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OFFICIAL REPORT  
(HANSARD)

Wednesday, October 3, 2012

The Honourable NOËL A. KINSELLA  
Speaker

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## THE SENATE

Wednesday, October 3, 2012

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

Prayers.

### SENATORS' STATEMENTS

#### CANADIAN ASSOCIATION OF VETERANS IN UNITED NATIONS PEACEKEEPING

**Hon. Elizabeth Hubley:** Honourable senators, I rise today to speak about the Canadian Association of Veterans in United Nations Peacekeeping.

This summer I had the honour of participating in a ceremony in my hometown of Kensington, P.E.I., for Peacekeeper's Day.

Peacekeeper's Day, August 9, is an opportunity to recognize Canadians who have served in United Nations peacekeeping missions. It is an important day, as we pay tribute to all the brave Canadians, as well as family and friends, who have supported loved ones as they bravely travelled around the world to serve our country.

As Canadians, we should be very proud that Canada's Minister of External Affairs at the time, Lester B. Pearson, proposed the formation and deployment of a United Nations peacekeeping force. Since the 1950s, Canadians have played a major role in peacekeeping around the world, and our international reputation as a country that works at peace is well recognized. Veterans of these missions should be extremely proud of the contributions they have made to holding and maintaining peace throughout the world.

The role of peacekeepers should never be underestimated, as it is one of the most effective tools to assist countries as they take the difficult path from conflict to peace. Peacekeepers not only offer peace-building support to countries in need but also provide the much-needed comfort of security without the use of force.

Canadians have helped on peacekeeping missions around the world: in Congo, Somalia, Rwanda, Haiti, West New Guinea, Cambodia, the former Yugoslavia, Croatia, Lebanon and Iraq — just to name a few. Peacekeepers have earned respect through peace-building efforts with countries, communities and, yes, often children.

As there continue to be conflicts throughout the world, Canadians must continue to play an important role as United Nations peacekeepers. Therefore, it is important that veterans of these missions continue to act as advocates, educators and offer a strong public voice in our country for United Nations peacekeeping.

My sincere thanks go out to veterans of these missions for taking the initiative to form the Canadian Association of Veterans in United Nations Peacekeeping so that we can recognize and

support all Canadians, as well as their families and friends, who have served as United Nations peacekeepers. The courage they have is remarkable, and I know that I can speak for all Canadians when I say how proud we are of them all.

[Translation]

#### CANADIAN POLICE AND PEACE OFFICERS' NATIONAL MEMORIAL DAY

**Hon. Jean-Guy Dagenais:** Honourable senators, last Sunday, we recognized the hard work and dedication of the many men and women who risk their lives every day to keep our families and our communities safe.

These individuals form the front line of Canada's justice system and, unfortunately, many have lost their lives in the line of duty.

Every year, the last Sunday of September is a time for police officers from across Canada and even outside our borders, especially since September 11, 2001, to come together.

It is a time to pay tribute to the families of fallen police officers — families who have lost a son, a daughter, a brother, a sister, a spouse, a father or a mother.

Senator White, Senator Dallaire and I attended this important, moving event. On Sunday, September 30, 2012, we once again gathered on Parliament Hill to honour our fallen comrades and to ensure that the magnitude of their sacrifice will never be forgotten.

On this 35th anniversary, the focus of this year's memorial was once again our unsung heroes and the grieving families left behind.

[English]

#### THE LATE RAYLENE RANKIN

**Hon. Wilfred P. Moore:** Honourable senators, I rise today to pay tribute to Raylene Rankin of the Rankin family of Mabou, Cape Breton. Raylene passed away on Sunday, September 30, after a long and courageous battle with cancer, at the young age of 52 years.

Raylene and her siblings, Cookie, Heather, Jimmy and the late John Morris, formed the great musical group The Rankin Family, who not only achieved success on the charts and sold more than 2 million records, but also began a resurgence of Celtic culture and Gaelic music that continues today.

Indeed, beyond the success of The Rankin Family, Raylene had two albums of her own; the most recent entitled "All the Diamonds," which was released this past June.

Many Nova Scotians, on their travels throughout the world in search of education and work, have heard The Rankin Family on the radio and are reminded of not only their heritage, but also of the family and friends they have left behind. This is a truly special gift for someone who is lonely for home. Raylene was a big part of that.

Raylene was also a lawyer, a community leader, a wife, a mother, a daughter and a sister. She will be sorely missed by all.

I wish to express, on behalf of this chamber, our deepest condolences to her husband Colin, her son Alexander, and the Rankin family.

As Raylene so poignantly sang the lyrics of Leon Dubinsky in her crystal clear soaring voice:

We rise again, in the faces of our children  
We rise again, in the voices of our song  
We rise again, in the waves out on the ocean  
And then, we rise again.

[Translation]

#### MENTAL ILLNESS AWARENESS WEEK

**Hon. Suzanne Fortin-Duplessis:** Honourable senators, much like my colleagues Senator Martin and Senator Meredith did yesterday, I rise here today to recognize the 20th anniversary of Mental Illness Awareness Week, an annual national public education campaign organized by the Canadian Alliance on Mental Illness and Mental Health. During the campaign, thousands of articles and documents will be distributed to organizations throughout Canada to raise awareness about the importance of mental health and the need to speed up access to mental health services for all Canadians.

Considering that one in five Canadians will be affected by a mental illness each year, we understand why this issue is so very worrisome for the people of Canada.

• (1340)

Today, I am proud to wear my bracelet for Mental Illness Awareness Week to support the six million Canadians suffering from mental illness. I applaud the Canadian Alliance for championing this cause and giving a voice to those who, all too often, are not heard.

At a luncheon I recently attended, Dr. René-Guy Cantin, a psychiatrist, raised my awareness of mental illness among youth. I was shocked to learn that children as young as eight commit suicide because of mental health issues. In my province, Quebec, one child out of six suffers from a mental illness, the same rate as in adults. That is 235,000 young Quebecers.

We all know that mental health remains a taboo subject. I am convinced that we have to talk about it more and avoid ignoring it so that there is a better understanding and acceptance of people

affected by mental illness. We must all make an effort to help young people and adults suffering from mental illness.

Honourable senators, I invite you to join me in celebrating the courage and determination of the Canadian Alliance on Mental Illness and Mental Health in its public education efforts and in paying tribute to its excellent work.

[English]

#### THE LATE BARBARA ANN SCOTT-KING, O.C., O. ONT.

**Hon. Francis William Mahovlich:** Honourable senators, Canada lost a legend this past Sunday. Canada's sweetheart, Barbara Ann Scott, passed away at her home at the age of 84.

Barbara Ann had a natural grace and talent that was evident from an early age. She first learned how to skate here in Ottawa on Dow's Lake at the age of 6. She wrote to Santa Claus, asked for a new pair of skates and was greeted with just such a gift under the tree on Christmas morning. At the age of 9 she dedicated her life to skating by practising eight hours a day. All her efforts paid off as she was the youngest person at the age of 10 to pass the gold medal test of the Canadian Figure Skating Association. The following year she won the Canadian junior championships. She would go on in the following years to be named Canadian champion four times; and European champion and world champion, which she won in back-to-back years. When she returned home to Ottawa after her first win at the world championships in 1947, there were 70,000 people to welcome her, which is a testament to the love and pride that this city and the whole country felt for her.

Perhaps the accomplishment that made her a true Canadian icon is her gold medal win at the 1948 Olympic Winter Games in St. Moritz, Switzerland. To this day, she is the only individual Canadian figure skater to win Olympic gold. She not only achieved this tremendous feat while skating on an outdoor rink that was rough and cracked, but she did it all with the amazing grace and style for which she was known.

Following her Olympic win, Barbara Ann turned professional and toured with various ice shows including the Ice Capades. I was lucky enough to see her perform when the Ice Capades came to Timmins, Ontario. The manager of the arena agreed to let us in only if we cheered as loud as we could when she stepped onto the ice. I certainly did not need to be told twice. I was fortunate enough to meet her a few more times over the years, including at the 1988 Olympic Winter Games in Calgary and when she came to Parliament Hill with the Olympic flame in 2009. She was always the same beautiful, charming and graceful woman we remembered from her glory days on the ice.

It is with heartfelt sadness that I send my condolences to Barbara Ann's family. I hope it brings them comfort to know that so many people looked up to her and continue to be inspired by her. Sadly, she is gone, but she will certainly never be forgotten.

## BANKING, TRADE AND COMMERCE COMMITTEE REPORT

**Hon. Irving Gerstein:** Honourable senators, I rise today pursuant to Appendix IV, page 129, paragraph (a) of the *Rules of the Senate* to inform the Senate that a preliminary draft report currently under review by the Banking, Trade and Commerce Committee was leaked to the press. The facts as we presently know them are the following.

On September 11, 2012, at 6:18 p.m., the Argent/Canoe website operated by Groupe TVA/Quebecor Media posted an article entitled “Le Canada, paradis du blanchiment de l’argent criminel?” The article was written by Agence QMI journalist Gérard Samet.

The following day, September 12, 2012, a slightly different version of the story written by the same author appeared in *Le Journal de Montréal*, a print media outlet also owned by Quebecor. The article was entitled “Lutte contre le blanchiment inefficace.”

Honourable senators, both articles focused on the committee’s current review of the Proceeds of Crime (Money Laundering) and Terrorist Financing Act. In each variation of the article, direct quotes were made from the French language version of the draft report presently being studied by members of the committee.

Honourable senators are well aware that any leak of confidential material including a draft report is a serious matter and is a breach of the privileges of each and every senator. I want to assure honourable senators that the Senate’s policies regarding the distribution of draft reports were followed, namely, all copies were numbered and not released unless signed for by the senator or a member of their respective staff.

In conclusion honourable senators, the Banking Committee is aware of the situation and will work to eliminate, and I quote the great fictional detective Sir Sherlock Holmes, “. . . all which is impossible, then whatever remains, however improbable, shall be the truth.” I will report back to the Senate in due course.

## MR. OMAR KHADR

### TRANSFER TO CANADIAN PRISON

**Hon. Bob Runciman:** Honourable senators, I rise to speak to an issue that is a matter of great concern to many Canadians, including those who hold different views on what has transpired and what lies ahead. I am speaking of the return last Saturday of Omar Khadr to Canada.

As honourable senators know, Mr. Khadr was returned to Canada pursuant to an offender transfer agreement authorized under Canadian law, specifically the International Transfer of Offenders Act. That same law required a written agreement from the United States government, which was received in April 2012. The agreement was also subject to a new U.S. law requiring confirmation from the U.S. Congress, which was provided in May 2012.

The Minister of Public Safety then discharged his duties under the act by considering defined criteria, including the need for rehabilitation, in determining whether to approve the request

by Mr. Khadr to return to Canada. The minister requested information from psychiatric interviews so that he could make the assessment. When the information was not forthcoming, the minister personally contacted the U.S. Secretary of Defence and finally received the requested information at the beginning of September 2012. As honourable senators know, Mr. Khadr was returned to Canada less than one month later.

It is important to appreciate that the transfer of Mr. Khadr was accomplished in accordance with Canadian law by Canadian officials whose legal duties go beyond what an individual offender and his supporters may demand. Let there be no doubt: The legal duties imposed on the minister under the International Transfer of Offenders Act include duties to the people of Canada, not just to Omar Khadr.

Mr. Khadr has now entered the Canadian corrections system, which will discharge its duties to him and to the Canadian public under the Corrections and Conditional Release Act. Those duties in dealing with offenders include everything from placement, to programming, to visitation and to readiness for conditional release — duties that are discharged while keeping in mind that protection of society is the paramount consideration. Mr. Khadr and his supporters must realize that in Canada early release from a court-imposed sentence is a privilege to be earned and not a right to be demanded.

Omar Khadr’s purposeful indoctrination as a child by his parents into the al Qaeda affiliate al Mahdi group was a despicable act of child abuse that ultimately led to the activities for which he was convicted by the United States.

How this happened, including, in part, in Canada, is a serious issue.

• (1350)

While we must never forget what Omar Khadr did, we must now move forward according to Canadian law, which considers an offender’s interests while ensuring that the protection of society is paramount. That is the key. As Mr. Khadr has achieved his return to Canada, he is, like all citizens, subject to the rule of our laws. All Canadians, including Omar Khadr, deserve no less.

## VISITORS IN THE GALLERY

**The Hon. the Speaker *pro tempore*:** Honourable senators, I wish to draw your attention to the presence in the gallery of a delegation from the Parliament of Uganda. They are guests of the Honourable Senator Jaffer.

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

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

## ROUTINE PROCEEDINGS

### PUBLIC SAFETY

#### PROPOSED REGULATIONS AMENDING AND REPEALING CERTAIN REGULATIONS MADE UNDER THE FIREARMS ACT

**Hon. Claude Carignan (Deputy Leader of the Government):** Honourable senators, I have the honour to table, in both official languages, the proposed regulations amending and repealing certain regulations made under the Firearms Act.

[Translation]

#### L'ASSEMBLÉE PARLEMENTAIRE DE LA FRANCOPHONIE

#### BUREAU MEETING AND ORDINARY SESSION, JULY 4-8, 2011—REPORT TABLED

**Hon. Andrée Champagne:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Parliamentary Delegation of the Assemblée parlementaire de la Francophonie (APF) respecting its participation at the Bureau Meeting and the XXXVIIth Ordinary Session of the APF, held in Kinshasa, Democratic Republic of Congo, from July 4 to 8, 2011.

#### REGIONAL ASSEMBLY AND CONFERENCE OF BRANCH CHAIRS OF THE AMERICA REGION, AUGUST 8-10, 2012—REPORT TABLED

**Hon. Andrée Champagne:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Parliamentary Delegation of the Assemblée parlementaire de la Francophonie (APF) respecting its participation at the XXVIIIth Regional Assembly and the Conference of Branch Chairs of the America Region of the APF, held in New Orleans and Baton Rouge, Louisiana, United States of America, from August 8 to 10, 2012.

[English]

### THE SENATE

#### MEMBERSHIP OF STANDING COMMITTEE ON CONFLICT OF INTEREST FOR SENATORS MODIFIED AND DEEMED ADOPTED

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, I move, seconded by the Honourable Senator Cowan:

That pursuant to rule 12-27(1) of the *Rules of the Senate*, the membership of the Standing Committee on Conflict of Interest for Senators be modified as follows:

The Honourable Senator Wallace is added to the committee to fill a vacancy created by a senator's retirement.

(Pursuant to rule 12-27(1), the motion was deemed adopted.)

## QUESTION PERIOD

### HUMAN RESOURCES AND SKILLS DEVELOPMENT.

#### EMPLOYMENT INSURANCE— WORKING WHILE ON CLAIM PILOT PROJECT

**Hon. Jane Cordy:** Honourable senators, the Conservative government's idea of EI reform is to punish those EI claimants who are able to find a few hours of work each week to help supplement their EI benefit. Such is the case with Blair from Nova Scotia who emailed:

I am a heavy equipment operator making \$24.20/hr, with the slow times the company is letting us work one day a week so this pays our benefits and pensions and gives us a little extra to live, my EI was \$400 a week, plus my days pay minus the deductions which we could swallow, know when I work my one day my EI is down to \$344 this is a big difference at the end of the month. Harper tells us that this was put in place to help the people and as I know and my co-workers know this is not helping us out any.

How does this policy change treat Canadians fairly? People, through no fault of their own, are struggling to get by in an economic downturn as they try to find full-time work. How do these Conservative EI clawbacks on every dollar people earn while on claim make things better?

**Hon. Marjory LeBreton (Leader of the Government):** Honourable senators, as Senator Cordy knows, every day in this country we see evidence of labour shortages. The goal of the government is to ensure that everyone has an opportunity to work. Through the pilot project Working While on Claim, our government's aim is to encourage EI claimants to pursue and accept more work while collecting Employment Insurance. We are working and will continue to work to ensure that our programs fulfill these goals.

**Senator Cordy:** Honourable senators, everyone in the Senate wants to ensure that everyone has the opportunity to work. The problem is that not every region of the country has an abundance of jobs.

Why were the changes made by this government in the omnibus bill to eliminate allowable earnings? The minister first said that the changes would benefit all claimants, and then she said that they would benefit the vast majority of claimants. Now she is saying that they will benefit some claimants, and I suppose that even this will change next week.

The median income for Canadians is \$223 a week. The new changes benefit only those who make over \$260 a week. The changes help only those who are making more than the median income. The changes help fewer people than the previous program, which allowed claimants to keep up to 40 per cent of their EI earnings.

Why were these changes made?

**Senator LeBreton:** My answer will be the same as I gave a moment ago. This is a pilot project. We are working hard on it. We really do want to ensure that everyone has access to work. We will continue to work on this pilot project to ensure that our program goals are met.

• (1400)

**Senator Cordy:** Honourable senators, this pilot project is not fair to working Canadians. It is not fair to Canadians who have to use the Employment Insurance Program. The government's changes to EI unfairly punish those weekly low wage earners across Canada who find themselves worse off because the Conservative pilot program has removed the provision of allowable earnings whereby claimants may earn 40 per cent of their weekly EI benefit without a reduction in their weekly benefits.

The very first dollar is now being clawed back at 50 per cent. Some people will benefit, but this change by Minister Finley means the more one makes, the more one keeps; and the less one makes, the more the government keeps. That is totally unfair to hard-working Canadians who are looking for full-time work and trying to feed their families. It is not too much to ask that the government help people in need.

How do these Conservative EI clawbacks on every dollar earned while on claim allow Canadians to keep more of what they earn, which is what the minister repeatedly claims? Yes, minister, we all want to ensure that everyone has the opportunity for full-time employment.

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

**Senator LeBreton:** I thank the honourable senator. I repeat my exact same answer and say that I will ensure that the minister is aware of the honourable senator's concerns.

**Hon. Art Eggleton:** Honourable senators, I would like to pick up on Senator Cordy's question in terms of the clawback provisions and Working While on Claim. The whole idea behind the program was to give people a little additional money to help them get back on their feet. These people find themselves struggling. The level of income they are getting is not sufficient to meet their needs and their families' needs.

Previously people could at least earn the first 40 per cent before any clawback took effect. Now the clawback goes in at dollar one. I hope that the government would consider going back to the previous formula, which I think worked far better for low-income people and also worked well for employers. Sometimes employers need someone who will work just a day or two a week, or who is part-time. This will not work to the benefit of the employers either.

Let me ask this. In addition to the clawback, as I understand it, the new EI changes will pressure people working in seasonal industries or living in areas of high unemployment to move away from their families and communities to take jobs in other areas of the country. There may not be a strict requirement, but there is pressure to do that. We have heard that from the government. This pressure will not help employers in the farming and fishing

industries who rely on skilled, experienced, seasonal workers. They have already invested in these people who return year after year. In industries where timing is everything, this government's changes to EI are putting the productivity of these businesses at risk.

Will the government change its course and reverse these changes to Employment Insurance?

**Senator LeBreton:** I thank the honourable senator. Obviously, as honourable senators know, our government's top priority is the economy and we are extremely proud of the fact that nearly 770,000 jobs have been created since the end of the economic recession. At the same time, we recognize, as the honourable senator pointed out, that there are Canadians who have difficulty finding work, particularly in the off-season, in those parts of the country where the workforce is based more on seasonal industries.

We have been working with these industries and communities to help these Canadians find jobs in their local areas, appropriate to their qualifications, and not, as the honourable senator suggested, moving them halfway across the country. For those who are unable to find employment, EI will continue to be there for them, as it always has been.

[Translation]

**Hon. Maria Chaput:** Honourable senators, my question is for the Leader of the Government in the Senate. As my honourable colleagues just indicated, the main problem with the Conservative government's Working While on Claim pilot project is that it does away with the provision on allowable earnings. This provision allowed claimants to earn up to 40 per cent of their employment insurance benefits without penalty before a clawback came into effect. Now, half of claimants' earnings will be clawed back from the first dollar made.

The removal of the provision on allowable earnings will not encourage low-income workers to return to work. How can the government claim otherwise? How can this new program help those who agree to work during their benefit period? How will it encourage them to look for work during that time? Is it not true that the program will have the opposite effect?

[English]

**Senator LeBreton:** Honourable senators, I am going to give the same answer to the honourable senator as I gave to her colleague Senator Cordy because it is the same question. Through the Working While on Claim project, our government's aim is to encourage EI claimants to pursue and accept more work while collecting Employment Insurance. Obviously, this is a pilot project. We will continue to work on it to ensure that the program fulfills its goals.

[Translation]

**Senator Chaput:** Honourable senators, how many of the 930,000 employment insurance claimants who work during their benefit period will be negatively impacted by the changes? Since this is a pilot project, will the government ensure that it conducts an impact analysis?



[English]

**Senator LeBreton:** Honourable senators, I think the answer to that question is obvious. It is a pilot project that has just been implemented, so to definitively answer the honourable senator's question now would be quite impossible. However, I will make a note of it and give the honourable senator any information we have up to this point in time.

**Hon Elizabeth Hubley:** My question is for the Leader of the Government in the Senate. Honourable senators, it is an unfortunate reality that the Harper government's new Working While on Claim Employment Insurance pilot project, which they claim will help workers, is actually hurting them.

Many people in my home province are part of a large group of workers who are now worse off because of these changes. For instance, a farm labourer near my hometown in Kensington who receives regular EI benefits is able to pick up eight hours a week at \$14 per hour. He used to have a net EI benefit of \$308, but now it is \$252. With the new rules, this person is now worse off by \$56 a week.

After the human resources minister admitted on Monday that the new EI rules are hurting some people, why is the government still refusing to back down on the changes?

**Senator LeBreton:** Again, honourable senators, I will give the same answer as I gave to Senators Chaput and Cordy. This is a pilot project. Through this project, our aim is to encourage EI claimants to pursue and accept more work while at the same time collecting Employment Insurance. We are always working to ensure that our programs fulfill their goals. Obviously, it is a pilot project. We are working to fulfill our goals in this regard.

However, I must point out to the honourable senator that every improvement we have tried to make in the Employment Insurance system, support for the Youth Employment Strategy, the Targeted Initiative for Older Workers, the EI hiring credit, the apprenticeship grant and all of these good programs we brought in to train people and get people in a position so they could take the jobs available, were all opposed by the Liberals in the other place.

**Senator Hubley:** Honourable senators, we have worked long and hard to have an employment insurance system that works in our region of the country and we would not be anxious to make any changes to that system as long as it is working for our people.

• (1410)

However, I would like to share a couple more examples with the minister regarding how people from P.E.I. are worse off with the changes to Employment Insurance. These are people who are picking up extra work and extra weeks, and who are hoping then to augment their income; they are hoping at some point to have again full-time employment.

A daughter receiving compassionate care benefits is able to get an extra eight hours per week at \$16 an hour. She was receiving a net EI benefit of \$352, but now she is receiving \$288. With these new rules, this person is now worse off by \$64 a week.

Another example is a nurse on parental leave. She is needed, of course, and offers to take an extra eight-hour shift at \$20 per hour. She is receiving a net EI benefit of \$440. However, now under the new system, she is receiving \$360. With the new rule, this person is now worse off by \$80 a week.

Knowing that the changes to EI are making life harder for most recipients, why will the government not reverse the changes?

**Senator LeBreton:** I thank the honourable senator for her question. Again, the same answer prevails: It is a pilot project, and the goal is to work with people who are on EI to find meaningful work and at the same time collect EI. I have nothing more to add at this time.

**Hon. James S. Cowan (Leader of the Opposition):** I just want to follow up on points that have been made by some honourable senators on this side. I think the real difficulty here is that the government failed to consult with the people who are actually involved and who are affected by this program. I am not disputing that the government is trying to put everyone to work. Of course it is. Every government would like to put everyone to work. However, the fact that the government failed to consult with the people at the local level who are affected by this program has, I think, led to some of the difficulties that honourable senators on this side have pointed out.

The minister spoke about this pilot program, the Working While on Claim Program. That program had an annual budget of \$130 million. The budget reduced that annual budget of \$130 million to a total of \$74 million for two years, and the minister's government claims that this is improving the Employment Insurance system.

How can the government call it an improvement to decimate a program designed to affect those most in need in a labour force?

**Senator LeBreton:** Honourable senators, we debated the views of the opposition before we broke for the summer. The honourable senator made his views well known in terms of the consultation process.

All I can say to the honourable senator is that we, as a government, are proud of the fact that we have seen nearly 770,000 new jobs created in Canada. Our goals and objectives are jobs, the economy, and short- and long-term prosperity. Everything this government does and will do will be focused completely on those goals, including assisting people who are out of work or on EI to find meaningful jobs.

One thing has been said many times, and I think the person who said it originally said it many years ago. He sits in this chamber now. Senator Segal at one time said the "best social policy is a job."

**Senator Cowan:** Not for the first time and not for the last time I happen to agree with Senator Segal, but that is not the reality. If you are in a small village in Atlantic Canada, you may have seasonal part-time work in a fish plant and then, during another part of the year, you have a part-time job in the forestry

industry — or no job. It is not a choice between saying, “I would rather work part-time in the fish plant and part-time in the forestry sector rather than get a full-time job in an industrial plant.” Those choices are simply not available to many people in small communities, particularly in Atlantic Canada.

That is why I say that part of the difficulty that the government has got itself into here is the failure to consult with the people who are actually affected by these programs.

**Senator Tardif:** Hear, hear.

**Senator Cowan:** When the program was first announced, the government was asked whether it could provide the figures for the number of people who would be affected by the changes. *The Chronicle Herald*, the newspaper in my hometown of Halifax, said the response from the minister at first was that the vast majority of EI claimants would be better off. Then the talking points were revised to say it would be most claimants. I am advised those talking points have been dropped entirely from the minister's website.

What is the truth? Will most claimants or some claimants — or however many claimants — be better off or worse off under these new rules? The government, having been hammered on this issue for as long as it has been, must have some idea about what the real answer to that question is.

**Senator LeBreton:** Honourable senators, in answer to a question of Senator Eggleton, I addressed the whole issue of seasonal workers. I also believe I said that there are some regions of the country where seasonal jobs are more prevalent.

As I said to Senator Eggleton, the aim of the government and this program is to find work for these people without their having to move great distances from their homes. However, for those people who are unable to find work, the EI system will be there for them today just as it has always been.

**Senator Cowan:** The examples that the honourable senators on this side have given to the minister show that, at least in those instances, those people are worse off; they have given actual numbers to demonstrate that due to the effect of these changes in the program, these poorer Canadians — these Canadians who are most impacted by the lack of employment situation in their communities — are worse off rather than better off.

Why will the government not recognize the reality of the situation?

**Senator LeBreton:** I thank the honourable senator. He and the honourable senators on his side have cited specific cases. I think I acknowledged the other day that there are examples like those in any new program.

I can simply say to the honourable senator that we have devised the Working While on Claim project and it is a pilot project. We are working on this project to ensure that it fulfills its goals and assists people who are looking for work.

**Senator Cowan:** Do I detect the faintest glimmer of willingness to compromise, or a willingness to adjust, in the minister's answer? Is she suggesting that the government is looking at taking seriously the reported impact of these changes on Canadians and that the government will be prepared to look at adjusting the pilot project as we go forward to ensure that it does not impact unfairly upon some of the least able of our citizens?

**Senator Mitchell:** Do not get your hopes up.

**Senator LeBreton:** I was simply saying to the honourable senator what I have said to all of those on his side. This is a pilot project and we are working to ensure that this program fulfills the goals intended by the government.

**Senator Cowan:** I guess my question comes down to this: Is the government prepared to look at modifying the program on an ongoing basis to accommodate the kinds of concerns that I and the honourable senators on my side have brought to the minister's attention?

**Senator LeBreton:** I will simply say what I have said many times to the honourable senator and others in this place: I will be happy to bring his concerns to the attention of my colleagues.

**Senator Cordy:** I have a supplementary question. The leader keeps speaking about “the goal.” What is the goal of this pilot project? Is it to spend less money by the government? It certainly is not helping seasonal workers like Blair, whose story I provided today, or the piles of other stories I have in my office about other people who are being penalized because the government is clawing back 50 per cent of the first dollar earned.

**Senator LeBreton:** The goal is, and always should be, that people find meaningful jobs. That is the goal. As I have stated many times in this place, the government is focused on jobs, the economy, and short- and long-term prosperity. Everything we do is focused on this and on ensuring that people in this country have an opportunity to work and have viable and good jobs. That is the goal of the government.

• (1420)

**Senator Cordy:** Honourable senators, in the Atlantic region, we would love to have viable and full-time jobs. Unfortunately, the unemployment rate is very high in Atlantic Canada. People would love to have meaningful jobs, but the reality is that not everyone has one. These are hard-working Canadians. They are trying to provide for their families.

I ask the minister this: Is the goal that the government pay less money to Canadians on EI?

**Senator LeBreton:** I already acknowledged to the honourable senator's colleague Senator Eggleton that we do recognize there are regional differences in the country. We are working with Canadians in these regions that depend on seasonal work to find appropriate jobs that suit their qualifications in their area.

For those unable to find employment, the Employment Insurance system is there for them now, as it was in the past and will be in the future.

**Senator Cordy:** The problem is not only that people are having 50 per cent of their money clawed back immediately, but that they will find it is not worth their while to work part-time. By the time they travel to their job, the working expenses that everyone has — whether it is gas for the car, meal money or clothing for the job, such as a waitress' uniform and shoes appropriate for the job — all those things are costly to people. However, it is the benefits that people are losing if they are not able to work one day per week.

I read the story about Blair from Nova Scotia. Because he works one day per week, he is able to keep his benefits. If it is costing him more to work one day per week than to just collect EI, then he will lose his benefits. This is not helpful to those Canadians who are hard working and trying to find a full-time job, but, in this economic downturn, those jobs are just not available to them.

**Senator LeBreton:** I will repeat this, honourable senators. This is a pilot project and obviously this project has goals that we have established for it in order to assist people to find meaningful work. We will continue to work with this pilot project to ensure that the program fulfills its goals.

**Hon. Claudette Tardif (Deputy Leader of the Opposition):** Honourable senators, normally pilot projects have an expiry date. Is there an expiry date, a planned evaluation date and a review in mind? When would that be?

**Senator LeBreton:** Having been around this place for a long time, I have seen pilot projects that began back when I first started working here.

In terms of this one, honourable senators, I actually cannot answer that. I do not know the extent of the program. I probably knew it, but I have just forgotten. I will take the honourable senator's question as notice.

**Senator Hubley:** Honourable senators, the minister mentioned she was not sure when the pilot project would end. There will be hundreds of people trying to make decisions as to whether they should move from their communities, go West or look for an income elsewhere. If they knew there was an end to this pilot project, they might be better able to make decisions in the best interests of their family. I wonder when we might hear the date for the termination of the pilot project.

**Senator LeBreton:** Actually, as I said to Senator Tardif, obviously when this program was announced by the minister, there were a lot more details than I have at my fingertips or in my head at the moment. Therefore, I will simply clarify the parameters of the pilot project, what it was intended to do, and I will provide that particular definition of the program to the honourable senator and to her colleague Senator Tardif.

**Hon. Grant Mitchell:** Honourable senators, I am struck by how often the Leader of the Government refers to how her government, the Prime Minister and others have somehow consulted ordinary Canadians about policy changes like those that they are implementing to EI.

Could the minister tell me, when is the last time the Prime Minister actually spoke to an ordinary Canadian, rather than someone who has a Conservative membership or is pre-screened before they can even get into one of his rallies? Has he ever spoken to someone in that doughnut shop where he is having a photo op? Has he sat down, talked to them and asked, "Are you unemployed and what would you like us to do?" Does he ever listen to anyone?

**Senator LeBreton:** Honourable senators, that ridiculous question does not deserve an answer.

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## ORDERS OF THE DAY

### BREAST DENSITY AWARENESS BILL

#### SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Seth, seconded by the Honourable Senator Doyle, for the second reading of Bill C-314, An Act respecting the awareness of screening among women with dense breast tissue.

**Hon. Pana Merchant:** Honourable senators, I rise to make some remarks regarding Bill C-314, An Act respecting the awareness of screening among women with dense breast tissue.

Honourable senators, as Liberals, we support an effort whereby the federal government will commit to working with the provinces and territories to increase awareness among women with regard to dense breast tissue and screening detection methods and reducing the burden of breast cancer for Canadian women.

Breast cancer is one of the four common cancers in women that can be detected early by screening tests. Awareness encourages women to take an active role in maintaining their health.

To increase awareness is a positive step, but we must be vigilant not to create fear and anxiety among women who have dense breast tissue about the reality of availability of meaningful dense breast tissue screening and diagnostic choices.

In the United Kingdom, all women are encouraged to have screening every three years upon reaching the age of 50. In the United States and Australia, recommendations are for every two years. There is a push to screen women younger than 50, particularly those with dense breast tissue between the ages of 40 and 50.

Importantly, either because of financial issues or because of a difference in view, availability of screening and diagnostic choice varies markedly across Canada.

My first criticism of this bill is that while it is commendable that our Conservative Senate colleagues and the Conservatives in the other place support this bill, this is in reality a misleading,

deceptive approach to the problem because the bill does not address the patchwork of unevenness of opportunity and effectiveness of the breast-screening situation in Canada.

Age of eligibility for screening is 40 years in seven provinces: Alberta, British Columbia, Manitoba, New Brunswick, Nova Scotia, Prince Edward Island and Yukon. The age is 50 in Newfoundland and Labrador, Northwest Territories, Quebec, Ontario and Saskatchewan. There is no program in Nunavut. A 10-year difference in screening is profoundly significant. Which is correct? Where is the leadership of the national government on this issue?

In 1990, my province, Saskatchewan, was one of the first provinces to establish a screening program for breast cancer as a province-wide, population-based prevention screening program under the operation of the Saskatchewan Cancer Agency. Population-based screening is important. It establishes standard screening criteria: a targeted, age demographic, standard screening tool — the mammogram; and frequency of screening — every two years.

• (1430)

Currently my province has seven stationary locations plus a mobile unit. This is particularly important to Saskatchewan due to the large geographic area and sparse and remote population. One of the main beneficiaries of the mobile unit is the Aboriginal First Nations population. You will recall that Nunavut has no program at all.

The Saskatchewan screening program for breast cancer represents roughly 58 per cent to 60 per cent of the population targeted for screening, one of the highest compliance rates of any province or territory in the country. Imagine 60 per cent in the highest compliant province leaving a worrisome 40 per cent behind. We have much work to do with quality and raising awareness.

[Translation]

In some regions in Canada, cancer screening for women is available at hospitals only. For example, the Government of Quebec only covers the cost of screenings done at hospitals. Private clinics send the bill to the clients. This double standard for diagnoses is inconsistent with the spirit of medicare. Universality of care, a fundamental principle of the Canada Health Act, can only be achieved through the leadership of the federal government in matters of health care.

[English]

The second criticism examines funding for screening for women with dense breast tissue, funding for equipment and innovation.

Breast density refers to the amount of tissue in the breast. Dense or heterogeneous tissue can affect breast cancer screening results and give false diagnoses because dense tissue appears white, the same colour as cancerous lumps. Mammograms are not really a great tool for high-density breast tissue. False diagnosis is dangerous and heart-wrenching for women in that situation. Unnecessary mastectomies are the result.

Should we use this poor test, this poor tool for dense breast tissue screening, the mammogram, more frequently, that is, once a year, or should we use a more accurate alternative?

[ Senator Merchant ]

Ultrasound is an alternative. Once an abnormality is detected on a mammogram, we can use ultrasound, but normal ultrasound is not a great procedure for two reasons. One, it is operator dependent, so there may be variations in the interpretation; and two, ultrasound may not get the whole breast.

A better alternative is the automated breast ultrasound that is being looked at as a potential option. The automated breast ultrasound gives a 3D image of the complete breast and is not operator dependent, but it is not available in Canada. It is, however, available in the U.S.

Third is a nuclear type of breast exam, which is a completely different concept. Currently this testing procedure is only in the initial stages of investigation as an effective screening tool. Thus, for those with dense breast tissue, the MRI becomes the better option.

[Translation]

Currently the best available option is a traditional MRI. The next best and less expensive option is an automated breast ultrasound.

[English]

I conclude as I began: As Liberals, we support the bill. However, given the absence of a commitment by the government to do more than talk about breast cancer screening for those with dense breast tissue, other than good intentions, what exactly does Bill C-314 accomplish other than creating a pretense of interest? This is just a meaningless endeavour, just window dressing, unless specific funding to make it a reality is attached to it.

[Translation]

When the bill has been studied at length in committee, if it is determined that specific funding is required, then the Conservative majority in the other place must be prepared to commit additional funding and not try to put the provinces in a difficult position by passing this type of bill and then sending the bill to the provinces.

[English]

Almost everything we do in government has a relationship to saving lives and preventing injury: more money for elevator inspectors, twinning the highway from Saskatoon to Edmonton, increasing the money to the less fortunate who may freeze to death or be undernourished, enhanced hospital safety, better training for teachers to prevent what happened in an Ottawa school — an explosion in shop class — so that a grade 12 student will not die. Spending related to lives and safety is, for government, a matter of choices.

In this house, we should call on the Conservatives in the other place to ask those with spending capacity: Will you fund a special program that makes enhanced testing possible?

Honourable senators, in order for this legislation to accomplish its implied aims, if we really want to make a difference regarding health outcomes of women with dense breast tissue, we have to ensure that the four essential components of the cancer screening

continuum are in place: first, awareness; second, understanding; third, appropriate funding by the Government of Canada; and fourth, compliance. Failing to embrace each of these steps will likely create anxiety, uncertainty, frustration and anger.

Bill C-314, criticisms notwithstanding, nonetheless remains an encouraging first step, and I urge honourable senators to join with me in supporting it.

(On motion of Senator Verner, debate adjourned.)

## EMPLOYMENT INSURANCE ACT

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

On the Order:

Resuming debate on the motion of the Honourable Senator Boisvenu, seconded by the Honourable Senator Marshall, for the second reading of Bill C-316, An Act to amend the Employment Insurance Act (incarceration).

**Hon. Art Eggleton:** Honourable senators, this is now up to day 15. I am preparing my notes to speak on the matter, and my intention is to speak on it more fully after the break week, but for now I would like to adjourn the debate in my name.

(On motion of Senator Eggleton, debate adjourned.)

## NATIONAL FINANCE

### MOTION TO AUTHORIZE COMMITTEE TO STUDY TAX CONSEQUENCES OF VARIOUS PUBLIC AND PRIVATE ADVOCACY ACTIVITIES UNDERTAKEN BY CHARITABLE AND NON-CHARITABLE ENTITIES—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Cowan, seconded by the Honourable Senator Tardif:

That the Standing Senate Committee on National Finance be authorized to examine and report on the tax consequences of various public and private advocacy activities undertaken by charitable and non-charitable entities in Canada and abroad;

That, in conducting such a study, the Committee take particular note of:

- (a) Charitable entities that receive funding from foreign sources;
- (b) Corporate entities that claim business deductions against Canadian taxes owing for their advocacy activities, both in Canada and abroad; and
- (c) Educational entities that utilize their charitable status to advocate on behalf of the interests of private entities; and

That the Committee submit its final report to the Senate no later than June 30, 2013, and retain all powers necessary to publicize its findings for 180 days after the tabling of the final report.

**Hon. Donald Neil Plett:** Honourable senators, I rise today to speak in response to Senator Cowan's motion on the authorization of committee study on political advocacy undertaken by charitable and non-charitable entities.

I would like to respond to his comments and address some of the contradictions he made within his speech and motion to this chamber.

• (1440)

In his speech, the Honourable Senator Cowan stated that "privileges enjoyed by honourable senators in this place should never be used as a shield for a drive-by smear campaign." I must state that this assuredly is not a smear campaign. It is an open debate for transparency. I would like to think that most members of this chamber, Senator Cowan included, would agree that healthy debate, asking questions and getting to the truth is the very purpose of this chamber.

Senator Eaton's inquiry aims to increase transparency and public disclosure of charitable organizations to ensure hard-earned taxpayer dollars are being properly used. Is that not what Senator Cowan himself is asking for in his motion? However, the motion also brings forth some apples-to-oranges comparisons, trying to bring business tax deductions and the charitable status of educational entities into the mix.

As Senator Lang mentioned in his response to this motion, business tax law requires detailed expense reports for tax deductions. Considering his law background, I would have assumed the honourable senator would have been familiar with this. As well, any changes that are applied to charities will also apply to educational institutions.

Senator Cowan also said in his statement to this chamber that:

... since the controversy seems to revolve primarily around the tax consequences of political advocacy by organizations, I believe that we should not confine ourselves to charitable organizations but look at all political advocacy.

Charitable organizations have straightforward guidelines from the Canada Revenue Agency which they must adhere to. They should not be abusing the rules or misusing Canadians' hard earned tax dollars.

As it states in CRA's policy statement for political activities of charities:

The main reason why the courts rule out political purposes for charities is a result of the requirement that a purpose is only charitable if it generates a public benefit. A political purpose, such as seeking a ban on deer hunting, requires a charity to enter into a debate about whether such a ban is good, rather than providing or working towards an accepted public benefit.

It also means that in order to assess the public benefit of a political purpose, a court would have to take sides in a political debate. In Canada, political issues are for Parliament to decide, and the courts are reluctant to encroach on this sovereign authority . . .”

Also, if the senator is so eager to examine charitable donations, I question why he did not support the measure in Budget 2012, where our government proposed to enhance transparency and accountability for charities.

Our government amended the Income Tax Act to restrict the extent to which charities may fund the political activities and introduced new sanctions for charities that exceed the limits on political activities or that fail to provide complete and accurate information on their annual returns.

Why is the honourable senator so afraid of the transparency and truth? I am not surprised, honourable senators, that a Liberal would be afraid of the truth, though, as the truth has gotten their party into deep trouble in the past. Perhaps we could learn the truth about what their party did with the \$40 million.

Honourable senators, as many of you will recall, on March 13 I spoke on Senator Eaton's inquiry and was chastised by members opposite and by members of the media for certain comments. I will restate those comments to this chamber:

When a foreign-funded, anti-pipeline activist admits, as Eric Swanson of the Dogwood Initiative did on CTV, that “if I got duffle bags of money delivered from Martians from outer space, I would still take that money,” Canadians should take him at his word.

Let me ask you this, honourable senators: If environmentalists are willing to accept money from Martians, where would they draw the line on where they receive money from? Would they take money from al Qaeda, the Hamas or the Taliban? Who is really making the decisions in Canada if we allow foreign money to lobby against what should be Canadian-made decisions?

Members opposite and the media criticized and took my comments entirely out of context about charitable organizations taking money from known terrorists. Imagine my surprise, then, honourable senators, when, while doing my research, I came across the name of a well-known Liberal, someone with strong ties to both Paul Martin, Sr., and Paul Martin, Jr., who has a long history of high environmental activism positions within the UN. He is the founding director of the UN Environment Programme. He was also an organizer of the UN's Rio de Janeiro 1992 summit where the 1997 Kyoto treaty on greenhouse gases was born. Honourable senators, the individual I am referring to is Mr. Maurice Strong.

Honourable senators, let us take a trip back to 1997 for a moment — the very year that the environmental Kyoto treaty was ratified. Maurice Strong took and personally endorsed a cheque for almost \$1 million, delivered by Tongsun Park, a lobbyist, for an apparent “share” in the company Cordex Petroleum. The exact amount of the cheque was \$988,885. This is the same Tongsun Park infamous for his involvement in the “Koreagate” money

scandal, where he was charged with bribing members of the U.S. Congress with South Korean government money trying to convince the United States to keep troops in South Korea. Where, honourable senators, was this million-dollar cheque from? This cheque was financed by Saddam Hussein's terrorist UN-sanctioned regime. Let me repeat that, honourable senators: Saddam Hussein's terrorist regime.

All of this was while Maurice Strong held a high-level United Nations post.

Mr. Strong has claimed innocence, even going so far as to try to deny the accusations, but he did in fact sign the back of the cheque. Tongsun Park has since been convicted of conspiring to bribe UN officials. U.S. District Judge Denny Chin stated to Park:

You either bribed a UN official or you were acting as if you were going to bribe a UN official.

Honourable senators, it would appear that that UN official was Mr. Maurice Strong. An environmentalist with a high-level UN post and strong Liberal government ties in Canada was allegedly taking money from terrorists.

In closing, honourable senators, let me state what Senator Cowan is asking for: a study of charitable entities that receive funding from foreign sources; corporate entities that claim business deductions against Canadian taxes owing for their advocacy activities, both in Canada and abroad; and educational entities that utilize their charitable status to advocate on behalf of the interests of private entities.

Senator Eaton's inquiry deals with much of the above. For the rest, Canadian business tax law already requires detailed expense reports for tax deductions, and any changes that are applied to charities will also apply to educational institutions.

In light of these facts, honourable senators, I am opposed to Senator Cowan's motion.

**The Hon. the Speaker:** Are there questions or comments on Senator Plett's address?

**Hon. Pierrette Ringuette:** I have a question, if the honourable senator would accept one.

**Senator Plett:** Yes.

**Senator Ringuette:** Listening to the honourable senator's speech, I think he is implying that senior officials at the UN are corrupted.

Did I hear the honourable senator correctly?

• (1450)

**Senator Plett:** I do not think I mentioned the U.S. at all.

**Senator Ringuette:** The UN.

**Senator Plett:** I simply stated the fact that a certain individual took \$988,885 from a convicted criminal and this person had strong ties to both the UN, very much a part of it, and also to the honourable senator's party. I am not sure where I made any false implication.

(On motion of Senator Eaton, debate adjourned.)

## SENATE REFORM

### INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Segal, calling the attention of the Senate to the reasons that democratic reform of the Senate is:

- (a) essential to Canada's future as a robust and effective federal state, with respect for fundamental freedoms and the supremacy of the rule of law;
- (b) reflective of the values of fairness, cooperation and confederation; and
- (c) consistent with the objective of providing pan-Canadian public policy at the federal level.

**Hon. Hugh Segal:** Honourable senators, I rise to speak to the inquiry on Senate reform standing in my name.

Democracies, as we all know in this place, are deeply imperfect. We see examples of that every day. There are conflicting agendas; different political parties; competing regional, generational and economic interests; and, as is true in any competitive context, and as we saw the other night, the many siren calls of personal ambition and public service.

If one thinks about the difference between the Soviet-style, five-year plans of the classic dictatorship and the year-to-year election and budget cycles, programs of democratic governments, two clear differences emerge. The second group produces far better economic and social results, and the second group also has to adjust to political and public pressure and opinion. We call it democracy, however messy. It is vital for economic growth in our part of the world and economic development in less-developed countries worldwide.

Critics of every majority government in Canada say the same thing of every incumbent administration: they are dictatorial, too arbitrary and too eager to push things through.

I started my career on this hill writing questions for Mr. Stanfield and the Progressive Conservative caucus of the day in the late 1960s and early 1970s, making just that kind of allegation against Prime Minister Trudeau and his administration. Others make that allegation against the present administration.

My first demonstration ever was with young campus Conservatives on this hill, fighting Standing Order 75C, a perpetual closure prerogative brought in by Mr. Trudeau's house leader Donald S. "Thumper" Macdonald, a great Canadian in

every respect. I have yet to forgive the Trudeau administration for using its majority in that way. I also have never forgiven the Trudeau administration for using its majority in both houses to ratify the War Measures Act and impose the Public Order (Temporary Measures) Act, both of which would have been ultra vires in the United States and the United Kingdom.

The Westminster system of parliamentary government is about a government integrated and holding the confidence of Parliament that has the authority, through Parliament, to act.

The system to the south is about countervailing authorities that keep any branch of government from acting unilaterally and sometimes paralyzing government completely. In our system, government and legislatures overlap in a way that makes forward progress more possible on critical issues, like health care and on fiscal and economic priorities.

An elected Senate, as proposed in legislation now in the other place, where seats are filled by election as vacancies occur, with provinces calling those elections as required and appropriate, as is in the Prime Minister's proposal, would mean that the fortunes of any government would shift in this place in response to public opinion. Changes would be neither jarring nor radical, but they would be constant, and that would be like fresh oxygen for this chamber and for government overall.

Elected senators could be appointed to cabinet or as official shadow cabinet spokespersons with the full authority of being elected from their own province. Between federal elections, Canadians who are unhappy with the majority government in place or any government policy could seek or support others for election to this place to fight for those changes. Some might be partisan and some might be experts or advocates in specific areas such as health care or the environment or support for our First Nations. It would be a way for Canadians to intervene during the five-year electoral term, and the reforms now being put forward would enshrine that kind of option for future generations, one that I think makes our democracy and our country stronger.

The problem with saying that this place should, in terms of how those who sit here are chosen, remain unchanged since 1867 is that we are saying that the accommodations, nuances, balancing and calibration that were necessary in Sir John A. Macdonald's time are utterly unchanged today. That would deny 140-plus years of development, diversification, the growth of the West, urbanization, technology, demography and dynamism that helped produce today's Canada.

Honourable senators, my seatmate in past sessions, sitting across the aisle from me here today, Senator Brown, whom I rejoice to report was resoundingly elected twice from Alberta as a Progressive Conservative senator, is a plain-spoken man, but there is nothing plain or simple about his keen sense of democracy. He speaks often of the need to have more restraint on majority government prerogative as a principle of a strong, federal legislative process. He speaks often of a federation only being real when provincial elected voices come to this place and whose duty is to their region, not to any party whip. He understands what Peter Lougheed fought for all his life and understood: stronger provinces mean a stronger Canada and a stronger federal system.

While many in this chamber and hundreds of thousands of Canadians remember the “Triple-E” message plowed into that Alberta field of grain some years ago I, for one, will always remember the “C’est mieux ensemble” message also plowed into an Alberta grain field before the way-too-close 1995 referendum, a picture that appeared in francophone Quebec media and a picture that helped the cause of Canada prevail in tough referendum times.

I note, as some honourable senators may have also noted, the Tory revolt against Lords reform in the United Kingdom, effectively bringing the Liberal democrat plank for Lords reform in the coalition government’s proposition to an end. I point out respectfully to honourable senators in this place that the House of Lords has less constitutional authority than this chamber. The powers of the Parliament Act 1911 in the United Kingdom severely restrain the Lords’ power and constitutional provision. We do not have that provision here.

Many of the Tories who were part of the rebellion on Lords reform were of the view that it is merely a revising chamber and radical change to it, as a result, was not necessary.

We are not only a revising chamber. We have broad constitutional powers and, as senators who have been here longer than I will know, with the exception of initiating money bills, every member of this chamber has the same authority as elected members in the other place on matters of legislation.

• (1500)

In fact, were we to decide as a government or as a country not to proceed with Senate reform, or if the Supreme Court would, if asked to do so, rule against the constitutionality of Senate reform, I think we would be faced with the proposition of seeking a constitutional amendment to limit the powers of this chamber to deal with the legitimacy question of this chamber not being elected.

As I have said in the past, barring reform of the electoral process, I think we do have to face the prospect of another kind of answer, perhaps a referendum on abolition reform, as I have already respectfully suggested in this place.

While I know that some opposite and elsewhere in the provinces would prefer that this matter go to the Supreme Court for declaratory judgment and that that view has resonance elsewhere, I hope senators from all sides will engage in this inquiry debate in this chamber. Canadians have the right to know where we stand. While Canadians are prevented by some forces of inertia in this place from hearing or seeing the debate, at least the record will show where we stood on this important issue of Senate reform in the year 2012-13.

**Hon. David P. Smith:** With regard to the Senate reform legislation, there has recently been a lot of speculation that Prime Minister Harper might refer it to the Supreme Court. Does the honourable senator think he should have done that before or does he think that is desirable now? What is the senator’s view on that happening?

**Senator Segal:** I have gone through that speculation in various newspapers carefully, and I am unable to come up with any other conclusion than that it is speculation, not necessarily grounded in

any decision the government may have taken to date. However, I am not an insider in that respect, so I do not know.

There is no question that if we pass the legislation, that is, in the other place, the Supreme Court of Canada will face a direct challenge on this issue from at least the governments of Quebec and Ontario and others; so the notion that this reform will go forward without Supreme Court engagement and involvement is highly unlikely.

**Senator D. Smith:** Would the honourable senator recommend to the Prime Minister that he refer it and get the opinion now rather than just take more time?

**Senator Segal:** That would not be my recommendation to the Prime Minister, although I am unlikely to be asked. If I did have recommendations for the Prime Minister, I would not share them on the floor of this place first.

**Hon. Pierre Claude Nolin:** In an environment where the Senate would be elected, does the honourable senator think the government should maintain the confidence of both chambers?

**Senator Segal:** No, it would not be my view that this would necessarily have to be a chamber of confidence in order for its legitimacy to be sustained. In fact, I would be one of those who would recommend that if we ever pass that legislation and it came into being, we look at the powers of parliament act in the United Kingdom, which limited the powers of the upper chamber in that jurisdiction, to make sure that we did not produce the kind of deadlock that we see in the United States, which would be unconstructive and unhelpful. I believe there would be two or three constructive constitutional ways to do that.

**Senator Nolin:** Does the honourable senator think that changing the powers of the Senate would definitely mean asking the provinces to agree to it?

**Senator Segal:** We are now entering into an area that, if we are not careful, will become well beyond my intellectual ken, but I will skate close to that goalpost for as long as I can.

I would be of the view that the changes now before the House of Commons do not intrinsically require provincial agreement because they do not deal with the core premises of our Constitution — the Crown, the electoral cycle, the existence of the Senate and the house, and therefore unanimity — nor would they require the seven and fifty change that was considered in other constitutional discussions.

That will be a matter that will be tested. Whether we pass it in this place or they pass it in the other place, that matter will be tested by at least two, if not more, provinces before the Supreme Court, so we will have clarity before any matter is actually put into effect. I would be of the view that moving ahead with the legislation first would make more sense, so the will of Parliament would be understood by the Supreme Court, rather than the will of Parliament being unclear, which of course gives the Supreme Court a far wider range within which to execute and comment.

**Senator Nolin:** My question was much more focused on the latter part of the honourable senator’s answer, dealing with the powers of the Senate. We can argue about what is before the



House of Commons and whether we should request the authority of the provinces; that is a debate for another day. I asked a question about what the provinces will say on changing the powers of the Senate.

**Senator Segal:** I begin from the premise that it is intrinsically undemocratic and democratically illegitimate for this chamber to use the constitutional powers it has when it is not elected. I also have to say, in fairness to all who have served in this place over the years, examples of this chamber seeking to block the will of the House of Commons are rare and far between in our history. There has been a very careful approach taken by leadership on both sides in that respect. However, if we were to consider proceeding without reform, without electoral legitimacy, then I would be clearly for reducing the powers of this place, and if that required negotiation with the provinces, I would not be opposed to doing that.

**Hon. Serge Joyal:** If the honourable senator wants to receive another question, I would like to ask one.

**Senator Segal:** I was afraid the honourable senator would seek to participate in this debate, but I will take the question nonetheless.

**Senator Joyal:** I listened carefully to his words. It seems to me that he put himself in an impossible position. He says, on the one hand, that if the bill that is in the other place, Bill C-7, is not accepted or is refused by this chamber or is refused by the court, that he fears that the reaction would be an initiative to curtail the power of the Senate. However, on the other hand, he says that if the bill is accepted, the next step for him is to curtail the power of the Senate. It seems to me that we are damned if we do and we are damned if we do not.

What exactly is the honourable senator's position? Insofar as the powers of the Senate are concerned, section 42(1)(b) of the Constitution, as Honourable Senator Nolin has referred to, speaks clearly:

An amendment to the Constitution of Canada in relation to the following matters may be made only in accordance with . . .

Seven-fifty:

(b) the powers of the Senate . . .

Any movement to change the powers of the Senate, as the honourable senator has said, for instance, to have them in parallel with those of the House of Lords, would imply a formal constitutional amendment involving seven provinces representing 50 per cent of the Canadian population. We can be under threat that if we do not accept this bill, our power will be curtailed, but in one way or another, we cannot change the power of the Senate without a formal constitutional amendment.

**Senator Segal:** I am sorry if the nature of my presentation created some confusion in my colleague's mind.

In responding to Senator Nolin, I thought I was very clear in saying that it would be my view — this is not a threat from any other source; it is just my own personal view — that lacking

electoral legitimacy, if that is the path that public policy takes in this country, either by virtue of a court decision or by virtue of a political challenge to the reforms now being proposed, I would be very much in favour of limiting the powers of the Senate, and that would require constitutional negotiation and that would require the seven-fifty, and I would not be opposed to so doing. I do not see any contradiction in that position.

With respect to what would happen if the proposals passed, they were challenged before the Supreme Court, as no doubt they will be, and the Supreme Court ruled that they were constitutional, it would then be my view that, as we proceeded, so as to avoid over time the risk of a serious kind of locked-up context between the two houses, we would want to consider the powers of parliament act as it exists in the U.K.

If that produced another negotiation down the road with our provincial first ministers relative to changing the powers of the Senate, so be it. What I am trying to clearly underline and say is that the status of this institution now, unelected, with essentially the same powers except on money bills as the other chamber in our country's Parliament, is problematic in terms of legitimacy, democracy and federalism going forward.

• (1510)

**Senator Joyal:** Yes, but the honourable senator has mentioned that this house has found a proper way to deal with the absolute power of this chamber to veto or to refuse to revote on a bill that has been adopted in the other place. As a matter of fact — and honourable senators will probably remember this — over the 144 years of Confederation that this house has been in existence, there has been very limited precedence through which this house has used that power. In other words, this house has found a modus operandi through which it is only in very special circumstances that it would claim to use those powers. When those powers were exercised by our house, no one questioned the legitimate objective of this house.

Let me remind honourable senators of the last time, when this house refused a bill to veto the contract of Pearson airport. In fact, honourable senators will remember that senators on both sides voted against a government motion to maintain that contract on the basis that it negated the right of those involved in the contracts to claim their rights in the court. No one questioned the legitimacy of this house acting that way, because they were the rights of citizens, recognized in our Constitution and in our Charter, such that if they have a legitimate claim in the court, the court will decide.

I can provide instances such as the decision on abortion, which is a subject debated in the other place. Honourable senators will remember that this house refused that bill and that it was the senators on the government side who triggered the refusal of that bill. Only in exceptional circumstances, on specific issues, has this house found a way to use that power for the benefit of either individuals or Canadians as a whole. In the last case, it was for the benefit of Canadian women.

In other words, I do not see the immediate necessity to change the power of the Senate based on the way that this house has historically used those powers.

**Senator Segal:** Honourable senators, let me be clear that I associate myself, without hesitation, as I did in my initial comments, with the judiciousness and care displayed by prior and existing members of this place, who have been here for some time, over the span of history, relative to the use of the constitutional authority of this chamber. I am not questioning that. I am not suggesting that any lack of judiciousness on that part constitutes a reason for limiting the powers. I am merely saying that, when one has a system in which one accepts that the member of Parliament for Kingston and the Islands has no more authority than I do, when he was elected and I was not — and that is true of the vast majority of us in this place, except for two senators from the sovereign province of Alberta — then I think we have a problem in principle. I think it is important that democracy exists at the level of practical accommodation. My colleague opposite would not be in favour of extolling the virtues of a dictator because she happened to be benign, thoughtful, caring and considerate. A dictator is a dictator. A chamber that does not have democratic legitimacy having the capacity to exercise power — whether it chooses to do so or not — equal to that of those who are elected, I think, is structurally problematic.

**Hon. James S. Cowan (Leader of the Opposition):** I have another question, if Senator Segal would ask for additional time.

**Senator Segal:** I do not want to beg the indulgence of the house, but, if there are five more minutes, I would take them with grace.

**The Hon. the Speaker:** There may be a constitutional convention associated with the debate that is underway. I did not interrupt, but there is time for Senator Cowan to ask one last question.

**Senator Cowan:** Thank you. I listened with interest to the honourable senator's speech. The concern I have, and on which I would ask him to comment, is that, if one were simply to move to an elected Senate, as is proposed in the other place, and that would, as the honourable senator says, give democratic legitimacy — I am not sure that those are the honourable senator's precise words — to this institution, then would it not also embolden the members of this house to abandon their historical hesitancy to intervene, to overrule or to go against the decisions of the House of Commons? If that were the case and we were then to exercise our essentially equal powers, is the honourable senator not concerned that we would have a deadlock between the two houses? How would that enhance democracy in Canada?

**Senator Segal:** I thank the honourable senator for that thoughtful question. First, if one looks at the process anticipated, namely that, as vacancies occur, provinces would have elections, then we would have a very long time before we had a majority of elected people in this place. Moreover, we would have a constructive period of time during which we could add to the existing conventions of judiciousness and thoughtfulness, as the honourable senator's colleague referenced earlier on. Many of the critical parts of how government operates are based not on constitutional or statutory provision but on conventions put into place by folks who are trying to make the system work. I think that that would develop over time. However, I am very much of the view that the constraint that exists in the British system, namely that the upper chamber is diminished from having absolutely equal power to the more regularly elected house, is a proposition that we would want to examine as we go forward on some of the conventions and issues that would begin to change, constructively and democratically, as more and more of our colleagues were elected in this place.

**Senator Cowan:** Honourable senators, as Senator Segal will know, we have, in this country, a constitution, which is not something that our colleagues in the United Kingdom have to worry about. However, there is a constitution. We have discussed here today and on other occasions the particular provisions in that Constitution for amendment and the difficulties inherent in that. A concern that I have expressed before is that we end up with two houses each claiming democratic legitimacy. Therefore, neither is in a position where they need to defer to the other, and we have a deadlock. There is nothing in any legislation that I have seen, in any of the various iterations that have been proposed over the past half-dozen years, that contains a specific deadlock-breaking mechanism. I think that this is not just a theoretical problem, but a real problem that should be addressed up front rather than, as the honourable senator might suggest, evolving over time in the period of time it would take to evolve from a current composition of the house to a new one.

I would like to return to that topic, and I would move the adjournment of the debate in my name.

(On motion of Senator Cowan, debate adjourned.)

(The Senate adjourned until Thursday, October 4, 2012, at 1:30 p.m.)

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