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OFFICIAL REPORT
(HANSARD)

Tuesday, June 2, 2015

The Honourable LEO HOUSAKOS
Speaker

This issue contains the latest listing of Senators, Officers of the Senate and the Ministry.

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THE SENATE

Tuesday, June 2, 2015

The Senate met at 2 p.m., the Honourable Ghislain Maltais, Acting Speaker, in the chair.

Prayers.

SENATORS' STATEMENTS

TRUTH AND RECONCILIATION COMMISSION

Hon. Lillian Eva Dyck: Honourable senators, this week the Truth and Reconciliation Commission is holding its final public event in Ottawa. Since 2010, the Truth and Reconciliation Commission has heard testimony from about 7,000 survivors across the country about their horrific experiences in residential schools.

Some 150,000 Aboriginal children were taken from their parents and were placed in residential schools to "kill the Indian in the child." Many experienced brutal physical, emotional and sexual abuse. Children were abused, beaten, subjected to unethical scientific experiments and even tortured with homemade electric chairs. It is estimated that about 6,000 children died and many were buried in unmarked graves.

From the 1880s until 1996, when the last residential school closed in Saskatchewan, Aboriginal children were taught that they were inferior and punished for speaking their own native languages. The Chief Justice of the Supreme Court of Canada, Beverley McLachlin, has called this "cultural genocide". This morning, Justice Sinclair said it was nothing short of "cultural genocide."

Honourable senators, my mother, Eva McNab Quan, from the Gordon First Nation, attended residential schools. She never talked about it. With all the work that the Truth and Reconciliation Commission has done, we now understand why Mum was so ashamed of being Indian, why she pretended to be Scottish and why she told us to pretend that we were just Chinese. Residential school had taught her to be deeply ashamed of being an Indian. That shame was passed on to us and was reinforced by actions and attitudes of people around us. I express my deep gratitude to the late Elders Laura Wasacase and Emma Sand, who showed me how to be proud of my Cree Indian heritage.

Honourable senators, the effects of past government policies to kill the Indian in the child are still being seen today. The intergenerational legacy of residential schools is manifested by the high rates of family violence and addictions, the huge numbers of Aboriginal children in foster care, the over-representation of Aboriginals in jails and the hundreds of missing and murdered Aboriginal women. All of these can be traced back to the damage done by residential schools.

The Truth and Reconciliation Commission released the summary of its final report this morning. The truth and reconciliation final report may illuminate a dark and deeply disturbing past, but it will show us the way forward through the 94 recommendations, such as fully implementing the UN Declaration on the Rights of Indigenous People and initiating a national commission of inquiry into missing and murdered indigenous women and girls. Thank God for that.

My heartfelt thanks to the Truth and Reconciliation Commission Chair, Justice Murray Sinclair, and Commissioners Chief Wilton Littlechild and Dr. Marie Wilson for their dedication and leadership in their groundbreaking work on Indian residential schools. Their speeches this morning were inspiring and stirred a lot of emotions. I felt deep sadness and also a great sense of relief. No one can deny the long lasting detrimental legacy of Indian residential schools on Aboriginal peoples. The truth can no longer be denied or ignored. Thank you.

Hon. Senators: Hear, hear.

THE HONOURABLE PETER MACKAY, P.C.

Hon. Denise Batters: Honourable senators, today I pay tribute to a man I am proud to call my friend and parliamentary colleague, Justice Minister Peter MacKay, the Member of Parliament for Central Nova.

Peter and I met in 2002 at a Saskatchewan Party convention in Regina. Soon after that, he asked me to be the Saskatchewan co-chair for his 2003 Progressive Conservative Party of Canada leadership bid. We became fast friends.

Peter MacKay was first elected as an MP in 1997 and was elected five more times after that. The Central Nova riding loves the MacKay clan. His father, Elmer MacKay, served seven terms before Peter's lengthy 10-year term began.

Peter rose quickly through the ranks and was elected PC party leader in 2003. Working alongside now Prime Minister Stephen Harper, Peter MacKay accomplished the monumental achievement of merging the PC party and the Canadian Alliance later that year. This bold move finally reunited the right side of the Canadian political spectrum and led the Conservative Party of Canada to government in January 2006, only two years after the merger.

Peter has held some of the most senior federal cabinet portfolios over the last nine and half years, such as Foreign Affairs, Defence and for the last two years, Justice. He has served Canada with distinction in those roles. I have been honoured to work with Minister MacKay on the criminal justice legislation that he has brought forward. In particular, I was proud to sponsor our government's prostitution bill, which produced a paradigm shift in Canada, recognizing the exploitation and victimization inherent in prostitution.

As a politician, Peter is loyal, hardworking, caring and effective. He is a great campaigner. I remember fondly a favourite day with my husband Dave during the grueling 2006 winter campaign. Always a team player, Peter came to assist Dave's reelection effort in Palliser.

• (1410)

On Hockey Day in Canada, we held an outdoor game on an unseasonably warm January day. Peter and Dave were like two little kids, grinning ear-to-ear as they skated around that rink in Moose Jaw.

Peter is also a kind and generous friend. No matter how busy he is, he always makes time to call or send a message.

Last week, at our Legal and Constitutional Affairs Committee, Minister MacKay demonstrated his respect for the Senate of Canada when he said:

> I would simply return to this committee our gratitude for the good work that you do, particularly on these sometimes very complex matters of the law.
>
> I'm going to get in trouble with members of the House of Commons committee for saying this, but I think your deliberations reflect a tremendous amount of experience that is of great service to Canadians, so I thank you for that.

I particularly appreciated that he complimented our upper chamber at this time.

Honourable senators, Peter MacKay has made an immense contribution to Canada as a member of Parliament, as a political party leader and as a minister of the Crown. Please join me in thanking him for his 18 years of dedicated service to our country as he leaves Parliament Hill to spend more time with his very young and growing family: his wife, Nazanin, his two-year-old son, Kian — surely a future centre fielder for the New York Yankees — and his daughter due to be born this fall.

We wish Peter the best of luck in all his endeavours.

Hon. Senators: Hear, hear.

[*Translation*]

THE LATE JACQUES PARIZEAU, G.O.Q.

Hon. Diane Bellemare: Honourable senators, today I would like to mark the passing of Jacques Parizeau, former Quebec premier and a leading Quebec statesman, and honour his contribution.

Jacques Parizeau was a great economist, an aristocrat in his own way, a statesman and a Quebecer whose English was so flawless that Torontonians loved listening to him even though they didn't always like what he was saying.

He was the first Quebecer to graduate from the London School of Economics and Political Science, so let's set aside his political ideas about the relationship between Quebec and Canada and concentrate on his contributions to Quebec's economic development. Jacques Parizeau was among those Quebecers of all political stripes who helped Quebec take a giant economic and social leap forward in its history.

He was a professor at HEC and, as a senior official in Jean Lesage's government in the 1960s, he participated in developing the government's economic and social strategy against the backdrop of the Quiet Revolution. He was one of the architects of the great democratization of Quebec's education system, which made higher education available to working families like the one I came from.

However, what most people remember about him is the role he played in creating the Caisse de dépôt et placement du Québec, whose headquarters will now bear his name.

People also know him as the Quebec finance minister whose every budget decision reflected a desire to foster entrepreneurship in Quebec. He held several economic portfolios from 1976 to 1984, and his achievements are too numerous to list.

Esteemed colleagues, I would also like to remind you that Prime Minister Brian Mulroney wanted to make him a senator in 1987 so that he could support Mr. Mulroney's wish to have Quebec sign the Canadian Constitution of 1982 "with honour and dignity." Jacques Parizeau declined the invitation with a smile, or so it was rumoured in the press.

I would like to express my condolences to his family and friends. Thank you.

Hon. Senators: Hear, hear!

[*English*]

VISITORS IN THE GALLERY

The Hon. the Acting Speaker: Honourable senators, I draw your attention to the presence in the gallery of officials from the International Civil Aviation Organization (ICAO): His Excellency Olumuyiwa Benard Aliu, President; His Excellency Raymond Benjamin, Secretary General; and Dr. Fang Liu, Director, Bureau of Administration and Services and Secretary General Designate.

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

Hon. Senators: Hear, hear!

The Hon. the Acting Speaker: Honourable senators, I draw your attention to the presence in the gallery of a parliamentary delegation led by the Honourable Stephen Parry, Senator, President of the Senate of Australia.

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

Hon. Senators: Hear, hear!

The Hon. the Acting Speaker: Honourable senators, I draw your attention to the presence in the gallery of Her Excellency Birtukan Ayano Dadi, Ambassador, Embassy of the Federal Democratic Republic of Ethiopia to Canada, who is accompanied by Mr. Michael Tobias Babisso, Minister Counsellor Trade and Investment. They are the guests of the Honourable Senator Meredith.

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

Hon. Senators: Hear, hear!

ETHIOPIA

Hon. Don Meredith: Honourable senators, I rise to acknowledge the fiftieth anniversary of the establishment of diplomatic relations between the Federal Democratic Republic of Ethiopia and Canada and the twenty-fourth anniversary of the Victory of Ginbot 20, which was observed just last week. I commend Her Excellency Birtukan Ayano Dadi and her team for their contributions and continued support to fostering a positive and collaborative working relationship between both countries.

Earlier this year, I had the great privilege of visiting Ethiopia, where I led a delegation of a Canadian business mission from February 21-25. This was the first Canadian trade and investment mission to this country. It was a wonderful example of the collaboration between the Ethiopian Embassy in Ottawa and the Canadian Embassy in Addis Ababa.

The mission was organized as a strategy to engage Canadian companies that have shown interest in visiting Ethiopia and to further analyze investment and trading opportunities based on the information collected during the Canada-Africa Business Summit that took place last year in Toronto. This delegation was also part of the various programs that mark the fiftieth anniversary of the establishment of diplomatic relations between Canada and Ethiopia.

Honourable senators, Ethiopia is a thriving country with over 94 million people. I was inspired by the infinite opportunities presented and envisioned with every stop we made during the mission. During my trip, it was enlightening to learn first-hand about the business opportunities in the sectors of agriculture, agri-processing, energy, finance, mining, housing and ICT. A few Canadian firms have expressed interest in investing and doing business in Ethiopia, creating much-needed jobs for Canadians, as well as Ethiopian youth.

Honourable senators, 30 years ago Ethiopia was dealing with a serious drought. Today, it is the fifth largest economy in Africa and in a period of rapid growth. Canada's committed to seeing Ethiopia develop and focusing its support on economic growth and boosting investment opportunities in trade, energy and mining industries. To that end, in 2014 Ethiopia was identified as a key recipient for the Government of Canada's international development opportunities. Canada ranks third among Ethiopia's largest bilateral donors. But this is not a one-sided relationship. Export Development Canada outlines that Ethiopia imports goods worth $137 million from Canada. The main imports are capital goods, food, beverages, tobacco and fuel.

Based on what I learned and experienced during my trip, I remain optimistic about the prospects for fostering further mutually beneficial Canada-Ethiopia commercial relations.

Honourable senators, I am pleased to have Her Excellency Birtukan Ayano Dadi with us here today. We look forward to 50 more years of collaboration and securing mutual fund benefits that will advance opportunities and promote economic development between both countries.

ROUTINE PROCEEDINGS

DÉLĮNĘ FINAL SELF-GOVERNMENT AGREEMENT DÉLĮNĘ TAX TREATMENT AGREEMENT

DOCUMENTS TABLED

Hon. Yonah Martin (Deputy Leader of the Government): Honourable senators, I have the honour to table, in both official languages, the Délįnę Final Self-Government Agreement and the Délįnę Tax Treatment Agreement.

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

SEVENTH REPORT OF COMMITTEE TABLED

Hon. Vernon White: Honourable senators, I have the honour to table, in both official languages, the seventh report, interim, of the Standing Committee on Rules, Procedures and the Rights of Parliament entitled: *A Matter of Privilege: A Discussion Paper on Canadian Parliamentary Privilege in the 21st Century*.

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

REFORM BILL, 2014

BILL TO AMEND—EIGHTH REPORT OF RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT COMMITTEE PRESENTED

Hon. Vernon White, Chair of the Standing Committee on Rules, Procedures and the Rights of Parliament, presented the following report:

Tuesday, June 2, 2015

The Standing Committee on Rules, Procedures, and the Rights of Parliament has the honour to present its

EIGHTH REPORT

Your committee, to which was referred Bill C-586, An Act to amend the Canada Elections Act and the Parliament of Canada Act (candidacy and caucus reforms), has, in obedience to the order of reference of Thursday, May 14, 2015, examined the said bill and now reports the same without amendment.

Respectfully submitted,

VERNON WHITE
Chair

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

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

• (1420)

[*Translation*]

COMMON SENSE FIREARMS LICENSING BILL

BILL TO AMEND—FIRST READING

The Hon. the Acting Speaker informed the Senate that a message had been received from the House of Commons with Bill C-42, An Act to amend the Firearms Act and the Criminal Code and to make a related amendment and a consequential amendment to other Acts.

(Bill read first time.)

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

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

[*English*]

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING ADJOURNMENT OF THE SENATE

Hon. Kelvin Kenneth Ogilvie: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That, pursuant to rule 12-18(2)(b)(i), the Standing Senate Committee on Social Affairs, Science and Technology be authorized to sit between Tuesday, August 4, 2015 and Friday, August 28, 2015, inclusive, even though the Senate may then be adjourned for a period exceeding one week.

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO DEPOSIT REPORT ON STUDY OF THE INCREASING INCIDENCE OF OBESITY WITH CLERK DURING ADJOURNMENT OF THE SENATE

Hon. Kelvin Kenneth Ogilvie: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the Standing Senate Committee on Social Affairs, Science, and Technology be permitted, notwithstanding usual practices, to deposit with the Clerk of the Senate a report relating to its study of the increasing incidence of obesity in Canada between August 7 and September 4, 2015, if the Senate is not then sitting; and that the report be deemed to have been tabled in the Chamber.

ABORIGINAL PEOPLES

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO DEPOSIT REPORT ON STUDY OF CHALLENGES AND POTENTIAL SOLUTIONS RELATING TO FIRST NATIONS INFRASTRUCTURE ON RESERVES WITH CLERK DURING ADJOURNMENT OF THE SENATE

Hon. Dennis Glen Patterson: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the Standing Senate Committee on Aboriginal Peoples be permitted, notwithstanding usual practices, to deposit with the Clerk of the Senate a report for its study on challenges relating to First Nations infrastructure on reserves, between June 22 and July 15, 2015, if the Senate is not then sitting; and that the report be deemed to have been tabled in the Chamber.

ROLE AND FUNCTION OF AUDITOR GENERAL

NOTICE OF INQUIRY

Hon. Anne C. Cools: Honourable senators, pursuant to Senate rules 5-1. and 5-6.(2), I give notice that, two days hence:

I shall call the attention of the Senate to:

(*a*) the Auditor General of Canada, a statutory officer whose powers are limited to those expressly stated in the statute, the *Auditor General Act*; and, to his powers, by this Act, as "the auditor of the accounts of Canada," which powers do not include any audit of the Senate and senators; and, to the British House of Commons' great achievement, being the creation of the appropriation audit, to which audit all government departments were subject; and, to this appropriation audit, which inspired Canada's 1878 statute that created the Auditor General of Canada as an officer wholly independent of our finance department and most particularly of the government; and,

(*b*) to the auditor general's role in the appropriation audit, being to verify and to certify that government spending is as the House of Commons dictated and adopted in their appropriation acts; and, to the purpose and function of appropriation audits, which is the examination of the appropriation accounts of government departments, of which the Senate is not one, and therefore not subject to the Auditor General's audit examination; and,

(*c*) to the distinguished British Liberal Leader, William Gladstone, known for his constitutional acumen, and his defence of the powers of the House of Commons in the public finance and the *control of the public purse*, and who, as the Chancellor of the Exchequer, sponsored Britain's 1866 *Exchequer and Audit Departments Act*, which was the basis for Canada's 1878 statute, *An Act for the better Auditing of the Public Accounts*, which Act established the new independent Auditor General of Canada; and, to Britain's Commons House famous and powerful Public Accounts Committee and its *1865 Report from the Committee of Public Accounts*, which Report clarified the role of audit in the public accounts of the departments of government; and,

(*d*) to this Report, that records the auditors' views and opinions on their role and proper function as never advising, controlling, or remonstrating, and also to never correct or prevent, but just to detect; and, to the fact that this great achievement of the appropriation audit is now largely unknown to Canadians, because recently, auditors general, by their own self-definition, have expanded their role away from the quantitative, arithmetic functions of audit, and have moved into the qualitative, policy spheres, to the extent that many Canadians now believe wrongly that the auditor general is the taxpayers' representative and guardian of their tax dollars, which function properly belongs to the Commons House, and not to the auditor general, who has absolutely no representative powers, which powers rightly belong to the elected members of parliament, chosen in *representation by population* for the purpose of no taxation without representation.

COMPREHENSIVE AUDIT OF AUDITOR GENERAL

NOTICE OF INQUIRY

Hon. Anne C. Cools: Honourable senators, pursuant to Senate rules 5-1. and 5-6.(2), I give notice that, two days hence:

I shall call the attention of the Senate to:

(*a*) our 1988 Senate National Finance Committee study of the Auditor General of Canada; and, to then incumbent Kenneth Dye's February 3 testimony, wherein he described parliament as his "client," but also said, ". . . , our office views itself as a servant of Parliament"; and, to his explanation of the *comprehensive audit*, the term used by the June 6, 2013 Senate government motion, inviting the auditor general to audit exam senators; and, to the Auditor General's term, "performance audit," that describes this same audit of senators; and,

(*b*) to the learned research and scholarship on the auditor general's role and its incursion into the political, policy spheres; and, to Carleton University's Professor Sharon Sutherland's January 28, 1988, testimony before our National Finance Committee; and, to the abandonment by auditors general of their traditional audit role as quantitative bean counters; and, to their movement into the policy and advice spheres, the inexorable consequence of the then new 1977 *Auditor General Act,* the political result of then Auditor General James Macdonell's, successful public media campaign to that end; and,

(*c*) to the political fact that this Act enlarged this auditor's powers to add a new unknown power to judge and opine on the "value for money" of government expenditures; and, to these judgments which, not amenable to arithmetic measurement and quantification, will inevitably be flawed, because by human nature, such judgments will tend to be social, political and qualitative in character, which judgments, so totally liable to human subjectivity and selectivity, cannot be sound measures to form sound conclusions on government spending; and,

(*d*) to the fact that such auditors' opinions, politicized as they are, having of necessity become public policy opinions, will undermine the constitutional fact that public policy is the exclusive domain of politics, governments and parliaments; and, to *Auditor General Act* "value for money" section 7.(2)(d), which says:

> 7.(2) Each report of the Auditor General under subsection (1) shall call attention to anything that he considers to be of significance and of a nature that should be brought to the attention of the House of Commons, including any cases which he has observed that . . .
>
> (*d*) money has been expended without due regard to economy or efficiency;

and,

(*e*) to the fact that Mr. Macdonell's 1977 *Auditor General Act* wholly altered audit of the public finance; and, to this then new audit role's drift away from the appropriation audit, towards the regulation of government, and now even the houses of parliament, with the result that, in the public mind, the auditors general have become a check on politicians, parliamentarians and senators; and, to this auditor general new role in social and political control, with all its unfortunate results; and, to the *Canadian Comprehensive Auditing Foundation*, founded, financed, and operated by Auditor General Macdonell's office; and, to its famous

paper, *Comprehensive Auditing — An Overview*, which, at page 6, states that:

> Although the primary function of auditors is to add credibility to financial information, recent developments seem to indicate a growing trend towards viewing them in a broader context as agents of social control, ...

• (1430)

An Hon. Senator: Bravo!

[*Translation*]

QUESTION PERIOD

INTERNATIONAL TRADE

FREE TRADE AGREEMENTS

Hon. Céline Hervieux-Payette: Honourable senators, my question is for the Leader of the Government, and I would ask him to bear with me.

Mr. Leader, I hope that you took the time to read the study on Canada's economic performance that I released last Wednesday, or that you at least read what the media had to say about it. If so, you would have learned that the 80,000 jobs that are supposed to be created by the Canada-Europe free trade agreement was not a finding of the pre-study, contrary to what the government's official communications imply. I am talking about the pre-study regarding the negotiations with Europe. According to my information and that of journalists, the first mention of the 80,000 jobs came up in Minister Fast's testimony before the House of Commons Standing Committee on International Trade on October 6, 2011.

Could you tell me — or could you ask Minister Fast — how your government came up with this famous figure of 80,000 jobs? Where did that number come from? No one is saying that there won't be 80,000 jobs, but we want to get to the bottom of this and find out where this number came from.

Hon. Claude Carignan (Leader of the Government): Are you finished?

Senator Hervieux-Payette: Yes.

Senator Carignan: Are you going to sit down?

Senator Hervieux-Payette: Yes, sorry.

Senator Carignan: You asked me to bear with you so . . . I am very patient, especially these days.

Senator, I am not questioning the work of your staff — you have great employees and I know one of them in particular who is very nice — but when it comes to the economic impact of the free trade agreement, I would rather rely on the joint Canada-EU study, which indicates that the agreement will increase Canada's gross domestic product by $12 billion per year and increase trade by 20 per cent. With all due respect to your staff, we will continue to rely on credible studies done by Canadian and European economists.

Senator Hervieux-Payette: Thank you. I am also very pleased with my staff. One of them is an economist who worked for the World Trade Organization. He has international experience.

As you read in the study, the pre-study of the Canada-Europe free trade agreement was based on 2004 and 2006 statistics, thus data collected before the financial crisis, the Euro crisis and the recession. The pre-study estimated that, between 2007 and 2013, the average growth in GDP for Canada would be 2.68 per cent, whereas it was only 1.44 per cent; for Europe, 2.55 per cent compared to the actual 0.37 percent; and for the rest of the world, 4.45 per cent, compared to the actual 2.79 per cent.

Leader, if your 80,000 jobs were based on this pre-study, as suggested by the government's official communication, why has your government never revised these figures given that the statistics are outdated? We are talking about data from 2004 to 2006. I think that it could be revised. Explain to me where those figures came from because, at present, according to official government documents, they are based on the Canada-Europe studies from 2004 to 2006.

Senator Carignan: Senator, I have already said that the benefits of the Canada-Europe free trade agreement are huge for Canadians. It is estimated that this agreement will add $12 billion to our economy, the equivalent of 80,000 new jobs for Canadians or $1,000 in additional annual income for each Canadian family. This trade agreement with the European Union will have significant long-term benefits for all sectors of our economy, in every region of our country.

Canada will now be one of the only developed countries in the world to have guaranteed preferential access to more than 800 million consumers in the world's two largest economies, the EU and the United States. We will continue our work based on the credible studies conducted by Canadian and European economists.

Senator Hervieux-Payette: Your math skills are fine: 500 million in Europe and 300 million in the United States indeed total 800 million, except that the deal with the United States has been around for a few years now. The pre-study leading up to the Canada-Europe free trade agreement speculated that the Doha negotiations under the World Trade Organization would be concluded by 2014 — the idea dates back to the time between 2004 and 2006 — and that this would have a positive influence on the countries' economic performances associated with the agreement. However, the study stipulated that if the Doha negotiations were not concluded by the time the agreement was signed, this would have an impact — possibly negative — on the expected outcome.

Leader, the Doha negotiations have not yet been concluded. Why did your government intentionally overlook that fact in its calculation of the 80,000 jobs that were announced, even though that number has not been confirmed by any studies so far?

Senator Carignan: As I said, senator, I have a great deal of respect for your staff.

• (1440)

However, I would rather defer to well-known Canadian and European economists when it comes to calculating what economic benefits the Canada-Europe free trade agreement can have for employment.

Senator Hervieux-Payette: The difference between the estimates announced in 2004 and the reality of 2015 is problematic. On May 29, two days after I released my study showing that Canada had experienced the worst exports recovery in modern history, Reuters, the excellent European news agency, revealed that the Canadian economy had contracted by the most in nearly six years as a result of falling investments and exports. I assure you, Leader, that I did not expect Reuters to support me in my campaign for transparency.

Leader, does your government realize that your policy of signing all kinds of free trade agreements is not working?

Senator Carignan: Senator, as we've said many times in our discussions, Canada is one of the leading G7 countries to have experienced significant economic growth, having created more than 1.2 million jobs since the depths of the recession.

When we are one of the top countries in terms of economic growth, we can safely say that Canada's trade and economic development strategy is working and is the envy of many countries in the world.

Senator Hervieux-Payette: I once again refer to my study, which shows that free trade agreements do not benefit the Canadian economy in any way. Canada currently has a deficit in two of three free trade agreements. That's nothing to brag about.

Since 2006, your government has signed a free trade agreement with Iceland, and we have a trade deficit. Your government has signed a free trade agreement with Norway, and we have a deficit. Your government has signed a free trade agreement with Switzerland, and we have a deficit. Your government has signed a free trade agreement with Peru, and we have a deficit. I'll add that your government signed a free trade agreement with South Korea and that we have a deficit. With the Panama agreement we are just breaking even, and we have a surplus with Colombia and Jordan.

What is more, we have a trade deficit with Mexico, Israel, Chile, and Costa Rica, whose agreements pre-date your government and, our small surplus with the United States applies only to natural resources.

Leader of the Government in the Senate, where is the economic efficiency in your policy of free trade agreements at all cost, which does not help create any jobs in Canada? On the contrary, those jobs end up being transferred to the countries we do business with.

Senator Carignan: Senator, since 2006, Canada has signed free trade agreements with 38 countries, including two historic free trade agreements: one with the European Union and the other with Korea. Over the 13 long years of their government, the Liberals signed only three trade agreements, denying Canada a voice at the table of trade negotiations and making Canadian workers and businesses run the risk of lagging behind their competitors in the global marketplace.

Senator, we will not make that same mistake. Through our economic action plans, we will continue to focus on growth and job creation. We are keeping our promise to lower taxes and balance the budget in 2015, and we will continue to focus on job creation and to negotiate and sign free trade agreements when they benefit Canada. It is an important part of our strategy and we will stay the course.

Senator Hervieux-Payette: Mr. Leader of the Government in the Senate, my study took nearly a year of work in my office, under my direction. I undertook this initiative and realized along the way that it required a great deal of research. We worked on this at length. I hope you will take the time to read it and consider the proposed solutions at the end.

What we see in free trade agreements — and this also applies to the free trade agreements signed by the Liberals — is that they only replicate and amplify the trade situation that existed before the agreement was signed. In other words, if there is a trade deficit before a free trade agreement is signed, there will be a trade deficit after the free trade agreement is signed. The same applies to a trade surplus.

When we look at the current trade situation with Europe's major countries — France, Germany, Italy — we see the same thing. In general, we have a trade deficit with those countries.

You said that because we will have access to 500 million consumers tomorrow morning, we will be competitive. I believe that your government should start thinking about how to create a surplus and what action to take. I have not seen any coordinated efforts with the private sector and the provinces.

Will your government finally start establishing partnerships with the other economic players in order to create surpluses and not increase our deficits?

Senator Carignan: Senator, that is what we are doing, creating partnerships, and that is what you are criticizing. I am no longer following you.

Senator Hervieux-Payette: I do not believe that there is an integrated export policy in Canada. Read my report and you will see that we are far apart and that we need a number of measures, both provincial and federal, to be competitive globally.

I would remind you that the Governor of the Bank of Canada recently spoke about last winter's "atrocious" economic performance. A TD Bank economic strategist spoke about "a pretty clear disappointment."

Indeed, the GDP shrank by 0.6 per cent, annualized. This was an unexpected decline, since growth of 0.3 per cent had been predicted. That is not very much, but any growth would have been better than this small decline. Furthermore, our exports of goods and services shrank by 1.1 per cent, annualized. That translates into another deficit.

Leader, your government's economic policy is based on two mantras that characterize Conservative policies: free trade or bust and a zero deficit at any cost.

I just proved to you that the first mantra is not working — all the numbers are from official sources and can be confirmed by any organization such as the OECD — so, do I also need to prove to you that this obsession with balanced budgets is counterproductive for the Canadian economy, and that this contraction is related to the fact that we put all of our eggs — and now we have no eggs left — in one basket? Your government fought to cut jobs from the public service, eliminate programs and get rid of thousands of public servants who helped and supported private companies, when a legitimate economist like Mr. Stiglitz, who is one of the most internationally acclaimed economists, has confirmed that balancing the budget at any cost poses a risk to employment and a risk to the economy.

Will you start thinking about investing in the Canadian economy, strengthening your investments and working with the private sector so that our youth will no longer face a 14 per cent unemployment rate, and will you stop telling people that you are creating hundreds of jobs? Our young people, even those with a university degree, are having a very hard time finding work.

What measures do you intend to take to increase our investments in research and development in order to get our economy moving, and more importantly, to get rid of our trade deficits?

• (1450)

Senator Carignan: Senator, I would like to quote from the joint study by the European Union and Canada entitled *Assessing the costs and benefits of a closer EU-Canada economic partnership*. Paragraph 94 of part 4 sets out the private sector's views, and I quote:

> There was a great deal of commonality of views between EU and Canadian respondents to the private sector consultations undertaken in the context of this study. There was a general consensus that the EU-Canada economic relationship had not yet reached its full potential and that significant opportunities existed to improve trade and investment flows. Canadian respondents were clear in their support for a comprehensive trade and investment agreement between the EU and Canada.
>
> There was an emphasis on the desirability of removing remaining tariffs and tariff peaks in particular, as well as non-tariff barriers to trade in goods and services and of continuing to improve the investment environment and investment opportunities. Both EU and Canadian respondents supported closer cooperation, particularly in the fields of regulatory cooperation, labour mobility and recognition of qualifications. Both EU and Canadian respondents felt that the government procurement markets on both sides of the Atlantic had the potential to offer increased business opportunities to exporters and investors. EU respondents indicated that any future trade and investment arrangement should include procurement by sub-federal authorities. Some respondents welcomed any future cooperation between the EU and Canada on IPR protection and enforcement vis-à-vis third countries.

Lastly, the study says this:

> EU respondents noted that any form of enhanced EU-Canada economic cooperation should include all levels of government in Canada. Canadian respondents registered a similar interest regarding the EU and the Member States, noting concerns over the complexity of the European market due to divergent policies, regulations and administrative procedures of the individual Member States.

That is the private sector view drawn from the study you commented on. You were wondering when the government would listen to the private sector. This is a great example of how the private sector fully supports the Canada-Europe free trade agreement. Of all the people who are economists — or who claim to be — you are the only one who has anything bad to say about the agreement.

Senator Hervieux-Payette: Mr. Leader, I think you are exaggerating a little. It's not just me saying it, it's Mr. Poloz, commentators and Reuters. In fact, according to Reuters, private sector investment has dropped by 9.7 per cent on an annualized basis.

This means that no new funds have been allocated to gas and oil extraction, and that businesses invested much less in the real estate, machinery and equipment sectors. Between you and me, 9.7 per cent is extremely high.

However, these industries are currently seeing an 11 per cent drop in the service sector. Although these companies operate mines, they do business with the service sector. The services associated with these industries have dropped by 11 per cent. If that's what you would call a growing economy that will generate budget surpluses. . . . Not to mention the ill-advised drop in investments in the innovation sector. How do you plan on creating wealth in Canada? How will you plan for the future of our young people and ensure that we continue to post surplus budgets instead of deficits?

Senator Carignan: Senator, you may have missed the budget speech from the Minister of Finance. He clearly indicated that the state of Canada's finances allow us to expect surpluses. We are taking measures to create wealth, lower taxes, give more money to Canadians to spend on what they need, and reduce debt.

This is a formula that works to create jobs and wealth, balance budgets and lower taxes. We will continue in this direction. I urge you to vote in favour of Economic Action Plan 2015, which will be debated here in this chamber. I get the impression that you will vote against this bill, which would be unfortunate because you seem to care about the economy. If that's the case, you should support our economic action plan.

ORDERS OF THE DAY

ANTI-TERRORISM BILL, 2015

BILL TO AMEND—THIRD READING—
DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Runciman, seconded by the Honourable Senator Boisvenu, for the third reading of Bill C-51, An Act to enact the Security of Canada Information Sharing Act and the Secure Air Travel Act, to amend the Criminal Code, the Canadian Security Intelligence Service Act and the Immigration and Refugee Protection Act and to make related and consequential amendments to other Acts.

Hon. Grant Mitchell: Honourable senators, I have a lot of work to do with this bill, so I'll get right to my points.

[*English*]

Bill C-51 is entitled the Anti-terrorism Bill. There is some deep question in my mind as to whether it will contribute significantly to that, but it is designed to address the issue that confronts us. That issue is not to be taken lightly. No reasonable person would take the threat of terrorism lightly at this time in the history of our country.

There are, I think, four manifestations of terrorism, two of which we talk about all the time and two that are more subtle or subdued, not as evident and apparent within our social framework.

The first, of course, is the danger of attacks on Canadian soil. We have seen those. We saw those with the attack in Quebec and with the attack in our own Parliament. We saw it with the conspiracy of the Toronto 18 and with the conspiracy to wreck a VIA Rail train. It is the serious threat of physical attacks that could kill, harm individuals and damage, if not destroy, infrastructure.

The second risk and threat of terrorism is the danger of Canadians being radicalized and travelling elsewhere to fight radical causes. Those two are widely spread in our discussion in the lexicon of this debate, but there are two others that are, as I say, not as highly elevated but are in many ways every bit as important.

What we must keep in mind is that there is a pretty consistent theme that defines many of the people who end up in these categories — threatening attacks here, undertaking attacks here or travelling abroad — and many of them are young people. They are young people in various communities across this country, from Calgary to Montreal.

It struck me yesterday, as I was preparing for this speech, to imagine being a parent of a young person, waking up one morning and realizing they were either in Syria or they had been stopped at the border on the way to Syria. This young person, often under 18 or just barely over 18, who you thought you knew, who you raised, you loved, protected, cared for and nurtured has all of a sudden ended up in Syria fighting a war that didn't bear resemblance to their circumstances, or they were caught trying to get there. I began to realize what a huge human impact this has on our neighbours, on communities across this country.

Imagine a parent confronting that horror. That's another threat of terrorism. Young people could be manipulated by the Internet or by sources, individuals and places that we have yet to come to grips with, in a way that they would make a decision that would literally end their life, or ruin their life and the lives of other people. We can't forget that. It's at the basis of what we need to keep in mind when we're involved in this debate; namely, that we, as Canadians, are all in this together. This isn't a we-they situation. This isn't some sort of a community somewhere that's more damaged by this than somebody else — that should be separated and alienated. There are communities that are suffering deeply and directly because families and members of their community are directly involved and endangered by it in ways that others of us aren't. I mention that as a third threat.

• (1500)

The other threat is the threat to our rights. One of the great and unfortunate ironies would be if we reacted inappropriately to the threats in such a way that we actually do what the terrorists want us to do, which is to erode our democratic and civil liberties and, in some senses — I don't want to say "overreact" — but react in a way that is not quite on the mark, because we feel these pressures in the instant or moment, and we haven't taken the time to step back to say, "Wait a minute. What is it we are trying to accomplish and how do we accomplish that?"

That's not to say there is not some value in this bill. This bill addresses a number of issues that need addressing. In particular, and this is a point that was made by Justice Major in his review of the Air India tragedy, such an attack might have been avoided had there been better protocols for transferring information between CSIS and the RCMP. It became part of the debate and analysis of terrorist concerns throughout that period, in the intelligence and policing communities; namely, that we had to do something about sharing information between and among government agencies, security agencies, et cetera.

That hasn't been accomplished as well as it could be. Progress has been made by these agencies, but it is correct that the siloing in this area needs to be addressed. And although it does not do it adequately — and in some sense it does it dangerously, I would argue — this bill does address that.

I think there's room to bolster the no-fly-list provisions. Part of that is the sharing of information and accumulating of that information more rigorously. Again, though, I'm not sure it has been accumulated more carefully.

Finally, there are some arguments to be made that preventive detention and peace bonds might be strengthened in the way they could be applied, but I'm cynical about, and I'm not convinced that they fully address the issue that they're trying to address.

But there is some value to this bill; I don't say there is not. At the same time, what is critical about this bill, for me, isn't so much what it's trying to do, but that it isn't doing it particularly well. In

some cases, and in some deep and important ways, it's doing it dangerously. It doesn't achieve one fundamental thing: Any time a government begins to expand state powers, policing and national security powers in particular, you have to be doubly careful about protecting civil liberties and democratic rights.

I think that's where this bill fails. It attempts to do the former without achieving the latter. What's particularly frustrating is that you could achieve the latter — that is to say the protection of civil liberties and rights — with changes to this bill that wouldn't be inordinate or difficult. For some of the changes, their time has absolutely come.

You could get what you want with powers for policing, and you could protect civil liberties at the same time.

Minister Blaney came to our committee and made an interesting point. He said he's come to the conclusion that there can be no prosperity without security. That might be true; I'm not sure. It raises some interesting philosophical debate possibilities. But I do know for sure that there can be no security without the protection of rights, period. What other major reasons would there be for the protection of rights if it weren't to underline the importance of security? Security and rights go hand in hand, and you can't have one without the other as far as I'm concerned.

It's very instructive and probably indicative of the government's failure to capture that balance or even to consider the balance in focusing just on one side of the equation. The preamble, the first "whereas" on page 2 of the bill, says:

> Whereas the people of Canada are entitled to live free from threats to their lives and their security;

And it begs the question of what the rest of that sentence should be. It should be:

> Whereas the people of Canada are entitled to live free from threats to their lives and their security, and threats to their rights;

It would have been so easy to have applied that to this preamble that it's very instructive that it wasn't applied.

As I say, I'm not opposed to what needs to be done or that we need to address the issue of terrorism in a significant way. I'm just saying that this bill doesn't do it very well and it might do it dangerously.

First, let me give it some context. There is no overall strategy. Wesley Wark, who came to one of our open caucuses this week, made the point that there has only once been a national security strategy document written in this country. That was in 2004. He made the point it wasn't particularly good, but at least it was a start. We still don't have one.

A strategy to deal with terrorism has a number of elements that must be met. First of all, we need to know more about the process of radicalization. That's the Kanishka Project. It was a good project. It has been limited in its financing — that's been cut — and it's also been limited in the number of years it will continue.

We don't know enough about what causes the process of radicalization. We've had witness after witness before the committee who has made that point.

We need preventive programs and rehabilitative programs for people who have been radicalized or who are in the pre-criminal stages — the evolution of radicalization. We need to have community work done by police. Senior police officers told us over and over again, independently, that the best days of their working lives on issues like this are when they are in the community dealing with people in the community and connecting with them so they can solve these problems before they occur.

We need support for communities that are facing this problem. Often these communities are filled with new immigrants who are not powerful within our society in the way that other communities are. They need help and understanding. They need some resources.

We need education. This was a point that was made by Senator Jaffer at one of our committee meetings. We need intense and coordinated counter-narrative efforts, particularly to counter the messages that come via the Internet.

One of the problems that a strategy of this type underlines and emphasizes is that the government has not put enough resources into dealing with terrorism.

There are questions that are addressed in this bill that beg the issue of whether we need more or new laws, or whether we have sufficient laws but not enough resources with our police and other national security forces to deal with them — to properly implement those laws.

The illustration that makes the point is the classic example that the RCMP has moved at least 600 personnel from other major crime files to terrorism. A rule-of-thumb, back-of-the-envelope analysis of that would say that's probably a cost of about $120 or $130 million a year. The Prime Minister announced $30 million a year over the next five years. That's insufficient.

They will argue that they increased the resources from 2006 to 2012, but if there were sufficient resources in 2012 with that increase and the intense terrorist threat didn't exist at that time and it has been cut 15 to 20 per cent since that time, then there aren't sufficient resources to deal with terrorism and the other pressures on the RCMP, for example, at this time. CSIS made the same point; namely, that they are having to prioritize in a way that they might not otherwise have done if they'd had sufficient resources.

The other thing lacking in the context of this bill is proper oversight. The world has changed. There is no question of that. At least during the Cold War, as dangerous as the world was, we knew how to manage it. We figured that out. It took decades, but we figured it out.

Now we have a new configuration of threat and it is deeply frightening in part because we haven't figured out how to deal with it yet. But things have changed fundamentally. This threat is complex, and complex perhaps in a way that we hadn't anticipated before and complex on our own soil, within our

own boundaries, and it therefore more directly addresses our rights and civil liberties issues perhaps than other kinds of threats did in the past, even the Cold War threats.

• (1510)

We need to restructure oversight and review. Just for the record, oversight is that which is done by a body on a day-to-day basis. It is policy and managerial to some extent, driven by developing plans and working with an organization with the future in mind. Review is the back end of that. That is looking back at what an organization has done. We have not enough oversight. We have no external oversight of our national security efforts and we have not enough operational review. I will get into that later in my speech.

On balance, in the end, I would say all that adds up to is there being no balance in this bill. There is insufficient balance, at the very least, in the bill, and it is because the government has not come to grips with yes, extending state powers where they might be needed, but no, they have not, on the other hand, on the other side of the equation, developed the kinds of protections that civil liberties and democratic rights require when they will inevitably be threatened by this process.

Let me tell you a number of ways in which rights and freedoms will be threatened, first of all with respect to Part 1 of the proposed security of Canada information sharing act. That basically addresses, as the name suggests, the ability of organizations within government and with other governments to share information. There will be 17 different agencies in Canada that will be receiving information. They are called recipient institutions. Other government agencies and departments will have an obligation if they see information that they think should be forwarded to those 17, and there are 260 some-odd countries with which we share information or have national security relationships. This is a complex information-sharing process and it's fraught with danger for privacy and for rights.

What it does not provide for is that which would protect our privacy. Many elements would protect our privacy. For example, there is no legislative requirement for memorandums of understanding that would define the kinds of information that could be shared between and amongst departments and other governments and what that information could be used for, for example. There is no specification of the need to have a memorandum of understanding between entities that are sharing information. If they do decide to have a memorandum of understanding, there is no required review of those MOUs by any agency or review agency or review group in our government. There is no required review of any information once it has been shared, and there is nobody in particular that has the resources or the specific focus to do it.

Now, the government will argue the Privacy Commissioner could do that, and the answer to that is, first, the Privacy Commissioner probably doesn't have the resources to do it; and second, the Privacy Commissioner can look at what information has been shared but can't rule, doesn't have the power to rule, on the lawfulness of the sharing of that information. What's more, the Privacy Commissioner doesn't have the resources to check 17 recipient agencies with a multitude of information sharing occasions or instances on any kind of regular basis.

We had an excellent witness from CRA, Ms. Hawara, yesterday and previously. She was very forthright. We asked when the last time was that the Auditor General audited them, and she said, "Well, 2010." Five years ago, the Auditor General audited that area of the CRA that has national security responsibilities and jurisdiction, which is charities work. I asked, "When is the last time that the Privacy Commissioner audited you?" She said, "I never saw the Privacy Commissioner."

So the Privacy Commissioner might get around to auditing each of these 17 departments and agencies, I don't know, once every 17 years, or each of them once every 17 years. The Auditor General? Who knows? It took two years for him to audit us. He might have been auditing some of these agencies. But they don't have the resources to do it and nobody is checking.

The definition of what kind of information can be shared is too broad. It says information that one department determines might be relevant to the jurisdiction — they might be guessing about that — and the responsibilities of one of the recipient departments, or of 17 of the recipient departments. "Relevant" is awfully wide, extremely wide. In fact, the word that has been proposed by the Privacy Commissioner, who was also an excellent witness, is "necessary." The information should be necessary. The point he makes in his presentation is this: Applying a relevant standard, because it exposes the personal information of everyone, would contribute greatly to a society where national security agencies would have virtually limitless powers to monitor and profile ordinary Canadians. Do you know what this sounds like? This sounds like gun control on steroids.

The fact is that they will have broad powers to look at information because that information has to be relevant. It doesn't have to be necessary to the work and jurisdiction of the recipient group, or proportional to that. There is no real limit to what the information can be used for once it is shared. There is nothing to stop, ultimately, it would seem, or I haven't been convinced, another Maher Arar case. There are no limits to how long the information could be kept and no specification of how that information will be properly destroyed in a timely fashion.

There is a definitional problem with information that can be shared. It would be information related to an activity that undermines the security of Canada, which would include, among other things, interference with the Government of Canada in relation to the economic or financial stability of Canada. Well, that's a very broad indication of what might be relevant information. You can begin to see why it is that Aboriginal groups and environmental groups are very concerned. For example, say they set up a camp, as is done sometimes in the North, across a pipeline, or inhibit the building of a pipeline because they feel differently about the pipeline than the government does. At what point does that stop being advocacy and start being terrorism if they happen to damage something in the process of doing that?

There is also a very subtle but nonetheless disturbing change of the standard term, "designated taxpayer information," which currently is what is allowed to be shared by CRA in limited cases. "Designated" has been dropped, so now what can be shared is "taxpayer information." How much more broad is that? What's

to stop the CRA from running a metadata kind of program to determine who is giving what amounts of money to which charities that somehow somebody in CRA might think is of relevance to CSIS, and all of a sudden CSIS has taxpayer information on a variety of charities and charitable givers with no strings attached. They can use it however they want.

You could imagine a case. On the weekend, and I know this was purely anecdotal, there was a demonstration, and now it has been reported that one of the RCMP members said to one of the demonstrators, "You're not a citizen right now, not while you're demonstrating." All of a sudden, there is a tension between a demonstrator and an RCMP officer. That's written up in a report, with names attached to it, and that's shared because it looks relevant to CSIS. CSIS finds out that that demonstrator was up north living in a camp that crossed a pipeline, and now you have an 18-year old or a 17-year-old with a file being built that could begin to change their life and change it way into the future.

There is no ability for the one group, SIRC, which supervises CSIS, to follow a thread of information. They can look at what information is being used in CSIS but, if that information is passed to CRA or CBSA or some other group, they don't have the power to follow that. That, of course, means that they can't adequately review in the way that the government might argue or consider that they could.

• (1520)

So there is much danger for privacy. Part 2 is the no-fly list. This list, in and of itself, is a good idea. But if you're on that no-fly list and you want to get off it because there has been a mistake then you will have real trouble. You can appeal it to the courts but the judge may base a decision on that appeal on information and other evidence even if the summary of that information and evidence is not provided to the appellant. Has it been provided to the appellant? So the appellant may not ever find out why that they have been put on the list. If they go to the courts, it is under no obligation, if secrecy concerns are involved, to tell them. The judge can rule on that.

The minister can actually withdraw information that he or she has given to the courts and then the judge, having seen that information, regardless of what the judge thinks of its relevance to the case, can't use it. The judge may, however, use evidence and information that wouldn't be admissible in a normal court of law. At any time in the procedure the judge must, on the request of the minister, hear information or other evidence in the absence of the public or of the appellant — of the individual — in fundamental secrecy.

You might say that it makes sense because certain things need to be kept secret. Well, that is true. But there is in other places under the Immigration and Refugee Protection Act, a provision to appoint special advocates. They play a very important role in keeping something that is secret private while representing the interests of the person who has been accused of something, which in this case is being put on a no-fly list. The advocate gets to speak first to the appellant, in this case, for several days, maybe for even a week, to exhaust everything that they need to find out about the case because they can't speak to them again. They sit in the proceedings and represent that appellant. There are those who would argue in this case that the judge could still call an *amicus curiae*, which is very different from a special advocate because they don't get to advocate. They just do some extra work for the judge, but they don't ever get to speak to the appellant.

This is a case where in Canada, in the 21st century, where the minister can limit information that would bolster his or her side of a hearing, exclude the appellant from the process, not have anybody representing that appellant and not tell that appellant what exactly it is that they have been accused of. Imagine that. This is Canada. That's the 21st century. That's a tremendous threat to due process in the law.

The Criminal Code, Part 3, there are several things here, most of them relating to definitional issues, which in my mind are arguably too broad. As a result of that, it again lays open the possibility of false positives, which is where people are being dragged into the net of a criminal action when in fact they really didn't do something criminal.

There is some question about the terminology, "advocates" and "terrorism" in general as being critical to the exchange of information and ultimately to a Criminal Code violation. There would be those who argue that this would be mostly covered by hate speech laws now. The difference, in this case, is that there is no specification of defences, as is the case with hate speech laws. I quote the Canadian Bar Association, from their presentation:

> There is no requirement of mental fault and the proposal lacks public interest, education or religious discussion defences.

Even the police are concerned about that limit, about that chill on freedom of speech because it could limit the intensity or desire with which members of a community would choose to talk about their concerns or what's being said within their community about violence or terrorism. It could actually impede the investigation process and the ability of stopping things before they get more serious.

It also says that the offence is if the advocacy is done knowingly. There are those who argue that it should be strengthened, who say that the bar should be raised to "willingly." "Knowingly" could be — and it's an interesting irony — applied to the fundraiser that the Conservative Party put out, which quoted the ISIS person's threat against the West Edmonton Mall, which is about a kilometre from where I live. That was done knowingly, and that was a message to incite terrorism, so "willfully" is a recommended choice in that case.

The preventive detention, the peace bonds are probably little more than blunt instruments. Professors Forcese and Roach agreed in their presentation that the changes to preventive detention or peace bonds are about changing law where the real issue has been resource and operational problems. It may be that those laws need to be changed, but what they haven't been convinced of is that resource issues have been properly addressed and that these changes may not actually be necessary. I'm not saying whether or not they are. I am saying that we're not sure there are enough resources for the police to have used the laws that they already have, let alone laying on new laws.

So the problem under Part 3 of the Criminal Code is, again, it broadens things with false positives, the danger of people being sucked into a net of criminality, when they shouldn't, and not having the defences that would be specified as they are in the case of hate speech.

With respect to the CSIS provisions, Part 4, these hinge on new warranting activities — special new warrants — that will allow CSIS operators and officials to involve themselves in what are called disruptive activities. The danger there is that those disruptive activities might be police activities. Even though the bill specifies that nothing allows CSIS to perform law enforcement activities, there is nothing to say that they might not do that. In fact, we have gone over the very line that was crossed when the RCMP had national security intelligence and policing functions decades ago, when they burned a barn to disrupt what they thought was a terrorist meeting. So it was out of that that CSIS was created to separate the intelligence gathering body from the policing body.

Now we're stepping back across that line and what's worse — and this is the most egregious threat to rights in the bill — is that they will be able to, as a result of these warrants, explicitly break the Charter of Rights. I repeat: explicitly break the Charter of Rights. This isn't like other warrants that are structured in a way under the Charter of Rights so that they don't break the Charter of Rights. This will explicitly break the Charter of Rights. I want to read from the Forcese and Roach presentation again, where they make a very startling and powerful comment about this feature of the bill:

> The current proposal is a . . .

staggering

> . . . rupture . . .

with fundamental understandings of our legal system.

> For the first time, judges are being asked to bless in advance a violation of our Charter rights, in a secret hearing, not subject to appeal, and with only the government side represented. There is no analogy to search warrants — those are designed to ensure compliance with the Charter.

This is a constitutional breach warrant. One other witness said: "It's like smuggling a notwithstanding clause into this law." What's also very disconcerting is that these warrants will be done in secret — because they deal with secret information — but again without the availability of a special advocate, of somebody who is representing the public interest in this process. Our legal system, which is respected and renowned across the world, is based upon on adversarial process. Our judges are good, but our judges are also not infallible and they appreciate deeply the give and take of the adversarial process that is presented before them daily in our court system. But it won't be presented before them in this system.

So here we have a process of allowing what shouldn't be a police force to begin to do policing activities that might break the Charter of Rights, applying for a warrant to do so when they decide it will break the Charter of Rights, and all of that being done in secret without any third party, external or offsetting side to the government's case. That is an affront and tremendous risk to and encroachment upon our civil rights. But there's more.

• (1530)

The Supreme Court has made it very clear that there must be accountability, an essential feature of a warrant regime that respects the Charter of Rights and Freedoms. There is no structured accountability of these warrants in the bill.

I will say to the minister's credit that he acknowledged, after pushing throughout our hearings — and I congratulate the chair, Senator Lang, for pushing on this point as well, and it's in our observations — that he will see that warrants circle back to SIRC, the review body of CSIS. But it's not in the proposed legislation, so it doesn't necessarily have to happen; and we don't know if they have the resources to do it.

There's also a problem with the definition of "national security," how it differs between departments and how they would reconcile those differences.

In the part of the bill on the Immigration and Refugee Protection Act, the problem again is related to the assault on due process for security certificate hearings. That's where special advocates have been allowed, but under C-51 the government will have the right to filter the information that the special advocates receive. The minister will be able to give information and take it back, and then the judge won't be able to use it. As well, the appellant involved in the security certificate hearing won't be present, so the process will be weighted more than it already is to the government's side.

Here again we will have, in the 21st century in a once-enlightened democracy, the possibility of secret hearings where information on one side can be controlled by that side — information that might be relevant and important to the case being made by the other side. They won't get the information, and their representative in secret hearings won't get it either.

I'm going to finish up my comments and go to amendments. Oversight could change and fix a lot of this. We need parliamentary oversight on both sides of the house — all parties represented. The other four of our Five Eyes partners have variations on that; and it works. We need broader operational or administrative review processes. Right now, only 3 of 17 such groups have review processes. CSIS has SIRC; CSEC has a commissioner, a very small group; and the RCMP has the Civilian Review and Complaints Commission. O'Connor proposed a super SIRC, which would do the business it does for CSIS for all 17 of these agencies. We could have a more powerful role for the National Security Advisor. There are ways to handle this. The CBSA doesn't have anyone reviewing what it does, period. Imagine that. We need to make sure that we have resources for the Privacy Commissioner, the RCMP, CSIS and other institutions working on these important matters.

As a result, I will propose amendments to the bill. I was hoping I wouldn't have to read them, but I do. It will be the most exciting part of my speech.

In conclusion, the breadth of powers to be extended in some senses is staggering. It is particularly staggering given that this is being done by a government that hates big government. If ever there was an intrusion into Canadians' lives in a way that that would capture the essence of big government, it is, of course, to be found in this bill in the variety of ways that I have outlined and probably in several ways I have not outlined. I will move that the bill be amended in various ways: that we establish policies defining information sharing; that we establish memorandums of understanding in the law; that we establish that the Privacy commissioner must be notified of these MOUs and of the information that is exchanged. These amendments will provide a more measured approach to the type of taxpayer information that falls within the parameters of this bill. We will exclude any ability to contravene the Charter of Rights. We will give powers to SIRC that it doesn't have now to do proper reviews of what CSIS is doing with the new warrants. We will allow SIRC and the Commissioner of CSEC, the review board of the RCMP and the Privacy Commissioner to exchange information as they review, that is, follow the thread of information. We will provide for oversight. All of the proposed amendments I am moving will capture in total those summarized ideas.

MOTION IN AMENDMENT

Hon. Grant Mitchell: Therefore, honourable senators, I move:

THAT Bill C-51 be not now read a third time, but that it be amended

(*a*) in clause 2, on page 5:

(i) by adding after line 15 the following:

"(1.1) Each Government of Canada institution that discloses information under subsection (1) must do so in accordance with clearly established policies respecting screening for relevance, reliability and accuracy of the information.", and

(ii) by adding after line 18 the following:

"(3) Prior to disclosing information under this section, the Government of Canada institution must enter into a written arrangement with the recipient Government of Canada institution specifying principles governing information sharing between the Government of Canada institutions.

(4) The written arrangement entered into pursuant to subsection (3) must be consistent with the principles enumerated in section 4, and include provisions respecting the circumstances under which shared information is retained and destroyed, the confirmation of the reliability of the shared information and future use of the shared information.

(5) The Government of Canada institution must

(*a*) notify the Privacy Commissioner of any written arrangement into which the institution plans to enter; and

(*b*) give reasonable time to the Privacy Commissioner to make observations.

(6) A copy of any written arrangement entered into pursuant to subsection (3) must be provided to the Privacy Commissioner.";

(*b*) in clause 6,

(i) on page 8, by replacing line 31 with the following:

"6. The portion of subsection 241(9) of", and

(ii) on page 9,

(A) by replacing line 2 with the following:

"(*b*) designated taxpayer information, if there are reason-", and

(B) by deleting lines 19 to 21;

(*c*) in clause 42, on page 49,

(i) by replacing lines 21 to 23 with the following:

"measures will be contrary to", and

(ii) by replacing line 29 with the following:

"enforcement power or authorizes the Service to take measures that will contravene a right or freedom guaranteed by the *Canadian Charter of Rights and Freedoms*.";

(*d*) in clause 50, on page 55, by replacing line 1 with the following:

"50. (1) Paragraph 38(1)(*a*) of the Act is amended by striking out "and" at the end of subparagraph (vi), by adding "and" at the end of subparagraph (vii) and by adding the following after subparagraph (vii):

(viii) to review the use, retention and further disclosure of any information disclosed by the Service to a Government of Canada institution, as defined in section 2 of the *Security of Canada Information Sharing Act*, or to the government of a foreign state or an institution thereof or an international organization of states or an institution thereof;

(2) Section 38 of the Act is amended by";

(*e*) on page 55, by adding after line 8 the following:

"50.1 Subsection 39(2) of the Act is amended by striking out "and" at the end of paragraph (*a*), and by adding the following after paragraph (*b*):

(*c*) during any review referred to in paragraph 38(1)(*a*)(viii), to have access to any information under the control of the Government of Canada institution concerned that is relevant to the review; and

(*d*) during any review referred to in paragraph 38(1)(*a*)(viii), to have access to any information under the control of the government of a foreign state or an institution thereof or an international organization of states or an institution thereof that the government, international organization or institution consents, upon request by the Review Committee, to disclose any information that is relevant to the review.

• (1540)

50.2 The Act is amended by adding the following after section 39:

39.1 (1) If on reasonable grounds the Review Committee believes it necessary for the performance of any of its functions under this Act, those of the Commissioner of the Communications Security Establishment under the National Defence Act, those of the Civilian Review and Complaints Commission for the Royal Canadian Mounted Police under the Royal Canadian Mounted Police Act or those of the Privacy Commissioner under the Privacy Act, the Review Committee may convey any information that it itself is empowered to obtain and possess under this Act to

(*a*) the Commissioner of the Communications Security Establishment;

(*b*) the Civilian Review and Complaints Commission for the Royal Canadian Mounted Police; or

(*c*) the Privacy Commissioner.

(2) Before conveying any information referred to in subsection (1), the Review Committee must notify the Director and give reasonable time for the Director to make submissions.

(3) In the event that the Director objects to the sharing of information under this section, the Review Committee may decline to share the information if persuaded on reasonable grounds that the sharing of the information would seriously injure the Service's performance of its duties and functions under this Act.

(4) If the Review Committee dismisses the Director's objection, the Director may apply to a judge within 10 days for an order staying the information sharing.

(5) A judge may issue the stay order referred to in subsection (4) if persuaded on reasonable grounds that the sharing of the information at issue under this section would seriously injure the Service's performance of its duties and functions under this Act.

(6) At any time, the Review Committee may apply to a judge for a lifting of any stay issued under subsection (5) on the basis of changed circumstances.

(7) For greater certainty, the Review Committee may request information it believes necessary for the performance of any of its duties and functions under this Act from the Commissioner of the Communications Security Establishment, the Civilian Review and Complaints Commission for the Royal Canadian Mounted Police or the Privacy Commissioner.";

(*f*) on page 55, by adding after line 16 the following:

"51.1 The Act is amended by adding the following after section 55:

PART III.1

SECURITY OVERSIGHT COMMITTEE OF PARLIAMENT

55.1 (1) There is established a committee, to be known as the Security Oversight Committee of Parliament, which is to be composed of members of both Houses of Parliament who are not ministers of the Crown or parliamentary secretaries.

(2) Subject to subsection (3), the Committee is to be composed of eight members, of whom four must be members of the Senate and four must be members of the House of Commons, and it shall include at least one member of each of the parties recognized in the Senate and in the House of Commons.

(3) If either of the two Houses of Parliament has more than four recognized parties, the committee membership must increase to include at least one member of each of the parties recognized in the Senate and in the House of Commons and to maintain an equal number of members of the Senate and members of the House of Commons.

(4) Members of the Committee must be appointed by the Governor in Council and hold office during pleasure until the dissolution of Parliament following their appointment.

(5) A member of either House belonging to an opposition party recognized in that House may only be appointed as a member of the Committee after consultation with the leader of that party.

(6) A member of either House may only be appointed as a member of the Committee after approval of the appointment by resolution of that House.

(7) A member of the Committee ceases to be a member on appointment as a minister of the Crown or parliamentary secretary or on ceasing to be a member of the Senate or the House of Commons.

(8) Every member of the Committee and every person engaged by it must, before commencing the duties of office, take an oath of secrecy and must comply with the oath both during and after their term of appointment or employment.

(9) For purposes of the Security of Information Act, every member of the Committee and every person engaged by it is a person permanently bound to secrecy.

(10) Despite any other Act of Parliament, members of the Committee may not claim immunity based on parliamentary privilege for the use or communication of information that comes into their possession or knowledge in their capacity as members of the Committee.

(11) Meetings of the Committee must be held in camera whenever a majority of members present considers it necessary for the Committee to do so.

(12) The mandate of the Committee is to review the activities of the Service and the legislative, regulatory, policy and administrative framework under which the Service operates, and to report annually to each House of Parliament on the reviews conducted by the Committee.

(13) The Committee has the power to summon before it any witnesses, and to require them to

(*a*) give evidence orally or in writing, and on oath or, if they are persons entitled to affirm in civil matters, on solemn affirmation; and

(*b*) produce such documents and things as the Committee deems requisite for the performance of its duties and functions.

(14) Despite any other Act of Parliament or any privilege under the law of evidence, but subject to subsection (15), the Committee is entitled to have access to any information under the control of federal departments and agencies that relates to the performance of the duties and functions of the Committee and to receive from their employees such information, reports and explanations as the Committee deems necessary for the performance of its duties and functions.

(15) No information described in subsection (14), other than a confidence of the Queen's Privy Council for Canada in respect of which subsection 39(1) of the Canada Evidence Act applies, may be withheld from the Committee on any grounds.

(16) The annual report required under subsection (12) shall be submitted to the Speakers of the Senate and the House of Commons, and the Speakers shall lay it before their respective Houses on any of the next 15 days on which that House is sitting after the Speaker receives the report.

(17) In this section, "Committee" means the Security Oversight Committee of Parliament established by subsection (1).

If I can just step outside the motion for one moment, these related amendments are the other side of the ability of SIRC to share information in its review processes, that is, to follow the thread with other agencies.

RELATED AMENDMENTS

National Defence Act

51.2 The National Defence Act is amended by adding the following after section 273.64:

273.641 (1) If on reasonable grounds the Commissioner believes it necessary for the performance of any of the Commissioner's functions under this Act, those of the Security Intelligence Review Committee under the Canadian Security Intelligence Service Act, those of the Civilian Review and Complaints Commission for the Royal Canadian Mounted Police under the Royal Canadian Mounted Police Act or those of the Privacy Commissioner under the Privacy Act, the Commissioner may convey any information that the Commissioner is empowered to obtain and possess under this Act to

(*a*) the Security Intelligence Review Committee;

(*b*) the Civilian Review and Complaints Commission for the Royal Canadian Mounted Police; or

(*c*) the Privacy Commissioner.

(2) Before conveying any information referred to in subsection (1), the Commissioner must notify the Chief and give reasonable time for the Chief to make submissions.

(3) In the event that the Chief objects to the sharing of information under this section, the Commissioner may decline to share the information if persuaded on reasonable grounds that the sharing of the information would seriously injure the Establishment's performance of its duties and functions under this Act.

(4) If the Commissioner dismisses the Chief's objection, the Chief may apply within 10 days to a judge designated under section 2 of the Canadian Security Intelligence Service Act for an order staying the information sharing.

(5) The judge may issue the stay order referred to in subsection (4) if persuaded on reasonable grounds that the sharing of the information at issue in the application would seriously injure the Establishment's performance of its duties and functions under this Act.

(6) At any time, the Commissioner may apply to a judge for a lifting of any stay issued under subsection (5) on the basis of changed circumstances.

(7) For greater certainty, the Commissioner may request information the Commissioner believes necessary for the performance of any of the Commissioner's functions under this Act from the Security Intelligence Review Committee, the Civilian Review and Complaints Commission for the Royal Canadian Mounted Police or the Privacy Commissioner.

Royal Canadian Mounted Police Act

51.3 The Royal Canadian Mounted Police Act is amended by adding the following after section 45.47:

45.471 (1) Despite any other provision in this Act, if on reasonable grounds the Commission believes it necessary for the performance of any of its functions under this Act, those of the Security Intelligence Review Committee under the Canadian Security Intelligence Service Act, those of the Commissioner of the Communications Security Establishment under the National Defence Act, or those of the Privacy Commissioner under the Privacy Act, the Commission may convey any information that it itself is empowered to obtain and possess under this Act to

(*a*) the Commissioner of the Communications Security Establishment;

(*b*) the Security Intelligence Review Committee; or

(*c*) the Privacy Commissioner.

(2) Before conveying any information referred to in subsection (1), the Commission must notify the Commissioner and give reasonable time for the Commissioner to make submissions.

(3) In the event that the Commissioner objects to the sharing of information under this section, the Commission may decline to share the information if persuaded on reasonable grounds that the sharing of the information would seriously injure the Force's performance of its duties and functions under this Act.

(4) If the Commission dismisses the Commissioner's objection, the Commissioner may apply within 10 days to a judge designated under section 2 of the Canadian Security Intelligence Service Act for an order staying the information sharing.

(5) The judge may issue the stay order referred to in subsection (4) if persuaded on reasonable grounds that the sharing of the information at issue in the application would seriously injure the Force's performance of its duties and functions under this Act.

(6) At any time, the Commission may apply to a judge for a lifting of any stay issued under subsection (5) on the basis of changed circumstances.

(7) For greater certainty, the Commission may request information it believes necessary for the performance of any of its functions under this Act from the Commissioner of the Communications Security Establishment, the Security Intelligence Review Committee or the Privacy Commissioner.

Privacy Act

51.4 The Privacy Act is amended by adding the following after section 34:

34.1 (1) Despite any other provision in this Act, if on reasonable grounds the Commissioner believes it necessary for the performance of any of the Privacy Commissioner's functions under this Act, those of the Security Intelligence Review Committee under the Canadian Security Intelligence Service Act, those of the Commissioner of the Communications Security Establishment under the National Defence Act or those of the Civilian Review and Complaints Commission for the Royal Canadian Mounted Police under the Royal Canadian Mounted Police Act, the Privacy Commissioner may convey any information that it itself is empowered to obtain and possess under this Act to

(*a*) the Commissioner of the Communications Security Establishment;

(*b*) the Security Intelligence Review Committee; or

(*c*) the Civilian Review and Complaints Commission for the Royal Canadian Mounted Police.

(2) Before conveying any information referred to in subsection (1), the Privacy Commissioner must notify the head of the government institution and give reasonable time for the head to make submissions.

(3) In the event that the head objects to the sharing of information under this section, the Privacy Commissioner may decline to share the information if persuaded on reasonable grounds that the sharing of the information would seriously injure the government institution's performance of its duties and functions.

(4) If the Privacy Commissioner dismisses the head's objection, the head may apply within 10 days to a judge designated under section 2 of the Canadian Security Intelligence Service Act for an order staying the information sharing.

(5) The judge may issue the stay order referred to in subsection (4) if persuaded on reasonable grounds that the sharing of the information would seriously injure the government institution's performance of its duties and functions.

(6) At any time, the Privacy Commissioner may apply to a judge for a lifting of any stay issued under subsection (5) on the basis of changed circumstances.

(7) For greater certainty, the Privacy Commissioner may request information it believes necessary for the performance of any of its functions under this Act from the Commissioner of the Communications Security Establishment, the Security Intelligence Review Committee or the Civilian Review and Complaints Commission for the Royal Canadian Mounted Police.";

(*g*) in clause 57, on page 57, by deleting lines 4 to 33; and

(*h*) in clause 59, on page 57, by replacing line 43 with the following:

"**85.4** (1) The".

• (1550)

I might just say those last two are in aid of rebalancing the powers the minister has under IRPA.

The Hon. the Speaker: It has been moved by Honourable Senator Mitchell, seconded by the Honourable Senator Lovelace Nicholas, that Bill C-51 be not now read a third time, but that it be amended

(*a*) in clause 2, on page 5 —

Hon. Senators: Dispense.

Hon. Dennis Dawson: Honourable senators, normally speaking after Senator Mitchell can be a challenge because he is a hard act to follow, but after his recent reading, I think I will be able to perform as well as he did.

I was sworn in as a federal Liberal member of Parliament 38 years ago yesterday, so I had a big party with myself. It will surprise no one that I'm a Liberal.

[*Translation*]

It will come as no surprise to anyone that I am a Liberal. I may have been removed from the Liberal caucus, but I have been supporting the Liberal Party for the past 40 years. I still support the party on almost every issue and I will certainly support it in the next election. That said, does that mean I have to support every measure the Liberal Party proposes, professes and supports? The answer to that questions is no, not necessarily.

I do not say that lightly, but there are times in life when personal principles have to come before partisan interests. That is how I feel about Bill C-51, An Act to enact the Security of Canada Information Sharing Act, currently before this chamber.

[*English*]

I share the view of many of my colleagues who spoke on this bill. I believe the fundamental question is whether it reaches an appropriate balance between usually extended powers for state to address risk while seriously eroding the rights and freedoms of Canadians. Like many of my colleagues, I accept that we have a terrorism problem in Canada, and elsewhere of course, and we have to address the challenges in a determined, coherent and dedicated manner.

[*Translation*]

I acknowledge that the Minister of Public Safety made an effort to draft a bill that would help protect Canadians. It was his duty to do so and if it were a matter of supporting only that one aspect of the bill, then I could have voted in favour of this legislation. However, while the Minister of Public Safety was trying to respond to Canadians' legitimate apprehensions and concerns for their safety when it comes to the threat of terrorism, it is hard to understand why the Prime Minister and the Minister of Justice were asleep at the switch when it came to protecting and promoting Canadians' civil liberties, a concern that is far too absent from this bill to allow me to support it.

[*English*]

The balance is not in this bill.

[*Translation*]

In its current form, Bill C-51 disrupts the balance that is needed between protecting Canadians against terrorist threats and protecting the rights and freedoms that are guaranteed to Canadians by our Charter of Rights and Freedoms under the Constitution. Recognizing the fight against terrorism does not necessarily mean that we should set aside key elements of our system for protecting our rights and freedoms.

[*English*]

As pointed put by my honourable colleague Senator Cowan, my leader:

> . . . this bill is simply intrusion or a great risk of intrusion into Canadians' rights, with bigger — and more intrusive — government without really any additional balance or

> oversight to speak of and without any effort made to limit the manner in which that intrusion can affect Canadians who are in no way, shape or form going to be involved in terrorism, threats of terrorism or terrorist activities.

[*Translation*]

Accordingly, I cannot support this Conservative government bill and I will be voting against it. By taking this stance, I know I am not supporting the Liberal Party's position, as the Liberal Party supported this bill in the other place. After 38 years, I feel somewhat uncomfortable with this, but I must act on my convictions. Clearly, there is a debate taking place at this time in our society regarding the balance between ensuring public safety and protecting Canadians' fundamental freedoms. Since these debates seem to be taking place in all western democracies, of course, Canada is no exception.

I am sensitive to the issue of safety, if not to say even gravely concerned. These matters need a firm response, and we have to determine the appropriate prevention and punishment in Canada and the rest of the free world. I understand that a safe environment is also a prerequisite for prosperity. That needs to be identified, but I accept that as an argument. Drawing the line between individual freedoms and the fight against terrorism presents a serious challenge. I recognize that we need to provide public safety officials and police forces with the resources they need to investigate and root out potential terrorists. These problems exist here, in our own backyard, as we saw with the events that took place recently in Saint-Jean-sur-Richelieu and right here on Parliament Hill.

Although something needs to be done to keep Canadians safe, I do not agree that our safety must come at the cost of our individual freedoms. I had reservations when my Liberal government passed the Constitution Act, 1982, and repatriated the Constitution. However, I think that the adoption of a charter of rights that was constitutional and offered Canadians better protection from any real or anticipated abuse at the hands of the government was an important turning point for our country.

I have long been a proud Liberal and those feelings will not change because of my party's actions, even today. God knows that governments are capable of abuse. Over the past nine years under a Conservative government, we have taken comfort in the choice we made in 1982 to adopt a Canadian Charter of Rights and Freedoms enshrined in the Constitution. The current government is often being chastised by the courts and public opinion for infringing on Canadians' civil liberties. I do not in any way support Omar Khadr's behaviour, but the legal battle that the Conservative government waged against this man is simply outrageous. Fortunately, at every level, the courts reminded the government, without qualms, that Canadians have rights and freedoms, and that if they have to serve time, then it must be done in keeping with our laws and with respect for our institutions.

The Conservatives did not invent the abuse of power, but they certainly perfected it to the point of turning it into a perverse sort of art form. However, they have never gone so far as they are going with Bill C-51.

• (1600)

We should remember that, according to the tally by the NDP critic in the House of Commons, no fewer than 45 of the 48 witnesses who appeared before the committee, including a number of leading legal experts and government witnesses, said that Bill C-51 had many flaws. Former prime ministers, retired Supreme Court judges and many other eminent Canadians expressed serious reservations about this bill. It is clear that, by ramming Bill C-51 through the House of Commons, the Conservative government chose to play petty politics and sacrifice our freedoms in the name of security.

However, as many experts explained to the committee and as members of the House of Commons noted, this bill constitutes a threat to our fundamental civil liberties and, at the same time, contains measures to improve security that, in many cases, could prove to be ineffective and useless.

As my colleague pointed out earlier, this bill would clearly go too far by allowing practically every department and government agency to share information about almost anything, in addition to terrorism and violence.

The provisions are so broad that, according to the Privacy Commissioner, they could allow the government to create a personal profile of each and every Canadian.

The bill does not include any of the amendments proposed by the members of the official opposition or the Liberal Party. However, I hope that they will accept the amendments proposed by my colleague, but I doubt that they will be accepted. If they are, I might change my mind about the bill.

I would like the Liberal Party to make the things it wants to change about this bill part of its election platform, but I do not feel obliged to support this bill in the meantime or to take a chance that we might move on to other things before amending it, particularly since the government refused to include a formal, predictable method for parliamentary review to ensure that the nature and scope of the bill can be reviewed from time to time and corrected as need be.

Other observers, many of them sympathetic to the Conservatives, such as Andrew Coyne, were very critical of the Conservatives and this bill.

[*English*]

I will quote from Andrew Coyne's article:

> . . . Bill C-51, the Anti-Terrorism Act, 2015, a bill whose manifest overbreadth and potential for abuse has been flagged by scores of legal experts, some of whom were permitted to testify in the brief round of hearings allowed before the Commons public safety committee (following even briefer debate in the House), where as often as not they were subjected to lengthy harangues by Conservative MPs in place of questions.

[*Translation*]

I believe that the government wants to use the heightened emotion in the country and people's fear and grief to move its legislative agenda forward, even though it is highly likely to violate our basic freedoms without effectively tackling the roots of terrorism.

I am disappointed that the Liberal Party decided to go along with them on this, but I want everyone to know that there are still some Liberals who are not ready to follow the Conservative party in its decision to engage in fear-mongering at the expense of our individual freedoms instead of tackling terrorism the smart way. Thank you.

Some Hon. Senators: Hear, hear!

[*English*]

Hon. Jane Cordy: Would Senator Dawson take a question?

Senator Dawson: Yes.

Senator Cordy: When Senator Mitchell was speaking, he referred to Bill C-51 as "the gun registry on steroids" because it does collect personal data and shares personal data with no oversight.

I received a letter that was addressed to Prime Minister Harper and all the Conservative senators. It speaks about the Conservative government that took away the mandatory long-form census. The letter to Mr. Harper says:

> In 2010 the Harper government chose to get rid of the mandatory long form census. When MP Tony Clement was asked about this decision by *The Globe and Mail*, he stated: "My position is we are standing on the side of those Canadians who have an objection to divulging very personal information to an arm of government and are subsequently threatened with jail time when they do not do so."

The letter goes on to speak about the gun registry. This letter, by the way, is from the Principled Conservatives and Libertarians Against Bill C-51, so this is certainly not a liberal group. They say:

> We are gravely concerned that, while faithfully promising his government would not allow the recreation of a database of information on gun owners, and that any future measures would have political oversight, the Harper government is planning to create databases on all Canadians with no oversight using Bill C-51.

I wonder if you would comment on that and suggest that, perhaps, it's quite hypocritical that you should have Bill C-51 with the collection of all this private information and the distribution to many government agencies and countries around the world; and yet this is the government that spoke about not collecting data with the long-form census or with the gun registry.

Senator Dawson: To add insult to injury, we know the results of the weakening of the census data. Every organization that uses it has been admitting now for a few years that they can't use the information they used to with much confidence. They have to do their own studies and go to other sources, which is an expense for them.

To add insult to injury on the data for the gun collection, not only did they not want to share it, they destroyed it instead of wanting to give it to the Government of Quebec. Some provinces might not want it, but the Government of Quebec said, "You have the data. You've collected the data. We paid for the data. Why do you not want to share that data?"

Today, the same government is going on a data-collection binge. They will have more information than those lists ever had. How much will it cost? What will they do with it? How will they share it? Who will be able to supervise it? Well, we'll have to wait, but, again, I haven't much confidence that we will have supervision of those lists.

Hon. Mobina S. B. Jaffer: May I ask a question of Senator Dawson?

This is a little sensitive, and I hope you won't mind, but I know that you come from Quebec and that you have very great knowledge about these issues in Quebec. Do you think this legislation is going to help bring harmony in your province? What is this legislation going to do in your province?

Senator Dawson: There might have been a cute appeal at the beginning of this debate. Quebecers, like everyone else, had a sense that their security might have been challenged. The sense of nervousness was felt, and we could see it in the results of the polls in Quebec for the first time that there was some sensitivity to this issue.

But after time, now that they have realized there is a cost to the legislation — and I'm saying that the minister of security had a responsibility in trying to bring the security measures. What was missing in the historical balance and the discussion in cabinet is that when the minister of security asks for more measures, normally the Minister of Justice and/or the Prime Minister would say, "We need a balance between security and the protection of rights and liberties."

Senator Jaffer: Is there time for a —

Senator Dawson: Five more minutes?

Hon. Senators: Agreed.

Senator Jaffer: There were 10 young people who were stopped from leaving and I understand those people were stopped by their own parents going to the authorities. There was a trust in the authorities. What will happen for parents to develop trust with such a bill that exists now?

Senator Dawson: Will this bill in any way, shape or form have changed anything about some people wanting to go somewhere "stupid"? I don't think this legislation even addressed that type of issue.

Clearly the sense of destruction of liberty that some people will start feeling will create some resentment toward other people, which is not the objective of the government when they legislate to create insecurity.

(On motion of Senator Jaffer, debate adjourned.)

INCOME TAX ACT

BILL TO AMEND—THIRD READING—SPEAKER'S STATEMENT

On the Order:

> Resuming debate on the motion of the Honourable Senator Dagenais, seconded by the Honourable Senator Doyle, for the third reading of Bill C-377, An Act to amend the Income Tax Act (requirements for labour organizations).

The Hon. the Speaker: Last Thursday, Senator Bellemare raised a point of order as to whether Bill C-377 must be accompanied by a Royal Recommendation. I took the matter under advisement not because I felt there had been sufficient argument on the point of order, which is an important and complicated one, but because no other honourable senator rose to speak.

Under rule 2-5(1), it is the Speaker who decides when there has been sufficient argument on a point of order or a question of privilege. In this case, our understanding of the issue would be helped by resuming consideration of the point of order. I'm aware that there are a number of senators who would like to speak to this matter. I therefore wish to inform honourable senators that I will hear further argument when this item is next called for consideration. To be clear, we will at that time only be considering Senator Bellemare's point of order as to whether Bill C-377 requires a Royal Recommendation. The Senate will not be debating third reading of the bill at that time.

• (1610)

CRIMINAL CODE

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Nancy Ruth, seconded by the Honourable Senator Patterson, for the second reading of Bill S-225, An Act to amend the Criminal Code (physician-assisted death).

Hon. Judith Seidman: Honourable senators, on February 6, 2015 the Supreme Court of Canada in *Carter v. Canada* upheld the finding of a British Columbia court that "the prohibition against physician-assisted dying violates the section 7 rights of competent adults who are suffering intolerably as a result of a grievous and irremediable medical condition." The Supreme Court of Canada ruling stated that "by leaving them to endure intolerable suffering, it impinges on their security of the person."

The Supreme Court suspended the effects of their ruling for 12 months so as to afford legislators the opportunity to ensure the ". . . Charter rights of patients and physicians will need to be reconciled in any legislative and regulatory response to this judgment."

Public opinion has forced countries around the globe to engage in a public discourse on the merits of legalizing physician-assisted death. Senators Ruth and Campbell have brought forward a bill that is both relevant and timely. It will facilitate important discussions languishing in the background, and overdue. However, there is no question that we shall immediately find ourselves in the realm of the abstract, with issues difficult to discuss, and rarely resolved in debate; issues that often raise more questions than inform answers. For example: How do we balance the seeming conflict between individual and collective rights, between freedom of choice and those societal factors that constrain choice? Does the Hippocratic Oath prevent physician-assisted death, and if so, under what circumstances? How do we protect vulnerable individuals from too broad interpretations of the legislation and ensure there are clearly stipulated terms of reference?

This public discourse will challenge us all to confront big questions of philosophy, ethics and religion, moral values of our time, and our prevailing societal paradigms.

Senator Ruth, during her second reading speech, spoke of a September 2014 Ipsos Reid poll which showed that 84 per cent of Canadians overall support assisted death. However, those who would be tasked with assisting in the death — the physicians — have mixed views when it comes to supporting this initiative. Physicians have indicated that it is a big shift in the way they practice medicine. The Supreme Court of Canada decision states that "Some medical practitioners see legal change as a natural extension of the principle of patient autonomy, while others fear derogation from the principles of medical ethics."

Honourable senators, it is important to acknowledge the deliberate choice of words used in the bill. Bill S-225 uses the term "physician-assisted death" as opposed to "assisted suicide" or "euthanasia." Although many use the terms interchangeably, there are subtle differences among them. Euthanasia denotes a case in which the physician would act directly to end the patient's life. This differs from physician-assisted death, described as a form of self-inflicted death in which a person voluntarily brings about his or her own death with the help of another, usually a physician, relative or friend. Physician-assisted suicide describes an action similar to assisted death, but it inevitably invokes the associated stigma that suicide carries with it.

These choices in the use of a single word may have a profound impact on how one understands the intent of the bill and even the true legal meaning of the determined action. Euthanasia is physicians acting upon a person, doing something to a person, or acting directly, whereas assisted death conveys the meaning that

the person wishing to die is assisted, or enlists the assistance of a physician. The onus is on the individual wishing death proactively.

Canada can look around the globe for examples of legislation on physician-assisted death — particularly the debates emanating from countries with assisted death legislation already in place.

In Switzerland, assisted suicide has been legal since 1937, as specified in the Swiss Penal Code. However, it does not require the participation of a physician nor that the person be terminally ill.

In 1996, the Northern Territory of Australia became the first legislative assembly in the world to legalize physician-assisted death in the form of the Rights of the Terminally Ill Act. However, less than a year later, the Australian Federal Parliament amended the act to render it of no legal effect, while removing the territory's constitutional power on any euthanasia law. Recently, as a result of a 2012 national poll showing 83 per cent of the population in support of assisted death, the Australian Senate put forward an "exposure draft bill" that was sent to committee for inquiry and study. In November 2014, the Australian Senate's Legal and Constitutional Affairs Legislation Committee recommended further consultation with relevant experts before the bill be taken further. It also recommended that senators be permitted to vote their conscience should such a bill be introduced in the Senate.

The United States' federation makes it clearly within a state's jurisdiction to legislate, and multiple states have passed physician-assisted death legislation. Oregon was the first to pass its Death with Dignity Act in 1997, followed by Washington in 2008, and Vermont in 2013. The Oregon model, which was heavily used by drafters of the Washington and Vermont bills, enables physicians to prescribe a deadly dose of barbiturates that must be proactively taken by the patient him or herself; that is, the patient must initiate the final action. In all, 25 state legislatures as well as the District of Columbia will have considered assisted death legislation by the end of 2015.

The Oregon legislation limits availability to terminally ill patients with six months or less to live. The assisted death law in Oregon is now commonly accepted in its state, where there remains little debate on the topic. One of its features is the palliative care environment. Oregon has some of the highest rates of hospice referral, opioid prescriptions and end-of-life communication in the U.S. Their annual reports, which track those pursuing assisted death, indicate that 90 per cent of those who chose assisted death were enrolled in hospice care, with 95 per cent of them dying at home.

Physician-assisted death, similar to what is being proposed in S-225, was formally legalized by the Dutch Parliament in November 2001, and by the Belgian Parliament in 2002.

Honourable senators, proposed subsection 241.1(6) in clause 3 of Bill S-225 states:

> The assisting physician must inform the person who wishes to make a request for physician-assisted death of his or her medical diagnosis and prognosis, the consequences of the request for physician-assisted death being honoured, the feasible alternative treatments — including, but not limited to, comfort care, palliative or hospice care, and pain control — and his or her right to revoke the request at any time.

Outlined within clause 3 are several options and alternatives to assisted death that, together, make up end-of-life care. The proposed legislative requirement to explore all feasible alternative treatments presents a unique challenge within the Canadian context.

• (1620)

Currently, palliative care is only available to 30 per cent of Canadians, with lengthy wait times, even in critical situations. Together with the pursuit of assisted death legislation, Canada must examine its palliative and end-of-life care. In order for this legislation to function in the manner that the Supreme Court of Canada concluded, a much more robust and available palliative care environment must exist. In September 2014, the Honourable Minister of Health, Rona Ambrose, said, "let's talk about making sure we have the best end-of-life care before we start talking about assisted suicide and euthanasia."

Now we have before us a larger question: What is palliative care? The most commonly accepted definition of palliative care comes from the World Health Organization that defines it as:

> . . . an approach that improves the quality of life of patients and their families facing the problem associated with life-threatening illness, through the prevention and relief of suffering by means of early identification and impeccable assessment and treatment of pain and other problems, physical, psychosocial and spiritual.

Palliative care is not a new concept. The first hospices were set up in Winnipeg's St. Boniface Hospital and in Montreal's Royal Victoria Hospital. In 1973, Dr. Balfour Mount introduced the term "palliative care." Since then, our own chamber has been actively involved in shaping the evolution of palliative care. In June 1995, the Special Senate Committee on Euthanasia and Assisted Suicide tabled a report called *Of Life and Death*. The Standing Senate Committee on Social Affairs, Science and Technology reviewed the progress that had been made on the report's recommendations five years later.

Numerous studies ensued, undertaken by several different institutions — most notably committees in both the Senate and the other place, Health Canada and the Canadian Institutes of Health Research. An initiative launched by CIHR and partners in June 2003 that ended in 2009 was lauded internationally for its innovative approaches.

Interest in supporting palliative care in Canada was reinvigorated by the Senate 2010 report *Raising the Bar: A Roadmap for the Future of Palliative Care in Canada*. A year later, the Parliamentary Committee on Compassionate Care, followed with the report: *Not to be Forgotten: Care of Vulnerable Canadians*. The report recommended establishing a palliative care secretariat with the express purpose of developing and implementing a national palliative and end-of-life care strategy.

Hospices and palliative care centres are scattered throughout the country. An October 2014 fact sheet from the Canadian Hospice Palliative Care Association points out that only 16 to 30 per cent of Canadians have access to or receive hospice, palliative and end-of-life care services, depending on where they live in Canada. Even fewer receive grief and bereavement services.

Dr. Garey Mazowita, President of the College of Family Physicians of Canada pointed out:

> While hospitals provide excellent care, they're not always the most appropriate places for that care. Many Canadians would prefer, where appropriate, to be cared for in their own homes.

Honourable senators, despite these challenges, there are some real successes and advancements for end-of-life care in Canada. In British Columbia, Fraser Health has developed hospice residences staffed with multi-disciplinary teams to help those in the last months of life.

Alberta's Palliative and End of Life Care Framework was fully defined in 2014. It concerns itself with patients and families when they are approaching a period of time closer to death, and is exemplified by an intensification of interdisciplinary services and assessments, such as anticipatory grief support, and pain and symptom management.

In Ontario, the Ontario Medical Association's End-of-Life Care Framework aims to bring experts and the public together in order to improve the quality of end-of-life care across the province.

In Quebec, an act respecting end-of-life care passed in the Quebec National Assembly with all-party support and became law on June 10, 2014. The act outlines the creation of a palliative care system and makes provisions for physician-assisted death, quite similar to the Bill S-225, with key differences around witnesses, absence of a stipulated waiting period and provisions around physicians refusing to administer the final procedure. The act comes into effect December 2015.

However, there remain issues around jurisdiction. The Province of Quebec argues that physician-assisted suicide is a medical procedure and therefore falls under the purview of the provincial government, while opponents argue that it is in direct contravention of the Criminal Code which expressly outlaws assisted death. These issues will not be resolved until the Canadian Government meets the requirements of the Supreme Court judgment.

Honourable senators, while we have made some progress on the national discussion around end-of-life care, there remains much to be done. Without a universal and accessible palliative care system in Canada, it is extremely challenging to legislate physician-assisted death. Over the last 15 years, our own parliamentary reports have identified that a national palliative care strategy is desperately needed. Indeed the last report identified that:

> Even where palliative care is available, quality and accessibility will vary based on place of residence . . . . This patchwork of service becomes still more pronounced in less populated regions. Many parts of Canada have no palliative care services at all . . . As our population ages, health services directed towards seniors will become a much greater need, and at present our health care system seems ill prepared for this shift.

Finally, I thank my honourable colleague, Senator Batters, for her heart-felt speech highlighting an important shortcoming she finds in Bill S-225, specifically as it refers to psychological suffering that is intolerable to that person.

There is no doubt that legislators will want to make provisions ensuring that there is no place for abuse of people who may be at a particularly vulnerable time in their lives. It will be critical to write clearly stipulated terms of reference to reduce overly broad interpretations of the legislation.

Yet, Bill S-225 reminds us of the need for a national conversation — a difficult one that touches ethics, medicine, law and religion. As stated in the *Carter v. Canada* decision:

> On the one hand stands the autonomy and dignity of a competent adult who seeks death as a response to a grievous and irremediable medical condition. On the other stands the sanctity of life and the need to protect the vulnerable.

Honourable senators, it is time for the national conversation to move forward. Thank you.

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

COMMITTEE OF SELECTION

FIFTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the fifth report of the Committee of Selection (Nomination of a Speaker *pro tempore*), presented in the Senate on May 28, 2015.

Hon. Elizabeth (Beth) Marshall: I move the adoption of the report.

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

Hon. Senators: Agreed.

(Motion agreed to and report adopted.)

• (1630)

THE SENATE

MOTION TO CALL UPON MEMBERS OF THE HOUSE OF COMMONS TO INVITE THE AUDITOR GENERAL TO CONDUCT A COMPREHENSIVE AUDIT OF EXPENSES—DEBATE CONTINUED

On the Order:

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

That the Senate call upon the Members of the House of Commons of the Parliament of Canada to join the Senate in its efforts to increase transparency by acknowledging the longstanding request of current and former Auditors General of Canada to examine the accounts of both Houses of Parliament, and thereby inviting the Auditor General of Canada to conduct a comprehensive audit of House of Commons expenses, including Members' expenses, and

That the audits of the House of Commons and the Senate be conducted concurrently, and the results for both Chambers of Parliament be published at the same time.

Hon. Stephen Greene: Honourable senators, my notes aren't ready yet. I have spoken with Senator Downe and would like to adjourn the debate in my name.

(On motion of Senator Greene, debate adjourned.)

OFFICE OF THE AUDITOR GENERAL

INQUIRY—DEBATE ADJOURNED

Hon. Anne C. Cools rose pursuant to notice of May 14, 2015:

That she will call the attention of the Senate to the terms, conditions and tenure of office of the Auditor General of Canada, pursuant to the *Auditor General Act*, sections 3.(1) and 3.(1.1), that say:

> **3.** (1) The Governor in Council shall, by commission under the Great Seal, appoint an Auditor General of Canada after consultation with the leader of every recognized party in the Senate and House of Commons and approval of the appointment by resolution of the Senate and House of Commons.
>
> (1.1) The Auditor General holds office during good behaviour for a term of 10 years but may be removed for cause by the Governor in Council on address of the Senate and House of Commons.

and, to his tenure in office, and the unique independence granted to this officer as "the auditor of the accounts of Canada," to permit him to verify and certify that government spending is in accord with the appropriation acts, as dictated and adopted by the Commons House; and, to his constitutional duty to support the Public Accounts Committee and the Commons House in their pre-eminence in the national finance and their power in the *control of the public purse*.

She said: Honourable senators, the Auditor General of Canada is a statutory officer. This means that his powers and duties are those set out in the Auditor General Act, sections 5 to 11, headed Powers and Duties. No Senate motion can add a new power to this act to audit the Senate. Audit was born of the British House of Commons' long struggle that won pre-eminence in the public finance, revenues and expenditures, the control of the public purse. As the house of "representation by population" and of "no taxation without representation," this was their Commons House's highest constitutional achievement. "Control of the public purse" means that government spending must be as the Commons dictated and voted in their appropriation acts, which in Canada, like Britain, must originate in the Commons by a Crown minister's motion.

The Auditor General was created to conduct the appropriation audit. The appropriation audit was a high watermark in constitutionalism and ministerial responsibility. The Auditor General's audit was to verify and certify that government spending was as the Commons dictated in their appropriation acts, which in their schedules listed every appropriation by appropriation vote number. Each appropriation vote had its own account. In Canada, control of the public purse was established early in our new confederation's House of Commons. This issue had been a large goal in our pre-confederation assemblies.

Honourable senators, in Canada the deputy minister of finance had been the Auditor General until 1878. That year, Liberal Prime Minister Alexander Mackenzie's government divided these two offices. Guided by the British reforms of the Exchequer Chancellor, the Great Commoner Liberal William Gladstone, who moved the 1866 Exchequer and Audit Departments Act. In Canada, Prime Minister Mackenzie's Finance Minister, Richard Cartwright, presented his bill, An Act to Provide for the Better Auditing of the Public Accounts. About the new, independent auditor general, he said on March 19, 1878, at page 1218 of our House of Commons Debates, that:

> . . . there would be some alterations in matters of detail in addition to the main alteration, which would consist in separating definitely the office of Deputy Minister of Finance from the office of the Auditor General, in accordance with the English custom.

Honourable senators, the intention of the Liberals' 1878 act was to separate completely and wholly the auditor general from the functions of government.

Our finance minister, like the British exchequer minister, was then and is now, central to the national finance and public expenditure. By our Financial Administration Act, Schedule I.1, he is the minister responsible for the auditor general. On April 2, Finance Minister Cartwright explained his bill, at page 1625 of the Commons Debates, thus:

> . . . to have a perfect audit of accounts there should be a complete division between the offices of Auditor and Deputy Minister of Finance. The main object of the Bill was to carry that out, . . . It was deemed expedient, therefore, to adopt the English practice, and to create an officer, who should hold his appointment during good behaviour, and be removable, as Judges are, on an Address by both Houses of Parliament.

Honourable senators, by completely and definitely separating the finance department from the independent Auditor General, this officer was constituted to support the Commons House's pre-eminence in the national finance and the public purse. Created wholly by its statute, he was a parliamentary creature,

as distinct from a Crown creature. The ancient problem was ever that the two houses had no power to appoint their own officers and relied on the Crown to appoint their clerks by commissions. Not statutory officers, these two clerks, unlike the auditor general, are ancient Crown officers who attend and serve the houses daily. On April 4, Minister of Finance Cartwright explained his bill to create an office to assist the Commons and not the government. For better audit, his act's section 11 said:

> For the more complete examination of the public accounts of the Dominion, and for the reporting thereon to the House of Commons, the Governor General may, under the Great Seal of Canada, appoint an officer, to be called the Auditor General of Canada, and such officer may be paid out of the Consolidated Revenue Fund, . . .

Colleagues, like judges' salaries, this salary was a direct charge on the Consolidated Revenue Fund. This technique was used to avoid such salaries being subjected and exposed to confidence votes and the fatal conflicts on appropriation and supply votes. On tenure, section 12 of the act said:

> The Auditor General shall hold office during good behaviour, but shall be removable by the Governor General on address of the Senate and House of Commons.

Honourable senators, the English phrase "during good behaviour" is the Latin phrase *quamdiu se bene gesserint*. Both mean "life estate in office," the tenure of our BNA Act section 96 superior court judges. The British North America Act, 1867, "Judicature," section 99(1) headed "Tenure of Judges," says:

> . . . , the Judges of the Superior Courts shall hold office during good behaviour, but shall be removable by the Governor General on Address of the Senate and House of Commons.

The tenure that judges and senators hold was given to the new independent auditor general, who, by the way, no longer has this same tenure. This was noted by John A Macdonald. On April 4, 1878, he said at page 1700 of the Commons Debates:

> He is a judicial officer, . . . independent of the Government.

Our BNA Act, 1867, phrase "during good behaviour" was taken from the British 1701 Settlement Act that:

> . . . , Judges Commissions be made *Quamdiu se bene gesserint,* and their Salaries ascertained and established; but upon the Address of both Houses of Parliament it may be lawful to remove them.

Honourable senators, "during good behavior" means that a judge's tenure is life estate in office. This was confirmed in the Court of King's Bench 1692 judgment in *Harcourt vs. Fox*. Then, Justices Gregory and Holt ruled on tenure during good behavior. About "during good behavior" and the Settlement Act, Chief Justice Holt said, in *The English Reports,* Vol. 89, at page 734:

> . . . I knew the temper and inclination of the Parliament, at the time when this Act was made; their design was, that men should have places not to hold precariously or determinable upon will and pleasure, but have a certain durable estate, that they might act in them without fear of losing them; we all know it, and our places as Judges are so settled, only determinable upon misbehaviour. . . . But now I think since the making of this last statute in the first of this King and Queen, he [the clerk of the peace] has absolutely an estate *for life* in his office independent of the *custos*, and determinable only upon misbehaviour.

Justice Gregory noted, at page 728:

> . . . I conceive that by this Act the clerk of the peace has his office for his life, by these words, "to have and enjoy so long as he shall well demean himself in the office." If these words had been annexed to a grant of any other office in Westminster Hall, without all question the grantee had been an officer for life(*d*) . . .

• (1640)

Honourable senators, from 1878 to 1977, Canadian Auditors General held office for life, subject to removal by the Senate and the Commons. The first independent auditor general, John McDougall, served for 27 years, from 1878 to 1905; George Gonthier for 15 years, from 1924 to 1939; and Robert Seller for 19 years, from 1940 to 1959. Life estate in office is taken from the ancient common law property concepts, tenure, tenancy and estate in property and land. By the common law, offices were held as property and land, by a tenure or tenancy in it. For senators and judges — this concerns us senators — life estate in office, that is, during good behaviour, is no longer natural life but is now limited to age 75. However, life estate in office is liable solely to forfeiture of the office for misbehaviour.

In his 1820 work, *A Treatise on the Law of the Prerogatives of the Crown*, Joseph Chitty wrote, at page 85:

> . . . that as they are constituted for the public weal it is expedient that they should be properly executed. On this principle a condition is tacitly and peremptorily engrafted by law on the grant of all offices, that they be executed by the grantee faithfully, properly, and diligently: on breach of which condition the office is forfeited or liable to be seized.

Honourable senators, by the wish of then Auditor General Macdonell, the 1977 Auditor General Act repealed life estate for the Auditor General and replaced it with an inferior term of years. This act and its inferior tenure were Macdonell's brainchild. Sonja Sinclair, in her 1979 book, *Cordial But Not Cosy: A History of the Office of the Auditor General*, wrote, at page 122, about Macdonell's fixed term:

> In accordance with Macdonell's specific recommendation, . . . auditors general were to retire at the end of ten years of service, . . . As he explained to the Public Accounts Committee, he had seen many organizations suffer because their chief executive officers had been appointed without a fixed term . . . "After a period of time," he told the committee, "any leader will have begun to feed on his own ideas.

That was the end of the true protection for the independence that the Auditor General had. It was taken away at the wish of an overbearing and overreaching Auditor General.

Auditor General Macdonell clearly knew little about the law of Parliament or the law of office tenure. He swept away this officer's independence, that was granted to assist the Commons House. In his 1766 *Commentaries on the Laws of England, Book 2*, William Blackstone wrote, at page 36:

> Offices, which are a right to exercise a public or private employment, and the fees and emoluments thereunto belonging, . . . For a man may have an estate in them, . . . for life, or for a term of years, or during pleasure only: save only that offices of public trust cannot be granted for a term of years, especially if they concern the administration of justice, . . .

Honourable senators, Macdonell's "fixed term" is Blackstone's common law "a term of years." This inferior tenure set aside this officer's legal independence. Auditor General Macdonell, by his will, public campaigns and his own limitations, degraded irreparably the Auditor General's constituted independence from government. This is clear in his 1977 Auditor General Act. This was the new act. Senators may not be familiar with this, but this act was still new when I came here in 1984. There were many senators here still smarting from Auditor General Macdonell's campaign. This act's section 3(1) replaces the term "Governor General" with "Governor in Council," another diminution.

> 3. (1) The Governor in Council shall, by commission under the Great Seal, appoint a qualified auditor to be the officer called the Auditor General of Canada to hold office during good behavior for a term of ten years, but the Auditor General may be removed by the Governor in Council on address of the Senate and House of Commons.

Colleagues, a removal on the two houses' address is the Governor General's grave action to cancel or void the commission, as advised by the two houses. In an officer's removal by address, the Governor-in-Council cannot replace the Governor General. An address is Parliament's houses' unique proceeding to speak to the sovereign as the head of Parliament. In removal, there is no address to the Governor-in-Council. By address, the Governor General acts with the two houses' advice, as distinct from his ministry's, which had advised the failed appointment. We must understand, a removal of a high officer is always a serious crisis in the administration of justice. This is one of the reasons it is rarely done, but the Governor General would act with the two houses' advice, as opposed to the advice of the ministry of the government that had advised the failed appointment in the first place and which appointment and advice were being repudiated in the houses' removal addressed to the Governor General. In an address, the Governor General must absolutely use his judgment and power to remove someone to whom he had granted office on his minister's advice. The GG alone can remove or suspend from office.

Honourable senators, tenure during good behaviour protects against removal by the governor on the cabinet's advice. Terms for years do not. The independence of the Auditor General of Canada is now most degraded from its original intent. This degradation continued in the 2006 Federal Accountability Act, section 110, which added the words "for cause" after the words "may be removed." The current Auditor General Act, subsection 3(1.1), now says:

> The Auditor General holds office during good behaviour for a term of 10 years but may be removed for cause by the Governor in Council on address of the Senate and House of Commons.

The term "for cause" is employment and employee law of dismissal. It is not for his appointments, as we senators would know. It treats the officer as an employee. None of this applies to high offices during good behaviour, which limit removal only to misbehaviour in the office.

Further, the term "qualified," which formerly described the auditor to be appointed, was also repealed by the above Accountability Act, section 110. The current act's section 3(1) is now unclear whether it means that auditors who are not qualified may be appointed by the governor.

It is a joke what they did with the act. This was all done at the behest of a particular Auditor General.

The Hon. the Acting Speaker: Do you need a few minutes more?

Senator Cools: Yes, I do. Thank you so much.

The Hon. the Acting Speaker: Agreed?

Hon. Senators: Agreed.

Senator Cools: Honourable senators, since the 1878 act's adoption, the auditor's legal and constitutional position has been degraded by the incumbent Auditor Generals' wishes. By their own self-definition, they have also taken the powers they want through their adroit media use, by which they present themselves to the public as the watchdog over politicians' spending as though they represent the taxpayers.

I thank honourable senators for their attention. I wanted to say that for a period of time in this Senate, I was the deputy chair of the National Finance Committee, and, as you know, that senator is charged with the responsibility of piloting the government's appropriations acts and supply bills through the Senate. I did that for many years. I was told that I did a very good job, but my point, honourable senators, is to show that during those years I learned much about the public finance, about the national finance, and I made it my business, in those years, to study the history and background of all the Auditors General.

Colleagues, I note that some time back, in 1988, the same Senate National Finance Committee undertook a study of the Auditor General. Our concerns were birthed by the unhappiness that so many senators have been caused by the Auditor General's actions in coming into the Senate to audit senators, which, of course, is not permitted or authorized by the Auditor General Act. In any event, I thought it would be useful if we gained some insight into the origins of this particular position, and why it was created, and what Parliament had in its head when it did create the position of the independent Auditor General.

• (1650)

I can tell you the one thing that was farthest from Parliament's head was that the Auditor General of Canada would be auditing the Senate and senators at the behest of a government motion moved as government business. The 1878 act intended that the Auditor General was to be no part of government business.

I thank you very much, honourable senators.

(On motion of Senator Moore, debate adjourned.)

AUDIT OF SENATE ACCOUNTS BY AUDITOR GENERAL

INQUIRY—DEBATE ADJOURNED

Hon. Anne C. Cools rose pursuant to notice of May 14, 2015:

That she will call the attention of the Senate to:

(*a*) the Auditor General of Canada, the statutory officer, that parliament did not, and never intended to give a power to audit it's houses, the Senate and the House of Commons; and, to the predecessor auditor general who, until 1878, was united and merged in the office of the deputy minister of finance; and, to this parliament's *An Act to provide for the better Auditing of the Public Accounts*, which statute was adopted here in 1878, to completely divide these two offices and functions, and to absolutely separate the auditor general from the finance department and the government, so as to extract him from all government business forever, all of which were for the purpose of constituting the Auditor General of Canada as an wholly independent officer, freed from, and free of, the control, influence, and politics, of the government of the day; and

(*b*) to the sad and unfortunate fact, which the government does not seem to note, that the unique independence granted to this officer, the Auditor General of Canada as the auditor of the public accounts, wholly forbids his obedience to the government's wishes in any way, particularly its motions which, when adopted, become house orders, that subject him to the contempt powers of the houses; and, to the auditor general's audit of the Senate, the upper house, which is a hurtful and menacing compromise of this officer's independence, caused by the fact that this overly-publicized Senate audit was not born of senators, but was born of the Senate Government Leader's government business, at the instance of that government leader's government measure, moved here by that government minister, and hastily adopted last June, with little debate, in a government whipped vote; and, to the fact that senators learned of the government's intention, and the auditor general's agreement to audit senators from that day's media reports; and, to the terrible fact that senators were the last to hear of this unilateral development.

She said: Honourable senators, for two years now, all current and some former senators were compelled by a government motion to subject themselves to the Auditor General's audit examination. Weighted and wounded, many thought, perhaps wrongly, that their government had enlisted the Auditor General's help to close the Senate. During 2013, the timing of events here branded the "Senate scandal," pointed to the awful conclusion that Canada's government was working to discredit the Senate. That fall, on October 16, by the Throne Speech, our Government had Governor General David Johnston, read eerie words, that:

> The Government continues to believe the status quo in the Senate of Canada is unacceptable. The Senate must be reformed or, as with its provincial counterparts, vanish.

These dubious words are not fit for the Governor General, nor for the Senate, the royal, federal and only house wherein Parliament may assemble in its three distinct parts — the Senate, the Commons and His Excellency.

Honourable senators, that spring saw many focused media leaks on the financial lives of four named senators. That was pay dirt for Senate haters. That summer, these "Senate scandal" events reached high noon drama. On June 5, Government Leader Senator Marjory LeBreton suddenly moved a punitive government motion to bring the Auditor General to audit all senators and apparently some former senators. The next day, with scant debate, her government motion was quickly adopted.

Colleagues, audits are rarely emergencies, but she did not explain her haste or her government's audit offensive against senators. Scarcely debated, this government motion was bad parliamentary practice, and worse parliamentary manners, because the Auditor General Act grants him no power whatsoever to audit/examine, or to compel senators to audit examination. Auditors general, not servants of the government, have no duty to serve a government motion compelling senators to audit examination. He should have refused the invitation.

Honourable senators, that fall, these Senate scandal events grew from high noon drama to midnight madness in the government's barbaric suspension motions, adopted here that November 5, to throw three hard-working senators out of this place. As government motions, these suspension motions took priority over all Senate proceedings. I note that only Crown ministers may claim this priority, but there are no Crown ministers here in the Senate. These government motions proceeded here despite the rex, the royal prerogative law that suspension and removal of those holding commissions and letters patent is the sole ken of the Governor General who granted the office and who must act on the Senate and the Commons' advice, given in an "address," the parliamentary form of proceeding.

The 1947 Governor General's Letters Patent, clause V states:

> And We do further authorize and empower Our said Governor General, so far as We lawfully may, upon sufficient cause to him appearing, to remove from his office, or to suspend from the exercise of the same, any

> person exercising any office within Canada, under or by virtue of any Commission or Warrant granted, or which may be granted, by Us in Our name or under Our authority.

By the Letters Patent, only the Governor General can suspend or remove from office.

Honourable senators, these lethal suspension motions proceeded here by closure and time allocation. Such motions may only be moved by Crown ministers, only after prolonged obstruction of government measures that are urgently needed for the public good. These suspensions will end by the Prime Minister's call — the timing of these suspensions is timed to the Prime Minister's call — when he chooses to end this session. These sacrilegious suspensions destabilized this place, the senators, and the suspended senators' lives and, I would add, their physical and mental well-being.

Honourable senators, Canadians watched these events with great distress in the lead up to the November 12 Supreme Court hearings in the *Reference re Senate Reform*, file number 35203, by the Supreme Court Act, section 53. By this reference, the government asked the court for its opinion on certain legal questions. In three parts, question 5 on Senate abolition reads:

> 5. Can an amendment to the Constitution of Canada to abolish the Senate be accomplished by the general amending procedure set out in section 38 of the Constitution Act, 1982, by one of the following methods:
>
> (*a*) by inserting a separate provision stating that the Senate is to be abolished as of a certain date, as an amendment to the Constitution Act, 1867 or as a separate provision that is outside of the Constitution Acts, 1867 to 1982 but that is still part of the Constitution of Canada;
>
> (*b*) by amending or repealing some or all of the references to the Senate in the Constitution of Canada; or
>
> (*c*) by abolishing the powers of the Senate and eliminating the representation of provinces pursuant to paragraphs 42(1)(*b*) and (*c*) of the Constitution Act, 1982?

On April 25 last year, the Supreme Court answered these three abolition questions in the negative: No, no and no. The public discourse then was replete with the phrases "Senate abolition" and "Senate illegitimacy." On October 25, 2013, days before the court hearing, Government Leader Senator LeBreton was clear on Senate illegitimacy. On CBC Radio's "The Current," she said:

> I do believe that all of us, especially senators, must realize that the Senate, as an institution, at the moment, is not seen in the eyes of the public as a legitimate democratic organization . . .

Colleagues, that is not so. I do not have to realize that at all. I do not have to realize such contrived nonsense.

This government must realize that its first duty is to uphold our Constitution with its two Parliament houses. No government has any duty whatsoever to grow public scorn against this Senate. I recall December 14, 2006, when, during our sitting, Government Leader Senator LeBreton and Prime Minister Harper held a press conference outside our door. The PM and CTV's David Aiken's transcript, reads:

> Aiken: Good evening Prime Minister. Yesterday it was pretty clear from your remarks that you were disappointed with an unelected, unaccountable Senate, and you presented some . . .
>
> Rt. Hon. Stephen Harper: I'm always disappointed with that. You know, as a Western Canadian, I wake up every day and the Senate bothers me. I curse the Senate.

This made senators very sad. There was much commotion out there. Some of us went out to see this press conference. There were lights. This is what was happening. I witnessed it, I heard it, I saw it and I have the transcript.

Honourable senators, the Senate scandal events were dark and disturbing. Their predatory and savage inhumanity, their timing and sequence made many attribute to some a malevolence to destroy the Senate. Senators, to their credit — and it's a great credit and I admire my colleagues for this — faithfully did their work and did their best in terrible work conditions and ugly publicity, crowned by a government motion forcing them into an audit of dubious and doubtful legality.

Senators should be upheld for their commitment to public service. I have never seen anything like that in my life, how all of these senators in the Senate persevered in these times.

• (1700)

As I said, senators should be upheld and celebrated for their commitment to public service. This government-compelled Senate audit has been a large drain on senators' time and energy, and of their staffs'. Its effect on senators and on the public mind has been pernicious. It diminished and infantilized senators. It subjugated them to a false power, not granted by the Auditor General Act or the Constitution Act, 1867. Such subjection subverts the *lex parliamenti*, the law of Parliament, and the principles, practices, and customs of Parliament's houses. This subjugation was wholly unlawful and unparliamentary. The two houses are no part of the Auditor General's duties, which are quite specific in the Auditor General Act: He or she is the auditor of the public accounts. Senate accounts are no part of the public accounts.

Colleagues will recall, I had opposed then-Government Leader LeBreton's government motion. I spoke and voted against it on June 6, 2013. I said then that the Auditor General Act grants him no power to audit examine senators, even at the behest of a government minister's motion, a motion that should be seen for what it was: a parliamentary heresy, making the Auditor General an outlaw to his own act, which neither intends nor grants him any power to audit either of the two houses.

Honourable senators, I note this officer's website posting Frequently Asked Questions about the audit of the Senate. To the question, "When did your Office start the audit of the Senate?", it answers:

> The audit started in Fall 2013, after the Senate gave us the mandate to undertake it. On 11 June 2013, the Auditor General had informed the Standing Senate Committee on Internal Economy, Budgets and Administration of the Office's decision to accept the Senate's invitation . . . .

Honourable senators, this government business invitation motion was quickly passed here in a government whipped vote. "Invite" is a cozy word. Some will take false comfort that by this cozy "invite," the auditor somehow — by magic — can acquire a power to audit senators and this place. But no Senate motion by itself can alter the Auditor General Act to create a power to audit the Senate, even at the government's behest. Most senators found this quickie debate on this government motion obnoxious and repugnant. But knowing the real dangers to themselves, they held their tongues and voted. All who serve in these houses well know that government's hand is swift and ready to smite those in its way. Ask me. I can tell you. In my 32 years here, I can tell you all about that.

Described by the Auditor General as his "mandate" and by the government as "invite," this government measure to audit and examine senators was a coercive disciplinary act. This was the government's public display of power and force, to yield fear and submission from senators. The government set out to show the public its righteous indignation and moral outrage against the illegitimate Senate and the illegitimate senators.

Honourable senators, the Senate and House of Commons, as independent houses, have the full judicial and curial powers of the ancient *lex et consuetudo parliamenti*, to run their own affairs, free from government coercion. Both our houses' leaders must be Crown ministers. Ministerial responsibility here, as in the Commons, is administered properly by rival political parties. The supporters of the majority government's Conservative party properly hold all the Senate leadership positions and control all, if not most, of the committees, mainly our Standing Committee on Internal Economy, Budgets and Administration, which manages the Senate and senators' expenses, including our internal audit systems. These all failed. We should know why certain senators were mercilessly persecuted and punished for these system failures. If our systems failed, why did three senators pay such a bitter price for their failure?

Honourable senators, responsible government in ministerial responsibility holds that Crown ministers are responsible for all successes and failures on their watch. Our Senate administration is managed and controlled by the government. If there are failures and wanting systems, the responsible minister, the Leader of the Government in the Senate should answer and tell us about them, and answer to us for their failures.

Instead, the Government Leader, by a government measure of government business, with priority in Senate proceedings, quickly dispatched the Auditor General to audit examine every single senator. This caused great discomfort for senators but guaranteed much more adverse publicity in the weeks leading directly to the Supreme Court hearings.

Colleagues, this Senate audit, this woeful display of unbridled power, was an extravagant and shameful show of force over senators. This audit was a constitutional vandalism on the Senate. It also violates the Auditor General's independence that protects him from subjection to government orders and government business. He should not do government business. He was separated completely and absolutely from government business in 1878.

The government's motion violated our *Senate Administrative Rules*, in particular, rule 5-2, which prevents the Auditor General's exposure to a government motion. Headed "Auditor General of Canada," our rule 5-2 states:

> The Internal Economy Committee may invite the Auditor General of Canada or an independent auditor to conduct audits of the Senate Administration and its accounts, under such terms and conditions as the Committee establishes.

The Hon. the Acting Speaker: Would you like a few more minutes, senator?

Senator Cools: Yes, please.

Hon. Senators: Agreed.

Senator Cools: Thank you.

Honourable senators, the intent of this rule is to bar any government from enlisting the Auditor General's support against senators. This was decided by the Senate some years back, when this rule was put into force. Further, it protects the officer's independence from compulsion by any government measure, and perhaps from his own ambition, to help a government, by audit of senators. Senate government leaders are not the Senate's fathers or mothers superior who prescribe penance to senators for their sins.

The June 6 government motion for the Auditor General was harsh. It wholly compromised the Auditor General's independence, which sad fact has eluded most observers and seems to have eluded the incumbent himself. This government measure was so flagrant as to be corrupting. The Government Leader and the auditor share a misapprehension of this auditor's role and relationship to government and to the two houses. Government motions, as government business, have priority in the Senate. They may be moved only by a government minister to move government public business through the Senate. Auditors general do not do have any government business and they do not do government business, so why was the Auditor General summoned here by a government motion?

Honourable senators, the large question is: How can the Auditor General's audit of senators be government business? Our Auditor General was created by an 1878 act, expressly to separate completely and sever absolutely the Auditor General's audits from government and government business. He was to be independent of government, subject to removal not by government, but by address of the two houses to the Governor General. This act enacted that he report only to the House of Commons, precisely because his business is not government business.

We should know the nature of the government business that the government has in the Auditor General's audit of senators' expenses. Somebody should tell us. We should know the nature of the government's business and interest in the Auditor General's audit of senators, which audit was at the instance of a minister's government motion, which itself is odd, and an intrusion on his independence and his audit powers.

As I said before, this is a constitutional horror.

Honourable senators, by section 5 of the current Auditor General Act, his duty is to audit the Public Accounts of Canada; that is the government departments' expenditures, not those of senators nor House of Commons members. This act defines the sole and limited relationship between the Senate and the Auditor General. Judicial and curial, it is limited solely to his appointment and removal.

This act's subsections 3(1) and 3(1.1) grant the Senate a superintending role to protect him from government's heavy hand, which by invitation he now holds. Subsection 3(1) is the Senate's power to approve or reject the candidate before appointment. Subsection 3(1.1) is the Senate's role to remove the officer for misbehavior, known as forfeiture and styled removal. An address is the communication between the houses and the Queen as the head of Parliament, or, in her stead, the Governor General.

• (1710)

Honourable senators, I worry that the Auditor General may misunderstand and misapprehend his role. Last year, Jordan Press' March 13 *Ottawa Citizen* article, headed "Auditor posts FAQs on Senate spending" said:

> The federal auditor general plans to refer any cases he finds of questionable spending by senators to the RCMP even before his current comprehensive audit of Senate spending is made public. . . .

It quotes the Auditor's staff that:

> If, after completing our audit work, we have a reason to believe that a criminal offence may have been committed, the matter will be referred," said spokesman Ghislain Desjardins. "It would be inappropriate to speculate on any specific cases."

Honourable senators, I close by noting that haughty words from a staff's lips aggravate, inflame and hurt. Auditors general have no legal power to judge senators, nor to refer their affairs to the police, or to anyone, for that matter, and certainly not to make them public. Such judgments are the Senate's alone to be made in a process decided by the Senate and senators. This auditor, good man that he is, has no legal power to audit, examine, or compel senators in audit or in anything. Senator LeBreton's government motion, though adopted here, did not and could not grant him a power which the Auditor General Act does not, nor can her motion defeat or work around the Auditor General Act to create that power. The Auditor General, good man that he is, is not the government's agent of social or political control. I thank senators for their attention.

The Hon. the Acting Speaker: I am sorry to interrupt, but I must advise that the honourable senator's time has expired.

(On motion of Senator Moore, debate adjourned.)

(The Senate adjourned until Wednesday, June 3, 2015, at 1:30 p.m.)

APPENDIX

Officers of the Senate

The Ministry

Senators

(Listed according to seniority, alphabetically and by provinces)

THE SPEAKER

The Honourable Leo Housakos

THE LEADER OF THE GOVERNMENT

The Honourable Claude Carignan, P.C.

THE LEADER OF THE OPPOSITION

The Honourable James S. Cowan

OFFICERS OF THE SENATE

CLERK OF THE SENATE AND CLERK OF THE PARLIAMENTS

Charles Robert

LAW CLERK AND PARLIAMENTARY COUNSEL

Michel Patrice

USHER OF THE BLACK ROD

J. Greg Peters

THE MINISTRY

(In order of precedence)

(June 2, 2015)

The Right Hon. Stephen Joseph Harper	Prime Minister
The Hon. Bernard Valcourt	Minister of Aboriginal Affairs and Northern Development
The Hon. Robert Douglas Nicholson	Minister of Foreign Affairs
The Hon. Peter Gordon MacKay	Minister of Justice Attorney General of Canada
The Hon. Rona Ambrose	Minister of Health
The Hon. Diane Finley	Minister of Public Works and Government Services
The Hon. Tony Clement	President of the Treasury Board
The Hon. Peter Van Loan	Leader of the Government in the House of Commons
The Hon. Jason Kenney	Minister of National Defence Minister for Multiculturalism
The Hon. Gerry Ritz	Minister of Agriculture and Agri-Food
The Hon. Christian Paradis	Minister of International Development Minister for La Francophonie
The Hon. James Moore	Minister of Industry
The Hon. Denis Lebel	Minister of the Economic Development Agency of Canada for the Regions of Quebec President of the Queen's Privy Council for Canada Minister of Infrastructure, Communities and Intergovernmental Affairs
The Hon. Leona Aglukkaq	Minister of the Canadian Northern Economic Development Agency Minister for the Arctic Council Minister of the Environment
The Hon. Lisa Raitt	Minister of Transport
The Hon. Gail Shea	Minister of Fisheries and Oceans
The Hon. Julian Fantino	Associate Minister of National Defence
The Hon. Steven Blaney	Minister of Public Safety and Emergency Preparedness
The Hon. Edward Fast	Minister of International Trade
The Hon. Joe Oliver	Minister of Finance
The Hon. Kerry-Lynne D. Findlay	Minister of National Revenue
The Hon. Pierre Poilievre	Minister of Employment and Social Development Minister of Democratic Reform
The Hon. Shelly Glover	Minister of Canadian Heritage and Official Languages
The Hon. Chris Alexander	Minister of Citizenship and Immigration
The Hon. Kellie Leitch	Minister of Labour Minister of Status of Women
The Hon. Greg Rickford	Minister of Natural Resources Minister for the Federal Economic Development Initiative for Northern Ontario
The Hon. Erin O'Toole	Minister of Veterans Affairs
The Hon. Maxime Bernier	Minister of State (Small Business and Tourism, and Agriculture)
The Hon. Lynne Yelich	Minister of State (Foreign Affairs and Consular)
The Hon. Gary Goodyear	Minister of State (Federal Economic Development Agency for Southern Ontario)
The Hon. Rob Moore	Minister of State (Atlantic Canada Opportunities Agency)
The Hon. John Duncan	Minister of State and Chief Government Whip
The Hon. Tim Uppal	Minister of State (Multiculturalism)
The Hon. Alice Wong	Minister of State (Seniors)
The Hon. Bal Gosal	Minister of State (Sport)
The Hon. Kevin Sorenson	Minister of State (Finance)
The Hon. Candice Bergen	Minister of State (Social Development)
The Hon. Michelle Rempel	Minister of State (Western Economic Diversification)
The Hon. Ed Holder	Minister of State (Science and Technology)

SENATORS OF CANADA

ACCORDING TO SENIORITY

(June 2, 2015)

Senator	Designation	Post Office Address
The Honourable		
Anne C. Cools	Toronto Centre-York	Toronto, Ont.
Charlie Watt	Inkerman	Kuujjuaq, Que.
Colin Kenny	Rideau	Ottawa, Ont.
Janis G. Johnson	Manitoba	Gimli, Man.
A. Raynell Andreychuk	Saskatchewan	Regina, Sask.
David Tkachuk	Saskatchewan	Saskatoon, Sask.
Marjory LeBreton, P.C.	Ontario	Manotick, Ont.
Céline Hervieux-Payette, P.C.	Bedford	Montreal, Que.
Wilfred P. Moore	Stanhope St./South Shore	Chester, N.S.
Serge Joyal, P.C.	Kennebec	Montreal, Que.
Joan Thorne Fraser	De Lorimier	Montreal, Que.
George Furey	Newfoundland and Labrador	St. John's, Nfld. & Lab.
Nick G. Sibbeston	Northwest Territories	Fort Simpson, N.W.T.
Jane Cordy	Nova Scotia	Dartmouth, N.S.
Elizabeth M. Hubley	Prince Edward Island	Kensington, P.E.I.
Mobina S. B. Jaffer	British Columbia	North Vancouver, B.C.
Joseph A. Day	Saint John-Kennebecasis	Hampton, N.B.
George S. Baker, P.C.	Newfoundland and Labrador	Gander, Nfld. & Lab.
David P. Smith, P.C.	Cobourg	Toronto, Ont.
Maria Chaput	Manitoba	Sainte-Anne, Man.
Pana Merchant	Saskatchewan	Regina, Sask.
Pierrette Ringuette	New Brunswick	Edmundston, N.B.
Percy E. Downe	Charlottetown	Charlottetown, P.E.I.
Paul J. Massicotte	De Lanaudière	Mont-Saint-Hilaire, Que.
Terry M. Mercer	Northend Halifax	Caribou River, N.S.
Jim Munson	Ottawa/Rideau Canal	Ottawa, Ont.
Claudette Tardif	Alberta	Edmonton, Alta.
Grant Mitchell	Alberta	Edmonton, Alta.
Elaine McCoy	Alberta	Calgary, Alta.
Lillian Eva Dyck	Saskatchewan	Saskatoon, Sask.
Art Eggleton, P.C.	Ontario	Toronto, Ont.
Nancy Ruth	Cluny	Toronto, Ont.
James S. Cowan	Nova Scotia	Halifax, N.S.
Larry W. Campbell	British Columbia	Vancouver, B.C.
Dennis Dawson	Lauzon	Sainte-Foy, Que.
Sandra Lovelace Nicholas	New Brunswick	Tobique First Nations, N.B.
Stephen Greene	Halifax-The Citadel	Halifax, N.S.
Michael L. MacDonald	Cape Breton	Dartmouth, N.S.
Michael Duffy	Prince Edward Island	Cavendish, P.E.I.
Percy Mockler	New Brunswick	St. Leonard, N.B.
John D. Wallace	New Brunswick	Rothesay, N.B.
Michel Rivard	The Laurentides	Quebec, Que.
Nicole Eaton	Ontario	Caledon, Ont.
Irving Gerstein	Ontario	Toronto, Ont.
Pamela Wallin	Saskatchewan	Wadena, Sask.

Senator	Designation	Post Office Address
Nancy Greene Raine	Thompson-Okanagan-Kootenay	Sun Peaks, B.C.
Yonah Martin	British Columbia	Vancouver, B.C.
Richard Neufeld	British Columbia	Fort St. John, B.C.
Daniel Lang	Yukon	Whitehorse, Yukon
Patrick Brazeau	Repentigny	Maniwaki, Que.
Leo Housakos, *Speaker*	Wellington	Laval, Que.
Suzanne Fortin-Duplessis	Rougemont	Quebec, Que.
Donald Neil Plett	Landmark	Landmark, Man.
Linda Frum	Ontario	Toronto, Ont.
Claude Carignan, P.C.	Mille Isles	Saint-Eustache, Que.
Jacques Demers	Rigaud	Hudson, Que.
Judith G. Seidman	De la Durantaye	Saint-Raphaël, Que.
Carolyn Stewart Olsen	New Brunswick	Sackville, N.B.
Kelvin Kenneth Ogilvie	Annapolis Valley - Hants	Canning, N.S.
Dennis Glen Patterson	Nunavut	Iqaluit, Nunavut
Bob Runciman	Ontario—Thousand Islands and Rideau Lakes	Brockville, Ont.
Pierre-Hugues Boisvenu	La Salle	Sherbrooke, Que.
Elizabeth Marshall	Newfoundland and Labrador	Paradise, Nfld. & Lab.
Rose-May Poirier	New Brunswick—Saint-Louis-de-Kent	Saint-Louis-de-Kent, N.B.
Salma Ataullahjan	Toronto—Ontario	Toronto, Ont.
Don Meredith	Ontario	Richmond Hill, Ont.
Fabian Manning	Newfoundland and Labrador	St. Bride's, Nfld. & Lab.
Larry W. Smith	Saurel	Hudson, Que.
Josée Verner, P.C.	Montarville	Saint-Augustin-de-Desmaures, Que.
Betty E. Unger	Alberta	Edmonton, Alta.
Norman E. Doyle	Newfoundland and Labrador	St. John's, Nfld. & Lab.
Ghislain Maltais	Shawinegan	Quebec City, Que.
Jean-Guy Dagenais	Victoria	Blainville, Que.
Vernon White	Ontario	Ottawa, Ont.
Paul E. McIntyre	New Brunswick	Charlo, N.B.
Thomas Johnson McInnis	Nova Scotia	Sheet Harbour, N.S.
Tobias C. Enverga, Jr.	Ontario	Toronto, Ont.
Thanh Hai Ngo	Ontario	Orleans, Ont.
Diane Bellemare	Alma	Outremont, Que.
Douglas John Black	Alberta	Canmore, Alta.
David Mark Wells	Newfoundland and Labrador	St. John's, Nfld. & Lab.
Lynn Beyak	Ontario	Dryden, Ont.
Victor Oh	Mississauga	Mississauga, Ont.
Denise Leanne Batters	Saskatchewan	Regina, Sask.
Scott Tannas	Alberta	High River, Alta.

SENATORS OF CANADA

ALPHABETICAL LIST

(June 2, 2015)

Senator	Designation	Post Office Address	Political Affiliation
The Honourable			
Andreychuk, A. Raynell	Saskatchewan	Regina, Sask.	Conservative
Ataullahjan, Salma	Toronto—Ontario	Toronto, Ont.	Conservative
Baker, George S., P.C.	Newfoundland and Labrador	Gander, Nfld. & Lab.	Liberal
Batters, Denise Leanne	Saskatchewan	Regina, Sask.	Conservative
Bellemare, Diane	Alma	Outremont, Que.	Conservative
Beyak, Lynn	Ontario	Dryden, Ont.	Conservative
Black, Douglas John	Alberta	Canmore, Alta.	Conservative
Boisvenu, Pierre-Hugues	La Salle	Sherbrooke, Que.	Conservative
Brazeau, Patrick	Repentigny	Maniwaki, Que.	Independent
Campbell, Larry W.	British Columbia	Vancouver, B.C.	Liberal
Carignan, Claude, P.C.	Mille Isles	Saint-Eustache, Que.	Conservative
Chaput, Maria	Manitoba	Sainte-Anne, Man.	Liberal
Cools, Anne C.	Toronto Centre-York	Toronto, Ont.	Independent
Cordy, Jane	Nova Scotia	Dartmouth, N.S.	Liberal
Cowan, James S.	Nova Scotia	Halifax, N.S.	Liberal
Dagenais, Jean-Guy	Victoria	Blainville, Que.	Conservative
Dawson, Dennis	Lauzon	Ste-Foy, Que.	Liberal
Day, Joseph A.	Saint John-Kennebecasis	Hampton, N.B.	Liberal
Demers, Jacques	Rigaud	Hudson, Que.	Conservative
Downe, Percy E.	Charlottetown	Charlottetown, P.E.I.	Liberal
Doyle, Norman E.	Newfoundland and Labrador	St. John's, Nfld. & Lab.	Conservative
Duffy, Michael	Prince Edward Island	Cavendish, P.E.I.	Independent
Dyck, Lillian Eva	Saskatchewan	Saskatoon, Sask.	Liberal
Eaton, Nicole	Ontario	Caledon, Ont.	Conservative
Eggleton, Art, P.C.	Ontario	Toronto, Ont.	Liberal
Enverga, Tobias C., Jr.	Ontario	Toronto, Ont.	Conservative
Fortin-Duplessis, Suzanne	Rougemont	Quebec, Que.	Conservative
Fraser, Joan Thorne	De Lorimier	Montreal, Que.	Liberal
Frum, Linda	Ontario	Toronto, Ont.	Conservative
Furey, George	Newfoundland and Labrador	St. John's, Nfld. & Lab.	Liberal
Gerstein, Irving	Ontario	Toronto, Ont.	Conservative
Greene, Stephen	Halifax - The Citadel	Halifax, N.S.	Conservative
Hervieux-Payette, Céline, P.C.	Bedford	Montreal, Que.	Liberal
Housakos, Leo, *Speaker*	Wellington	Laval, Que.	Conservative
Hubley, Elizabeth M.	Prince Edward Island	Kensington, P.E.I.	Liberal
Jaffer, Mobina S. B.	British Columbia	North Vancouver, B.C.	Liberal
Johnson, Janis G.	Manitoba	Gimli, Man.	Conservative
Joyal, Serge, P.C.	Kennebec	Montreal, Que.	Liberal
Kenny, Colin	Rideau	Ottawa, Ont.	Liberal
Lang, Daniel	Yukon	Whitehorse, Yukon	Conservative
LeBreton, Marjory, P.C.	Ontario	Manotick, Ont.	Conservative
Lovelace Nicholas, Sandra	New Brunswick	Tobique First Nations, N.B.	Liberal
MacDonald, Michael L.	Cape Breton	Dartmouth, N.S.	Conservative
Maltais, Ghislain	Shawinegan	Quebec City, Que.	Conservative

Senator	Designation	Post Office Address	Political Affiliation
Manning, Fabian	Newfoundland and Labrador	St. Bride's, Nfld. & Lab.	Conservative
Marshall, Elizabeth	Newfoundland and Labrador	Paradise, Nfld. & Lab.	Conservative
Martin, Yonah	British Columbia	Vancouver, B.C.	Conservative
Massicotte, Paul J.	De Lanaudière	Mont-Saint-Hilaire, Que.	Liberal
McCoy, Elaine	Alberta	Calgary, Alta.	Independent (PC)
McInnis, Thomas Johnson	Nova Scotia	Sheet Harbour, N.S.	Conservative
McIntyre, Paul E.	New Brunswick	Charlo, N.B.	Conservative
Mercer, Terry M.	Northend Halifax	Caribou River, N.S.	Liberal
Merchant, Pana	Saskatchewan	Regina, Sask.	Liberal
Meredith, Don	Ontario	Richmond Hill, Ont.	Conservative
Mitchell, Grant	Alberta	Edmonton, Alta.	Liberal
Mockler, Percy	New Brunswick	St. Leonard, N.B.	Conservative
Moore, Wilfred P.	Stanhope St./South Shore	Chester, N.S.	Liberal
Munson, Jim	Ottawa/Rideau Canal	Ottawa, Ont.	Liberal
Nancy Ruth	Cluny	Toronto, Ont.	Conservative
Neufeld, Richard	British Columbia	Fort St. John, B.C.	Conservative
Ngo, Thanh Hai	Ontario	Orleans, Ont.	Conservative
Ogilvie, Kelvin Kenneth	Annapolis Valley - Hants	Canning, N.S.	Conservative
Oh, Victor	Mississauga	Mississauga, Ont.	Conservative
Patterson, Dennis Glen	Nunavut	Iqaluit, Nunavut	Conservative
Plett, Donald Neil	Landmark	Landmark, Man.	Conservative
Poirier, Rose-May	New Brunswick—Saint-Louis-de-Kent	Saint-Louis-de-Kent, N.B.	Conservative
Raine, Nancy Greene	Thompson-Okanagan-Kootenay	Sun Peaks, B.C.	Conservative
Ringuette, Pierrette	New Brunswick	Edmundston, N.B.	Liberal
Rivard, Michel	The Laurentides	Quebec, Que.	Conservative
Runciman, Bob	Ontario—Thousand Islands and Rideau Lakes	Brockville, Ont.	Conservative
Seidman, Judith G.	De la Durantaye	Saint-Raphaël, Que.	Conservative
Sibbeston, Nick G.	Northwest Territories	Fort Simpson, N.W.T.	Liberal
Smith, David P., P.C.	Cobourg	Toronto, Ont.	Liberal
Smith, Larry W.	Saurel	Hudson, Que.	Conservative
Stewart Olsen, Carolyn	New Brunswick	Sackville, N.B.	Conservative
Tannas, Scott	Alberta	High River, Alta.	Conservative
Tardif, Claudette	Alberta	Edmonton, Alta.	Liberal
Tkachuk, David	Saskatchewan	Saskatoon, Sask.	Conservative
Unger, Betty E.	Alberta	Edmonton, Alta.	Conservative
Verner, Josée, P.C.	Montarville	Saint-Augustin-de-Desmaures, Que.	Conservative
Wallace, John D.	New Brunswick	Rothesay, N.B.	Conservative
Wallin, Pamela	Saskatchewan	Wadena, Sask.	Independent
Watt, Charlie	Inkerman	Kuujjuaq, Que.	Liberal
Wells, David Mark	Newfoundland and Labrador	St. John's, Nfld. & Lab.	Conservative
White, Vernon	Ontario	Ottawa, Ont.	Conservative

SENATORS OF CANADA

BY PROVINCE AND TERRITORY

(June 2, 2015)

ONTARIO—24

	Senator	Designation	Post Office Address
	The Honourable		
1	Anne C. Cools	Toronto Centre-York	Toronto
2	Colin Kenny	Rideau	Ottawa
3	Marjory LeBreton, P.C.	Ontario	Manotick
4	David P. Smith, P.C.	Cobourg	Toronto
5	Jim Munson	Ottawa/Rideau Canal	Ottawa
6	Art Eggleton, P.C.	Ontario	Toronto
7	Nancy Ruth	Cluny	Toronto
8	Nicole Eaton	Ontario	Caledon
9	Irving Gerstein	Ontario	Toronto
10	Linda Frum	Ontario	Toronto
11	Bob Runciman	Ontario—Thousand Islands and Rideau Lakes	Brockville
12	Salma Ataullahjan	Toronto—Ontario	Toronto
13	Don Meredith	Ontario	Richmond Hill
14	Vernon White	Ontario	Ottawa
15	Tobias C. Enverga, Jr.	Ontario	Toronto
16	Thanh Hai Ngo	Ontario	Orleans
17	Lynn Beyak	Ontario	Dryden
18	Victor Oh	Mississauga	Mississauga
19			
20			
21			
22			
23			
24			

SENATORS BY PROVINCE AND TERRITORY

QUEBEC—24

	Senator	Designation	Post Office Address
	The Honourable		
1	Charlie Watt	Inkerman	Kuujjuaq
2	Céline Hervieux-Payette, P.C.	Bedford	Montreal
3	Serge Joyal, P.C.	Kennebec	Montreal
4	Joan Thorne Fraser	De Lorimier	Montreal
5	Paul J. Massicotte	De Lanaudière	Mont-Saint-Hilaire
6	Dennis Dawson	Lauzon	Ste-Foy
7	Michel Rivard	The Laurentides	Quebec
8	Patrick Brazeau	Repentigny	Maniwaki
9	Leo Housakos, *Speaker*	Wellington	Laval
10	Suzanne Fortin-Duplessis	Rougemont	Quebec
11	Claude Carignan, P.C.	Mille Isles	Saint-Eustache
12	Jacques Demers	Rigaud	Hudson
13	Judith G. Seidman	De la Durantaye	Saint-Raphaël
14	Pierre-Hugues Boisvenu	La Salle	Sherbrooke
15	Larry W. Smith	Saurel	Hudson
16	Josée Verner, P.C.	Montarville	Saint-Augustin-de-Desmaures
17	Ghislain Maltais	Shawinegan	Quebec City
18	Jean-Guy Dagenais	Victoria	Blainville
19	Diane Bellemare	Alma	Outremont
20			Quebec
21			
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SENATORS BY PROVINCE-MARITIME DIVISION

NOVA SCOTIA—10

	Senator	Designation	Post Office Address
	The Honourable		
1	Wilfred P. Moore	Stanhope St./South Shore	Chester
2	Jane Cordy	Nova Scotia	Dartmouth
3	Terry M. Mercer	Northend Halifax	Caribou River
4	James S. Cowan	Nova Scotia	Halifax
5	Stephen Greene	Halifax - The Citadel	Halifax
6	Michael L. MacDonald	Cape Breton	Dartmouth
7	Kelvin Kenneth Ogilvie	Annapolis Valley - Hants	Canning
8	Thomas Johnson McInnis	Nova Scotia	Sheet Harbour
9			
10			

NEW BRUNSWICK—10

	Senator	Designation	Post Office Address
	The Honourable		
1	Joseph A. Day	Saint John-Kennebecasis, New Brunswick	Hampton
2	Pierrette Ringuette	New Brunswick	Edmundston
3	Sandra Lovelace Nicholas	New Brunswick	Tobique First Nations
4	Percy Mockler	New Brunswick	St. Leonard
5	John D. Wallace	New Brunswick	Rothesay
6	Carolyn Stewart Olsen	New Brunswick	Sackville
7	Rose-May Poirier	New Brunswick—Saint-Louis-de-Kent	Saint-Louis-de-Kent
8	Paul E. McIntyre	New Brunswick	Charlo
9			
10			

PRINCE EDWARD ISLAND—4

	Senator	Designation	Post Office Address
	The Honourable		
1	Elizabeth M. Hubley	Prince Edward Island	Kensington
1	Percy E. Downe	Charlottetown	Charlottetown
2	Michael Duffy	Prince Edward Island	Cavendish
4			

SENATORS BY PROVINCE-WESTERN DIVISION

MANITOBA—6

	Senator	Designation	Post Office Address
	The Honourable		
1	Janis G. Johnson	Manitoba	Gimli
2	Maria Chaput	Manitoba	Sainte-Anne
3	Donald Neil Plett	Landmark	Landmark
4			
5			
6			

BRITISH COLUMBIA—6

	Senator	Designation	Post Office Address
	The Honourable		
1	Mobina S. B. Jaffer	British Columbia	North Vancouver
2	Larry W. Campbell	British Columbia	Vancouver
3	Nancy Greene Raine	Thompson-Okanagan-Kootenay	Sun Peaks
4	Yonah Martin	British Columbia	Vancouver
5	Richard Neufeld	British Columbia	Fort St. John
6			

SASKATCHEWAN—6

	Senator	Designation	Post Office Address
	The Honourable		
1	A. Raynell Andreychuk	Saskatchewan	Regina
2	David Tkachuk	Saskatchewan	Saskatoon
3	Pana Merchant	Saskatchewan.	Regina
4	Lillian Eva Dyck	Saskatchewan	Saskatoon
5	Pamela Wallin	Saskatchewan.	Wadena
6	Denise Leanne Batters	Saskatchewan	Regina

ALBERTA—6

	Senator	Designation	Post Office Address
	The Honourable		
1	Claudette Tardif	Alberta	Edmonton
2	Grant Mitchell	Alberta	Edmonton
3	Elaine McCoy	Alberta	Calgary
4	Betty E. Unger	Alberta	Edmonton
5	Douglas John Black	Alberta	Canmore
6	Scott Tannas	Alberta	High River

SENATORS BY PROVINCE AND TERRITORY

NEWFOUNDLAND AND LABRADOR—6

	Senator	Designation	Post Office Address
	The Honourable		
1	George Furey	Newfoundland and Labrador	St. John's
2	George S. Baker, P.C.	Newfoundland and Labrador	Gander
3	Elizabeth Marshall	Newfoundland and Labrador	Paradise
4	Fabian Manning	Newfoundland and Labrador	St. Bride's
5	Norman E. Doyle	Newfoundland and Labrador	St. John's
6	David Wells	Newfoundland and Labrador	St. John's

NORTHWEST TERRITORIES—1

	Senator	Designation	Post Office Address
	The Honourable		
1	Nick G. Sibbeston	Northwest Territories	Fort Simpson

NUNAVUT—1

	Senator	Designation	Post Office Address
	The Honourable		
1	Dennis Glen Patterson	Nunavut	Iqaluit

YUKON—1

	Senator	Designation	Post Office Address
	The Honourable		
1	Daniel Lang	Yukon	Whitehorse

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