Charter of Rights and Freedoms, and this should be our overriding principle in judging this bill.

(On motion of Senator Day, debate adjourned.)

CANADA-NEWFOUNDLAND ATLANTIC ACCORD IMPLEMENTATION ACT CANADA-NOVA SCOTIA OFFSHORE PETROLEUM RESOURCES ACCORD IMPLEMENTATION ACT

BILL TO AMEND—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Wells, seconded by the Honourable Senator Runciman, for the second reading of Bill C-5, An Act to amend the Canada-Newfoundland Atlantic Accord Implementation Act, the Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act and other Acts and to provide for certain other measures.

Hon. George Baker: Thank you, Your Honour and honourable senators. This will be the shortest second reading speech ever given in this chamber. I totally support everything that Senator Wells said in his opening remarks on this bill. He is absolutely correct in every sentence that he repeated in this chamber.

I have read the bill. I have looked at its history, and I think that we should pass it as quickly as possible. It should have been passed faster in the House of Commons than it was, and I would

suggest that we forward this bill immediately and suggest to the house leader that she move the motion immediately and that we have a quick passage to get it to committee and back here for third reading.

Some Hon. Senators: Hear, hear!

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

Hon. Senators: Question.

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

(Motion agreed to and bill read second time.)

REFERRED TO COMMITTEE

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

(On motion of Senator Black, bill referred to the Standing Senate Committee on Energy, the Environment and Natural Resources.)

QALIPU MI'KMAQ FIRST NATION BILL

SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Wallace, seconded by the Honourable Senator Eaton, for the second reading of Bill C-25, An Act respecting the Qalipu Mi'kmaq First Nation Band Order.

Hon. George Baker: I will also be very short on this one, but not exactly as short as I was on the previous one.

Honourable senators, again I start by congratulating Senator John Wallace for the excellent speech he gave in introducing this bill in this chamber. I am saying that for a particular reason, because this bill will probably remove thousands of people from the Indian register in the province of Newfoundland and Labrador. The benefits that they have received by being on the register we are all aware of, but let me say that one is post-secondary education financing. A second one is health benefits that are not presently insured. There are other benefits as well.

Senator Wallace went out of his way to do something that was not done in the Commons. We can get the facts and the background of the bill in his speech, and then he went on to say this:

> . . . some of these same individuals may lose their status as a result of the reassessment of their applications. If they have been found to not have a legitimate claim to membership, those individuals would have their membership revoked.

The next sentence says this:

> Although they would not have to refund any benefits previously received . . . .

That was something that was not said clearly in the House of Commons.

Let me also say that, yes, it was projected that 7,000 to 10,000 people would register and in the first round of registrations there are now 23,000 or 24,000 up to this point. Certain of the media have passed comment on this. For example, *The Globe and Mail*, in an editorial, said this:

> Some people who were accepted based on self-identification are going to lose their status. . . .
>
> The band is a landless one; membership was supposed to be available to people living in Mi'kmaq communities that existed prior to 1949, when Newfoundland joined Confederation, or to their descendants. But membership was also offered to anyone who self-identified as Mi'kmaq and was accepted by the band.

That is not correct, absolutely not correct. I will read into the record the eligibility criteria for these people, these 23,000 or 24,000 people, who were admitted to the registry. Subsection 4.1 of the Agreement for the Recognition of the Qalipu Mi'Kmaq Band, Eligibility Criteria, states:

> (a) is of Canadian Indian ancestry, whether by birth or adoption. . .

You had to prove it, and:

> (b) (i) on or before March 31, 1949 —

— when Newfoundland joined Canada —

> — was a Member of a Newfoundland Pre-Confederation Mi'Kmaq Community; or
>
> (ii) is a descendant, whether by birth or adoption, of a person referred to in subparagraph 4.1(*b*)(*i*); and —

— which is what I just read —

> (c) is not registered on the Indian Register on the date of the Recognition Order; and . . .

Then it says:

> (d) on the date of the Recognition Order.
>
> (i) self-identifies as a Member of the Mi'Kmaq Group of Indians of Newfoundland; and
>
> (ii) is accepted by the Mi'Kmaq Group of Indians . . .

• (1510)

The point is this: They had to prove that they were of Canadian Indian ancestry and that they had that ancestry on or before March 31, 1949; or were descendants, whether by birth or adoption, of someone who was. These 23,000 people did not have to just self-identify. This was carried not just in *The Globe and Mail* but in several newspapers. Several editorials carried that misinformation.

Let me move briefly to the bill. Honourable senators, a couple of things reach out and hit you right in the face when you read the bill. There is a long preamble, with "Whereas" six times. When you turn the page, you see "Now therefore . . . " and clauses 1, 2, 3, and 4. We all know about the preamble of a bill. Let me quote the reference, Resolution to amend the Constitution; the Supreme Court of Canada, Part XIII:

> What, then, is to be drawn from the preamble as a matter of law? A preamble, needless to say, has no enacting force but, certainly, it can be called in aid to illuminate provisions of the statute in which it appears.

Let us move to the portion of the bill that will have the force of law behind it: those four clauses, two of which stand out. The first one allows the Governor-in-Council, the cabinet, to remove those thousands of names from the registry. The second one says that the government, a band or anyone else cannot be sued for any damages arising out of such a removal. Clause 3 states:

> The Governor in Council may, by order, amend the Qalipu Mi'kmaq First Nation Band Order, in particular to add the name of a person to, or remove the name of a person from, the schedule to that Order, along with the person's date of birth.

Senator Wallace pointed out clearly that this is an area of new law. He said it's not clear that the authority rests with the Governor-in-Council to make amendments and to add and subtract names; and that is why this legislation is necessary. However, the Indian Act was substantially changed in 1985.

Honourable senators, I know the Indian Act fairly well because when Newfoundland joined Canada, the Government of Newfoundland didn't recognize the Indian Act. Former Premier Joey Smallwood said that there was no such thing as Indians in Newfoundland. He said that over and over. I recall sitting at the table as the assistant law clerk and chief clerk of the table back in the 1960s when those words were said. The Government of Newfoundland accepted the Indian Act some years after we joined Confederation.

However, in 1985 the law was changed to prohibit the Governor-in-Council from adding names to the Indian registry or taking names therefrom. It was changed. Allow me to read from the Ontario Superior Court of Justice, Justice Forrestall, 2008, Carswell Ontario, 1187, on a case involving the registry. Paragraph 50 states:

> The 1985 amendments removed from the Governor in Council the power to exempt Indians from sections 5 to 14.3, the registration sections.

Section 4.(2) of the Indian Act states:

> The Governor in Council may by proclamation declare that this Act or any portion thereof, except sections 5 to 14.3 . . .

Section 6 of the Indian Act involves the registry of Indians. The Governor-in-Council had that power taken away in 1985. Today, we have a bill that says the Governor-in-Council may add the name of a person to or remove the name of a person from the schedule to that order.

We have a contradiction between what the Indian Act says and what the bill says. Someone could say that is the law. This applies only to the particular band that we are talking about. However, there was a supplementary agreement as some 101,000 people had made applications. The Supplemental Agreement was signed by all parties and section 7 states:

> Upon the completion of the assessments and reassessments of all applications by the Enrolment Committee and the determination of all appeals by the Appeal Master, the Enrolment Committee will provide to the Parties a single Founding Members List for the purposes of the Agreement, and the Minister will recommend to the Governor-in-Council that this Founding Members List be substituted for the current schedule to the Recognition Order.

It is not necessary to remove names and add names. Rather, you are substituting a new list for the one that is there so you won't violate the Indian Act. Again, I am not blaming the minister for this as it is a drafting question for the Department of Justice; but it certainly cries out for an explanation.

Then there is the matter of taking away somebody's right to sue. Some of these 24,000 people have children attending university. They rearranged their lives because they were

declared Indians in the registry. They rearranged their lives because they were declared but now they stand a chance of having their names removed. Clause 4(1) states:

> No person or entity has a right to claim or receive any compensation, damages or indemnity from Her Majesty in right of Canada, . . .

Honourable senators, I read what happened in the House of Commons. The Department of Justice said that there were two previous precedents for this, one in 1985, with Bill C-31; and one in 2010, with another change to the Indian Act. I was here in 1985 when Bill C-31 passed. A phrase stood out in my mind: You cannot claim damages from the Government of Canada. I remember it so clearly because it said September 4, 1951, and my birthday is on September 4; but don't I wish I were born in 1951.

• (1520)

An Hon. Senator: Close.

Senator Baker: Not very close; you're off by a decade or so.

I remember that date. I remember it because those two precedents cited by Justice Canada involved people who had neglected to put their names on a registry prior to September 4, 1951. That's a far cry from here — the Governor-in-Council taking names off the registry list in the thousands. It was for people who forgot to register their names prior to September 4, 1951, when you read both the bills.

There was one other occasion when this exact wording was used in a bill, and it was of recent vintage. Senator Joyal will remember this. It was when a government took power, and it just fired everybody on the immigration and refugee appeal board, as well as other persons who were on appeal boards.

Senator D. Smith: Which government would that be?

Senator Baker: Senator Smith, you know which government that was.

There was some cooperation between members at that time to try to get over this problem. The bill passed in the House of Commons but not before the minister agreed to negotiate with each person on what their claim for damages would be if they had taken the matter to litigation.

When the bill came to the Senate, the Senate amended the bill and struck out that very provision. The Senate struck out these very words that are in this present bill.

Those are the two clauses. I hope the Department of Justice Canada will read what I have said here in response and be able to come up with some explanations to rebut such arguments.

That is all, except that at the end of the bill, I just noticed the final sentence a moment ago. A certain senator to my right of the leader on this side will appreciate this one. The end of the bill says:

> Nothing in subsection (1) abrogates, or derogates from, any agreement in force entered into among Her Majesty in right of Canada, the Qalipu Mi'kmaq First Nation and the Federation of Newfoundland Indians.

I repeat "among." You go to the French and you find out what the truth is, usually. You go there and you find that *entre* is used. It is the free trade agreement "between" the U.S., Mexico and Canada; it is not "among" the U.S., Mexico and Canada. There is a great difference between both words: One is a collective and the other is an individual matter, and it lends itself to a different interpretation of what is meant exactly in the clause.

Once again, the French is right and the English is wrong.

Thank you.

Some Hon. Senators: Hear, hear!

The Hon. the Speaker *pro tempore***:** Continuing debate? Are 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 second time.)

REFERRED TO COMMITTEE

The Hon. the Speaker *pro tempore***:** When shall this bill be read a third time?

(On motion of Senator Wallace, bill referred to the Standing Senate Committee on Aboriginal Peoples.)

STATUTE LAW AMENDMENT PROPOSALS

MOTION TO REFER TO COMMITTEE ADOPTED

On the Order:

> Resuming debate on the motion of the Honourable Senator Martin, seconded by the Honourable Senator Marshall:
>
> That the document entitled *Proposals to correct certain anomalies, inconsistencies and errors and to deal with other matters of a non-controversial and uncomplicated nature in the Statutes of Canada and to repeal certain provisions that have expired, lapsed or otherwise ceased to have effect*, tabled in the Senate on May 15, 2014, be referred to the Standing Senate Committee on Legal and Constitutional Affairs.

Hon. Yonah Martin (Deputy Leader of the Government): Honourable senators, I wish to ask for leave to give an additional explanation regarding this motion, although I have already spoken and depleted my time.

Senator Day: Absolutely. More time.

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

Hon. Senators: Agreed.

Senator Martin: Honourable senators, I rise today to answer some of the questions raised yesterday during debate on this motion. It is also a good opportunity for many of us. Some senators do recall the last time this process was used and will recall the document of proposals that were referred to the Standing Senate Committee on Legal and Constitutional Affairs. It is a new process for me, and for many of us it is the same.

I will just take a moment to give an explanation of the origin and the purpose behind this unique program that is within the Department of Justice's jurisdiction or management.

The motion that is on the Order Paper is referring the document entitled — it is fairly long — *Proposals to correct certain anomalies, inconsistencies and errors and to deal with other matters* — it goes on. It is a long title as you can see, but in essence, it is a document of proposals. The proposals are various items from existing statutes that have been identified by various federal agencies to indicate minor amendments that need to be made. It does look like a bill. In essence, it could be seen as a sort of draft bill that the committee will review.

All of the proposed amendments to be made in existing statutes are of a minor nature. I will give you some examples.

As Your Honour indicated yesterday, the last time we went through this exercise was in 2001. The program was established in 1975, and since then, similar documents containing the various proposals, which are these minor amendments, have been studied by committees in both Houses. Subsequent to the reports being tabled by the committees after they have reviewed all of the different proposed minor amendments, the bill does follow, and the recommendations contained in the reports by both committees are looked at carefully.

Since the start of this program in 1975, subsequent bills have eventually been tabled and adopted 10 times, specifically in 1977, 1978, 1981, 1984, 1987, 1993, 1994, 1999 and then the most recent one, 13 years ago, in 2001. To be precise, except in 1997, the document containing these proposals has been referred to the Standing Senate Committee on Legal and Constitutional Affairs.

The Miscellaneous Statute Law Amendment Program is overseen by the Legislation Section of the Department of Justice Canada. Anyone can suggest amendments to be included as a proposal in the document. I was quite surprised. Although this is possible, most amendments come from the federal government agencies. Justice Canada then analyzes these proposed amendments and excludes any that do not meet their test. They use certain criteria to include items that are part of the proposal.

The following exclusion criteria are used: first, any items of a controversial nature; second, any that involve the spending of public funds; third, any that prejudicially affect the rights of a person; fourth, any that create a new offence; or, fifth, any items that subject a new class of persons to an existing offence.

• (1530)

Justice Canada then combines all of the appropriate amendments into a document entitled Proposals for a Miscellaneous Statute Law Amendment Act. The documents are simultaneously or around the same time tabled in the House of Commons by the Minister of Justice and in the Senate by the Deputy Leader of the Government.

It is then referred to the Standing Committee on Justice and Human Rights of the House of Commons, and to the Standing Senate Committee on Legal and Constitutional Affairs. It doesn't necessarily happen concurrently, it can be around the same time. I'm told that it has yet to be tabled in the house, but it's the same document.

I'll speak about the Senate. The Legal Committee will study the proposals and what the house committee does will not affect what we do. The two do not interface; they are kept separate. Each committee presents its own reports and once the reports have been adopted in both houses, the bill —

The Hon. the Speaker *pro tempore***:** Senator Martin, obviously you need more time. Is five more minutes granted?

Hon. Senators: Agreed.

Senator Martin: I'm on a roll here. The bill will subsequently follow, titled Miscellaneous Statute Law Amendment Act. It will be prepared by the Department of Justice and introduced for first reading in the house. Then that bill will follow the regular legislative process — three readings in the house and then it will come to us. Because all of the amendments included in the document of proposals will have been examined and studied by Justice Canada initially, and by the two standing committees quite thoroughly in a non-partisan approach, the passage of the bill has in the past been prompt and very well-received.

Senators, I will simply say that in the motion you see the description that proposals contained in the document are to correct irregularities, inconsistencies, outdated terminology or other very minor errors found in current existing statutes. I wanted to give you two examples to illustrate. We know there can be French-English inconsistencies that may need to be further corrected. Language is key so it may be a word or phrase that is replaced with the existing words to improve the language to be more specific. For the case in point, three Canadian provinces —

Nova Scotia, British Columbia, where I'm from, and Prince Edward Island — call their superior courts the Supreme Courts. However, in defining the Supreme Courts of the provinces, most Canadian statutes have omitted Prince Edward Island. Therefore, in this case, the proposals would revise the Canada Business Corporations Act, Canada Not-for-profit Corporations Act, Canada Transportation Act and other acts to include Prince Edward Island in the definition of a provincial Supreme Court. That seems fitting.

As another example, again we go back to the East Coast. Some statutes, such as the Customs Act, currently refer to the province of Newfoundland and Labrador as simply Newfoundland. As you know, since 2001 the official name is Newfoundland and Labrador. To be specific, certain proposals amend certain acts to denote the province as the province of Newfoundland and Labrador. These are the kinds of minor amendments I'm talking about.

Honourable senators, I hope I have done a better job of fully explaining this process we are now a part of, that this document contains such proposals of minor amendments. We look forward to the Legal and Constitutional Affairs Committee having a chance to review these items. If there are any — this is a very important point — proposals in the document that the committee finds controversial and/or does not quite meet the criteria that is outlined, they can identify those items in the report and it will be withdrawn. It's very important for both committees, whatever is included in the report that is adopted, and so the subsequent bill that we will see will exclude any of the items that the committee found or deemed should be removed.

In 2001, I understand that the Legal and Constitutional Affairs Committee examined the document of proposals brought under the same motion as we have on our Order Paper. The committee objected to seven proposals within the document in their report, and all seven proposals were not included in the subsequent bill. I hope my explanation has been clear and I ask all honourable senators to adopt this motion.

Some Hon. Senators: Hear, hear.

Hon. Joan Fraser (Deputy Leader of the Opposition): I want to thank Senator Martin for that very helpful explanation. I think it's really important for us to understand what we're doing, but I particularly wanted to get to my feet because I was the one who started this ball rolling yesterday and it assumed a magnitude that I hadn't intended.

When I was on my feet yesterday, I may have left an incorrect inference in some minds. I said that I had no recollection of having seen this procedure followed before. That was true: I had no recollection of any such procedure having come to my notice before.

Like Senator Martin, I went away and did some research and discovered to my horror that in 2001 I was actually a member of the Legal and Constitutional Affairs Committee at the time the most recent version of this bill appeared before it. I still have no recollection of that, and I tend to remember unusual things that crop up. My excuse, although I haven't checked the calendar, is I may have been out of the country at the time because at that time I did often travel on parliamentary business.

In any case, I'm sure the process that the committee followed was admirable. The chair at the time was my very good friend and our esteemed former colleague, Senator Lorna Milne, and I seize this opportunity to remind everybody of what a great person she is and was. I apologize if I misled anybody. It may just be that, as sometimes happens, my memory failed me. I certainly didn't intend to mislead the Senate in any way.

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.)

• (1540)

[*Translation*]

BUSINESS OF THE SENATE

Hon. Fernand Robichaud: Honourable senators, isn't it about time we asked the Committee on Rules, Procedures and the Rights of Parliament to find another way to call the items on the Orders of the Day in order to avoid repeating "stands" I don't know how many times. I believe that it is time to review how we call the items on the Orders of the Day, especially if we want our debates to be televised. Could His Honour the Speaker *pro tempore* make that suggestion?

The Hon. the Speaker *pro tempore***:** Senator Robichaud, as a member of the Committee on Rules, Procedures and the Rights of Parliament, I can tell you that that we do intend to examine that. The committee chair and members are aware of this issue. We are trying to explore solutions. This involves a number of aspects of procedure in our chamber, and thus we have to look at it from all angles before proposing a solution. For instance, it raises the question of governance of the chamber. In reply to your question, yes, that is one of the options being examined.

[*English*]

On another point, and before I recognize Senator Martin, I remind colleagues that we are a house of the Canadian Parliament and we expect the respect of the Canadian population. I strongly

believe that if we are to earn the respect of the Canadian population, we should first respect ourselves. One condition of that is to respect the order and decorum in this room.

Let me read to you one of the sections of our rules. I could read more, but today I'll read this one:

> **2-7.** (1) After the Speaker has taken the chair . . .
>
> (b) no one shall pass between the chair and the Senator who is speaking . . . ; and

Colleagues, today I took the chair at two o'clock, and it's now quarter to four. In that time, on 10 different occasions, senators passed between the chair and the Senator who was speaking. This action was committed by senators from both sides. I am not mentioning any names, but I hope that colleagues would respect the rule — not me, not the senator who is speaking, but the rule. I think that is part of earning the respect of Canadians.

Hon. Senators: Hear, hear.

(The Senate adjourned until Thursday, May 29, 2014, at 1:30 p.m.)

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Wednesday, May 28, 2014

Published by the Senate

Available on the Internet: http://www.parl.gc.ca