



# DEBATES OF THE SENATE

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OFFICIAL REPORT  
(HANSARD)

Tuesday, February 17, 2015

The Honourable PIERRE CLAUDE NOLIN  
Speaker

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## THE SENATE

Tuesday, February 17, 2015

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

Prayers.

### BUSINESS OF THE SENATE

**The Hon. the Speaker:** Honourable senators, I have received a notice from the Leader of the Opposition who requests, pursuant to rule 4-3(1), that the time provided for the consideration of Senators' Statements be extended today for the purpose of paying tribute to the late Honourable Senator Archibald Johnstone.

I remind senators that pursuant to our rules, each senator will be allowed only three minutes and may speak only once.

## SENATORS' STATEMENTS

### VISITOR IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I wish to draw your attention to the presence in the gallery of Katherine Johnson, granddaughter of the honourable Archibald Johnstone.

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

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

### TRIBUTES

#### THE LATE HONOURABLE ARCHIBALD HYND JOHNSTONE

**Hon. Joan Fraser (Deputy Leader of the Opposition):** Colleagues, our lead speaker in tributes to Senator Johnstone was to be Senator Hubley. In Prince Edward Island these days, the planes are grounded. So Senator Hubley and indeed Senator Downe, who was also going to speak, have unfortunately been buried under snow drifts on Senator Johnstone's home island.

I do, however, have the text that Senator Hubley had planned to read. In just a moment, I will read it for her. Before I do that, I want to say that I had the privilege of meeting him in P.E.I. He was by then former Senator Johnstone. He was the most unforgettable man, no longer young by that time, but a dynamo, friendly, generous, interested, and may I say that he loved this place. He just loved this place.

Now I will read the tribute that Senator Hubley had hoped to give today. These are her words.

Honourable senators, I rise today to pay tribute to the Honourable Archibald "Archie" Johnstone, who passed away on November 8, 2014, at the age of 90, peacefully at his home in Kensington, Prince Edward Island. I would like to give a special welcome to Katherine Johnson, Archie's granddaughter, for joining us in the Senate Chamber today. Archie and I didn't sit in this chamber at the same time, but I was honoured to call him both a friend and a neighbour.

Throughout his great life, Archie served with the Royal Air Force, was a pioneer in the island tourism and business industry, and was a well-respected senator and an accomplished author. Archie's successful tourism career began when he partnered with his father to open Woodleigh Replicas, which featured replicas of landmarks such as St. Paul's Cathedral and Dunvegan Castle. He later opened the first major amusement park in P.E.I, the iconic Rainbow Valley, and the Kensington Towers and Water Gardens, all of which were meant for families to enjoy on Prince Edward Island. Senator Johnstone's other business successes included wholesaling, heavy construction, road and boat building and other business ventures throughout his lifetime. As well, he served both as the president of the PEI Federation of Agriculture and as the director of the Island Tourism Association.

Perhaps Archie's most proud accomplishment was when, in 1998, Prime Minister Jean Chrétien called him to the Senate of Canada. Although I wasn't here at that time —

This is Senator Hubley speaking.

— I know from many of my colleagues that he was well liked and respected on both sides of this chamber. While he didn't serve in the Senate for long, he surely left his mark. Most notable was his work as the Deputy Chair of the Subcommittee on Veterans Affairs. On this committee, he teamed up with a fellow islander, veteran Senator Orville Phillips. The two travelled across the country to hear the neglected voices of institutionalized Canadian veterans, to examine the quality of their facilities and care they were receiving.

Even though these two senators didn't sit on the same side of the chamber, they worked together to create a very successful report entitled *Raising the Bar: Creating a New Standard in Veterans Health Care*. Approximately 95 per cent of the 68 recommendations in the report were implemented and dramatically changed the lives of institutionalized veterans across our country.

After retiring from the Senate, Archie took up writing and spent much of the last decade of his life self-publishing eight books on everything from poetry to military history.

Archie will be greatly missed by many, but especially by his beloved wife of 65 years, Phelicia, their children Ronald, Erwin, Elizabeth and Dean and their spouses, his 10 grandchildren and five great-grandchildren, and his sisters Doris and Elizabeth.

• (1410)

Senator Hubley continues:

Katherine, your grandfather was a very accomplished man and I was honoured to call him a friend. He will be fondly remembered for his many contributions to business and the community, and his strong advocacy for veterans. You should be very proud of him.

**Hon. Yonah Martin (Deputy Leader of the Government):** Honourable senators, it's an honour for me to rise today to speak on behalf of my colleagues on this side. I had the pleasure of meeting Katherine before today's sitting.

I didn't know the late Senator Archibald Johnstone, but from what I have researched, his life was full of accomplishments. I am honoured to know that I am serving in this place after such distinguished individuals like the late Senator Archibald Johnstone.

Honourable senators, I am very honoured to speak about the late Senator Archibald Johnstone, who was hero of the Second World War and a true pioneer of Prince Edward Island's tourism industry.

On June 12, 1924, in Burlington, P.E.I., Senator Johnstone was born to Jane Montgomery and Lieutenant-Colonel Ernest Johnstone who had served with the Prince Edward Island Light Horse during the First World War. Following in his father's footsteps, Senator Johnstone enlisted in the Royal Canadian Air Force and served as a tail gunner in the Wellington and Halifax bomber squadron during World War II in England.

Senator Johnstone attended the Prince of Wales College in P.E.I., the Ontario Technical College and the Nova Scotia Agricultural College. He also earned a scholarship to study agriculture in England, but was said to have fallen in love with the British Isles and developed an interest in tourism. At home, he met the love of his life, Phelicia Clark, and convinced his father, who built tiny castles out of concrete and stone for fun on his farm, to start a father and son business. This was the beginning of Woodleigh Replicas, a park of miniature castles and landmarks of England and Scotland, which became a leading tourist attraction. He served as president of the P.E.I. Federation of Agriculture and director of the Island's tourism association.

An entrepreneur to the core, Senator Johnstone was also the creator of Rainbow Valley, the first amusement park in P.E.I., in 1969. In the early 1990s, Senator Johnstone and his son Ronald also started the Kensington Towers and Water Gardens, adding to the many beautiful attractions that people now enjoy in P.E.I.

[ Senator Fraser ]

Senator Johnstone was appointed to the Senate by former Prime Minister Jean Chrétien in 1998, where he then dedicated his life to serve Canadians in that capacity. During his tenure, he served as deputy chair of the Subcommittee on Veterans Affairs and served on nine other committees. Although his time as a senator was short, it was influential.

Senator Johnstone worked with Senator Orville Phillips and visited more than 70 per cent of the facilities set up for the care of veterans, which led to a report entitled *Raising the Bar: Creating a New Standard in Veterans Health Care*. Sixty-eight recommendations later, 95 per cent of them were adopted and eventually implemented to touch the lives of veterans across the country.

Following his retirement, Senator Johnstone published several books, including memoirs and a book on the Second World War. He was a true pioneer, always being described by many as a visionary. He loved his country and, most importantly, his friends and family.

[Translation]

The Conservative caucus in the Senate wants to thank Senator Johnstone for his work and his contribution to building a stronger country for everyone.

Thank you.

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

[English]

## THE CANADIAN FLAG

### FIFTIETH ANNIVERSARY

**Hon. James S. Cowan (Leader of the Opposition):** Honourable senators, it is with great pride that I rise today to mark the fiftieth anniversary of the adoption of our Canadian flag.

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

**Senator Cowan:** Today, anywhere one travels around the globe, when you see the red and white Maple Leaf, it means one thing: Canada. It unites us, a reminder even in polarized times of all that we share in common. Our flag is a symbol of all that we have accomplished as a nation and in the world.

It is always tempting to see history with the benefit of hindsight, to look back and view events as the logical and inevitable outgrowth of a certain stage of development. But, in fact, history is created by a series of choices, which can turn out to be wise or, equally possibly, foolish. Fifty years ago, the adoption of our flag was by no means a foregone conclusion.

In 1964, Prime Minister Lester B. Pearson led a minority government. Undaunted, it was extraordinarily ambitious. Ministers were working hard to develop what would become the Canada Pension Plan and medicare; the groundbreaking Royal Commission on Bilingualism and Biculturalism was established. Even some of Pearson's closest advisers thought there was enough going on. Tactically, they thought the idea of a new flag could turn out to be Pearson's greatest mistake and they advised against going down that road.

But Pearson understood that Canada, approaching our centennial, had reached a new stage and that all Canadians from all diverse backgrounds needed a flag that would unite and not divide — a flag for Canada's future.

In his words:

I believe most sincerely that it is time now for Canadians to unfurl a flag that is truly distinctive and truly national in character; as Canadian as the maple leaf which should be its dominant design; a flag easily identifiable as Canada's; a flag which cannot be mistaken for the emblem of any other country; a flag of the future which honours also the past; Canada's own and only Canada's.

Pearson was a man of courage. He said those words at the annual convention of the Royal Canadian Legion, to an audience he knew was, to say the least, not at all supportive of the idea of a new flag. They were veterans who had, after all, fought in two world wars defending the Red Ensign, the flag now being replaced. But Pearson himself was a decorated veteran.

John Matheson, an MP who was with Pearson at the Legion that night, later said:

I think he would have been ashamed of himself if he hadn't put that issue in that forum, the forum of honour as he saw it, the best and highest forum in Canada. He didn't expect to be supported. He knew perhaps we'd have a bad time of it. But that didn't matter. This man was more veteran that night than he was a politician.

That was the start of the movement to adopt the new Canadian flag, but it was by no means the end. The new flag was fiercely opposed by John Diefenbaker, then leader of the official opposition. Debate went on for months in the House of Commons. There were 270 speeches. I know it must have been frustrating and even painful, but I look back and celebrate that debate. Strong views were held and expressed, different proposals put forward and debated and, when the vote came at 2:15 a.m. on December 15, 1964, the decision was clear. The new flag was adopted by a huge majority — 163 to 78.

Colleagues, Canada has matured as a nation since 1965 and the world has changed in 50 years. Canadians aren't known for showy demonstrations of patriotism, but many of us still attach the Maple Leaf to our bags when we travel the world, a small but very clear statement of our pride in being Canadian. Canadians line up to receive a flag that has flown over the Peace Tower. In fact, there is a 42-year waiting list to receive one.

Through vision, determination and leadership, Prime Minister Pearson gave us a symbol that today goes beyond any government or leader, beyond politics or policies, beyond even history. Quite frankly, the Maple Leaf today is Canada, to the world and to ourselves.

Prime Minister Harper agrees. He said:

The Canadian flag is a symbol of the values of peace, democracy, freedom and justice that define and unite us as Canadians. It is a common rallying point for great moments in our country's history and a testament to our ingenuity and achievements, both at home and on the international stage.

I will close with the words that Prime Minister Pearson said on February 15, 1965, at the first raising of our then-new Canadian flag.

• (1420)

He said:

May the land over which this new flag flies remain united in freedom and justice; a land of decent God-fearing people; fair and generous in all its dealings; sensitive, tolerant, and compassionate towards all men; industrious, energetic, resolute; wise and just in giving security and opportunity equally to the people of all its cultures; and strong in its adherence to those moral principles which are the only sure guide to greatness.

And just as he concluded that day: God bless our flag! And God bless Canada!

## BLACK HISTORY MONTH

**Hon. Don Meredith:** Honourable senators, on this, the twentieth anniversary of the proud day in 1995 when the Parliament of Canada unanimously and historically proclaimed the month of February as Black History Month, championed by Jean Augustine, and seven years since the Senate of Canada followed suit unanimously in 2008 on the motion of our former colleague Senator Oliver, I'm proud to rise on the fourth anniversary as the fourth African-Canadian in this chamber to pay tribute to the memory of the men and women of African descent who helped shape the social, cultural and economic fabric of Canada.

I'm also proud to have been asked by Minister Jason Kenney to help kick off the national launch of Black History Month on Sunday, February 1 — he blamed me for the Seahawks losing — at the historic St. Lawrence Hall, a key venue for the abolitionist meetings during the era of the Underground Railroad.

Black History Month is an opportunity for all of us to recognize the past and present contributions that African-Canadians have made in such areas as education, medicine, art, culture, public service, economic development, politics, human rights and sports.

As Toronto plans to host the 2015 Pan-American Games this summer, the country will be celebrating the Year of Sport in Canada, which is also an opportunity to recognize the achievements of the country's Black athletes.

Those athletes include hockey great Willie O'Ree, the first Black player in the NHL, who also received the Order of Canada—I hear an “amen” over there; Ferguson Jenkins, a baseball Hall of Fame member; and John Armstrong Howard, a track and field star who became Canada's first Black Olympian, competing in the 1912 Summer Games.

It includes the contribution of great Canadians like Lawrence Hill, the Canadian author who penned the best-selling novel *The Book of Negroes* and whom many of you had the privilege to meet a few weeks ago as the cast and crew visited the Parliament and Senate.

The fact is that Black people, both as slaves and as free men and women, gave greatly to the betterment of Canada. They contributed as soldiers and labourers in early Nova Scotia; fishermen and domestics in New France.

It includes the story of champions, including our recently departed Honourable Lincoln Alexander, the first Black member of Parliament, and the list goes on.

I was proud last December 9 when my private member's bill received Royal Assent in this chamber, designating January 21 of each year as Lincoln Alexander Day across this great country. I want to thank all senators for your support of this important bill. This is something we can all celebrate for generations to come.

Black History Month is also a prime opportunity to help stir in our young people a sense of pride and shared ownership through a more complete story of Canada. It's a story of challenge and sacrifice, deliverance and success. Our youth are not just a percentage of our population. They are 100 per cent of our future.

Honourable senators, let's use this opportunity to engage in a fuller account of Canada's history. We must also remain vigilant year round in promoting our history of contributions, and we must provide leadership, support and guidance to help fulfill our young people. After all, Black History Month is simply Canada's history.

## THE CANADIAN FLAG

### FIFTIETH ANNIVERSARY

**Hon. Art Eggleton:** Honourable senators, I rise to salute the national flag of Canada as we celebrate its fiftieth anniversary.

On February 15, 1965, when the flag was inaugurated, there was amongst the crowd on Parliament Hill and just a few feet away from the official platform a young, 21-year-old Art Eggleton, there to witness the historic event as a guest of

James Walker, Member of Parliament for York Centre. Little did I know that 28 years later I would become the MP for York Centre, succeeding Bob Kaplan, who in turn succeeded James Walker.

I was on the Hill that day because I strongly supported the effort to have a distinctively Canadian symbol adopted as our national flag. There is nothing better than the maple leaf to represent our country: one iconic symbol that represents all people in Canada regardless of their origins.

While there are many symbols that represent our history, and they should all be honoured, the maple leaf is the one dominant, unifying symbol that best represents what we have become and best represents us to the world now and in future.

Many countries have vertical or horizontal bars for a national flag, but nothing is as distinctive and clearly Canadian as our maple leaf flag.

To me the Canadian flag well represents the values that our society holds dear. It serves, as our national anthem states, “the True North strong and free.” Long may she wave in our country and throughout the world.

## THE CANADIAN CONSTITUTION

### REPATRIATION AGREEMENT

**Hon. Norman E. Doyle:** Honourable senators, Newfoundland senators have received a copy of a letter sent to our Speaker from former Premier Brian Peckford, in which he draws our attention to a story in the Friday edition of the *Ottawa Citizen* entitled “Senators arrange to recreate the site of the 1981 ‘Kitchen Accord.’” Mr. Peckford indicates that when the proposed move of the Senate to the old national conference centre is complete, there will be a display of the so-called “kitchen accord.” The former premier is upset about that, and he feels that we will be “embarking upon a project which attempts to validate a constitutional myth.”

The *Citizen's* story refers to the 1981 constitutional deal that saw the patriation of our constitution from Great Britain. History records that it was Peckford's Newfoundland delegation that presented the proposal that finally led to an agreement at a first minister's constitutional conference in November of 1981. However, an alternate story on the genesis of the deal appeared out of thin air in no time flat, that the deal was crunched in a hotel kitchen by three of Canada's attorneys general: Ontario's Roy McMurtry, Saskatchewan's Roy Romanow, and Canada's Jean Chrétien.

As Premier Peckford's parliamentary secretary at the time, I remember the incident very well. I remember how proud we were that our premier had played such a leading role. We were stunned to see how the national media reduced the premier's role in the whole process to that of messenger. We were given credit for delivering the package, but our pivotal role in the development of that package was deliberately downplayed.

The *Citizen* article in question features a photo of the three attorneys general from the time of the 1981 constitutional deal all gathered in McMurtry's kitchen, but two years after the event. The gentlemen in question were doing a re-enactment for the cameras, not having a camera handy when they supposedly reinvented the country. Well, they might not have had any original photos, but the former premier has many of the original official documents. In a recent book on his political life, he outlined his role in the constitutional process in great detail.

In his recent letter to you, Mr. Speaker, he made a brief summary, and I quote:

Simply put, the Patriation Agreement . . . arose from meetings convened on that famous night November 4, 1981 in the Saskatchewan suite of the Château Laurier involving first the Provinces of British Columbia, Alberta, Saskatchewan, and Newfoundland. This meeting discussed a written proposal from Newfoundland and given that it seemed to have merit and could find acceptance, other provinces were brought into the meeting, including Prince Edward Island, and Nova Scotia. Manitoba was contacted by phone. As a result, agreement was reached based on the Newfoundland proposal, and that it would be presented for acceptance to the "gang of eight" [premiers] at an already arranged breakfast meeting the next morning.

The proposal was presented. . . . it was agreed that Newfoundland would present it to full conference later that day. This was done and the proposal formed the basis of the Agreement reached that afternoon.

Premier Peckford makes it clear that the three attorneys general and the kitchen accord story did not lead those discussions, so I cannot see how they could possibly claim credit for the outcome.

• (1430)

The article in the *Ottawa Citizen* refers to the Kitchen Accord as one of the most colourful stories from the fight to bring home Canada's Constitution, and it says the kitchen in question is where the three Attorneys General reportedly hammered out a compromise that saved the tense constitutional talks. Obviously not true.

Therefore, perhaps we should remember sober second thought before we open a shrine where something reportedly happened but did not happen.

## THE CANADIAN FLAG

### FIFTIETH ANNIVERSARY

**Hon. David P. Smith:** I hadn't intended to speak today, but I have to say that Senator Cowan's words inspired me to say a few comments. Because that day, the first day the flag went up the pole, I was there, too.

When the flag was raised, I was there. I wasn't sitting with Arthur Eggleton, though I had been in the House of Commons that fall night in 1964 when the matter went through. That was a very exciting night.

I was the National Youth Director of the Liberal Party then, and Keith Davey's right-hand guy at headquarters and going coast to coast every month, but he would regularly take me to key meetings with Mr. Pearson. Mr. Pearson left a lot of legacies to this country, which I could go through but won't, but the flag was one of them.

Mr. Pearson was very gracious about this flag, because I think you know — those who have studied it — that this flag wasn't his first choice. His first choice was the one with the three maple leaves, with blue borders on the side. A lot of people — and the NDP in particular — wanted the flag to be just the two colours, and they wouldn't go for that one, and Mr. Pearson consented.

I also remember Mr. Diefenbaker, who I got to know because he was convinced we were related and kept trying to prove it to me. When the flag went up the first time, it was so painful to him, he looked away; he wouldn't look at it. He was upset because the Union Jack wasn't on it. Is the flag a flag of a country if it has the flag of another country on it? I don't think so. That was the thinking of another era. And, of course, in Quebec that would not have been possible.

I do a fair bit of travelling, different places around the world, some of it here, but I'll tell you, whenever I'm somewhere and I go to an embassy or an ambassador's home and I see that flag flying, my heart leaps, and sometimes my eyes get a little damp because I've got a soft spot for the flag. Those days were so exciting. The Canadian flag was one of Mr. Pearson's many great legacies. He never had a majority government, and yet he left more of a legacy than others who did. I wanted to pay tribute to Mr. Pearson today. Thank you.

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## ROUTINE PROCEEDINGS

### STUDY ON CHALLENGES AND POTENTIAL SOLUTIONS RELATING TO FIRST NATIONS INFRASTRUCTURE ON RESERVES

#### EIGHTH REPORT OF ABORIGINAL PEOPLES COMMITTEE TABLED

**Hon. Dennis Glen Patterson:** Honourable senators, I have the honour to table, in both official languages, the eighth report, interim, of the Standing Senate Committee on Aboriginal Peoples entitled: *Housing on First Nation Reserves: Challenges and Successes*.

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

## NATIONAL DAY OF THE MIDWIFE BILL

### FIRST READING

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons with Bill C-608, An Act respecting a National Day of the Midwife.

(Bill read first time.)

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

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

## CANADA-CHINA LEGISLATIVE ASSOCIATION

CO-CHAIRS' ANNUAL VISIT TO CHINA,  
AUGUST 30-SEPTEMBER 6, 2014—REPORT TABLED

**Hon. Victor Oh:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation respecting its participation at the Co-Chairs' Annual Visit to China, held in Beijing, Shanghai, Wuxi, Nanjing, People's Republic of China, from August 30 to September 6, 2014.

## QUESTION PERIOD

### EMPLOYMENT AND SOCIAL DEVELOPMENT

#### EMPLOYMENT

**Hon. Céline Hervieux-Payette:** Honourable senators, my question is for the Leader of the Government. According to the Canadian Labour Congress, national unemployment at the end of 2014 indicated that 1,270,000 Canadians were still officially unemployed although we do not have the figures for those who have left the market.

President Yussuff of the Canadian Labour Congress stated:

The government's laissez-faire attitude in 2014 now leaves us lagging behind the American economic and job market recovery, demonstrating once again that Canada needs a new approach to boosting job growth. Quite simply there needs to be a shift in priorities.

This month's labour force survey demonstrated once again that the government's claim of a full recovery is failing to hit the mark. For many years we have heard about 1 million jobs being created,

but today's reality is that a smaller proportion of Canadians are working than before the financial crisis, with some so discouraged that they have given up looking for a job, such as the 15,000 youth who left the labour market last month.

In January we did have a net gain of 35,000 jobs, but this was due to an increase of 47,000 part-time positions, which hid the grim reality that we lost 10,000 full-time jobs.

Leader, given the fact that 1,270,000 Canadians are still out of a job, and many have left the workforce, what does your government plan to do to improve this situation and change the record of the plan of action?

[Translation]

**Hon. Claude Carignan (Leader of the Government):** Thank you, senator, for your question. You understand that it is important not to change tack. We must continue to create jobs and help families make ends meet by lowering taxes, protecting jobs and creating new ones, as we have been doing. As you said, since coming to power, our government has had one of the best job creation records in the G7.

• (1440)

In fact, all things considered, we have created almost 20 per cent more jobs than our closest competitor. As you pointed out, since the depths of the recession, nearly 1.2 million net new jobs have been created, and most of them are well-paid, full-time jobs in the private sector. As we all know, Canada is not immune to economic difficulties beyond its borders. That is why we have to stay focused on our job creation and economic growth targets. We are proud of our plan to reduce taxes and increase benefits, including the Universal Child Care Benefit, which we improved and which will help families directly. Those families in turn will reinvest in the Canadian economy by spending money on what's important to them, not what's important to bureaucrats. We will continue to focus on creating jobs and boosting the economy, and we have confidence in the leader who is best able to do just that. Unlike your friend Justin Trudeau, the current Prime Minister does not believe that budgets balance themselves.

**Senator Hervieux-Payette:** Now I know the government is taking care of daycares and so on, but I was talking about jobs. In Quebec, we're well aware that daycares help create jobs. Those jobs were not created by the federal government's action plan; they were created by the Province of Quebec. I would like to remind my colleagues from Alberta about a myth that my friends who live out West seem to believe. They think that they are paying for Quebec's daycare program and several other social measures. People in Quebec pay 20 per cent more tax than people in other provinces. When people pay more tax, they receive more services, and that's a choice. People need to know that the federal government is not sending cheques to our daycares. Premier Couillard is currently reviewing the program, which helps women go back to work. It is worth noting that jobs are being created. Leader, you say that millions of jobs have been created since 2008, but you have not even replaced the jobs that were lost.

[ Senator Patterson ]



My question is as follows: What measures will you implement to really create jobs? In the United States, new jobs have been created, people have re-entered the job market and the economy has grown in the past few years. However, here — and not just in Newfoundland and Labrador and the Maritimes — we are frozen. Generally speaking, the Canadian economy is not growing at a phenomenal rate. Bearing in mind what is happening in the energy sector — since you have not invested in other sectors — where do you plan to create these new jobs? Real new jobs.

**Senator Carignan:** It is sad to hear Senator Hervieux-Payette say that we have not invested in other sectors. Yet in this very chamber, she congratulated our government for investing in the aerospace sector, especially in research and development, where hundreds of millions of dollars were announced. We will continue to do what we are currently doing. We will grow the economy, implement measures to foster job creation and make Canada a leader in this area among the G7 countries and in the world.

**Senator Hervieux-Payette:** With only a few months before a new budget, it might be useful to examine the National Research Council budget. Last weekend, I was listening to a program where researchers were saying that they were very worried because the money invested in basic research won't be enough to promote applied research. If you can't develop a concept, you won't be able to coax an industry from that investment. Do you intend to increase research and development budgets and create a climate that will encourage job creation? It isn't the government but private business that creates jobs.

**Senator Carignan:** That is why we need to continue to support private business, which is what we are doing. With regard to research and development, in our most recent Economic Action Plan, we invested a considerable amount to increase funding for granting councils, which is the highest it has been in 10 years. We created the Social Innovation Fund to examine the most significant social problems in Canada. We made considerable investments in the TRIUMF physics laboratory to promote leading-edge research. We also support the Institute for Quantum Computing. We have provided support for 3,000 student internships in the trades, the sciences, technology, engineering and mathematics. We created the Canada First Research Excellence Fund, one of the largest federal investments in the history of post-secondary research in Canada. Senator Hervieux-Payette, I regret to say that you voted against these measures. Today, you are calling for more investments in research, but in the past, you voted against research budgets. I am having a hard time following you.

**Senator Hervieux-Payette:** Mr. Leader, I believe that you are taking some liberties when you say that I voted against research budgets specifically. I voted against budgets that were not really budgets and that contained all sorts of random provisions that I did not agree with, pertaining to every sector of our economy. If you decided tomorrow to bring down a conventional budget and allow our committees to examine and improve it — because that has not happened often since the Conservatives came to power — and I am talking about investments in research and development . . . Recently, your Prime Minister confirmed that he did not intend to invest in the Caisse de dépôt to get Quebec's infrastructure back on track. I would like an explanation. What about job creation? You are from Quebec

and you don't support the fact that our pension fund in Quebec can be used for economic development and to create jobs, obviously.

**Senator Carignan:** As you know, Senator Hervieux-Payette, when it comes to infrastructure, the provinces and municipalities have never had a better federal partner than our government. The New Building Canada Plan, which has an envelope of \$53 billion over 10 years, has been implemented. Many projects have been announced, and we are working with our provincial and territorial partners based on their priorities. At the end of last year, the Prime Minister announced new investments in federal infrastructure. The government will invest in infrastructure across Canada in areas such as heritage, First Nations education, national defence, borders, research facilities, ports, transportation and search and rescue. We will take no lessons from the Liberals, considering the record of successive Liberal governments that left our infrastructure to deteriorate and then reduced transfers to the provinces, forcing them to make cuts to provincial infrastructure.

[English]

## BUSINESS OF THE SENATE

### ORDER PAPER QUESTIONS—REQUEST FOR ANSWERS

**Hon. James S. Cowan (Leader of the Opposition):** I have a question for my friend Senator Carignan. I was looking through the *Order Paper and Notice Paper*, and I noticed that on October 17, 2013 three written questions were submitted by Senator Callbeck, the first one, No. 3, dealing with changes to the Employment Insurance Act; the second one, No. 4, dealing with changes to the Working While on Claim Pilot Project; and the third one, No. 5, dealing with some transfers from the Consolidated Revenue Fund for the purpose of financial literacy. That's 16 months to the day that these questions were put and no answers have been forthcoming.

While I'm on my feet, I might note on behalf of Senator Chaput the upcoming 16-month anniversary of her question of October 29, 2013, dealing with official languages.

I wonder if my colleague could give me some indication as to when we can expect to receive answers to those old, long-standing questions asked by Senators Callbeck and Chaput.

• (1450)

[Translation]

**Hon. Claude Carignan (Leader of the Government):** I will see where things stand. From what I recall, I asked for answers to most of the questions Senator Callbeck asked before she left, so that she would have the answers before leaving the Senate. However, there could be some answers pending. I'll follow up and get back to you soon with an answer.

[English]

## ORDERS OF THE DAY

### CRIMINAL CODE

#### BILL TO AMEND—MESSAGE FROM COMMONS

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons returning Bill S-221, An Act to amend the Criminal Code (assaults against public transit operators), and acquainting the Senate that they had passed this bill without amendment.

### ENERGY SAFETY AND SECURITY ACT

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

**Hon. Scott Tannas** moved third reading of Bill C-22, An Act respecting Canada's offshore oil and gas operations, enacting the Nuclear Liability and Compensation Act, repealing the Nuclear Liability Act and making consequential amendments to other Acts.

He said: Honourable senators, I rise again to speak to Bill C-22, the energy safety and security act.

This legislation will enhance the safety and security of Canada's offshore and nuclear industries to ensure that these industries have world-class safety standards. In 2012, our energy, minerals and metal, and forestry industries directly and indirectly accounted for a fifth of nominal GDP and about 1.8 million jobs. These sectors account for \$30 billion in revenue to governments to support critical social programs and represent over half of our exports. Natural resources are poised to play an even greater role in our future.

Right now, the opportunities for growth are unlike anything we have seen in our history. We know that over the next 10 years, several hundred major resource projects worth \$650 billion are planned or are currently under way.

There are tremendous opportunities right across the country, from oil and gas in Alberta, to forestry and liquefied natural gas in British Columbia, offshore energy developments in Nova Scotia and Newfoundland and Labrador, and new discoveries of minerals and metals in northern Quebec and Ontario's Ring of Fire. Our government is committed to developing these resources in a responsible way that will ensure the protection of our environment and the health and safety of all Canadians. That is the commitment that the passage of Bill C-22 will reinforce with new measures to ensure safety and security in Canada's offshore and nuclear energy industries.

The legislation enshrines the polluter-pays principle into law and protects taxpayers by making the company liable for any accidents that may occur. The measures in the legislation will ensure that Canadians continue to have a world-class regime that is accountable, responsive and transparent, and that works to prevent incidents from occurring.

I don't want to delve too much into the specifics of the bill, but I will briefly mention the changes to the liability limits. Let me begin by discussing the changes to Canada's offshore regime.

Currently, the absolute liability limit for offshore incidents is \$30 million in the Atlantic and \$40 million in the Arctic. This legislation before us will increase the absolute liability limit for both jurisdictions to \$1 billion. Companies must also demonstrate that they have at least \$1 billion in financial capacity in the event the damages go up to this amount.

In the event of an incident, Bill C-22 establishes that the operator is liable for the actions of the contractors. It goes without saying that we are maintaining the unlimited liability for operators who are proven to be at fault or whose negligence causes or contributes to a spill in the offshore. By raising our liability amount to \$1 billion, Canada will be in line with comparable regimes in Norway, Denmark, the United States and the United Kingdom.

Bill C-22 will also change the liability limits to the nuclear sector. Under Bill C-22, the absolute operator liability limit will be significantly increased from \$75 million under the current Nuclear Liability Act to \$1 billion. I think that all honourable senators will agree that the current limit of \$75 million is completely unacceptable.

This \$1 billion limit will put Canada's liability limit among the highest internationally. For example, the U.K., France, Spain and other European nations are moving now to an operator limit of \$900 million. This amount balances the need to ensure equitable compensation for civil damages, without burdening operators with high costs for unrealistic insurance amounts for highly improbable events.

It is due partly to our nuclear power that Canada can boast a non-emitting electricity mix of 77 per cent. Honourable senators, that puts us first in the G7. In addition to this impressive statistic, the nuclear power generation sector produces about \$5 billion in annual revenues and supports 17,000 direct jobs. Additionally, uranium mining accounts for over \$1 billion per year in exports and supports 5,000 direct jobs. Our nuclear sector is an important asset to our country and is worth protecting.

The passage of Bill C-22 will bring in new and stronger measures to prevent incidents in both offshore and nuclear sectors. In the unlikely event that an incident does occur, measures in Bill C-22 will ensure that the response will be both rapid and effective.

Honourable senators, I strongly believe that the legislation before us today strengthens the safety of resource development and the energy sector. It ensures that Canada remains a world-class safety regulator and positions us to better take advantage of

[ Senator Carignan ]

the opportunities that stem from resource development. Our government has been clear in our support for increased safety standards, and this piece of legislation demonstrates this commitment once again.

[Translation]

**Hon. Pierrette Ringuette:** Honourable senators, since I'm a member of the committee, I would be remiss if I didn't share with this chamber some of the points that were raised in committee regarding costs. More specifically, since I am from New Brunswick, I'm concerned about the additional costs for the operator of Point Lepreau, which is Énergie NB Power, a provincial Crown corporation. Right now, the annual insurance costs for Énergie NB Power are around \$65,000. With this bill, based on the information I got last week, this New Brunswick Crown corporation will have to pay nearly \$8 million a year. We are talking about almost \$7.5 million more per year for a single nuclear facility in New Brunswick, which will make electricity much more expensive for the 750,000 people living there.

If I am not mistaken, nine nuclear facilities produce more than 60 per cent of the electricity in Ontario. These facilities, which are also provincial Crown corporations, will also face additional costs. If we consider that a single nuclear facility in New Brunswick will see more than \$7.5 million a year in additional costs, we need only multiply that by nine to figure out how much the facilities in Ontario will have to pay.

• (1500)

When we look at operations carried out by a provincial Crown corporation, that corporation obviously has access to an emergency plan in the event of an incident, and I have no doubt that all taxpayers will join together to compensate that corporation and ensure that the area, the people and the assets are cleaned up, treated or repaired.

At the end of the day, we have to wonder why all these Crown corporations and the taxpayers that use this form of energy — electricity created by nuclear systems — should face additional costs that I find entirely unreasonable, given the ownership structure.

Honourable senators, I raised these points during our discussions in committee, and I am raising them again today because I find it absolutely unacceptable that people should have to pay additional costs because of this bill, particularly in New Brunswick, where there have already been financial difficulties related to Point Lepreau, which have had an impact on electricity users.

We sometimes wonder what the logic is behind some bills, and that is the case here. Why drive up electricity costs for New Brunswickers when, in over 40 years of operation, there have been no incidents? Is it to turn the energy sector against nuclear energy, which provides us with clean energy without any incidents across the country?

Therefore, I am reiterating my convictions. As a New Brunswicker, I certainly cannot accept such an additional burden for the taxpayers of New Brunswick. I also invite all the senators from Ontario who are present to consider the additional costs that the nuclear facilities in their province will have to pay. There is only one facility that is not held by a Crown corporation.

I think Ontarians would be outraged to learn that they will face additional electricity costs to the tune of \$75 million a year, forever.

I hope that you understand the scope of this bill and that you will join me in voting against it.

[English]

**The Hon. the Speaker:** Senator Tannas, you spoke already. Is this a question?

**Senator Tannas:** Yes, a question, if Senator Ringuette would take one.

**The Hon. the Speaker:** Yes. Go ahead.

**Senator Tannas:** Thank you for your comments, Senator Ringuette. You raise an excellent point.

My question is this: The increase in liability, as you point out, will fall in most cases in the nuclear sector in Canada to the owners, who happen to be the provinces and the citizens of those provinces that enjoy the energy and/or benefit from its export.

Really, those provinces, I think, have two choices. They can on purpose recognize that they have a liability if something goes wrong, as taxpayers, or they can insure against that liability and spread the risk over a long period of time so as not to be caught financially in something undue.

There is nothing stopping the Province of New Brunswick from entering into a contract that will guarantee repayment to the insurance company and therefore provide, for a fraction of the numbers that you mentioned, insurance that would cover this. That would be part of a decision that an owner would make.

So I'm wondering, if it's not the citizens who want to do this on purpose, through their government, or an insurance company who takes the risk in exchange for a long term of payments, who would be responsible, in your view, if there was an accident?

**Senator Ringuette:** Thank you, Senator Tannas, for your question, and I welcome it.

The Province of New Brunswick and the citizens of New Brunswick have always taken the responsibility for the operation of Point Lepreau, which has been without accident. The current liability premium for NB Power, the Crown corporation that operates Lepreau in New Brunswick, is in the vicinity of \$65,000 per year, probably not \$8 million. That \$8 million will become an additional operating cost.

New Brunswickers and NB Power have always recognized their responsibility, and it is not their intent not to do so in the future. There has been no accident at Point Lepreau since it has been in operation.

Why, all of a sudden, with a refurbished Point Lepreau, would the citizens of New Brunswick have to pay an additional \$8 million per year in insurance, as an obligation, not an option? Because you kind of indicated that it may be an option for them to buy insurance.

May I also say that we were told in committee that there is only one insurance provider recognized by the Government of Canada that will be insuring all these liabilities. May we say “bingo” to that certain insurance company, because they’ve just struck a jackpot: \$8 million a year from New Brunswick, another \$75 million a year from Ontario, and the list goes on and on and on. There’s only one federally certified insurance company to insure all these liabilities.

• (1510)

**Senator Tannas:** I wonder if you ask NB Power, when you received the information about the premiums that they expect to be paying, if they had given any thought, along with the government, to provide the insurer with a guarantee for up to \$1 billion and then they wouldn’t have to pay the premiums anything like that amount.

Effectively, if what you’re saying is the case now, we know that the government and the people of New Brunswick are ultimately responsible for the full amount of whatever the catastrophe is. I’m wondering if any thought had been given to structures that could accomplish what needs to be accomplished but would also allow the people of New Brunswick, the Government of New Brunswick and the people of Ontario to understand that there is a risk they are accepting or that they are going to lay off to insurance if they need to.

**Senator Ringuette:** The Government of New Brunswick, just like the Government of Ontario, in establishing Crown corporations as operators of these nuclear facilities, have, by default — and that was told us to us by the officials from the Department of Natural Resources — provided this level of guarantee in regard to the population and to the operation.

Why would they now have to pay, for instance in New Brunswick, \$8 million a year to operate a facility for which they’re already providing backup in regard to any accident to the population? It makes absolutely no sense whatsoever. It increases costs at a time where every household is trying to reduce their costs. Every government is trying to reduce their costs. Here we have the federal government unilaterally bringing in additional costs for the citizens of New Brunswick to the tune of \$8 million a year and for the citizens of Ontario for over \$75 million a year. It makes no sense whatsoever, because they are Crown operations. These operations are backed by all the taxpayers in the provinces. We only have one accredited insurance company for this purpose by the federal government.

[ Senator Ringuette ]

Again, I say this makes absolutely no sense whatsoever, and I shall vote against it.

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

## CANADIAN SECURITY INTELLIGENCE SERVICE ACT

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

**Hon. Vernon White** moved second reading of Bill C-44, An Act to amend the Canadian Security Intelligence Service Act and other Acts.

He said: Honourable senators, I rise to speak today about Bill C-44, the Protection of Canada from Terrorists Act, legislation that will help our government keep Canadian safe from threats of terrorist attacks.

Honourable senators, we are living in a time that few of us could have imagined even a decade ago; a time in which social media is increasingly exploited by terrorist groups to further their violent narratives; a time in which a large number of individuals in Western nations, including Canada, are being influenced by this propaganda and moving from radical thought to violent action; a time in which a worrisome number of these radicalized individuals have left or are trying to leave Canada to engage in terrorist-related activities abroad; and a time in which radicalized Canadians have carried out terrorist acts here at home, directly attacking our military personnel, our democracy and our fundamental values.

Let me be clear: the international jihadist movement has declared war on Canada. Our government refuses to stand idly by, as some would have us do. Instead we are taking strong action to combat this terrorist threat.

[Translation]

Honorable senators, violent extremism is not new, even here in Canada.

[English]

Whether it is the Air India tragedy, pipeline bombings in Western Canada, plots to blow up the Victoria legislature and a VIA Rail train, or the horrific terrorist attacks of last October, Canada is not immune to the threats of terrorism. Our law enforcement and national security agencies are aware of the threat posed by homegrown extremists who could shift from thought to action rapidly and without warning.

Canadians right across the nation were rightfully shocked and horrified by the attacks that took place in Quebec and Ontario last October. For many, the sense of safety and security that is part of the very foundation and fabric of Canada was shaken. But

while we continue to grieve the loss of Warrant Officer Patrice Vincent and Corporal Nathan Cirillo, Canada remains unwavering in our stand against terror and against those who attempt to destroy our sense of peace, safety and security.

To that point, Canadians expect their government to keep their communities, their places of work and their streets safe. They expect us to deliver robust measures that will strengthen our national security and guard against future attacks. They expect us to ensure that our security and intelligence agencies can take reasonable measures to ensure their safety, and they expect us to address the threat posed by extremist individuals who try to leave or enter Canada in order to take part in terrorist acts. In short, Canadians look to their government to keep them safe and secure, and that remains our key focus.

Of course, there is no single solution, no one-size-fits-all response. That is why we have a multi-pronged approach to countering terrorism and violent extremism. The bill before us is but one measure that will help us ensure that CSIS can effectively fulfill its national security mandate and assist in keeping Canadians safe and secure.

Specifically, the Protection of Canada from Terrorists Act confirms CSIS's authority to undertake activities outside of Canada to investigate threats to the security of Canada and preserves CSIS's ability to recruit human sources by strengthening protections for the identity of those sources. The bill also introduces amendments to protect the identity of CSIS employees likely to engage in covert activities.

Honourable senators, this bill is not about handing CSIS new powers. Rather, we are clarifying in law the authorities it has always held under the Canadian Security Intelligence Service Act and ensuring that CSIS can continue to do the job that Parliament needs and intended for them.

The question may be asked: if CSIS already has these authorities, why the need for new legislation? A legitimate question, and one for which I will try to provide clear answers.

Bill C-44 responds to key court decisions that have had significant implications for the CSIS mandate and operations.

First, the Federal Court of Appeal's July 2014 decision raised important questions about CSIS's ability to conduct investigative activities outside of Canada and the Federal Court's authority to issue warrants for certain activities outside of Canada.

Bill C-44 responds to these questions by first confirming that CSIS has authority to conduct investigative activities outside of Canada related to threats to the security of Canada and security assessments; second, confirming that the Federal Court has jurisdiction to issue warrants authorizing certain activities outside of Canada; and, third, making it clear that the Federal Court need only consider relevant Canadian law when determining whether to issue such warrants.

CSIS has always had authority to undertake activities outside of Canada. Parliament always intended it to have such authority. This authority, however, is not as clearly stated in the Canadian

Security Intelligence Service Act as it needs to be. The Protection of Canada from Terrorists Act merely allows Parliament to clarify this and clarify the jurisdiction of the Federal Court.

Second, in the Supreme Court of Canada's *Harkat* decision, it stated that CSIS human sources do not benefit from a common law class privilege similar to the informer privilege applicable to police informers. This determination weakened CSIS's ability to provide human sources with a credible assurance that their identity will be protected. CSIS's ability to recruit human sources and convince them to provide information that can often be critical and crucial to national security depends critically on CSIS's ability to assure them that their identity will be protected. The Protection of Canada from Terrorists Act addresses this important issue by creating robust automatic identity protections subject to certain exemptions that ensure the fairness of legal proceedings.

In addition, the bill before us allows for certain provisions of the Strengthening Canadian Citizenship Act to come into force earlier than anticipated. These provisions allow for the revocation of citizenship of dual citizens who are convicted of crimes such as terrorism, high treason or spying, depending on the sentence received.

As honourable senators have heard, the provisions I have outlined regarding CSIS's authority are targeted in scope and intent. They are limited and necessary amendments to the Canadian Security Intelligence Service Act and will allow CSIS to perform its investigative work unhindered by legal ambiguity about its authorities.

• (1520)

That said, any time we discuss the issue of national security and investigative work, concerns are raised about civil liberties. Since the introduction of this bill in the other place, we have heard concerns about accountability and whether federal court judges should be given authority to issue warrants notwithstanding the laws of foreign states.

We have also heard suggestions that these amendments dramatically expand the powers of CSIS and would prevent legal counsel from properly examining information provided by CSIS's human sources in legal proceedings.

No matter the concern, the common thread is a concern about the rights and freedoms that form the very foundation of our Canadian democracy. Let's try to put these fears to rest.

I can assure all honourable senators and all Canadians that this legislation was crafted with due attention to balancing national security and civil liberties. Indeed, in response to these concerns, the Minister of Public Safety has repeatedly assured parliamentarians and Canadians that this legislation is legally sound and will not undermine the rights and freedoms of Canadians.

Yes, we need to strengthen the laws that govern the actions of our law enforcement and national security agencies, and yes, we need to make sure that CSIS has clear authority to undertake

investigative activities outside of Canada. However, the changes that we are proposing are limited and reasonable and consistent with the rights that Canadians enjoy under the Canadian Charter of Rights and Freedoms.

As with all democratic nations, our country and this Parliament take great care to ensure that actions we take to protect ourselves are consistent with our fundamental values and freedoms, particularly in our efforts to counter terrorism. To put this into context, I think it's relevant to take a step back and look at the CSIS Act as it stands today. This will help to provide a clear understanding of the service's role and demonstrate the strict checks and balances in place that it must adhere to in its work.

As we know, CSIS plays a pivotal role in Canada's counterterrorism efforts. CSIS's core mandate is to collect, analyze and retain information regarding activities that may constitute threats to the security of Canada and to report and advise the government regarding those activities.

The threats they investigate are serious and complex — terrorism, the proliferation of weapons of mass destruction, espionage and cybercrime, among others. Indeed, countering terrorism is CSIS's top priority. Their work is subject to robust oversight and review. The CSIS Act was drafted in a manner that ensures that CSIS must meet clear thresholds to undertake certain activities and that its activities are subject to multiple instances of oversight and review.

Section 12 of the CSIS Act, for example, requires that CSIS have "reasonable grounds to suspect" that the activities of a subject of investigation constitute a threat to the security of Canada before it can open an investigation. It also requires that CSIS only collect information "to the extent that is strictly necessary."

In terms of oversight, CSIS must obtain a federal court warrant before it can use certain intrusive techniques, such as telecommunications intercepts. In order to obtain this warrant, CSIS must satisfy a judge that there are "reasonable grounds to believe" that the activities of the subject of investigation constitute a threat to the security of Canada. Prior to applying for this warrant, CSIS must obtain the approval of the Minister of Public Safety and Emergency Preparedness, after consultation with the deputy minister. The CSIS Act also requires that CSIS report annually to the minister on their operational activities and empowers the minister to issue written direction to CSIS.

At the same time, CSIS is subject to robust review through the Security Intelligence Review Committee, referred to as SIRC, which is charged with reviewing how CSIS performs its functions, as well as investigating any complaints against CSIS. Every year, it produces an annual report that the Minister of Public Safety and Emergency Preparedness tables in Parliament. The SIRC annual report provides transparency regarding the activities of CSIS and provides assurances to Canadians that CSIS is working fully within the parameters of the CSIS Act.

As our government has clearly stated, CSIS has always had authority to undertake investigative activities outside of Canada. However, this is not as clearly stated in the CSIS Act as it needs to

be. This bill, therefore, will ensure that CSIS's authority is clearly stated. There must be no confusion or ambiguity about CSIS's authority to conduct activities outside of Canada. CSIS must have clear authority and proper tools to carry out its critical and crucial work of protecting Canadians.

With this bill, CSIS will continue to be required to obtain judicial authorization to undertake certain intrusive activities. In addition, federal court judges will continue to have discretion to determine the weight to give to information provided by CSIS's human sources in legal proceedings. These provisions safeguard the identity of CSIS's human sources, while preserving the rights of Canadians to fair legal proceedings.

These amendments do not expand the CSIS mandate in any way. They are limited in their scope and targeted in their goals. They work together to help our government keep our citizens safe.

As we always have, our government will continue to work within Canadian law to balance civil liberties with public safety. I would ask all honourable senators to join me in supporting this bill.

**Hon. Serge Joyal:** Thank you, Honourable Senator White, for your presentation of Bill C-44. Would you accept a question?

**Senator White:** I would, yes.

**Senator Joyal:** Honourable senators will know that one of the main sources for the drafting of that bill was a decision last spring from Justice Mosley of the Federal Court. Judge Mosley is not unknown to some of us. He was a former deputy minister of justice. He appeared repeatedly at the Standing Senate Committee on Legal and Constitutional Affairs when he was acting in that role. Since he was elevated to the Federal Court bench, he has specialized in issues related to security, so he has a very high reputation. He is highly regarded in Canada by all sides, all those who study security issues.

When I was listening to your presentation, you repeatedly stated that the CSIS Act confirms that CSIS has extraterritorial authority to lead its investigations. But Justice Mosley, in his decision, qualified very clearly that in the CSIS Act as it stands, before it is amended by Bill C-44, the bill that you introduced today, there were limits and that CSIS was trying to circumvent those limits by informing the court in the case that I refer to in a manner that was harshly criticized by Justice Mosley.

How do you reconcile your presentation of Bill C-44 and the extraterritorial capacity of CSIS with the comments that Justice Mosley made in relation to the case that triggered the drafting of Bill C-44?

**Senator White:** Thank you very much, Senator Joyal, for your question.

I believe Bill C-44 is actually meant to clarify for the courts — and I'm not suggesting for a moment that we want to end up back in front of those courts — what we believe to be the lawful authority of CSIS under the CSIS Act.

As you state, Mr. Mosley is well known, to myself included. Certainly, in his present role, he has indicated that he felt that CSIS had extended beyond what the CSIS Act gave them, and I agree that that is what I believe Justice Mosley said as well.

I think Bill C-44 would allow us to clarify what this government believes the CSIS Act is meant to allow. I would anticipate that we will find ourselves back in front a judge, or others, arguing again that we have made the changes necessary to allow for those acts to take place, but I agree with you that I think Bill C 44 is written in an effort to try to at least — I won't say correct — explain better what the CSIS Act was meant to do.

**Senator Joyal:** I don't want to become too legalistic with honourable senators, but when CSIS conducts its investigations in Canada, it is compelled to abide by Canadian law, that is, the limits that the Charter of Rights and Freedoms imposes on any government agencies that conduct security operations. When CSIS conducts an operation outside of Canada, it's, say, in a country where there is not a robust protection of human rights like we have in Canada. Thankfully we have those kinds of protections, because I think they maintain the right kind of ethics that we should follow in any kind of operation even though it is for security. And the police forces would request that also because it maintains the reliability and the trust of Canadians in their security and police forces.

• (1530)

When CSIS conducts such an operation on a Canadian citizen abroad, did you consider the kind of limits that CSIS would have to follow, say, in a country where there is minimum protection of human rights? I could, of course, cite many countries. I'm sure you also have many in mind when I mention that.

However, in your opinion, would CSIS be compelled to apply exactly the same kind of responsibilities in relation to the recognition and the protection of the rights of Canadian citizens it would be investigating abroad, in a country where no such protection exists?

**Senator White:** Again, thank you very much for the question. My expectation would be that CSIS would not look at adopting a low watermark in another country, but rather would adopt the watermark we have already set in this country. I think the expectation is that we wouldn't be obligated to meet the expectations of another country that might be greater or different from ours, but that we would adopt the ones we have already adopted in this country when we act in this country for the sake of Canadians.

Ultimately, I would expect that CSIS operating outside of Canada in relation to Canadians would utilize the same level of requirement outside this country as it would inside the country.

**Senator Joyal:** What if CSIS wanted to — and I will use a word that I don't like to use — “subcontract” part of the operation with another national investigation force, which of course would be bound by the national law in that country, which would be much less compelling than the one that CSIS would have to follow in Canada? Do you think the bill should be clear about that aspect of CSIS's operations when CSIS is outside the boundaries of Canada and could, in fact, bypass its obligation in relation to Canadian law?

**Senator White:** I will use your terminology. The use of subcontractors may change who does the work; it wouldn't change the responsibility of that work.

Having been involved in using agents in this country, allowing someone else to act on your behalf means they're acting on your behalf. I don't think that would change, actually. And I believe the CSIS Act is clear, but if it's not I'm sure we will have a longer discussion in the National Defence Committee surrounding that. However, my expectation was that you may be allowed to subcontract the work, but you could not subcontract the responsibility for those actions.

**Hon. Colin Kenny:** May I ask a question?

**Senator White:** Yes, please.

**Senator Kenny:** Thank you.

Senator White, since both you and the government are striving to achieve a balance between public safety and human rights, why hasn't this piece of legislation included a provision for a special counsel who is vetted and has a security clearance to join the government counsel who is putting the case for public safety in a secret court? Why isn't there a requirement that there be a special counsel to put the case for individual rights or the Charter? That way, the Federal Court judge has an opportunity to weigh the two arguments, and, in fact, he or she would have a better opportunity to come forward with a balance.

**Senator White:** Thank you for the question, senator. First, I think that question actually would probably refer to the CSIS Act as a whole rather than the changes we're trying to make. I don't believe it's something that we've put our mind to in this case. We're trying to bring forward clarity and maybe remove some concerns that have been raised through other courts.

Second, I would argue that the Federal Court judge is there to represent more than just the interests of Canada. I think they are there to represent and ensure the safety and security of Canadians, but also while weighing the civil liberties rather than the human rights of those being investigated. So I think the Federal Court judges have already taken on that role, but again, if not, I'm sure that it will be raised in committee.

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

[Translation]

# THE SENATE

## MOTION TO RECOGNIZE THE NECESSITY OF FULLY INTEGRATED SECURITY THROUGHOUT THE PARLIAMENTARY PRECINCT AND THE GROUNDS OF PARLIAMENT HILL AND TO INVITE THE RCMP TO LEAD OPERATIONAL SECURITY

**Hon. Claude Carignan (Leader of the Government)**, pursuant to notice of February 5, 2015, moved:

That the Senate, following the terrorist attack of October 22, 2014, recognize the necessity of fully integrated security throughout the Parliamentary precinct and the grounds of Parliament Hill, as recommended by the Auditor General in his 2012 report and as exists in other peer legislatures; and call on the Speaker, in coordination with his counterpart in the House of Commons, to invite, without delay, the Royal Canadian Mounted Police to lead operational security throughout the Parliamentary precinct and the grounds of Parliament Hill, while respecting the privileges, immunities and powers of the respective Houses, and ensuring the continued employment of our existing and respected Parliamentary Security staff.

He said: Honourable senators, I move the motion standing in my name.

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

[English]

### POINT OF ORDER—SPEAKER'S RULING RESERVED

**Hon. James S. Cowan (Leader of the Opposition):** Colleagues, I rise on a point of order now that the motion has been formally moved, because in my view it's out of order.

Although I'm rising on a point of order, there are elements of parliamentary privilege that are also involved in this matter, which I would hope our Speaker would reflect upon.

This motion is attempting to delegate a power to the RCMP that has been given by statute to the Standing Committee on Internal Economy, Budgets and Administration. As we've heard, the motion calls on the RCMP to "lead operational security throughout the Parliamentary Precinct," but section 19.3 of the Parliament of Canada Act reads as follows:

Subject to subsection 19.1(4), the Committee . . .

That is the Standing Committee on Internal Economy, Budgets and Administration.

. . . may act on all financial and administrative matters respecting

(a) the Senate, its premises, its services and its staff; and

(b) the members of the Senate.

And then subsection 19.1(4) says:

In exercising its functions and powers under this Act, the Committee . . .

That is the Internal Economy Committee.

. . . is subject to the rules, direction and control of the Senate.

There's nothing in the motion which reflects the clear words of sections 19.1(4) and 19.3, and those provisions, of course, are a small part of the very fundamental authority of Parliament to control its precinct. It would appear that the motion seeks to have the Senate delegate its powers to the RCMP, the powers that have been given to it explicitly under statute and, more fundamentally, from centuries of parliamentary history.

I would have been more comfortable if there had been at least some reference to the RCMP exercising its security function under the direction of our Speaker and his counterpart in the House of Commons, or reporting to our Speakers. But unfortunately, there is no such reference. We know that the RCMP reports to the government and not to Parliament, and nothing in this motion acknowledges that reality.

• (1540)

[Translation]

**Hon. Claude Carignan (Leader of the Government):** I understand Senator Cowan's argument. Perhaps we should first debate the motion to determine whether or not it is subject to the Rules. As you know, the Senate makes its own decisions. It is sovereign and can decide what it wants, in accordance with the law and the Constitution.

As far as the Rules are concerned, I would remind all senators that the idea of having an integrated force is not new. It was raised by the Auditor General in 1980. It wasn't until 1992 that the Senate administration and Internal Economy agreed to adopt the recommendation of having an integrated force, following another report by the Auditor General. This recommendation was made again in 2012 by the Auditor General, which led to a recommendation by the Senate to accept this report by the Auditor General in favour of an integrated force.

Senator Cowan's position does not take into account an important part of the text of the motion. I didn't want to simply say that I was moving the motion standing in my name. I deliberately read the motion to draw the attention of honourable senators to its content and, more specifically, to the important phrase "while respecting the privileges, immunities and powers of the respective Houses." What does that mean?

[ Senator White ]



As you know, the Speaker of each house is responsible for security. The motion mandates the Speaker of the Senate to sit down with the Speaker of the other place to agree, with the RCMP and the Senate security guards, on a single system or mode of operation in order to eliminate the risks posed by silos. The purpose of the motion is to protect the immunity of the Senate and the immunity of Parliament.

What is the greatest breach of parliamentary privilege? When someone enters the buildings of this institution with a firearm and shoots or aims his gun at people, is that an attack on the immunities and privileges of this Parliament? Of course it is.

How can we best ensure that an attack such as this one never happens again? We must make sure we have a competent security force and a unified operation. Why are we talking about a unified operation? The idea is to avoid silos. Silos lead to gaps between the security services, and this creates security risks. We saw such risks in 1989, when a bus carrying an armed man drove onto Parliament Hill and parked there, as I'm sure everyone probably remembers. There have been other security risks, for example, when activists managed to climb up onto the roof in order to hang banners. In that case, however, no one wanted to take responsibility for the roof. The problem of silos was illustrated by the fact that none of the security services was responsible for the roof. If the roof collapses, it seems to me that that would be a breach of our privileges and immunities, because we would no longer be able to meet.

All of these factors come together to make a whole. It is not a question of giving up any powers regarding security, but rather delegating or asking for an integrated security service, which happens to be the RCMP. To exercise my power, I need various tools. At this time, because of technology, in order to exercise my privilege as a senator, I have to use an iPad. Do we have to produce our own iPads? No. We need to be able to incur expenses so that we can have the tools we need, whether that means an iPad, building maintenance or the protection of the building and the people.

We are not abdicating our authority over security, but using the services of an existing agency — the RCMP — to ensure the security of the buildings in which we exercise our constitutional powers.

There is absolutely nothing in this motion that breaches our immunities and our privileges. On the contrary, the objective of the motion is to ensure that we can exercise them without anyone undermining the integrity of this institution, the integrity of the people who visit this place and work here, and the integrity of the people who pass the laws. That is the objective of this motion.

As for the point of order, if Senator Cowan wanted to share his concern about the importance of not abdicating the chambers' authority over security, he has done so. The motion is clear. It seeks to protect the immunities and the powers. I raised this point in my speech as well. It will be up to the two Speakers, in their discussions with the RCMP and the new unified security force, to negotiate the different systems so that they are accountable and report to you, Mr. Speaker.

[English]

**Hon. Joan Fraser (Deputy Leader of the Opposition):** Honourable senators, Senator Carignan said this motion is clear. However, the whole problem with this motion is that it is not clear and it addresses truly fundamental issues for the integrity of Parliament in general and the Senate in particular. As Senator Cowan suggested, there are questions of privilege attached to what this motion is trying to achieve, but we are not here considering a question of privilege.

We're raising a point of order, because the question is not: Can Parliament diminish its own privileges? It can do so because Parliament has that right. The subcommittee of the Rules Committee has just concluded a very careful, thorough study of privilege; and it's very clear that Parliament can change, within some limits, its privileges. The question is: How do we have to do that? It is, as our rules say, the duty of every senator to preserve the privileges of the Senate and that the preservation of the privileges has priority over every other matter before the Senate. These are not small matters.

What is privilege? As has been said over and over again in this place, and elsewhere, and I'm referring to the well-known Beauchesne citation 24 from the sixth edition, privilege is the sum of the peculiar rights enjoyed by each house collectively, without which the members of each house could not discharge their functions, and those rights are enjoyed by individual members because the house cannot perform its functions without unimpeded use of the services of its members.

• (1550)

Well, until now, one of the unchallenged elements of Parliament's right to go about its work unimpeded has been Parliament's control over security.

This motion proposes to hand over control of our security to the Royal Canadian Mounted Police. Here's where the internal contradiction in this motion becomes apparent. It suggests that we invite the RCMP to lead our operational security while respecting our privileges, immunities and powers.

Well, you can't have your cake and eat it too. Either you are in control, or you are not in control. Nothing in this motion says that ultimate control will remain with the Senate, and indeed through the Speaker.

We all know that the RCMP already provides security for our grounds, but there is a vast difference between our grounds and our buildings.

I refer again to Beauchesne's sixth edition, chapter 3, citation 130, which says that although the words "Parliamentary Precinct" by tradition and practice are

recognized as covering the buildings themselves, principally the Centre Block, East Block, West Block, Confederation Building and Wellington Building, the definition has never officially been deemed to include the grounds surrounding the buildings. It's on the grounds surrounding the buildings that we have allowed the RCMP to provide security.

There is, Beauchesne says, so far as the Centre Block is concerned, no question that the protective staffs of both the Senate and the House of Commons, who are parliamentary employees, have sole and exclusive jurisdiction. The reason for that is fairly obvious. It's because it's in these buildings, and particularly in this building, that we go about our business and that we need to have control of our own affairs.

It is possible, as some of us believe, that in order to change control over our security and hand over our authority to the RCMP, we might need to change both the Parliament of Canada Act and the Royal Canadian Mounted Police Act. But this motion does not and indeed cannot do that. I would invite Your Honour to give us guidance on whether actual legislative change would be needed.

In any case, this motion does not make explicit, upon which I'm sure we all agree, that final control must remain in the hands of the Senate. The RCMP does not report to Parliament. It reports to the government, to the Minister of Public Safety. That is a matter of law. I don't see how this motion could change that. Hence, this motion is making a profound and fundamental change to the privileges of the Senate without any detail being provided. We have no idea what the content of the ultimate agreement or the details of what this operational control would be.

We do know that, in the other place, the government rejected an amendment saying that final control should rest in the hands of the Speaker, which suggests that the government really wants final control to rest in the hands of the Minister of Public Safety.

So the question that I hope Your Honour will provide guidance on is not can we do what this motion sets out to do. Parliament can do just about anything.

The question is, is this the way to do it? Is this a proper way to do what this motion sets out to do, to make such a profound change? I would argue that it is not. When we set out to make changes as profound as this to the parliamentary system, it needs to be done in far more explicit language, with far more detail provided, more oversight built in for the Senate and more ultimate control to be in the hands of the Speaker and, through him, the Senate.

This motion is fundamentally flawed in the way it is presented, and I ask Your Honour to so rule.

[ Senator Fraser ]

[Translation]

**Hon. Pierrette Ringuette:** Honourable senators, I rise to support the point of order. I believe this motion is a directive from the Prime Minister that violates the Constitution. Let me refer you to page 4 of an article written by reporter Jordan Press on February 5, which says:

[English]

Then the Prime Minister's office intervenes.

[Translation]

Section 18 of the Constitution clearly states:

The privileges, immunities, and powers to be held, enjoyed, and exercised by the Senate and by the House of Commons, and by the members thereof respectively, shall be such as are from time to time defined by Act of the Parliament of Canada, but so that any Act of the Parliament of Canada defining such privileges, immunities, and powers shall not confer any privileges, immunities, or powers exceeding those at the passing of such Act held, enjoyed, and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Ireland . . .

This power is therefore a constitutional power, and the constitutional power refers to the Parliament of Canada Act. I would like to read the powers listed in section 19.2 and especially section 19.3 of that act, because they deal with the mission of the Committee on Internal Economy chaired by His Honour the Speaker, who also presides over this chamber. However, the structure is not fixed. There have been many cases in the past where the Speaker of the Senate was not the chair of the Committee on Internal Economy. I think we must keep that in mind as we review this motion.

However, section 19.3 of the Parliament of Canada Act reads as follows:

**19.3** Subject to subsection 19.1(4), the Committee may act on all financial and administrative matters respecting

(a) the Senate, its premises, its services and its staff; and

(b) the members of the Senate.

• (1600)

Essentially, the Standing Senate Committee on Internal Economy, Budgets and Administration is responsible for the financial administration of the premises, including security. If I am not mistaken, the Internal Economy Committee gave some of our senators, who have some security expertise, a mandate to study this issue and make appropriate recommendations to the committee. Internal Economy has yet to receive those recommendations. This motion is an insult to those individuals who received a specific mandate.

The motion alleges that the attack of October 22, 2014, was a terrorist attack, although this has not been proven. It was an act perpetrated by an individual who certainly had serious behavioural problems — we can all agree on that — but it was not a terrorist act by the Islamic State or another group.

Honourable senators, the motion is based on a false premise, especially since we are still waiting for the Internal Economy Committee to release a full analysis of this incident by the Ontario Provincial Police.

I think that the Senate is very well served by its current security service. As with any organization, there is certainly room for improvement, but we must not put the cart before the horse, as is being done with this motion — this directive from the Prime Minister's Office — which takes away our privileges and our responsibilities with respect to this institution. This responsibility is enshrined in the Constitution and the Parliament of Canada Act. I do not sit on the Standing Senate Committee on Internal Economy, Budgets and Administration, but the motion before us represents an abuse of power and shows no respect for our committees and their distinct responsibilities.

Honourable senators, you will agree that not so long ago, we adopted a motion that threw the doors wide open. Many of us lost privileges, what I call my parliamentary responsibilities when it comes to the secrecy I am bound to maintain with respect to the people of my region. Let us not make the same mistake twice and adopt a motion that is out of order just to please an entity that does not report to this institution. Thank you.

**The Hon. the Speaker:** Senator Carignan, do you wish to add a clarification to a question that was raised?

**Senator Carignan:** It is more like additional information. People keep saying that the directive came from the Prime Minister's Office. I simply want to remind honourable senators that on May 16, 2012, the Internal Economy Committee adopted a resolution. I would like to read an excerpt from it:

That the Subcommittee on Security and Accommodation be expanded from three members to five, that it be made up of the following members: Honourable Senators Stratton, chair, Tkachuk, Furey, Di Nino and Downe;

That the subcommittee discuss with the House of Commons establishing a single security service for Parliament, which will respect the following principles:

- (a) that the new service include members of the RCMP, the Senate and the House of Commons and provide security services in all the Parliament buildings, including those on the grounds of Parliament Hill;
- (b) that the Prime Minister's protective service have full access to the Parliamentary Precinct;

- (c) that both chambers have a say in the management and operation of the security service, and that an advisory working group be formed to provide assistance to the subcommittee and that it be made up of the following members: Honourable Senators White, Campbell and Dagenais.

That's exactly what the motion says, but three years have gone by and nothing has happened. The motion states that although there has been no action on the Internal Economy Committee's request, both houses must have an opportunity to express their opinion in light of the committee's May 12, 2012, recommendation.

[English]

**Hon. Jane Cordy:** Honourable senators, I rise to speak on the point of order that was raised by Senator Cowan. As a member of the Internal Economy Committee, I find it frustrating, and I am very uncomfortable with the process to change the security on the Hill.

The Internal Economy Committee, as Senator Carignan said, set up a subcommittee to deal with security on the Hill and to examine security on the Hill. But instead of having the subcommittee report either to Internal Economy or to the Senate as a whole, I read in the newspaper on the morning of February 5 that the RCMP would be leading the security on Parliament Hill. This was before I attended Internal Economy that morning. I read about it in the newspaper instead of finding out about it at Internal Economy, which should be the process. The subcommittee was from Internal Economy; it should be reported to Internal Economy. I should not be reading about how suddenly the whole process of how security will be handled has changed.

That afternoon, on February 5, the Leader of the Government in the Senate gave notice of the motion that we have before us currently.

I believe this motion shows disrespect for the Internal Economy Committee, it shows disrespect for Parliament, and it certainly shows disrespect for the Senate as a whole. I want to thank Senator Cowan for bringing forward this point of order. This motion, I believe, waives the privilege of Parliament. I believe that bringing forward this motion is not the way to make changes to something that is this important.

**Hon. Serge Joyal:** I think we should try to understand very well the process that is proposed to us today in this motion. I concur with Senator Carignan. The objective essentially is to improve the security on the Hill. By improving the security on the Hill, we maintain our parliamentary duty to exercise our responsibility freely, and that's what we all want to attain as an objective. I don't think anyone would question that. On the contrary, as honourable senators have mentioned in many of their interventions, many reports in the past have advocated or proposed that.

I quote the Auditor General's 2012 report at paragraph 73:

A next step could be to unify the security forces for Parliament Hill under a single point of command, making it possible to respond to situations more efficiently and effectively.

That was the report. The report didn't mention the RCMP — let's be clear here. The report mentions a single point of command. It might be the RCMP; it might be another group charged with this responsibility. The Auditor General's report never mentioned, in any of the reports I have been consulting recently, that it was recommending the RCMP. That's the first point.

The second point is the comment that the administration made regarding that recommendation — the administration's response.

It's under paragraph 78:

Agreed. The House of Commons Administration will develop an overall security policy along with appropriate policy objectives and performance measures. It is anticipated that these will be in place by 2015.

• (1610)

That's on page 23 of the report.

What do we have today in front of us? We have a motion that will, in fact, invest the RCMP with the "lead operational security throughout the parliamentary precinct and the grounds of Parliament Hill." This is the core of the decision that is being asked of us to be taken. I repeat: To charge the RCMP with the "lead operational security throughout the parliamentary precinct and the grounds of Parliament Hill."

What are we doing? We are deciding, on a simple motion, to take the privilege that we have on our precinct and give it to the RCMP as the lead operational body. In other words, from then on, once we have voted on this, the master of everything will be the RCMP. That's clear, in my opinion. That's essentially what we want. We want to unify; we want to be more efficient; we probably want to have a higher level of professionalism; we want, as honourable senators have mentioned, to bring down silos and make sure there is one command. But in doing that, we are not keeping it under our control; we are giving it to the RCMP. According to the RCMP Act, to which the RCMP is responding, section 5 of the Royal Canadian Mounted Police Act reads:

The Governor in Council may appoint an officer, to be known as the Commissioner of the Royal Canadian Mounted Police, to hold office during pleasure, who —

— and I insist —

— under the direction of the Minister, has the control and management of the Force and all matters connected with the Force.

Who is that minister? Section 2 of the act reads:

"Minister" means the Minister of Public Safety and Emergency Preparedness.

What are we doing? We are taking the responsibility we have to direct our own affairs in relation to the precinct and giving it to the RCMP. The RCMP, according to their constituting act, answers to whom? They answer to the Minister of Public Safety. Who is the Minister of Public Safety? It's the executive government of Canada. Who is the executive government of Canada? It's the cabinet; it's ultimately the Prime Minister.

I'm not saying that we should not do it. I'm saying that to do that, we are doing something that we have to be sure that legally we're doing it in the right way. Can we do it simply by a simple motion? In other words, can we abolish the privilege that we have now to control our precinct and give it to a minister of the Crown? That's essentially what it is, under the responsibility of a minister of the Crown. If we're doing that, and we think it's the thing we should be doing, we have to do it legally; we have to do it properly.

Hence the question: Can we abolish the privilege that we have in relation to security by a simple motion? We have the Parliament of Canada Act, which states very clearly how the administration of our precincts should be conducted. If we are to abolish a privilege, the question is: How do we abolish privileges? Is it, for instance, our freedom of speech in this chamber? This is a privilege guaranteed by the Bill of Rights. We have freedom of speech here, as long as we remain in this chamber. You and I and all of us can say anything we want here, and nobody can really bring us to court for something we have said. Can we, on a simple motion today, decide to abolish that? This is a very serious question.

If we choose the approach that the government is proposing, which is to take the responsibility of security that we have and ultimately give it to a government agency that is responsible to a minister of the Crown, which will answer to that minister for the Crown for the money, for the direction, for the preparation, for the impact it will have on the other resources of the RCMP and so on and so forth, there are all kinds of implications that every one of us will understand easily. Can we do that by a simple motion? This is the question that this motion raises.

I'm not saying it's not the thing we have to do. I'm asking you: Is it the proper vehicle today to do that? Should we make sure that, in turning over the privilege we have to control our security that we do so according to the Parliament of Canada Act and in respect of the responsibility that in this chamber we attribute to various committees who report to this chamber? We control the recommendation of those committees and the decision we take always remains within our exclusive control.

From then on, we won't be the only one to control those decisions. It will ultimately be, as far as the RCMP is concerned, in the hands of the Minister of Public Safety — whoever he is, member of a cabinet under the direction of a prime minister, whoever is the prime minister. This is what this motion implies.

I was here on October 22 when those events happened. The next morning we had a meeting. I remember very well, in Room 160. My first question was, "Who is responsible for the security in the Senate?" I asked myself that question. I am as concerned for my life as anyone. But what we are asking today is for the benefit of increasing our safety and the conviction that we work in the environment, as Senator Carignan has mentioned, without any undue pressure or fear that when we come here, we risk our lives.

This is what it is, essentially. I want to make sure that we're doing things correctly. If we have to abandon that privilege and bring in a minister of the Crown to rule and to be involved in that, we have to be very sure of what we're doing and we have to do it properly, according to the Constitution and the way that, in our parliamentary tradition and law, we can amend or abolish parliamentary privilege. That's essentially what this question raises.

I think this is an important question, because we are in a moving, evolutionary context. When our privileges are at stake, we have to be sure that we know the future implications of what we vote on. We have voted on a motion here that involves our privileges, and I'm not sure that we were very sensitive or cognizant of the implications when we voted on that motion. Today we are trying to wrestle with it. That's another debate for another day.

In relation to this one, if we are again to take a decision that will determine for the future a fundamental element of our privileges and our control of those precincts, it should be in full respect of the law of Parliament. With that, I think that nobody will question the end result, but at least we would know that we are moving on safe ground, on ground that we will understand and control very well. If we are ready to relinquish that control to the hands of another authority, then we will do it and we will understand it in the full knowledge of the implications for the future, as much for the Speaker and the person who will be in this chair as for our successors in this chamber, because the decision we're taking today on this motion will have spillover effects on many other aspects of our future work.

• (1620)

**Hon. Yonah Martin (Deputy Leader of the Government):** In listening to the interventions made by my honourable colleagues, I'm wondering whether, on this point of order raised about this motion, the question of whether a rule or a customary procedure of the house has been incorrectly applied or overlooked during the proceedings. The leader had given a notice of motion, and we are at the stage of debating this motion. Many of the interventions made today seem to be questioning or speaking to the merits of the motion itself. We haven't yet entered that debate.

My interpretation of this motion, as written, is that it's arisen out of need because of what happened on October 22. There is a necessity to change the status quo. We heard certain reports. The language in here is that it's out of respect of all of the existing security groups. In order for the next emergency situation to be fully addressed in a way that will be efficient and effective, we

need to look at new measures. This is one measure that is being proposed in this motion. I don't see a contradiction, per se. I see respect being clearly articulated, as well as why we are looking at this motion at this point.

The interventions made by some of our honourable colleagues have been directly on the merits of the motion but, on the point of privilege itself, it is a motion that is before senators. Our leader has yet to speak to the motion. It would be important for us to listen to the debate on both sides as to whether or not this is a motion that the Senate should adopt.

Your Honour, I simply point out that some of the interventions seem to be on the motion rather than on whether or not there is a point of order at this time.

**Senator Cowan:** May I clarify something arising out of Senator Martin's intervention? My point of order had to do with the merits of the concept of involving the RCMP in the supervision or control of our precinct, our safety and that sort of thing. It had to do with the fact that I interpret section 19 of the Parliament of Canada Act, that statute, as giving certain authority directly to a committee of the Senate. If we want to amend the Parliament of Canada Act to change that and say it's not going to rest with the Internal Economy Committee but with some other body, then we're empowered to do that and we can certainly do so. Whether it's wise to do it is an issue we can debate, but that's the way in which it should be done. My point of order is that I suggest to Your Honour that that end can't be achieved by a motion of the Senate. You can't amend a statute by a motion.

Senator Joyal has pointed out the additional complication that is contained in the RCMP Act and makes it clear that even if we wanted it and even if the RCMP wanted to report to the Speakers, they can't do that because, by statute, they report to the Minister of Public Safety. If we want to say that for purposes of their activities within the parliamentary precinct, the RCMP reports to the Speakers of the two houses, then that can be done. Again, whether that is wise is a question for another day. However, it can't be done, in my judgment and submission, by a motion passed by the Senate and by our colleagues in the other place. It would have to be done by an amendment to the Royal Canadian Mounted Police Act and an amendment to the Parliament of Canada Act.

I was not debating the merits of whether we should do any of those things but simply pointing out that if we want to do those things, then we have to do it in accordance with the law.

**The Hon. the Speaker:** Given the importance of the question, there is no doubt that there is much to consider on this point of order. Time is of the essence. I will report to the chamber as soon as possible, hopefully before the end of the week. There are a lot of words in the motion that I need to rule upon. Are they appropriate? Just as an example, we have, "while respecting the privileges, immunities and powers of our respective houses." What does that really mean? We need to be clear on that, and

then we can move into the debate on the motion. I will take the point of order under advisement, suspend the discussion on the motion and return to the house with my ruling as soon as possible. We will then be able to move on the motion, per se.

I thank all honourable senators who have taken part in the discussion. It was very interesting. For once, it was not the media that was driving the discussion, but ourselves. Thank you very much.

#### VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I wish to draw your attention to the presence in the gallery of Mr. Phill Snel, Annette Borger-Snel, Audrey Snel and G. W. (Bill) Fridgen. They are the guests of the Honourable Senator Nancy Ruth.

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

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

#### DIVORCE ACT

##### BILL TO AMEND—SECOND READING— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Cools, seconded by the Honourable Senator Segal, for the second reading of Bill S-216, An Act to amend the Divorce Act (shared parenting plans).

**Hon. Yonah Martin (Deputy Leader of the Government):** Honourable senators, this item is at day 15. I would adjourn the matter for the balance of my time.

(On motion of Senator Martin, debate adjourned.)

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

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

On the Order:

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

That the Standing Committee on Rules, Procedures and the Rights of Parliament be authorized to examine and report on changes to the Senate's Rules and practices that, while recognizing the independence of parliamentary bodies, will help ensure that Senate proceedings involving the discipline of senators and other individuals follow standards of due process and are generally in keeping with other rights, notably those normally protected by the *Canadian Bill of Rights* and the *Canadian Charter of Rights and Freedoms*; and

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

**Hon. Stephen Greene:** I would like to adjourn this debate in my name.

(On motion of Senator Greene, debate adjourned.)

(The Senate adjourned until Wednesday, February 18, 2015, at 1:30 p.m.)

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