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OFFICIAL REPORT  
(HANSARD)

Thursday, January 30, 2014

The Honourable NOËL A. KINSELLA  
Speaker

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## THE SENATE

Thursday, January 30, 2014

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

Prayers.

### SENATORS' STATEMENTS

#### LUNAR NEW YEAR

**Hon. Victor Oh:** Honourable senators, tomorrow marks the beginning of the Lunar New Year, the Year of the Horse. This festive occasion, also known as the Spring Festival, is the biggest and the most important holiday of the year for many cultures in East and Southeast Asia. Millions of people living in China, Vietnam, Korea, Taiwan, Malaysia, and my birthplace of Singapore gather with family and friends to ring in the new year.

Back at home, Asian communities across Canada are also observing the traditions and customs associated with this special occasion. We look forward to a year with an abundance of fortune, intelligence and good health. We take this time to reflect on past achievements, to sweep away the bad luck, and to inject a sense of optimism and hope for the year ahead.

In the past few weeks, I have attended numerous new year celebrations in the Greater Toronto Area with many of my Senate and House of Commons colleagues. More events are taking place across the country in the weeks ahead. I invite all honourable senators to take part in these celebrations and experience the richness of our multicultural society.

This year, the horse is significant among the 12 zodiac signs. It signifies strength, energy and leadership. In the Chinese culture, it is customary to wish others good health and good fortune. And with the Year of the Horse, it is fitting to include the horse when you greet somebody, such as *Yi ma dang xian*, meaning, "You will be the first out of the gate and leading the way."

Honourable senators, I would like to take this opportunity to wish all of you, as well as Canadians from coast to coast to coast, a happy and prosperous Lunar New Year.

*Gong xi fa cai.* Thank you.

[*Translation*]

#### NEW DEMOCRATIC PARTY OF CANADA

##### MISINFORMATION ABOUT SENATE ON WEBSITE

**Hon. Marie-P. Charette-Poulin:** Honourable senators, last Friday, a journalist contacted me about statements on the NDP website discrediting the Senate and certain senators. I am one of

those senators. Without any concern for fact, the NDP grossly misrepresented the work that we do in this chamber and published some glaring errors about my voting records and attendance in the Senate.

[*English*]

Honourable senators, I cannot leave this malicious attack on my reputation unaddressed. I'm seeking permission to table the letter I have received from the Clerk of the Senate, which verifies my attendance and voting records for the Forty-first Parliament and which will serve to correct the glaring errors published by the NDP on its public website.

I call on Mr. Mulcair to retract his allegations as untrue and to apologize for having tainted my reputation.

Finally, I wish to thank the Clerk of the Senate, Dr. Gary O'Brien, and his staff for their assistance and for their efforts in preparing this information so quickly.

**The Hon. the Speaker:** Is leave granted to table this document?

**Hon. Senators:** Agreed.

#### THE LATE EUGÈNE RHÉAUME

**Hon. Jim Munson:** Honourable senators, I wish to say a few words about my good friend Gene Rhéaume. He died in November.

In tributes to Gene since his passing, certain wonderful characteristics are mentioned again and again: his distinct use of language; his engaging stories; and his sense of humour, which he used as much to make a point as to bring people together. Gene was an extremely thoughtful, generous and brilliant man whose dedication to the rights of the Metis and other Aboriginal peoples left a permanent, proud mark on this country.

Many may not remember this, but Gene was an MP for the Northwest Territories in the early 1960s, and he was the first Metis elected to Parliament after Louis Riel.

He challenged the government whenever he saw injustice and the need to advocate for the underprivileged, especially Aboriginal peoples. In 1963, for instance, he pointed out the absurdity of a very real situation where electricity was being routed to government agencies in Northern Canada but was bypassing the homes of indigenous people in the same communities.

Gene lost his seat in the 1965 federal election but held fast to his commitments. He helped establish the Native Housing Task Force and, as national chair, oversaw the construction and repair of thousands of homes in needy communities. Gene played an active role in several royal commissions and committees that opened a generation's eyes to the experiences of Aboriginal peoples and brought positive changes to the state of Canada's democracy.

Throughout his life, Gene Rhéaume fostered strong friendships and alliances that helped bolster his causes and influence. In 1971, he was instrumental in creating the Native Council of Canada, today's Congress of Aboriginal Peoples. The council gave a much-needed voice to off-reserve Aboriginal peoples and succeeded in ensuring recognition for the Metis under the Constitution.

Gene used his time among us in the most admirable way, inspiring Canadians to think and act with compassion and social purpose. His own words before he died sum it up best:

I see myself as a man at peace with his achievements, an entertaining person who has lots of friends that like to be with me, not a bitter kind of person full of self-flagellation about the things I didn't do that I perhaps should've or could've.

Gene was truly one of a kind. His friendship has been an honour.

- (1410)

### VISITORS TO THE SENATE

**The Hon. the Speaker:** Honourable senators, I wish to draw to your attention to the presence at the bar of the Senate of our distinguished provincial and territorial colleagues, the speakers of the legislative assemblies of the provinces and territories.

They are Monsieur Jacques Chagnon, Président de l'Assemblée nationale du Québec; the Honourable Kevin Murphy, Speaker of the Legislative Assembly of Nova Scotia; the Honourable Dale Graham, Speaker of the Legislative Assembly of New Brunswick; the Honourable Daryl Reid, Speaker of the Legislative Assembly of Manitoba; the Honourable Jackie Jacobson, Speaker of the Legislative Assembly of the Northwest Territories; the Honourable David Laxton, Speaker of the Yukon Legislative Assembly; the Honourable Dan D'Autremont, Speaker of the Legislative Assembly of Saskatchewan; the Honourable Gene Zwozdesky, Speaker of the Legislative Assembly of Alberta; and the Honourable Ross Wiseman, Speaker of the House of Assembly of Newfoundland and Labrador.

Honourable senators, in the Governor General's Gallery and the Speaker's Gallery, are some of the deputy speakers of our legislative assemblies and territories, as well as other members of the delegations.

On behalf of all honourable senators, it is a particular pleasure for me, as Speaker of the Senate of Canada, to welcome you to the Senate of Canada.

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

**The Hon. the Speaker:** Continuing with Senators' Statements.

**Hon Elizabeth Hubley:** Honourable senators, might I take a moment to recognize the Speaker of the Legislative Assembly of Prince Edward Island?

**The Hon. the Speaker:** Certainly. As my colleagues know, this is not an exact science, and I was presented with a less-than-complete list, considering that this year Charlottetown is very special in Canadian history.

### BLACK HISTORY MONTH

**Hon. Don Meredith:** Honourable senators, on this, the nineteenth anniversary of the proud day in 1995 when the Parliament of Canada unanimously and historically proclaimed the month of February as Black History Month, and six years since the Senate of Canada followed suit unanimously in 2008, I am proud to rise in paying tribute to the memory of the men and women of African descent who helped shape the social, cultural and economic fabric of Canada.

Black History Month offers us a valuable opportunity to tell a more complete story, and help bridge gaps of misunderstanding.

The fact is that Black people, both as slaves and as free men and women, gave greatly to the betterment of Canada. They contributed as soldiers and labourers in early Nova Scotia; as fishermen and domestics in New France; fur traders employed by the Hudson's Bay Company; prairie farmers at the turn of the century; and skilled tradesmen, teachers and businessmen in pre-confederation British Columbia.

It includes the contributions of great Canadians like: Mathieu Da Costa; William Hall; Harriet Tubman; Mary Ann Shadd; Sir James Douglas; Harry Jerome; Don Moore; Harry Garvey; Al Hamilton; Rosemary Brown; Al Mercury; Ed Clark; Lenny Johnston; Wilson Head; Fran Endicott; Lloyd Perry; Jennifer Hodge; Eva Smith; Bromley Armstrong, who hails from Ontario and who led the fight with respect to the immigration policy of Canada; Juanita Westmoreland-Traoré; Keith Forde, the first Black deputy chief of the Toronto police; and Judge Julius Isaac, who just passed away.

It includes the story of champions, including our recently departed Honourable Lincoln Alexander. Rightfully, I was proud last December to table a private member's bill in the Senate of Canada designating January 21 of each year as Lincoln Alexander Day all across this great country. It is my hope that Bill S-213, which is now at the second reading stage, will thus become law in Black History Month of February 2014.

Black History Month allows a fuller account of the contributions of Black persons over so many generations, from the invention of the paper in ancient Egypt in 3500 BC, to the numerous inventions of Canada's own Elijah "The Real" McCoy in the 1800s, to the open-heart surgery of Dr. Daniel Hale Williams in 1891, or even to the ever-present cellphone by Henry T. Samson in 1971.

Black History Month is also a prime opportunity to help stir our young people in a sense of pride and shared ownership through a more robust and complete story of Canada. It is a story of challenge and sacrifice, deliverance and success. It is a truth born in Africa and shaped in the ages of kings, the legacy of slavery, colonial tribulations, all the way through to measurable modern-day gains against formidable adversity.

Even as we use this opportunity to engage in a fuller account of Canada's history, we must also remain vigilant year-round in promoting our history of contribution and provide leadership, support and guidance to help fulfill our young people. It is through these efforts that we give lasting tribute to those forebearers who helped construct the social, cultural and economic fabric we enjoy today.

This February, I encourage all Canadians to learn more about how Canadians of African descent have helped contribute to and shape this great country. I invite all honourable senators to participate in activities in their communities as we celebrate the important contributions of Canadians to this great country.

#### THE LATE MRS. LOLA LANGE

**Hon. Céline Hervieux-Payette:** Honourable senators, I rise today to pay tribute to a magnificent Canadian woman who passed away on Christmas Day at the age of 91 — Ms. Lola Lange.

Lola Lange was born in Edmonton, Alberta, in 1922, the daughter of Stella and Ralph Smith. She was a gifted pianist, but, as Lola noted, options for women of her generation were limited. When a woman graduated from high school, she could study to be a nurse or a teacher, she could get a job, or she could get married.

Lola met her future husband, Ottomar Lange, at a dance at Concordia College and they married in 1943 when Lola was 21 years old. They moved to the Lange family farm near Claresholm, a relocation that unsettled the music-loving young woman from the city. She lived 19 kilometres from a small town with no library and no live music. Therefore, to occupy herself, Lola became active in the Alberta Farm Wives' Union, and took courses at the Banff School of Fine Arts. Her daughters Anola, Nadine and Debra were born between 1944 and 1953.

In 1967, Lola won a grant from the Bank of Montreal to study the role of continuing education in young farmers' lives, and it was this work that brought her to the attention of decision-makers in Ottawa.

[ Senator Meredith ]

On February 3, 1967, Prime Minister Pearson announced that the government had decided to establish a royal commission, which was mandated to inquire into and report upon the status of women in Canada. The Prime Minister personally called Lola one winter day and asked her to join the commission, along with six other individuals, a total of two men and five women. Among the commissioners were academics, an engineer, a judge and a journalist. Lola wrote that "they were looking for a farm wife, and my name was put forward." Furthermore, she said, "For 20 years, I was the wife or the mother. The commission proved to me that I was a woman in my own right."

The Royal Commission on the Status of Women was a watershed for the women's movement and a symbol of second-wave feminism. The activities of the commission in this period resulted in a significant increase in public awareness of women's issues. The commission's report was tabled in 1970, and its 167 recommendations included advice on overhauling daycare, pay legislation, hiring practices and maternity leave.

• (1420)

For Lola, four years spent away from the farm led her to take a different path. She eventually took a job with the Canada Mortgage and Housing Corporation, working with rural and Aboriginal clients.

Lola leaves behind three daughters, six grandchildren, and seven great-grandchildren. My condolences go to her surviving family. She was truly a remarkable woman, and she will be sorely missed.

#### CANADA-INDIA RELATIONS

**Hon. Asha Seth:** Honourable senators, our government has been proud to make the Canada-India relationship a priority. The Indo-Canadian community, which numbers more than 1 million citizens, values the important relationship between our countries.

For this reason, I have spearheaded and participated in three high-level missions over the past two years that have allowed the expansion of bilateral ties between India and Canada, fostered better mutual understanding and encouraged closer commercial and academic cooperation.

During our holiday break, I had the privilege to lead the first Indo-Canadian trade mission to the state of Uttar Pradesh, India's largest consumer market, with a population of 200 million people. The mission was successful in convening more than 500 stakeholders from Canada and India to explore opportunities in areas such as agriculture, food processing, energy and education.

The delegates included representatives from the Canadian High Commission, the Canadian Trade Commission, the Indo-Canada Chamber of Commerce and the Hon. Akhilesh Yadav, Chief Minister of Uttar Pradesh.

The state of Uttar Pradesh was hand-selected due to its limited exposure to Canadian investors, its friendly business policies, and its strong potential for economic cooperation. The state has extraordinary agricultural capabilities to be developed and has become a sought-after IT destination for Canadian companies such as CAE, SNC-Lavalin and Aastra Telecom.

Canadian education institutions are also active in UP, primarily in the form of student exchange, and Canadian universities actively recruit students from the region.

I had the honour of presenting a message from Prime Minister Stephen Harper which made clear that there is still vast, unrealized potential for trade between Canada and Uttar Pradesh and that Canada will continue to place India as a top priority in its international economic policy.

Chief Minister Akhilesh Yadav committed to do his best to market and transform the state as a better business destination and promised to bring an Indian trade delegation to Canada in June of this year.

Honourable senators, I believe that maintaining and strengthening our relationship with our Indian partners is key to the economic security of our nation. Thank you.

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[Translation]

## ROUTINE PROCEEDINGS

### PUBLIC SECTOR INTEGRITY COMMISSIONER

#### PAROLE BOARD OF CANADA—CASE REPORT OF FINDINGS IN THE MATTER OF AN INVESTIGATION INTO ALLEGATIONS OF WRONGDOING TABLED

**The Hon. the Speaker:** Honourable senators, pursuant to subsection 38(3.3) of the Public Servants Disclosure Protection Act, I have the honour to table, in both official languages, the case report of findings of the Public Sector Integrity Commissioner.

[English]

### STUDY ON PRESCRIPTION PHARMACEUTICALS

#### FIFTH REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE TABLED

**Hon. Kelvin Kenneth Ogilvie:** Honourable senators, I have the honour to table, in both official languages, the fifth report of the Standing Senate Committee on Social Affairs, Science and

Technology entitled: *Prescription Pharmaceuticals in Canada: Off-Label Use.*

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

[Translation]

## BANKING, TRADE AND COMMERCE

### NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY TRADE BETWEEN THE UNITED STATES AND CANADA AND ADHERENCE TO LAWS AND PRINCIPLES OF ALL TRADE AGREEMENTS

**Hon. Pierrette Ringuette:** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the Senate Standing Committee on Banking, Trade and Commerce be authorized to examine and report on trade between the United States and Canada and the adherence to the laws and principles of all trade agreements, with particular focus on spent fowl and chicken imports, including:

- (a) the application of tariffs and quotas on classifications that include blends, food preparation, kits, and sets, as well as the potential for these products to circumvent the law and principle of trade agreements, in particular import quotas;
- (b) the regulations regarding import tariffs and quotas as established by the Department of Finance;
- (c) the interpretation and application of those rules and regulations by the Canadian Border Services Agency;
- (d) the monitoring of products defined as blends, food preparation, kits, and sets; and
- (e) the reciprocity of US regulations regarding similar Canadian imports;

That the committee provide recommendations for regulatory and legislative actions to ensure fairness for Canadians in the system; and

That the committee submit its final report to the Senate no later than June 27, 2014, and retain all powers necessary to publicize its findings for 180 days after the tabling of the final report.

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[English]

## QUESTION PERIOD

### ABORIGINAL AFFAIRS AND NORTHERN DEVELOPMENT

#### ON-RESERVE HOUSING—FIRES AND FIRE PREVENTION

**Hon. Lillian Eva Dyck:** Honourable senators, I'm sure everyone in the chamber has heard about the tragic fire in L'Isle-Verte, Quebec, with the senior citizens' home. You probably have not heard that in Saskatchewan, about a week ago, there was a house fire on the Pelican Narrows Reserve in northern Saskatchewan in which two young boys were killed and a young girl was severely burned.

This is the second time in less than a year that there has been a house fire on this reserve in which children have died. The sad reality is that if you live on a reserve, you're 10 times more likely to die in a house fire than if you live elsewhere.

My question for the Leader of the Government in the Senate will be threefold, and I would ask you to take these as notice, because I know you won't be able to provide the answers just like that.

Would you find out and report back on the following questions: First, how many house fires have there been on reserves across Canada in the last 20 years? Second, how many have occurred in Saskatchewan? Third, how many people, adults and children, have died during these house fires across Canada and in Saskatchewan?

• (1430)

I ask these questions because I think it's important that we get a quantitative understanding of how serious a problem this is.

[Translation]

**Hon. Claude Carignan (Leader of the Government):** Thank you, senator, for your very precise and technical question. I will take the question as notice and get back to you with an answer that is as comprehensive as possible.

[English]

**Senator Dyck:** Thank you, Senator Carignan.

Employment and Social Development Canada currently undertakes fire inspections on reserves for Aboriginal Affairs and Northern Development Canada, but apparently that

arrangement, according to the media, is coming to an end at the end of this year. As a follow-up question, I would ask you to look into whether that information in the media is true. Is the funding for fire inspections through Employment and Social Development Canada going to end this year? If so, will other groups receive resources in order to take up the slack, as it were? There must be somebody there to do fire inspections.

In other words, what plans are in place? At this point in time fire inspections are not mandatory and children are dying. We need to start getting the information so we can figure out how to put an end to this tragedy.

[Translation]

**Senator Carignan:** I will also take that question as notice. Nevertheless, I would like to remind honourable senators that we have made huge investments in construction and water and wastewater infrastructure in Aboriginal communities. Since 2006, we have also supported the construction of 11,000 new homes and the renovation of 21,000 houses in those communities. Thus, much work has been done and many investments have been made in housing on Aboriginal reserves.

With respect to fires, and specifically the issue of inspections, I will take the questions as notice and provide you with an answer as soon as possible.

[English]

**Hon. Terry M. Mercer:** Senator Carignan, could you add to Senator Dyck's list and report on the status and condition of fire-fighting equipment on reserves or available close to reserves? My understanding is that during at least one of the recent fires the fire truck on the reserve was not functional, which of course led to a very dangerous situation.

Since you're doing all of this work anyway, I'm sure you wouldn't mind adding that to the list.

[Translation]

**Senator Carignan:** Yes, we can add it. But I do want to point out that there is an emergency management plan. As Minister Valcourt announced on November 19, our government has put in place a new comprehensive approach to emergency management on reserves in order to ensure better coordination with the provinces and greater accountability with respect to taxpayers' money. This comprehensive approach will establish a single window for financial agreements in order to ensure that public funds are managed carefully and also to provide First Nations, the provinces and the territories with improved access to funding for emergency management.

I will add Senator Mercer's question to Senator Dyck's question, which I have promised to respond to.



[English]

**Hon. Mobina S. B. Jaffer:** Leader, if I may ask you to add to the inquiries you're going to make. Obviously fires on reserves are a very serious problem. We've known this for a long time, and I'm sure our government is setting up steps to prevent these fires. I would appreciate it if you would also find out exactly what our government is doing to help people on reserves so there are fewer fires.

[Translation]

**Senator Carignan:** Yes.

[English]

## EMPLOYMENT AND SOCIAL DEVELOPMENT

### EMPLOYMENT INSURANCE

**Hon. Elizabeth Hubley:** Honourable senators, my question is to the Leader of the Government in the Senate. This past month the Council of Atlantic Premiers held public consultations on EI reforms across Prince Edward Island. Islanders are nervous, confused, afraid and upset, and rightly so.

Each new number released from Statistics Canada paints a picture of a complete and total failure on the part of your government. Unemployment continues to rise. The number of EI recipients has dramatically fallen and Islanders are struggling to make ends meet. There is a worsening EI crisis, and your government is doing nothing. How can you continue to turn a blind eye to a crisis that you've created?

[Translation]

**Hon. Claude Carignan (Leader of the Government):** Thank you for your question, senator, although it is a partisan one. Our government has made reasonable changes to Employment Insurance in order to effectively connect unemployed Canadians with jobs available in their region that match their skills. Employment Insurance benefits are still there to help people, including in regions where there are seasonal and specialized jobs.

There is also the enhanced Job Alerts system, which makes it easier for the unemployed to find jobs in their community that match their skills. Over 40 million alerts were sent out last year. As Minister Kenney has stated, according to the data available to us, of those who were excluded or did not qualify for EI benefits, less than one per cent were excluded or ruled ineligible for failing to look for work or refusing to accept suitable employment. The data show that 80 per cent of the increase in cases of ineligibility can be attributed to the fact that the claimants were outside of the country.

There are well-established Employment Insurance eligibility rules, and they have not changed. People receiving EI are still required to look for a job while they are receiving benefits. A job

will only be considered suitable if the recipient would be financially better off accepting the job than receiving EI benefits. Personal circumstances, such as access to transportation and child care, will always be taken into account.

We have a comprehensive system to ensure that people who lose their jobs can find a new one that is comparable and suitable as quickly as possible, so that they can avoid situations of financial insecurity.

[English]

**Senator Hubley:** On a supplementary question, I did not appreciate your referring to my question as being partisan. I represent everyone on Prince Edward Island, regardless of their political stripe. I'd like to just clarify that.

I appreciate your answer, and to me it tends to sound very good, as if you're managing a situation, but on the ground it belies the crisis that Islanders are going through at the present time.

I'd like to share with you a story about Jolene Cudmore. She's a lady from Charlottetown. On December 4 Jolene had surgery to help repair a dislocated shoulder. Her doctor recommended that she not return to work for 12 weeks after her surgery to allow time for the injury to heal. She filed her EI claim in person in Charlottetown on December 9, five days later, and every day after she checked online for the status of her application. For eight weeks nothing changed.

During that time, bills started piling up: rent payments, car payments, insurance and the utilities. Her fiancé even took a second job to try to make ends meet. Jolene was faced with a choice of risking her health by returning to work early or going homeless.

• (1440)

Does this government expect Jolene Cudmore from Charlottetown, P.E.I., to return to work and risk re-injuring herself while she waits for your broken E.I. system to review her claim?

[Translation]

**Senator Carignan:** I thank the senator for her question. I obviously won't comment on specific cases, since it is difficult to take a position without knowing the whole context.

Our government will do everything it can to ensure that people who are entitled to Employment Insurance benefits receive them within a reasonable period of time. The government will also ensure that people looking for a job can find a suitable one as quickly as possible, so that employers can fill shortages of qualified staff.

[English]

**Senator Hubley:** Making it even more difficult for Islanders to have faith in a system at this particular time are the comments made by our Minister of Fisheries and Oceans, Gail Shea. She said:

Everybody in this room knows there has been outmigration from P.E.I. for forever.... Why would anyone stay on the Island if they can earn a significantly better living away?

At last count, I believe that 150,000 people call Prince Edward Island home; and I would like to think that every one of them has an opportunity to find a job.

[Translation]

**Senator Carignan:** As you know, no one is forced to leave their province or region to find a job. To expand on my response to your question about delays, the volume of claims varies because of seasonal peaks. Right now, Service Canada is receiving a higher number of claims than usual because it is the winter peak.

As in the past, we have added resources to deal with the volume of claims, and regardless of where the increase is coming from, there are offices available to process the claims.

Service Canada's annual objective is to pay 80 per cent of claims within 28 days of the date they were filed. As of December 31, 2013, the majority of Employment Insurance claimants had received their first payment within 28 days of filing their claim.

You know how energetic and passionate Minister Kenney is. He has instructed his department to find a way to improve how employment insurance claims are processed, still with the goal of being effective, efficient and accountable.

[English]

**Senator Hubley:** I appreciate that answer as well. I would like to know what Minister Kenney's time frame might be. We are now moving into probably the most critical time for people who have been on EI, which is from the time their EI is running out until the time their seasonal job might begin. There is a crisis of time here as well.

I would also like to state that Minister Gail Shea said she was waiting for some hard data to show that these people are leaving as a result of EI changes.

We are all troubled by this, and it's troubling to Islanders. I think we've demonstrated many times that the economy in our region is different from the economy in other regions; and we expect governments to respect that. We've also been deeply hurt by the fact that Stephen Harper at one time said that Atlantic Canada suffers from a culture of defeat. That statement has never been qualified, denied or corrected.

[Translation]

**Senator Carignan:** As I was saying earlier, 80 per cent of claimants receive their payment within 28 days of filing an EI claim. As of December 31, 2013, most claimants were receiving their payment within that time frame.

The utmost is being done to ensure that people who are entitled to EI benefits receive them within a reasonable amount of time. Minister Kenney, the minister responsible for the file, is doing everything he can to improve the EI claims processing system.

**Hon. Céline Hervieux-Payette:** Even though my honourable colleague does not sit in cabinet, could he ask Minister Kenney to expedite the claim of the woman who was injured?

It is often the custom — it was the case before — for members of cabinet to take charge of a specific case, to at least show that parliamentarians play an important role and can ensure that Canadians get a timely response to administrative problems they may encounter.

**Senator Carignan:** Whether senators are or are not members of cabinet, their role is to represent the people in their region, to defend those people's views and to handle the issues. It is not necessary to be part of cabinet to do that. We have several forums in which we can accomplish those things. For example, the national caucus is a place where senators can talk to their colleagues about the issues affecting their regions and personal cases.

**Senator Hervieux-Payette:** Senator, am I to understand that you will follow up on this case either in caucus or in another forum?

**Senator Carignan:** I don't have the file in front of me, but if Senator Hervieux-Payette has it and she wants to send it to me, I will put it in the mail. However, I believe that, as a regional representative, she can send it to the minister herself and he can take care of it for her.

[English]

**Hon. Catherine S. Callbeck:** Honourable senators, I have a supplementary on the same issue. Leader, you mentioned that more people have been hired to process these claims at this time of year because of the demand. I would like to know how many people have been hired. You probably haven't got the number here, but would you agree to report back with the number and give a breakdown of that by region or province?

[Translation]

**Senator Carignan:** I did not necessarily say that people had been hired. I spoke about additional resources in general. I will see if that information is available, and if it is, I will have it sent to you. I spoke about additional resources, and to me that means a combination of things, not necessarily just people, periods or weeks. It can also mean something more than the number of people.

[English]

GOVERNMENT ADVERTISING—CANADA JOBS GRANT

**Hon. Terry M. Mercer:** Honourable senators, like many of you, I started to see television ads for the new skills training program after it was announced in Budget 2013. However, that program still does not exist. Why? The provinces and industry have not come to an agreement with the Harper Conservative government on how to cost-share the program.

Could the leader tell us please why the government would spend \$2.5 million on television ad campaigns for a program that does not exist?

• (1450)

[Translation]

**Hon. Claude Carignan (Leader of the Government):** Honourable senators, earlier, when I arrived, reporters asked me what had changed. We started the week with 32 Liberal senators, and we are ending the week with 32 Liberal senators. The questions and the content are the same.

[English]

**Senator Cowan:** And you have one person applaud. Good for you.

[Translation]

**Senator Carignan:** As was noted during the discussions about the Canada Job Grant, we have not yet received a counter-proposal from the provinces, and we are not able to comment on the details of the negotiations. However, there will be a Canada Job Grant that will directly match unemployed Canadians with employers and available jobs.

Our government is listening to the provinces' concerns and is restructuring its offer based on their feedback, but one of the biggest obstacles to sustained economic growth in Canada is the skills gap, as we have already said, which means that too many jobs are sitting vacant and Canadians do not have work. This is important for Canada's economic growth and people's well-being.

This program is far-reaching, so it is important to raise awareness of it through advertising so that as many people as possible can take advantage of it.

[English]

**Senator Mercer:** The honourable leader should remember that the questions asked here about government spending are non-partisan. One of our roles is to hold government to account to make sure Canadian tax dollars are being spent wisely.

We can't deny that these ads exist because we've all seen them; so, too, did Canadians who complained to Advertising Standards Canada about the ads. Advertising Standards Canada is a

non-profit, self-regulating body that oversees fair advertising, and they ruled that the TV ads were misleading, and now no more ads.

Will the Government of Canada admit it was wrong to spend taxpayers' dollars on this ad campaign and apologize to Canadians for misleading them?

[Translation]

**Senator Carignan:** Honourable senators, this grant has been praised by many stakeholders who are saying that the current programs are not effective and must be replaced. They are saying that the job grant is worthwhile, "they" being the Canadian Federation of Independent Business, Canadian Manufacturers & Exporters, the Canadian Construction Association, Engineers Canada, the Information Technology Association of Canada and the Canadian Welding Bureau.

I would remind you that your Liberal leader — I understand that you might not be calling him this week because you're a bit upset with him — openly admitted that he has no ideas for the economy. If you were part of the national caucus with him, you could give him some ideas.

[English]

**Senator Mercer:** You need not worry about Mr. Trudeau. I'm sure he'll come up with many innovative policies on the economy, and as the Liberal Party meets in Montreal in a couple of weeks they will be discussing things like that.

What I find interesting is that Advertising Standards Canada has not actually named the Government of Canada or indicated any wrongdoing. Why? Because their policy is that if the wrongdoing is admitted and if the ads are removed they don't name you. The campaign is over and the government pulled the ads. We still know, however, that the ads were misleading.

The Harper Conservatives were again found to have done something wrong. From robo-calls to breaking election laws, this seems to be a pattern. When will this end?

[Translation]

**Senator Carignan:** Liberal Senator Mercer, the ad campaign in question was stopped and the ads haven't run in six months.

As I explained, our government is determined to right the imbalance in the job market. It's too bad, but in the national caucus, you could have advised Mr. Trudeau on this. I imagine you will have other exchanges with him.

**Hon. Pierrette Ringuette:** Honourable senators, my question is for the Leader of the Government in the Senate and concerns the job grant program which never got off the ground because there was no consultation.

Today, a year later, you announce that perhaps there will be a consultation process to perhaps ensure that Canadians who need training can get help. This is a year later.

Earlier this week, I read an article claiming that you had developed and funded a program for immigrants to match them with suitable training, jobs and a series of employers.

We already had a similar program for Canadians. Why was that program scrapped? Why is the government now offering non-Canadians these programs when we are unable to offer them to our own citizens?

Leader, I think you need to have some serious discussions with your cabinet colleagues because your approach is not working.

The first order of business should be a program to help Canadian citizens get more training. They also need access to the list of potential employers looking for every kind of labour Canadians can provide. That is the first step. I'm not suggesting that we shouldn't move on to the second step if a thorough search turns up no Canadians available for the job. Still, you have to acknowledge that the first thing we need to do is implement programs to match Canadians looking for work with employers looking for workers. Such a program doesn't even exist now.

**Senator Carignan:** Honourable senators, I want to say right off the bat that I now have a different perspective on accusations that we don't consult before making a decision, and I will not tolerate them.

From the looks of things this week, Justin Trudeau didn't do a lot of consultation before deciding to kick you out of the national caucus.

That being said, the Canada Job Grant will connect unemployed Canadians with employers. Discussions are under way with the provinces to make the program as effective as possible.

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• (1500)

## ORDERS OF THE DAY

### CRIMINAL CODE CORRECTIONS AND CONDITIONAL RELEASE ACT

BILL TO AMEND—SECOND READING—  
DEBATE ADJOURNED

**Hon. Jean-Guy Dagenais** moved that Bill C-489, An Act to amend the Criminal Code and the Corrections and Conditional Release Act (restrictions on offenders), be read the second time.

He said: Honourable senators, I am pleased to begin the debate at second reading on private member's Bill C-489, An Act to amend the Criminal Code and the Corrections and Conditional Release Act (restrictions on offenders).

[ Senator Ringuette ]

Honourable senators, I support this bill. Its objective is very clear: to impose on offenders released into the community conditions that will restrict their ability to communicate with victims against their wishes. To that end, the bill would amend provisions of the Criminal Code and the Corrections and Conditional Release Act that govern the conditions that can be imposed on an offender who is released.

The bill would require criminal court justices and members of the Parole Board of Canada to take the issue of contact between offenders and their victims much more seriously. The bill would require that the courts and the Parole Board recognize that offenders, once released, all too often try to contact and harass their victims. The bill before us today will help prevent victims from being victimized again when the offender is released.

Bill C-489 achieves this objective by amending a number of existing provisions, making it possible to prohibit an offender from communicating with the victims upon release.

For instance, at present, under section 161 of the Criminal Code, in the case of an offender who has been convicted of a sexual offence involving a child, the court that sentences the offender can impose a number of conditions prohibiting him or her from being near children or communicating with them, including going to parks or playgrounds where children are likely to be present, and from having unsupervised Internet access. The court that imposes these conditions at the time of initial sentencing can determine their duration and can impose them in perpetuity.

The bill proposes amending section 161 so as to compel the court to consider making an order prohibiting an offender from being within two kilometres or any other distance of the victim's house or any other place the court deems appropriate.

The proposed prohibition is not mandatory; however, in my opinion, since the court is required to carefully review the imposition of such a condition, it will act on its review and impose such a condition in all appropriate cases. With regard to determining the distance, the court will have enough flexibility to determine what is appropriate in the specific circumstances of the case, and this flexibility will ensure that the courts use this new tool in a uniform manner.

The bill presents a balanced approach that meets the objectives of enhancing public safety and building victims' confidence in the sentencing process, without subjecting offenders to unrealistic conditions at the time of their release.

The bill would also require a court to impose mandatory non-contact conditions for all probation orders and conditional sentence orders.

According to the proposed changes to section 732.1 and section 742.3, which have to do with the conditions associated with probation orders and conditional sentence orders respectively, these new conditions are mandatory, unless the court decides that

because of “exceptional circumstances,” it is not appropriate to impose the condition, or the victim in question gives their consent, in writing, allowing the offender to communicate with them.

Once this bill takes effect, nearly all of these kinds of sentences will include this new non-contact condition, since, by definition, it will be very unusual for a court to find “exceptional circumstances.” Furthermore, if the court decides that there are exceptional circumstances, it must state the reasons for the decision in the record. This will guarantee that all of the parties — including the victims — know exactly why the court came to that conclusion, which will eliminate any confusion and help restore victims’ confidence in the justice system.

This is an important step in protecting victims’ rights. For example, according to the article entitled: “Adult criminal court statistics, 2011/2012” in Statistics Canada’s *Juristat*, probation is the most common sentence imposed by the courts. A total of around 75,000 probation orders are issued a year, which means the sentence is imposed in approximately 45 per cent of all guilty cases. The courts impose conditional sentences in approximately 8 per cent of all guilty cases, for a total of about 14,000 sentences every year. Most of these sentences will no doubt be subject to the new type of condition proposed in Bill C-489.

Bill C-489 also amends peace bonds as defined under section 810.1 so that a judge can impose similar conditions when issuing a peace bond. In general terms, peace bonds are preventative measures taken against someone by an individual with reasonable grounds to believe that the other person is likely to commit a criminal offence. The request can be made even if the other person is not currently under sentence for a previous conviction. A number of different types of peace bonds are defined in the Criminal Code. The one defined under section 810.1 targets potential child sex offenders.

Under this provision, when a judge has been persuaded by the evidence that there are reasonable grounds to believe that the defendant could commit a sexual offence against a child, the judge can impose reasonable conditions to protect the public when issuing a peace bond. There are the eight conditions listed in this section. The judge can require the defendant to stay away from public parks or public swimming areas where children can reasonably be expected to be present, participate in a treatment program, wear an electronic monitoring device, or return to and remain at his or her place of residence at specified times while the peace bond is in effect. Any violation of those conditions constitutes a criminal offence and could be punishable by up to two years in prison.

Bill C-489 proposes adding optional conditions to the list that would prohibit the individual from communicating with anyone listed in the peace bond or from going to a specified place. This amendment is designed to ensure that the court pays closer attention to this specific type of condition when the request is made.

Finally, Mr. Speaker, Bill C-489 would amend the Corrections and Conditional Release Act, or the CCRA, in order to place more emphasis on the conditions designed to protect victims from

having contact with offenders when they are granted an unescorted temporary absence from the prison or are let out on parole.

• (1510)

Under the CCRA, the Parole Board of Canada and corrections officials are able to impose conditions on offenders who are released into the community while still under an active sentence of imprisonment.

[English]

According to the 2012 Correctional Service of Canada’s annual report, there are, on average, almost 9,000 offenders under an active penitentiary sentence who are being supervised by CSC in the community on their parole, statutory release or temporary release conditions. The Corrections and Conditional Release Act provides that, when these offenders are granted conditional release, there are a number of specific conditions that they must abide by, as found in section 161 of the CCRA. Regulations include the requirements that they regularly report to a parole officer, remain within specific boundaries fixed by their parole officer and generally keep the peace.

In addition to these mandatory conditions, any number of optional conditions can be imposed under section 133 of the CCRA that the releasing authority considers reasonable and necessary in the circumstances. The types of conditions imposed must meet two objectives. The first and primary consideration is public safety; the second consideration is the successful reintegration of the offender into the community.

If a conditionally released offender breaches any of their conditions, they are subject to disciplinary measures, including having their conditional release revoked and being required to serve out the remainder of their sentence in prison.

While section 133 of the CCRA does currently allow conditions prohibiting contact between offenders, when released, and victims, these are not mandatory conditions, nor are they conditions that the Parole Board of Canada is required to consider under the current section 133.

Bill C-489 proposes to amend section 133 to require the releasing authority to consider any condition necessary to protect the victim, including non-communication or geographic restrictions, where the victim has provided an impact statement under the CCRA. This proposal is intended to ensure that where a victim has expressed their concerns through a statement to the parole board, for example, non-contact and geographical conditions will become much more prevalent, thereby preventing the situation in which a serious offender takes up residence across the street from the victim as a specific condition of their release.

In conclusion, I hope that all senators will join me in supporting this bill and allowing it to proceed to committee as soon as possible. It is a balanced and reasonable approach to ensuring that victims are free from harassment and contact by the offenders who harmed them in the first place.

(On motion of Senator Fraser, debate adjourned.)

### POPE JOHN PAUL II DAY BILL

#### SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Fortin-Duplessis, seconded by the Honourable Senator Poirier, for the second reading of Bill C-266, An Act to establish Pope John Paul II Day.

**Hon. Jane Cordy:** Honourable senators, I am pleased to rise today to speak to Bill S-266, an Act to establish Pope John Paul II Day. This bill sets out to mark April 2 of each year on the Canadian calendar as a day to celebrate the life and many achievements of Karol Józef Wojtyła or, as he is now known, Pope John Paul II.

Pope John Paul II led the Catholic Church from 1978 until his death on April 2, 2005. At just over 26 years, he was the second-longest-serving pope in the history of the Catholic Church and, for a whole generation of Catholics, the only pope they ever knew.

His influence on the world's Catholic youth cannot be overstated. His focus and active engagement of youth is his great legacy. He was affectionately known as "Wujek," or uncle, in his early life in the priesthood, a nickname that stuck with him his entire life. He was born in the Polish town of Wadowice in 1920 and, by the time Karol was 20, he was the only surviving member of his immediate family. He attributed the death of his father as the moment when he seriously began thinking of joining the priesthood.

In 1942, during the German occupation of Poland, Karol began his studies in an underground seminary in Krakow. After the Germans fled Poland in 1944, he helped to rebuild the Krakow seminary. He was officially ordained in Krakow in 1946.

Between 1946 and 1958, Father Wojtyła served the church in Rome and performed pastoral duties in Poland. In 1958, he was appointed bishop and was the youngest bishop in Poland, at the age of 38. Six years later, Bishop Wojtyła was appointed archbishop. In August 1978, after three days of elections, Karol Wojtyła was elected pope and adopted the name Pope John Paul II in a gesture to his predecessor Pope John Paul I.

During his time as Pope, John Paul II was faced with challenges that put his leadership qualities to the test. These events would change the face of the world and forge John Paul II into a

respected world leader. He was not just a religious leader, but he also played a major role as an agent of change in the geopolitical landscape of the quarter century when he was pope.

During his 26 years as pope, the world witnessed the escalating Cold War of the 1980s between the Western nations and the Soviet Union; the oppressive apartheid regime in South Africa; and the terrorist attacks of 9/11. Pope John Paul II remained a force for peace and a voice against oppression during these times.

Historians and supporters frequently point to his opposition to communist rule in Europe, particularly in Poland, his homeland, as his greatest contribution to the world. There are many people in those formerly communist-ruled countries who would agree with this statement, I am sure. It is noted that his spiritual support was a key motivating factor in the organized, non-violent opposition to communist rule in Poland. The political change in Poland had a domino effect that, once felled, ultimately led to the eradication of communist rule in Europe.

A year after being elected Pope, John Paul II made his first official pilgrimage to Poland as Pope. During this visit, he defied the communist regime with messages advocating freedom and human rights while denouncing violence. His simple message of "Do not be afraid" resonated with the millions of his countrymen who attended his masses. His message became a unifying force for the political movement that followed. This initial trip to Poland by Pope John Paul II is credited by many as the catalyst that set in motion the events that would see the peaceful end of communist rule in Poland and, ultimately, all of Europe.

A few years ago, when I was in Warsaw, I drove down Pope John Paul II Boulevard and everywhere I went in the city the people spoke of Pope John Paul II with great love and admiration. During the time of German-occupied Poland, John Paul II witnessed many of his Jewish childhood friends and their families being taken away. He helped to hide others and he, himself, at one point, as a Catholic seminarian, had to hide from the Germans. These experiences shaped his beliefs and opposition to tyrannical, oppressive rule and also shaped his devotion to healing relations between faiths.

As Pope, John Paul II improved relations between the Catholic Church and many world faiths, in particular with the Jewish and Islamic faiths.

• (1520)

Pope John Paul II became the first Catholic pope to enter and pray in a mosque. He was the first pope to visit the Auschwitz concentration camp. He became the first pope known to have made an official papal visit to a synagogue and established formal diplomatic relations between the Holy See and the State of Israel. His message was always one of forgiveness and love, and a celebration of commonalities rather than differences.

His efforts did not go unappreciated. After his death, the Anti-Defamation League made the statement that Pope John Paul II had revolutionized Catholic-Jewish relations and that "more change for the better took place in his 27-year Papacy than in the nearly 2,000 years before."

As he was a witness to the atrocities of war during World War II and the evils of Communist rule in Poland, it is not hard to understand why John Paul II dedicated his life to peace, interfaith understanding and change through non-violent means. The fact that he spoke a dozen languages was a great tool for connecting with people all over the world. He served as a guiding light for change. His deep compassion for his congregation fostered devotion and love, and it is easy to understand why he was, and still is, an inspiration to many.

This devotion was probably felt most strongly among the Catholic youth of the world. If his role in the fall of Communist rule in Europe and his interfaith relations are his legacies to the world, then his devotion to youth is his legacy to the Catholic Church. John Paul made engaging the youth of the world a priority for the Catholic Church. It is not too cliché to say that the future belongs to today's youth, and John Paul II made recognizing this a priority for the Church. He believed that connecting with youth and instilling in them the teachings of God and filling their hearts with love and understanding would help to ensure positive change in the world.

As pope, he created World Youth Day, an annual celebration for Catholic youth. Every two to three years the church continues to organize an international World Youth Day event, which has attracted millions of young people. World Youth Day attracted an estimated 5 million youth in 1995 in Manila, Philippines. Toronto hosted the event in 2002 where nearly 800,000 attended mass at Downsview Park. It is clear that today's youth want to be engaged and have a voice. John Paul's initiative to create World Youth Day has provided Catholic youth with the opportunity to celebrate and to let their voices be heard.

To connect with so many people requires getting out and meeting with people. It would have been impossible to have the impact John Paul had on the world if he had stayed in the Vatican. But John Paul did get out there and in a big way. He became the most travelled pope in history and made visits to places no pope had ever been. Many of these visits were to places where the Catholic Church has historically not been welcome. But in his mission to bridge religious divides and to begin healing religious relations he boldly took on the challenge, even if it meant that he alienated Catholic traditionalists.

Because he was the most travelled pope in history, many Catholics living all over the world had a chance at some point to attend a service with him without having to travel to the Vatican. I remember his 1984 visit to Canada and particularly his time spent in Atlantic Canada. Nearly 80,000 people attended mass in the Halifax Common in Nova Scotia. The love and warmth he had for his congregation was easy to see that day, and that affection was returned in kind. It was very moving, and I know that this feeling was shared by millions around the world.

I know that several concerns were raised in the other place about the idea of observing a day dedicated to a religious leader and whether this crosses the line with the ideas of separation of church and state. Questions were raised about whether Canadians of other faiths may feel slighted or feel deserving of dedicated days representative of their faiths. These questions may be best answered when this bill is examined in committee.

My belief is that this piece of legislation is a testament to the achievements of a man shaped by war and tyranny, who, by the grace of God, found his calling in the priesthood and who ultimately evolved into a world leader and an agent for peaceful, positive change in the world. The achievements emphasized in the text of Bill C-266 focus on his actions to topple oppressive regimes and instill democratic change. These actions benefited peoples of all religious beliefs within those countries, not just Catholics. His ability to reach out to other faiths helped to spread a message of peace and understanding.

As a global leader dedicated to peace and non-violence, Pope John Paul II was an agent for positive change the world over. From Communist Europe to apartheid South Africa to post-9/11 religious tensions, his message was always the same: peace, justice and respect for human rights.

I look forward to examining Bill C-266 in committee.

**The Hon. the Speaker *pro tempore*:** Senator Ogilvie, do you have a question?

**Hon. Kelvin Kenneth Ogilvie:** Yes, if the senator would accept a question.

**Senator Cordy:** Yes.

**Senator Ogilvie:** Senator Cordy, we have heard in this chamber about the efforts of women to achieve status in all areas of society. We've heard requests that they be better represented in all organizations, including the boards of corporations and so on. Do you think it is appropriate for a body such as this to recognize an individual inextricably linked with an organization in which women — 50.6 per cent of the Canadian population — cannot occupy or hold any formal organizational role?

**Senator Cordy:** That's an excellent point you've raised, and as a Catholic I've had this discussion with many people in my church.

As I said earlier, I think we should invite witnesses who will deal with whether or not this bill passes the separation of church and state. Perhaps the committee that deals with this should bring in some women's groups and discuss what you have just raised, which is a very excellent point. I think whatever committee deals with the bill should have a very full discussion. The other place passed the bill fairly fast. It is a bill that deserves a lot of discussion and input from a large segment of Canadian society.

In my speech I mentioned the wonderful things that this man did in terms of peace and bringing different groups together within the world, but you have certainly raised an issue. Regarding the separation of church and state, others have also raised excellent issues, and these all should be discussed at committee. Thank you for that comment.

(On motion of Senator Enverga, debate adjourned.)

• (1530)

[*Translation*]

## THE SENATE

### ORIGINS, HISTORY AND EVOLUTION— INQUIRY—DEBATE ADJOURNED

**Hon. Pierre Claude Nolin** rose pursuant to notice of January 28, 2014:

That he will call the attention of the Senate to its roots, the history of its origins and its evolution.

He said: Honourable senators, the series of inquiries on the history, roles and evolution of the Senate must necessarily begin with an analysis of the context in which our upper chamber was born in 1867.

I have relied heavily on the book *Protecting Canadian Democracy: The Senate You Never Knew*, published in 2003 and written under the direction of our colleague, the Honourable Senator Serge Joyal.

I focused mainly on the first chapter of the book, which was written by Janet Ajzenstat, Professor Emeritus of the Department of Political Science at McMaster University. The title of the chapter is “Bicameralism and Canada’s Founders: The Origins of the Canadian Senate.”

As Senator Joyal rightly says in his introduction, having co-published *Canada’s Founding Debates* in 1999, Professor Ajzenstat:

... is eminently qualified to provide insight into the political and constitutional considerations that led to the creation of the Canadian Senate.

The Fathers of Confederation and Canada’s founding legislators exhibited an impressive knowledge of constitutional history and a remarkable mastery of theoretical texts.

They cited British, American and French authorities.

They studied European constitutions, and compared federal systems.

They were familiar with the experiments in unicameralism that characterized the French Revolution and the period of the English Civil War, and where these experiments failed.

Whether they were English-speakers or French-speakers, they were knowledgeable about the British parliamentary tradition.

It was in full knowledge that they agreed on the importance of forming the new dominion: as a federal union that is neither legislative nor unitary, based on the British model of parliamentary government, following a bicameral structure.

On the importance of bicameralism, recall the argument: the second chamber promotes democracy and protects minority rights by curbing high-handedness and arrogance in cabinet and the House of Commons.

Underpinning this contention is the description of Parliament as an institution with three independent and competing “authorities” or “branches”: the ministry and the two legislative houses.

It was an important part of the argument that each branch had a degree of constitutional independence.

Even so, the branches were to act as “checks and balances.”

[*English*]

In the same vein, George Brown made the following statement before the Legislative Assembly of the Province of Canada on February 8, 1865:

The desire was to render the Upper House a thoroughly independent body — one that would be in the best position to canvass dispassionately the measures of this house [the legislative assembly] and stand up for the public interests in opposition to hasty and partisan legislation.

[*Translation*]

Our founders regarded parliamentary government as an inescapable part of the solution for the future federation.

Before I continue, I would like to point out that in a parliamentary government, first of all, the members of the government must have seats in and participate in the work of Parliament; that participation takes place in the people’s house. Second, the government is accountable for its actions to the people’s elected representatives. Third, the government must maintain the confidence of the “people’s house.”

It is also important to point out that this concept was quite novel for its time, when it was raised during the discussions in Quebec City in 1864.

Nova Scotia was the first to establish such a system in the late 1840s, and the United Kingdom’s House of Commons was still having trouble mastering all of its elements.

It also caused considerable instability when introduced in the united Canada in 1847.

Some of our founders feared that the government would exert a stranglehold on the lower house, particularly if the governing party enjoyed an absolute majority of seats.



[English]

John A. Macdonald summarizes the accepted theory on how to prevent this from occurring in the following passage from his speech on “King, Lords and Commons,” which he delivered on February 6, 1865, before the Legislative Assembly of the Province of Canada:

We will enjoy here that which is the great test of constitutional freedom — we will have the rights of the minority respected. In all countries the rights of the majority take care of themselves, but it is only in countries like England, enjoying constitutional liberty, and safe from the tyranny of a single despot or an unbridled democracy, that the rights of minorities are regarded.

[Translation]

“Minority” here refers to the political minority, that is, the political opposition, in the Senate and Commons and in the populace at large.

Macdonald is saying that the supreme benefit of parliamentary government is that it protects political opposition, the right to dissent.

In most political systems the rights of the majority take care of themselves.

Despots of all sorts, even monarchic despots, seek to appease the majority on one way or another.

The singular advantage of parliamentary democracies is that they protect the minority.

Only in a parliamentary system must the majority refrain from ignoring or suppressing the complaints and interests of the political opposition.

[English]

Participants in the Confederation debates found a classic defence of the second chamber as guarantee against despotism in John Stuart Mill’s *Considerations on representative government*, published in 1861:

A majority in a single assembly, when it has assumed a permanent character — when composed of the same persons habitually acting together, and always assured of victory in their own House — easily becomes despotic and overweening, if released from the necessity of considering whether its acts will be concurred in by another constituted authority. The same reason which induced the Romans to have two consuls, makes it desirable there should be two

chambers: that neither of them may be exposed to the corrupting influence of undivided power, even for the space of a single year.

[Translation]

In order to truly understand the extent to which the Senate protects minorities and promotes deliberation, we must now look more closely at two issues that led to the creation of the Senate: first, the qualifications for appointment to this chamber and, second, the mode of selection.

Here is the question: Can the Senate be independent, as the Fathers of Confederation intended, if the senators are obliged to the government of the day for re-election, status and salary?

What are these qualifications?

A person wishing to enter the Senate must own property in the amount of \$4,000.

It is clear that the founders wished to see senators chosen from the wealthier class.

The question is whether they expected senators to represent that wealthy class.

[English]

We can safely say that the founders did not intend for the Senate to represent solely landowners and industrialists, because the Canadian Constitution provides that the Senate will represent regions of Confederation. The Fathers of Confederation surely did not believe that senators would represent only the wealthy inhabitants of their regions.

• (1540)

The idea that the upper house should represent a permanent aristocratic social stratum was utterly rejected.

In the Confederation debates, we find Macdonald arguing:

The members of our Upper House will be, like those of the Lower, men of the people, and from people.

[Translation]

I would also like to say a few words about the real property qualification. Senators are supposed to possess this “wealth” primarily in the form of real estate.

It is important to reiterate that senators are not meant to represent a class of landowners.

In the 19th century, in England and North America alike, representation was not based on anything other than the existence of communities in a certain geographical area.

In short, the real property qualification and the fact that senators have a non-renewable appointment — they were originally appointed for life — were meant to render the upper chamber independent of the Crown and served as well to place the upper house on a different footing from the lower house.

[English]

To fulfill its role of surveillance of the cabinet, when necessary, the Senate must have sufficient resources to resist the pressure of the executive branch. If it wants to be able to check, to use a broadly used expression by our framers, the House of Commons, and the Senate cannot be a mere duplication of the house.

Remember George Brown's contention:

The desire was to render the Upper House a thoroughly independent body.

John A. Macdonald echoes him:

There would be no use of an Upper House if it did not exercise, when it thought proper, the right of opposing or amending or postponing the legislation of the Lower House. It would be no value whatever were it a mere chamber for registering the decrees of the Lower House.

[Translation]

I would now like to say a few words on the selection of senators.

The Fathers of Confederation asked the question: Should they be elected or appointed? As we know, this debate already existed at that time. This question gave rise to one of the major debates of Confederation; in fact, this debate was considered more important than the issue of qualifications. There were proponents of both options in each political party. Macdonald came down strongly in favour of the appointment principle.

I don't want to explore the entire scope of that debate, which others may want to address — I hope — in the context of a debate on this inquiry, but let us bear in mind that the main arguments in favour of the appointment principle were as follows.

First of all, and this is surely the most important, many people feared that the election of senators might affect the primacy of the House of Commons in its command over the new system of

[ Senator Nolin ]

parliamentary government. Second, there is the importance of protecting the convention that gives the House of Commons the power to maintain or withdraw its confidence in the government. Third, there is the inevitable partisanship that is part of every electoral process. Fourth, there is the huge size of our ridings and the enormous task facing anyone who decides to run for office. Fifth, some good candidates would unfortunately be less inclined to take part in an election process. Lastly, there is the importance of finding people who would have the strength and the experience needed to stand up to the representatives of the people in the House of Commons, but who would also be wise enough to respect the will of the people where appropriate.

I would now like to share a conclusion on the independence of senators.

[English]

Finding the proper balance was paramount for both Macdonald and Brown. Making the case against swamping, Macdonald argues:

No Ministry can in future do what they have done in Canada before. They cannot, with the view of carrying any measure, or of strengthening the party, attempt to over-rule the independent opinion of the Upper House by filling it with a number of its partisans and political supporters. The provision in the Constitution, that the Legislative Council

— the Senate —

— shall consist of a limited number of members, that each of the great sections shall appoint twenty-four members and no more, will prevent the Upper House from being swamped from time to time by the Ministry of the day for the purpose of carrying out their own schemes or pleasing their partisans. The fact of the Government being prevented from exceeding a limited number will preserve the independence of the Upper House, and make it, in reality, a separate and distinct chamber, having a legitimate and controlling influence in the legislation of the country.

[Translation]

Preserving the separateness and independence of the upper chamber from the machinations — pardon the expression — of the monarchic branch — that is, the government — is an overriding concern for Brown and Macdonald. They know that without appropriate checks and balances, without an alert Senate, the elites that boast the support of a majority in the House of Commons are all too prone to ignore political dissent.

We have come to an important reason for the existence of the Senate: representation of the regions.

Could I have an additional five minutes?

**The Hon. the Speaker:** Would honourable senators agree to give Senator Nolin an additional five minutes?

**Hon. Senators:** Agreed.

**Senator Nolin:** Thank you.

First of all, I want to remind honourable senators of Brown's statement that Lower Canadians — Quebecers — opposed the idea of appointing additional senators in order to break a deadlock.

[*English*]

If the number of legislative councillors was made capable of increase, you would thereby sweep away the whole protection they had from the Upper Chamber.

[*Translation*]

I should point out that the Canadian Constitution gives the Senate two quite distinct tasks. The first is to check cabinet and the House of Commons. The second is to represent the regions of the Canadian federation, thereby protecting vulnerable constituencies. The first function is a feature of parliamentary regimes, whether federal or unitary. The second is peculiar to federal systems.

[*English*]

In the Confederation debates, representation of the constituent elements of the federation in the upper house is one of the most hotly contested topics. These arguments have a familiar ring still today.

The formula devised by the Fathers of our Confederation owes much to the example of the American Senate, although it does not adhere to it in all respects. The U.S. system allows each state of the union two senators, regardless of population, thereby giving less populous states a great advantage. In Canada, the British North America Act, 1867, in contrast, allocates seats in the upper house based principally on region.

[*Translation*]

The Quebec Resolutions of 1864 defined three divisions or regions of the new federal union, assigning each of them 24 senators. The original three regions were Canada West, known as Upper Canada at the time and now known as Ontario; Canada East, known as Lower Canada at the time and now known as Quebec; and the Maritimes, made up of Nova Scotia and New Brunswick.

Legislators from Lower Canada feared, just as Brown suggests, that, without the security of a fixed number of seats in the upper chamber, the united English-speakers in Parliament might overwhelm the French. Hence their opposition to the idea of additional appointments at the behest of the Crown.

The provinces on the periphery had another gripe.

[*English*]

The Quebec Resolutions of 1864, the first draft of the British North America Act, 1867, called for representation by population, "rep by pop," in the lower chamber, a formula that would give Upper and Lower Canada, the giants of North America of British North America, considerable political clout.

• (1550)

Legislators from the Atlantic regions and later from British Columbia complained that their provinces would be reduced to quasi-colonial status by this arrangement; they would be mere appendices of the central provinces. Legislators then proposed adopting a scheme of representation in the upper chamber that more closely approximated the American system.

[*Translation*]

In the end, however, it was decided to the satisfaction of almost everyone involved in the discussions that in a modern system of government, the people's House, the lower chamber, must conform to the principle of representation by population. It was also decided that the formula for regional representation in the upper chamber would be enough to offset the dominant representation by population afforded Ontario and Quebec, thus reassuring the periphery. It is not too much to say that the fate of Confederation turned on the issue of regional representation in the upper chamber.

Allow me to explore with you the issue of demographic evolution between 1840 and 1861, and you will better appreciate why the politicians of Canada West, Ontario, demanded the famous proportional representation during discussions about Confederation. To understand why it became an important issue, we need to understand how demographics in the Province of Canada evolved between 1840 and 1861.

[*English*]

In contrast to Durham's report, which recommended proportional representation for each section, the Act of Union of 1840 established equal representation for each of the two sections of the new Province of Canada, with 42 seats per section. At that time, the population of Lower Canada — Canada East, Quebec — with 650,000 people was higher than the population of Upper Canada — Canada West, Ontario — with 450,000 people. While the total number of anglophones in both sections was equivalent to 55 per cent, the British anglophones preferred to wait until this majority was strengthened before pushing for rep

by pop. In 1851, the census revealed their clear majority, making rep by pop the key issue for George Brown and his Clear Grits candidates in 1857.

In 1851, the population of Canada West exceeded the population of Canada East by 60,000 people, and British residents accounted for two thirds of the population of the two sections of the united Canada. In Canada East, close to one quarter of the population was of British descent. By 1861, the population of Canada West was higher by 285,000 people.

It was in this context that Brown made his statement:

But the very essence of our compact is that the union shall be federal and not legislative. Our Lower Canada friends have agreed to give us representation by population in the Lower House, on the express condition that they shall have equality in the Upper House. On no other condition could we have advanced a step; and for my part, I am quite willing that they should have it.

[*Translation*]

I would like to conclude my remarks about evolution, from the creation of our chamber up to Confederation.

By way of conclusion on that period, we can acknowledge the following principles: our founders decided to enter into a federal union to create one sole dominion under the Crown of the United Kingdom with a constitution similar in principle to that of the United Kingdom. Such a union would help the founding and future provinces prosper.

Canada is the product of a political compromise supported by the various demographic, religious, linguistic and geographic components of the first provinces and assumed by those that joined later. It is undeniable that the Senate was a fundamental element of the federal compromise of 1867.

[*English*]

The Senate is one of the three constituent units of the Canadian Parliament. The advice and consent of the Senate are required to enact any legislation under Parliament's jurisdiction. The Senate and the House of Commons and their respective members are given the same privileges, immunities and powers necessary to the operation of their respective institutions. The Senate serves as a check and balance on the government and the House of Commons.

[*Translation*]

Given their financial requirements, their property qualifications, the manner in which they are selected, and the life tenure they were given at the time, senators have the

[ Senator Nolin ]

independence needed to properly fulfill their legislative responsibilities, and each senator must represent the region for which he or she was appointed.

Now, let's look at what has happened since Confederation. Has the Senate lived up to its founders' expectations? Our Speaker is fond of reminding us, and rightly so, that there was talk of reform and even abolition as early as July 2, 1867.

I don't have enough time to adequately address how the Senate has evolved since it was instituted 147 years ago. I am convinced that, in the course of this inquiry, some of my colleagues — I will not name names, but I see a number of them who are already interested in participating in the discussion — will do the necessary research and take on this fascinating challenge.

Allow me to focus on certain key periods in this analysis of the Senate's evolution. First, in 1874, Ontario's David Mills demanded that the provinces be allowed to select senators and determine how to do so. That did not happen. In 1887 — and this is a little more important — the premiers of Quebec and Ontario, Mercier and Mowat, strongly defended the rights of the provinces at the interprovincial conference, which paved the way for future meetings to discuss how much importance the provinces would give the interprovincial conference as a forum for standing up for their interests before their federal partner.

This might lead us to wonder whether the provincial representatives, the premiers, were going to fulfill the role the senators were expected to fulfill. I hope that we will discuss this. There is another important element. From about 1892 to 1949, the Judicial Committee of the Privy Council of Great Britain, which was the ultimate authority in Canada with regard to the interpretation of the constitutional division of legislative powers, always interpreted the British North America Act in a way that restricted the federal Parliament's power.

[*English*]

To conclude, I would like to share an opinion with you. If the Fathers of Confederation were called to evaluate how the upper house has progressed and how it has performed, I believe they would find that the Senate has not met their expectations. Is it because senators have lacked the passion to accomplish their role as the check and balance of the government and the House of Commons?

Let's talk about it. Let's reflect on that. Possibly. At the very least, their determination has fluctuated. Some of us have witnessed, at times, in the last 20 years, that this house has opposed the will and the wish of the House of Commons and of the cabinet.

All things considered, I believe the fathers would still choose to make the decision that led them to envision and accept the Senate as it was established in 1867. The factors that led them to make that decision are still present and at play.

• (1600)

[*English*]

[*Translation*]

I hope that the other inquiries into the roles of the Senate will convince you of that. I cannot claim to have covered everything, but I hope to have piqued your interest in pursuing this inquiry.

Honourable senators, thank you for your attention and for giving me more time to finish my speech. I am now ready for your questions. Thank you very much.

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

**Hon. Joan Fraser (Deputy Leader of the Opposition):** Senator Nolin, you said so many important things that we really need time to think about. That was an extraordinary speech — very important and very useful. I fully expect that your whole series of inquiries will be just as good.

Since I would like to spend some time thinking about this, rather than ask questions, I move the adjournment of the debate.

(On motion of Senator Fraser, debate adjourned.)

## ADJOURNMENT

### MOTION ADOPTED

Leave having been given to revert to Government Notices of Motions:

**Hon. Yonah Martin (Deputy Leader of the Government):** Honourable senators, with leave of the Senate and notwithstanding rule 5-5(g), I move:

That when the Senate adjourns today, it do stand adjourned until Tuesday, February 4, 2014, at 2 p.m.

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

**Hon. Senators:** Agreed.

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

**Hon. Senators:** Agreed.

(Motion agreed to.)

(The Senate adjourned until Tuesday, February 4, 2014, at 2 p.m.)

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