SENATE SÉNAT

CANADA

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(HANSARD)

Wednesday, June 11, 2014

The Honourable NOËL A. KINSELLA
Speaker

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

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# THE SENATE

**Wednesday, June 11, 2014**

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

Prayers.

## SENATORS' STATEMENTS

### MYANMAR

ROHINGYA MUSLIMS

**Hon. Mobina S. B. Jaffer:** Honourable senators, I rise today to draw attention to the oppression of the Rohingya Muslims in Myanmar. The United Nations has called the now-stateless Rohingya one of the most persecuted minorities on Earth. The Rohingya have been in Myanmar since the 8th century, yet the government refuses to grant them citizenship. Instead, they are called Bengali insurgents who are in Myanmar illegally. Prominent Buddhist leaders and government officials have used dangerous rhetoric against them. Some Buddhist leaders have compared Muslims to jackals and wolves in order to dehumanize them.

Honourable senators, the action taken by the Buddhist majority population is ethnic cleansing. In October 2012, organized mobs of Arakanese Buddhists attacked nine Rohingya villages, savagely beating and killing many Muslims. A 24-year-old Rohingya man from Yan Thei village had his way of living destroyed in minutes. This is how he described the events:

> There were so many Arakanese coming to our village, from every side. They surrounded the village. The Arakanese stormed our village and started setting fire to our houses and threatening to kill us.
>
> Women and children fled the village first and some of the Arakanese chased them and killed them while some other Arakanese were still in the village, burning houses down. At least 30 children were killed, 25 women, and 10 men.

In Yan Thei village, the authorities knew that an attack was imminent. However, the government was indifferent to the pleas of Rohingya Muslims. Throughout the villages attacked in October 2012, the stories are disgracefully similar. Since the start of the attacks, many Rohingya have been expelled from their homes and restricted to overcrowded camps. Here they are subjected to malnourishment and cruel treatments. Human rights and medical aid organizations have tried to help, but they have been restricted by government forces.

Honourable senators, this Friday, June 13, marks the second anniversary of the escalating violence against Rohingya Muslims. I ask you to please wear black in solidarity with the oppressed Rohingya in Myanmar.

Honourable senators, in our great country, I'm absolutely proud and thrilled to be able to practise my faith with pride. In fact, when I first came to the Senate, for the first year, during Ramadan, I fasted alone. The second year, Mark Audcent and many Senate employees celebrated Ramadan with me, although they are not Muslims. They fasted with me. Honourable senators, I dream of a day when people all over the world will be able to exercise their faith as we do in our great country.

### CANADA-UNITED STATES INTER-PARLIAMENTARY GROUP

FIFTY-FOURTH ANNUAL MEETING

**Hon. Janis G. Johnson:** Honourable senators, it is my pleasure to report that last weekend we held the fifty-fourth annual meeting of the Canada-United States Inter-Parliamentary Group. After a period of three years with no bilateral meetings for the IPG, we held this essential forum and got it back on track for both Canadian and U.S. politicians. The Canadian delegation, co-chaired by me and Member of Parliament Gordon Brown, had the honour of hosting U.S. senators and congressmen in the nation's capital.

I want to thank our Canadian senators Dan Lang, Paul Massicotte, Wilfred Moore, Judith Seidman and David Wells for their deep engagement over the weekend.

Senator Amy Klobuchar of Minnesota, Senator Mike Crapo of Idaho and Congressman Bill Huizenga of Michigan led the American delegation in their capacity as American co-chairs of the IPG. They were accompanied by Senators Roy Blunt of Montana, Jeff Sessions of Alabama and Debbie Stabenow of Michigan. From the House of Representatives were Congressmen Bill Owens of New York, Tom Petri of Wisconsin and Paul Tonko of New York.

Our plenary sessions covered a wide array of bilateral issues, with a comprehensive overview of the state of each focus area. Beginning with ballast water regulations, we conveyed the Canadian side while pressing for a fair and balanced approach. We discussed the critical area of energy and environment, with the goal of getting closer to North American energy security while ensuring the safe transport of hydrocarbons across our borders. The most precious resource of all, water, was given special consideration, as the ongoing restoration and preservation of our Great Lakes, as well as many other waterways across the forty-ninth parallel, were examined. The critical issue of ensuring water quality was also addressed.

As Canada is currently chairing the Arctic Council, we took a look at Canada's policy goals while anticipating the smooth transition to the U.S. chairmanship next year.

On security, Canada was praised for its clear and principled stance on the defence of Ukraine's integrity. Both parties recognized the threats of cyberterrorism and the need to develop effective cybersecurity strategies.

On bilateral trade issues, we recognized the necessity of all three NAFTA partners to work together toward ensuring the next phase of growth and prosperity for our peoples, through developing our integrated supply chains and ensuring that trade is both free and fair. This is includes making sure that the Canada-U.S. border becomes a seamless and efficient sphere for the movement of goods and people. Canada's world-leading expertise with P3s was also recognized as an avenue for further cooperation.

Concerning our areas of disagreement, we all nevertheless agreed that trade wars benefit no one and resolved to see outstanding matters settled in due course.

Honourable senators, I thank senators from both sides of this aisle for participating in the success of this great weekend and also for presenting a unified Canadian voice with our most important ally and trading partner.

## THE LATE JOHN ALLISON "JACK" MACANDREW

**Hon. Elizabeth Hubley:** Honourable senators, I rise today to honour and remember one of Prince Edward Island's best-known journalists, broadcasters and theatre producers, Jack MacAndrew. Jack passed away on May 23, in Charlottetown, at the age of 81.

From the time he began with the CBC in 1956, Jack had an inspiring ability to command his audience with the power of both his written and his spoken words. From his critically acclaimed, internationally broadcast work covering the Springhill Mine Disaster during the late 1950s, to his 27-year-long column called "The View From Here" in the *Eastern Graphic*, Jack could capture our full attention with his storytelling ability.

• (1340)

Jack was a man of many talents, to say the least. His work extended to include writing, producing and hosting several CBC cultural programs and working as a radio officer for the air force, as the national head of variety programming on the CBC and, of course, as Santa Clause during the holiday season. In addition to his work as a journalist and producer, Jack was a political adviser to premiers Alex Campbell and Joe Ghiz. He also became a political commentator and panelist in Prince Edward Island, speaking on Island Morning and Compass on the politics of the day and a variety of other subjects.

I was lucky enough to work with Jack in developing the Brittany Spaniel Award for Altruistic Contributions to the Arts on P.E.I. In addition to his already wide variety of work, Jack was a man of the arts. He spent time as the director and producer of the Charlottetown Festival's beloved *Anne of Green Gables* and *Johnny Belinda*, to name two. His deep commitment to the artistic community was evident, and I had a great deal of respect and admiration for him. It is a great loss not to have him with us anymore.

Honourable senators, I would like to take this opportunity to thank Jack for his tremendous life of dedication to Prince Edward Island and the arts community and to extend our sincerest sympathy to his wife, Janet, and his two sons, Shaun and Randy.

## VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I wish to draw your attention to the presence in the Governor General's gallery of His Excellency Vadym Prystaiko, Ambassador of Ukraine; His Excellency Marcin Bosacki, Ambassador of the Republic of Poland; Minister Song Oh of the Republic of Korea; and Ludwik Klimkowski, Chair of Tribute to Liberty.

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

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

## TRIBUTE TO LIBERTY

**Hon. Yonah Martin (Deputy Leader of the Government):** Honourable senators, I rise today to speak to you about an event that took place on May 30, 2014, at the Toronto Congress Centre, which I had the honour to attend, in support of an important project that is significant to me and all Canadians who value democracy and the fundamental rights and freedoms we enjoy every day.

Tribute to Liberty is a Canadian organization dedicated to the construction of a memorial in our nation's capital to honour the victims of communism. The profound impact of communist aggression in the 20th century is approximately 100 million victims. Our colleague Senator Ngo and the Vietnamese and many ethnic communities have been impacted by communism, including the tens of thousands of Canadians who fought communist aggression during the Korean War. In Canada, over 8 million people trace their roots to countries like Ukraine, Poland, Vietnam, Korea and others who suffered under communism. Since the beginning of the first communist regime in 1917, immigrants from many countries have flocked to Canada in search of freedom and safety.

In September 2009, Tribute to Liberty received approval from the National Capital Commission to build a memorial to victims of communism in Ottawa. In May 2012, a plot of land between Library and Archives Canada and the Supreme Court of Canada on Wellington Street was designated as the site of the pending Tribute to Liberty memorial. I can share with great enthusiasm that the winning design, from among approximately 300 entries, will be announced in the coming months.

Memorials are essential parts of our national landscape. They serve as important markers for events and people that make up the diverse fabric of our nation. The memorial to the victims of communism will serve as a public reminder of the millions of victims of communism and will bring the suffering of these victims into the public consciousness. The special fundraising event on May 30 was an evening in support of Tribute to Liberty. Prime Minister Harper said it best that evening:

> The goal you have been working towards is important to Canadians, past and present, but it is especially so for future generations.
>
> For they must be forever reminded — forever — that the freedom and peace they stand to inherit was earned through struggle and sacrifice, and must always be cherished as a precious and unique thing.

I wish to recognize the chair of Tribute to Liberty, Ludwik Klimkowski, and the dedicated board of Tribute to Liberty. This timely memorial will serve as a public reminder of all the victims of communism past and present.

Honourable senators, the United States has their Statue of Liberty, and soon Canada will have its Tribute to Liberty.

## FIRST NATIONS EDUCATION

**Hon. Lillian Eva Dyck:** Honourable senators, today is the sixth anniversary of the historic apology to former students of Indian residential schools. On June 11, 2008, in the House of Commons, Prime Minister Harper said:

> Today, we recognize this policy of assimilation was wrong, has caused great harm, and has no place in our country. . . .
>
> The Government of Canada sincerely apologizes and asks the forgiveness of the Aboriginal peoples of this country for failing them so profoundly.

The Prime Minister's apology was heartfelt and meaningful. This sentiment, to the Prime Minister's credit, was reinforced at his announcement on the First Nations education bill on February 7 when he said:

> In Canada we have never had the system of First Nations education that we truly need.
>
> The federal government, which has the constitutional responsibility for this, has historically veered between a some times disinterested neglect, and at other times, arbitrary decrees.
>
> In 2008 in the House of Commons, I delivered an apology for the worst example of the latter, the policy of Indian residential schools.

At the announcement on February 7, Prime Minister Harper said:

> The Act will provide the legislative base required to ensure that youth on reserve have access to the education they need and deserve, one that is portable and meets provincial standards, incorporates Aboriginal language and culture, and ensures the First Nations communities themselves have the primary responsibility for day-to-day management of schools.

Speaking of the youth on reserves, he said:

> Their talents and their ambition will be a critical part of the solution to Canada's looming labour shortage.
>
> But without an education . . . in the kind of comparable system that we envision, too many of them will be unemployed or under employed. . . .
>
> By investing in and improving the system of primary and secondary education on reserve, we'll be equipping First Nations youth with the tools they need to benefit from all that this great country has to offer.

After the proposed legislation in Bill C-33 was tabled in Parliament on April 10, there was significant opposition to it by some AFN chiefs. Unfortunately, events escalated rapidly on both sides, and sadly we are left with no path forward for real reconciliation on education. Minister Valcourt has refused to meet with these chiefs and has put the bill on hold.

Mr. Prime Minister, in July 2011, in recognition of your 2008 apology, you were honoured with being inducted into the Kainai Chieftainship and given the Blackfoot name Ninayh' poaksin, Chief Speaker. As an honorary chief who holds a chief's headdress with the highest respect, you are expected to be an available resource to First Nations. I was glad to read that you promised your government would follow the lead of the late Senator Gladstone and work on behalf of all First Nations.

On this day, the anniversary of the Prime Minister's historic apology, and with a National Aboriginal Day approaching on June 21, I appeal to Prime Minister Harper to intervene and break this impasse.

Prime Minister Harper, Chief Speaker, Ninayh' poaksin, on behalf of the First Nations children and youth living on Indian reserves across Canada, I appeal to you to intervene now and convince Minister Valcourt to meet with the AFN chiefs who stated that Bill C-33 needs more work to fulfill the vision and laudable goals for First Nation education that you announced on February 7.

# ROUTINE PROCEEDINGS

## RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

### FIFTH REPORT OF COMMITTEE PRESENTED

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

Wednesday, June 11, 2014

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

### FIFTH REPORT

Pursuant to rule 12-7(2)(a), Your committee recommends as follows:

**That the *Rules of the Senate* be amended by:**

**1. replacing current rules 5-5(i) and (j) with the following:**

**"**(i) to rescind a leave of absence or suspension ordered by the Senate;

(j) that an item of Other Business be not further adjourned; or

(k) any other substantive motion.**";**

**2. adding the following new rule 6-13 immediately after current rule 6-12:**

"***Terminating Debate on Item of Other Business***

Notice of motion that item of Other Business be not further adjourned

**6-13**. (1) Notice of a motion that an item of Other Business be not further adjourned may only be given if the item has been both:

(a) called for consideration at least fifteen times; and

(b) debated for a cumulative total of at least three hours.

Who may give notice

**6-13.** (2) Notice of such a motion may only be given by:

(a) the sponsor or critic of a bill;

(b) the senator who moved a substantive motion; or

(c) the senator who moved the adoption of a committee report.

Procedure for debate on motion

(3) When a motion that an item of Other Business be not further adjourned has been moved:

(a) the debate shall not be adjourned;

(b) debate shall last a maximum of two and one half hours;

(c) during the debate the rules respecting the ordinary time of adjournment shall not apply, and the debate shall instead continue until concluded or the time has expired;

(d) no amendment or other motion shall be received, except a motion that a certain Senator be now heard or do now speak;

(e ) Senators shall speak only once;

(f) Senators may speak for a maximum of 10 minutes each, provided that:

(i) the Leader of the Government and the Leader of the Opposition may each speak for up to 30 minutes, and

(ii) the leader of any other recognized party may speak for up to 15 minutes;

(g) When debate concludes or the time for debate expires, the Speaker shall put the question;

(h) Any standing vote requested shall not be deferred, and shall be taken according to the ordinary procedure for determining the duration of bells; and

(i) immediately after any interruption due to a case of privilege, emergency debate, question of privilege, or the evening suspension at 6 p.m., the debate shall resume for the balance of any time remaining.

Rejection of motion

(4) If this motion is rejected, notice of another motion of the same type shall not be given again until both:

(a) the item has been called for consideration at least a further fifteen times; and

(b) there has been a cumulative total of at least three additional hours of debate.

Adoption of motion

(5) If this motion is adopted, then when the item of Other Business is next called:

(a) the debate shall not be adjourned;

(b) no amendment or other motion shall be received, except that a certain Senator be now heard or do now speak;

(c) the Senate shall continue sitting beyond the ordinary time of adjournment until debate has concluded; and

(d) immediately after any interruption due to a case of privilege, emergency debate, question of privilege, or the evening suspension at 6 p.m., the debate shall resume.

Vote on main motion

(6) The normal rules governing the taking of the vote shall apply once debate on the main motion concludes.

If debate not on main motion

(7) If debate was not on the main motion, when that debate concludes:

(a) if a standing vote is requested the ordinary procedure for determining the duration of the bells shall apply;

(b) the vote shall not be deferred;

(c) after the vote, debate on the item of Other Business shall continue pursuant to this rule; and this process shall continue until the conclusion of debate on the item of Other Business.**";**

**3. renumbering current rule 6-13 as 6-14; and**

**4. updating all cross references in the Rules, including the lists of exceptions, accordingly.**

Respectfully submitted,

VERNON WHITE
*Chair*

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

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

• (1350)

[*English*]

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

### BILL TO AMEND—FIFTH REPORT OF ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES COMMITTEE PRESENTED

**Hon. Richard Neufeld,** Chair of the Standing Senate Committee on Energy, the Environment and Natural Resources, presented the following report:

Wednesday, June 11, 2014

The Standing Senate Committee on Energy, the Environment and Natural Resources has the honour to present its

FIFTH REPORT

Your committee, which was referred Bill C-5, An Act to amend the Canada-Newfoundland Atlantic Accord Implementation Act, the Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act and other Acts and to provide for certain other measures, has, in

obedience to the order of reference of Wednesday, May 28, 2014, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

RICHARD NEUFELD
*Chair*

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

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

[*Translation*]

## APPROPRIATION BILL NO. 2, 2014-15

FIRST READING

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons with Bill C-38, An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2015.

(Bill read first time.)

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

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

[*English*]

## CANADA—HONDURAS ECONOMIC GROWTH AND PROSPERITY BILL

FIRST READING

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons with Bill C-20, An Act to implement the Free Trade Agreement between Canada and the Republic of Honduras, the Agreement on Environmental Cooperation between Canada and the Republic of Honduras and the Agreement on Labour Cooperation between Canada and the Republic of Honduras.

(Bill read first time.)

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

**Hon. Yonah Martin (Deputy Leader of the Government):** Honourable senators, with leave of the Senate and notwithstanding rule 5-6(1)(f), I move that this bill be placed on the Orders of the Day for second reading at the next sitting of the Senate.

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

**Hon. Joan Fraser (Deputy Leader of the Opposition):** Before granting leave, I would just like a brief explanation of why leave is being sought.

**Senator Martin:** The minister from whom the committee would like to hear is available tomorrow for committee. Therefore, I seek leave that it be considered for the "next day," rather than "two days hence."

**The Hon. the Speaker:** Is leave granted?

**Some Hon. Senators:** Agreed.

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

## APPROPRIATION BILL NO. 3, 2014-15

FIRST READING

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons with Bill C-39, An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2015.

(Bill read first time.)

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

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

## VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I wish to draw your attention to the presence in the Governor General's gallery of a parliamentary delegation from the National People's Congress of the People's Republic of China led by the

Honourable Chi Wanchun, Head of the Delegation and Chair of the China-Canada Legislative Association of the National People's Congress of the People's Republic of China.

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

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

## INTER-PARLIAMENTARY UNION

### ASSEMBLY AND RELATED MEETINGS, MARCH 16-20, 2014—REPORT TABLED

**Hon. Salma Ataullahjan:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Inter-Parliamentary Union respecting its participation at the One Hundred and Thirtieth Assembly and Related Meetings, held in Geneva, Switzerland, from March 16 to 20, 2014.

## FOREIGN AFFAIRS AND INTERNATIONAL TRADE

### NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY OF SECURITY CONDITIONS AND ECONOMIC DEVELOPMENTS IN THE ASIA-PACIFIC REGION

**Hon. A. Raynell Andreychuk:** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

> That, notwithstanding the order of the Senate adopted on Thursday, November 21, 2013, the date for the final report of the Standing Senate Committee on Foreign Affairs and International Trade in relation to its examination of security conditions and economic developments in the Asia-Pacific region, the implications for Canadian policy and interests in the region, and other related matters be extended from June 30, 2014 to March 31, 2015.

### NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY OF ISSUES RELATING TO FOREIGN RELATIONS AND INTERNATIONAL TRADE GENERALLY

**Hon. A. Raynell Andreychuk:** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

> That, notwithstanding the order of the Senate adopted on Thursday, November 21, 2013, the date for the final report of the Standing Senate Committee on Foreign Affairs and International Trade in relation to its examination of such issues as may arise from time to time relating to foreign relations and international trade generally be extended from June 30, 2014 to March 31, 2015

[ The Hon. the Speaker ]

• (1400)

## AGRICULTURE AND FORESTRY

### NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY CANADIAN AGRICULTURAL INCOME STABILIZATION PROGRAM

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

> That the Standing Senate Committee on Agriculture and Forestry be authorized to study the following:
>
> The assessment and appeals process of the Canadian Agricultural Income Stabilization Program (CAIS), including the replacement programs; AgriStability and AgriInvest;
>
> The definition, including legal precedent and regulatory framework, and application of the terms "arm's length salaries" and "non-arm's length salaries" as used by CAIS and related programs, as well as a comparison of those definitions and the application used by Revenue Canada and Employment and Social Development Canada; and
>
> That the Committee submit its final report no later than March 31, 2015, and retain all powers necessary to publicize its findings until 180 days after the tabling of the final report.

## STUDY ON SERVICES AND BENEFITS FOR MEMBERS AND VETERANS OF ARMED FORCES AND CURRENT AND FORMER MEMBERS OF THE RCMP, COMMEMORATIVE ACTIVITIES AND CHARTER

### NOTICE OF MOTION TO AUTHORIZE NATIONAL SECURITY AND DEFENCE COMMITTEE TO REQUEST GOVERNMENT RESPONSE TO EIGHTH REPORT OF COMMITTEE

**Hon. David M. Wells:** Honourable senators, I give notice that, two days hence, I will move:

> That, pursuant to rule 12-24(1), the Senate request a complete and detailed response from the Government to the eighth report of the Standing Senate Committee on National Security and Defence, entitled: *The Transition to Civilian Life of Veterans,* tabled in the Senate on June 4, 2014 and adopted on June 5, 2014, with the Minister of Veterans Affairs being identified as minister responsible for responding to the report, in consultation with the Minister of National Defence.

[*Translation*]

## HUMAN RIGHTS

### NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY OF ISSUE OF CYBERBULLYING

**Hon. Mobina S. B. Jaffer:** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That, notwithstanding the order of the Senate adopted on Tuesday, November 19, 2013, the date for the final report of the Standing Senate Committee on Human Rights in relation to its examination of the issue of cyberbullying in Canada with regard to Canada's international human rights obligations under Article 19 of the *United Nations Convention on the Rights of the Child* be extended from June 30, 2014 to March 31, 2015.

[*English*]

### NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY OF ISSUES OF DISCRIMINATION IN HIRING AND PROMOTION PRACTICES OF FEDERAL PUBLIC SERVICE AND LABOUR MARKET OUTCOMES FOR MINORITY GROUPS IN PRIVATE SECTOR

**Hon. Mobina S. B. Jaffer:** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That, notwithstanding the order of the Senate adopted on Tuesday, November 19, 2013, the date for the final report of the Standing Senate Committee on Human Rights in relation to its examination of issues of discrimination in the hiring and promotion practices of the Federal Public Service, to study the extent to which targets to achieve employment equity are being met, and to examine labour market outcomes for minority groups in the private sector be extended from June 30, 2014 to March 31, 2015.

[*Translation*]

### NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY OF NATIONAL AND INTERNATIONAL HUMAN RIGHTS OBLIGATIONS

**Hon. Mobina S. B. Jaffer:** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That, notwithstanding the order of the Senate adopted on Tuesday, November 19, 2013, the date for the final report of the Standing Senate Committee on Human Rights in relation to its examination and monitoring of issues relating to human rights and, inter alia, to review the machinery of government dealing with Canada's international and national human rights obligations be extended from June 30, 2014 to March 31, 2015.

[*English*]

## THE SENATE

### TRIBUTE TO DEPARTING PAGES

**The Hon. the Speaker:** Honourable senators, I would like to take this opportunity to salute two of our departing pages.

On my left is Greg MacCormack. Next year, Greg will be entering his third year at the University of Ottawa, pursuing a degree in international development and globalization. He is grateful to have had the opportunity to represent his home province of Prince Edward Island while serving as a Senate page.

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

**The Hon. the Speaker:** Honourable senators, Ross Ryan, on my right, has just completed his Bachelor of Arts program in English literature and linguistics at the University of Ottawa. Ross, who is from New Brunswick, will be pursuing employment opportunities on the Hill and elsewhere in the National Capital Region, where he may apply the skills and knowledge he has acquired in his academic and professional endeavours.

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

# QUESTION PERIOD

## EMPLOYMENT AND SOCIAL DEVELOPMENT

### EARLY CHILDHOOD EDUCATION

**Hon. James S. Cowan (Leader of the Opposition):** Honourable senators, my question is for the Leader of the Government in the Senate and it's one of a series of questions that we've received in response to our invitation to Canadians to submit questions to us.

This question comes from Michael Sabet of Ottawa, Ontario:

I was recently made aware of research on early childhood development that highlights the importance of parents talking to their infants. Differences in the volume of words addressed to children, which have been shown to correlate to parents' socio-economic status, apparently lead to substantial disparity in children's vocabulary at as early as 18 months, with the gap growing as time goes on. The research emphasizes that interventions at pre-school age come too late to make up for these differences.

This is the question:

> While education is a provincial competence, is there nevertheless a role for the federal government to play in developing programs and resources for families to use in ensuring that their children are given the benefit of adequate engagement of this type from a very young age?

[*Translation*]

**Hon. Claude Carignan (Leader of the Government):** Thank you, senator, for passing on that question. Our priority is to ensure that Canadians prosper and have access to an increasing number of jobs. We are working very hard to achieve economic growth so that families can improve their financial situation.

We also want to ensure that everyone has access to financial education. Canadians must be able to make informed financial decisions, and we have appointed officials to be responsible for matters involving financial literacy.

We have reduced the tax burden and created the tax-free savings account to encourage Canadians to save for their future. We have implemented measures to improve access to credit and the housing market so that Canadians can have decent housing.

We have also included a number of measures in our economic action plans to create jobs, ensure that Canadian families are in a better position to improve their situation, and help children.

As you said, education falls under provincial jurisdiction, and it is up to the individual provinces to fulfill their responsibilities in this regard.

[*English*]

**Senator Cowan:** That's interesting information, except that it had nothing to do with the question. The question had to do with whether, in your view, there is a role for the federal government to play in developing programs and resources for families to use in ensuring their children are given the benefit of adequate engagement of this type from a very early age.

You talked about financial literacy. You talked about your Economic Action Plan. None of that has anything to do with the question that Mr. Sabet has put to you, and I would ask you perhaps to listen again to that question and provide some information that we, in turn, can provide to him as being your response to his question.

[*Translation*]

**Senator Carignan:** Senator, I understood the question perfectly, and I stand by my answer. I told you that our objective is to ensure that Canadian families are in a better financial position. As you know, the Parliamentary Budget Officer's report clearly indicated that the measures taken by our government as part of our economic action plans have reduced the tax burden on Canadians.



• (1410)

Every family is paying over $3,000 less in tax. Our priority is to ensure that Canadian families are in a better economic position. This will allow parents to invest in their children's education and will contribute to the development of children and families. Education itself is a provincial jurisdiction.

[*English*]

**Senator Cowan:** Honourable senators, this is not a question of tax burdens or lowering tax rates. It is a question of whether you see, your government sees, that it has a role, a leadership role, to provide in the development of programs and resources that parents can use to provide early childhood education for their children, recognizing, as Mr. Sabet did at the very beginning of his question, that education is a provincial responsibility.

Don't you accept the fact that there is a responsibility that your government — the Government of Canada, the government of all Canadians — has to provide a leadership role in this area?

[*Translation*]

**Senator Carignan:** I will reiterate my answer. Our priority is to ensure that Canadians can find employment, pay less tax and have more money in order to keep investing, including in their children's education. As far as education in particular is concerned, it is a provincial jurisdiction.

## JUSTICE

### SEX TRADE INDUSTRY

**Hon. Mobina S. B. Jaffer:** Honourable senators, my question is for the Leader of the Government in the Senate.

[*English*]

Leader, since Bill C-36 on prostitution was tabled in the other place, the Liberal Senate forum has received a number of questions from the public on this matter. This question was submitted by Jenna Simpson from Toronto and it was addressed to you. I would like to ask this question on her behalf. She states:

> The new proposed bill on sex work, Bill C-36, purports to protect vulnerable women from the abuses of prostitution by criminalizing the purchase of sex. However, the bill does much of the same work that the old Criminal Code provisions did — the very provisions that the Supreme Court struck down six months ago.
>
> In particular, the bill recriminalizes communicating in a public place for the purpose of trading sexual services for money. This was one of the key provisions found to make sex workers less safe, thereby violating their right to security of the person.

> How will this new bill keep women who work in the sex trade safe, if the very same acts that were found by the Supreme Court to make sex work less safe for sex workers are simply recriminalized from the demand side rather than the supply side?

[*Translation*]

**Hon. Claude Carignan (Leader of the Government):** The same provisions are not being reinstated. Major changes have been made to the way things were before. As you pointed out, the government has a responsibility to propose legislative measures to parliamentarians, and they have a responsibility to debate those measures. The Supreme Court decision in *Bedford* was clear. It raised concerns about the safety of women who engage in this inherently dangerous line of work. That decision has informed our bill.

Bill C-36 seeks to protect the victims of prostitution by criminalizing the pimps and johns who create the demand for this dangerous service, while putting in place measures that protect public safety, in particular the safety of our children and other vulnerable Canadians. As I said yesterday, this bill is applauded by a Quebec organization, the Conseil du statut de la femme, which said:

> The Conseil du statut de la femme welcomes the federal government's bill on prostitution, which reflects the Swedish model in penalizing johns and pimps while decriminalizing the prostitutes themselves. The federal government recognizes that prostitution is not a choice for the vast majority of prostitutes but a form of exploitation of women and an affront to human dignity, as the Conseil documented in its 2012 opinion, *Prostitution: Time to Take Action*.

Organizations like the Conseil du statut de la femme support the bill and its goals.

As I said yesterday, this bill is backed by financial measures. New funding of $20 million will support community organizations that assist the most vulnerable prostitutes because we recognize that most of them wish to leave this dangerous and damaging line of work. We are therefore focusing our funding on proven programs that will help prostitutes get out of the sex trade. I feel that this is a comprehensive approach in the legislative sense and in the sense that it provides financial support to help prostitutes get out of this very dangerous line of work.

[*English*]

**Senator Jaffer:** I have a supplementary question. This is my own question, leader, and it is following what I had asked yesterday.

If we were following the Nordic model, the person who was wanting to do the exploitation would be criminalized, but the victim would not be criminalized. The Canadian model, as this bill is called, does not do that. It criminalizes some and it does not criminalize others. It depends where you're found and how you are selling your services.

Leader, it's not doing what you are saying. I ask you to revisit this bill. Bill C-36 is not the Nordic model; it's the new Canadian model, which does not really answer what the *Bedford* decision was saying.

[*Translation*]

**Senator Carignan:** Senator, I can see that you absorbed at least part of what I said yesterday when I explained that this is a made-in-Canada model. It directly targets demand for this dangerous activity and sets out harsh sanctions against pimps and johns.

[*English*]

**Senator Jaffer:** Leader, you don't think I have dementia, and I appreciate that.

You keep talking about $20 million. I asked you yesterday, and I'm going to ask you again today: What is the criterion of how the women will get the $20 million? Which groups will get the $20 million? Is this $20 million every year or just for one time?

[*Translation*]

**Senator Carignan:** Senator, a new envelope of $20 million was announced. The community organizations that receive that funding and can use it for their projects will have to implement measures to help the most vulnerable prostitutes.

**Hon. Jean-Claude Rivest:** I listened to the responses from the Leader of the Government. He quoted the Conseil du statut de la femme du Québec. However, some groups have also pointed out that the government's approach could simply force prostitution underground, where prostitutes will be even more vulnerable. The leader knows that the Supreme Court's ruling was meant to protect those who work in this world.

Is the government aware of what has been pointed out by groups that work on the ground? I understand that the Conseil du statut de la femme du Québec is a respected organization. However, groups that work with prostitutes have criticized the adverse effect that the government's approach could have on the safety of prostitutes.

**Senator Carignan:** I thank the honourable senator for his question. As you know, the minister introduced this bill after he consulted with various groups.

• (1420)

This is a well thought-out approach — a made-in-Canada model — that will not criminalize prostitutes. It will criminalize pimps and people who try to take advantage of vulnerable prostitutes.

I would say that this approach is the complete opposite of your comment to the effect that the bill will criminalize prostitutes. This is an entirely different approach.

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[*English*]

# ORDERS OF THE DAY

## BUSINESS OF THE SENATE

**Hon. Yonah Martin (Deputy Leader of the Government):** Honourable senators, pursuant to rule 4-13(3), I would like to inform the Senate that as we proceed with Government Business, the Senate will address the items in the following order: Items No. 3 and 1 under Bills—Third Reading, followed by Item No. 2 under Bills—Second Reading, followed by item No. 1 under Bills—Reports of Committees, followed by Motion No. 50, followed by item No. 2 under Bills—Third Reading, followed by all remaining items in the order that they appear on the Order Paper.

## TLA'AMIN FINAL AGREEMENT BILL

### THIRD READING

**Hon. Nancy Greene Raine** moved third reading of Bill C-34, An Act to give effect to the Tla'amin Final Agreement and to make consequential amendments to other Acts.

She said: Honourable senators, I'm pleased to have this opportunity to lead off our debate at third reading of Bill C-34, the Tla'amin Final Agreement act. I'm also pleased to have in the gallery today two guests.

This legislation marks the culmination of almost two decades of negotiations, consultations and hard work to reach a comprehensive treaty. This agreement represents the aspirations of the Sliammon Nation people — for now and for future generations. With it, they will move away from the paternalistic and outdated Indian Act and gain the capacity to realize their full potential for growth and prosperity.

Bill C-34 will give legal effect to the Tla'amin Final Agreement, which contains a number of key elements that I would briefly like to highlight.

The final agreement provides the Sliammon Nation with land, resources, self-government and other rights. These important rights and responsibilities will help the Sliammon Nation take control of its affairs, create jobs and enhance living standards for all its community members. Not only will this agreement enable the Sliammon to build their own sustainable economy, but they will contribute to the regional economy as well.

A fundamental goal of a treaty is to achieve certainty. This means the ownership and use of lands and resources will be clear for the Sliammon Nation, government, industry and all Canadians. This certainty will help to create a positive and stable investment climate in the region. It will create opportunities for the First Nation and result in predictability for continued development and growth in the province of British Columbia.

The Tla'amin Final Agreement will also bring clarity with respect to all of the Sliammon Nation's Aboriginal rights, including title, and resolve its claims to its traditional territory, a land and marine area of approximately 609,000 hectares.

After a transition period, the outdated Indian Act will no longer apply to the Sliammon Nation, with the exception of determining Indian status. Instead, constitutionally protected self-government provisions will enable the Sliammon Nation to make its own decisions about matters related to preservation of its culture, the exercise of its treaty rights and the operation of its government.

The final agreement will also provide the Sliammon Nation with modern governance tools to build strong relationships with other governments, including federal, provincial, regional and local governments in the Sunshine Coast region of British Columbia.

Honourable senators, earlier I noted that the Tla'amin Final Agreement will also contribute to the regional economy. Indeed, Powell River's city council and the Powell River Regional District's board of directors both strongly support the Tla'amin Final Agreement. They recognize the economic opportunities that it will bring to the entire region. The Sliammon Nation has established a positive relationship with the City of Powell River and they're currently working together on developing economic partnerships.

In working with local governments, pursuing partnership agreements with local industries, and developing shared territory protocols with neighbouring First Nations, the Sliammon Nation has demonstrated its commitment to improving the quality of life of its members through building good relationships with its neighbours.

In fact, the Sliammon Nation and the City of Powell River have entered into a community accord and a protocol agreement on culture, heritage and economic development. It is not surprising that Sliammon and Powell River recognize and are exploring new opportunities for economic and infrastructure partnerships that will be afforded by the treaty.

I strongly believe that this agreement provides the people of the Sliammon Nation with a strong foundation on which to build a stable, accountable government and an economically prosperous and culturally vibrant community. As Chief Williams, who is with us today in the gallery, said yesterday, their slogan throughout the long process was: "One heart, one mind, one nation."

Honourable senators, let's move forward in supporting the timely passage of Bill C-34.

**Hon. Larry W. Campbell:** Honourable senators, it's a great pleasure that I rise again on behalf of our side to support this legislation. The Sliammon Nation is a proud and vibrant nation in British Columbia. These treaty negotiations started in 1994 and,18 years later the final agreement was ratified by members of the First Nation.

Two years later, the final agreement took place with British Columbia, Canada and the Sliammon Nation. With the passage of this bill, the nation will have the tools and the authority to continue to build a healthy, prosperous and strong community.

In the whole history of the Sliammon Nation, this event will be of great import and I believe will be spoken of for generations to come. Honourable senators, I urge you to complete this historic agreement by passing the bill at third reading.

**Hon. Lillian Eva Dyck:** Honourable senators, I would like to say a few words with respect to this bill. We went through it at committee and we had, of course, Chief Williams from the Sliammon First Nation; Roy Francis, their negotiator; Tom Molloy from Saskatchewan, who was the chief federal negotiator; and Gloria Chow from the government, as well.

It was an extremely interesting meeting with very well-articulated positions. It's another example of the B.C. treaty process. This is the fourth case we've dealt with in the Senate over the last number of years.

• (1430)

The Tsawwassen First Nation, Maa-nulth and Yale First Nations have come through the B.C. process. Our committee is familiar with the B.C. treaty process, from our report done a couple of years ago, and how it takes so long. This is another example, where it has taken this group 20 years to get to the final point, but they've come to a point where they are on the cusp of realizing their dreams. It's a very exciting moment. I must congratulate them for having the fortitude and spirit to carry this forward, despite the length of time it has taken.

The other thing about these treaties in B.C. is that it costs the individual First Nation a lot of money. I don't remember the exact sum, but it will cost them — $11 million will have to come out of their fiscal transfer of $31 million. They will have to pay one third of the fiscal transfer they receive in order for this agreement to be finalized. That's a consideration.

They are very close to Powell River and they were talking about the forestry industry there and how this is beautiful land out in B.C. I'd love to go and visit. They went to celebrate the one hundredth anniversary of the paper mill there. They said it was a bittersweet moment because the site of their traditional land, where the Sliammon First Nation originated, is on the site of the pulp and paper mill. That is land that was traditionally theirs which they do not now own. Regardless, they have taken the position to move ahead.

They said that as time passes they could see Crown land disappearing around them, so they had to take advantage of the opportunity and move forward. A lot of their land apparently is on the waterfront, so they'll be able to do economic development along there, which of course will benefit their people tremendously.

We asked why it takes so long to negotiate these treaties; why did it take 20 years? It's hard to put in a few words. One of the issues brought out yesterday, which has been brought up before, is one of trust between negotiating parties. It takes years for a trusting relationship to be developed between the parties. It also takes time for community members themselves to adjust to the idea of moving from their lifestyle and accepting this new agreement, which is a very different agreement and something they're not used to. It takes a lot of time to convince the community members themselves that this is the best way forward.

In order to ratify these agreements there is a high bar set. In order to get ratification, you really have to convince the majority of your members that this is the way to go. The chief and negotiator talked about how their First Nation has a high percentage of youth: something like 60 per cent. Some of them are well educated, and this will provide an opportunity for them to come back to the reserve and bolster economic development and be employed on the reserve rather than lose their talent to other cities in the neighbouring area.

It sounds wonderful. It was also interesting to note that there were a couple of court challenges, as happened with other of the B.C. treaty negotiations. They were both quashed in court, but one was from the member of Parliament who actually represents the region. Fortunately he really didn't have a leg to stand on, so the agreement has gone forward.

I must congratulate Sliammon First Nation. It's nice that we're able to deal with something that opens the door to the future for all members of their community, and I congratulate them and wish them all the best.

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

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

**Hon. Senators:** Question.

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

**Hon. Senators:** Agreed.

(Motion agreed to and bill read third time and passed.)

## VISITORS IN THE GALLERY

**The Hon. the Speaker** *pro tempore***:** Honourable senators, I wish to draw your attention to the presence in the Governor General's gallery of Clint Williams, Chief of Sliammon First Nation and Tom Molloy, Chief Federal Negotiator. They are the guests of the Honourable Senator Raine.

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

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

## CRIMINAL CODE

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

**Hon. Vernon White** moved second reading of Bill C-10, An Act to amend the Criminal Code (trafficking in contraband tobacco).

He said: Honourable senators, I'm pleased to speak in favour of Bill C-10, An Act to amend the Criminal Code (trafficking in contraband tobacco). This enactment proposes amendments to the Criminal Code to create a new offence of trafficking in contraband tobacco and to provide minimum penalties of imprisonment for persons convicted for a second or subsequent time of this offence.

To help reduce the problem of trafficking in contraband tobacco, the government committed, among other things, to establishing mandatory jail time for repeat offenders of trafficking in contraband tobacco in its 2011 election policy platform. This bill will represent the fulfillment of that commitment.

Presently there is no offence of trafficking in contraband tobacco in the Criminal Code. This bill creates a new offence of dealing with contraband tobacco in the code. The bill prohibits the possession for the purpose of sale, sale, offer for sale, the transportation, delivery or distribution of a tobacco product or raw-leaf tobacco that is not packaged unless it is stamped. The terms "tobacco product," "raw leaf tobacco," "packaged" and "stamped" have the same meanings as in section 2 of the Excise Act, 2001.

Overall, the proposals represent a tailored approach to the imposition of mandatory minimum penalties for serious contraband tobacco activities. The bill proposes minimum penalties only in cases where there are certain aggravating factors present.

The penalty for a first offence would be up to six months' imprisonment on summary conviction and up to five years' imprisonment if prosecuted on indictment. Repeat offenders convicted of this offence in cases involving 10,000 cigarettes or more, 10 kilograms or more of any other tobacco product, or 10 kilograms or more of raw leaf product will be sentenced to a minimum of 90 days on a second conviction, a minimum of 180 days on a third conviction and a minimum of 2 years less a day on subsequent convictions.

The bill also amends the definition of "Attorney General" in the Criminal Code so as to give the Attorney General of Canada concurrent jurisdiction with the provinces to prosecute this new offence.

Honourable senators, most of you are aware that we have already studied and debated the predecessor bill, former Bill S-16, which contained the same provisions as are contained in this bill, so I'll be short.

The unlawful production, distribution and sale of cigarettes in Canada have reached significant levels in recent years, creating challenges for public health officials, law enforcement, tax authorities, policy-makers and the public. Contraband tobacco is a threat to the public safety of Canadians, our communities and our economy. It fuels the growth of organized criminal networks, contributing to the increased availability of illegal drugs and guns in our communities.

While I expect this to discourage the smoking of contraband cigarettes, it's also meant to address the more general problem that has become the trafficking in contraband tobacco. As most of you will recall, in addition to introducing this bill in the last session of Parliament, the government advanced its efforts to combat the trafficking and cross-border smuggling of contraband tobacco by announcing the establishment of a 50-officer RCMP anti-contraband tobacco unit.

• (1440)

The tobacco smuggling problem that we face can be placed in the context of the broader problem of tobacco smoking generally. We know that there are significant threats to the health of Canadians when it comes to smoking tobacco. Tobacco use leads, most commonly, to diseases affecting the heart, liver and lungs. Particularly troubling is that younger people are smoking contraband cigarettes in alarming numbers. Cheap prices, easy access and no age check mean youth who should not be smoking at all are having no problem getting tobacco through the contraband market. Although tobacco deaths rarely make headlines, tobacco is responsible for a great number of deaths. Tobacco users, on average, die 15 years prematurely. Many tobacco users want to quit but are unable to because of their dependence on a highly addictive substance. As we are well aware, cigarettes and other smoked tobacco products rapidly deliver the addictive drug nicotine to the brain immediately after inhaling, about as efficiently as an intravenous injection with a syringe. The tobacco industry itself has referred to cigarettes as a nicotine delivery device, but because the effects of smoked tobacco last only a few minutes, smokers experience withdrawal symptoms unless they continue to smoke.

Smokers are not the only ones who suffer health-related problems. Second-hand smoke also has serious, often fatal health consequences. Second-hand smoke causes lung cancer deaths and heart disease deaths as well. Second-hand smoke is responsible for sudden infant death syndrome, for example, low birth weight babies, preterm deliveries and episodes of childhood asthma.

Honourable senators, tobacco use is often perceived to be solely a personal choice. This perception is undermined by the fact that, when fully aware of the health impact, most users want to quit but find it difficult to stop due to the addictiveness of nicotine.

Despite overwhelming evidence of the dangers of tobacco, relatively few tobacco users fully understand the risks to their health. Most people know generally that tobacco use is harmful but are unaware of the wide spectrum of specific illnesses caused by tobacco, the likelihood of disability and death from long-term tobacco use, the speed or degree of addiction to nicotine or the harmfulness of second-hand smoke. Most people also grossly overestimate the likelihood that they can quit when they want to.

People are most likely to begin to use tobacco as adolescents or young adults. People in this age group find themselves typically less concerned about risks to their health or lives and are more likely to engage in risky behaviour. They are also highly susceptible to peer pressure and to advertising. They may be more likely to become addicted to nicotine more quickly than people who are older, even if they smoke only occasionally.

The harm caused by tobacco use is not limited to damage caused to one's health. Tobacco use also causes serious harm to the economy. While the tobacco industry can accurately claim that it creates jobs and generates revenues that enhance local and national economies, in my estimation, this is true only in a narrow sense. The industry's overriding contribution to any country is economic losses, in my opinion. Tobacco use incurs considerable costs each year. Tobacco-related deaths result in lost economic opportunities. Lost economic opportunities are severe because tobacco-related deaths often occur during the prime productive years of an individual. There is a serious drain on economic resources because of direct medical costs and indirect medical costs, such as disability long-term care. Economic losses also occur because of lost wages and productive losses due to tobacco-related draining illnesses.

In essence, contraband tobacco, overall, is a threat to our communities. If left unchecked, criminals will continue to profit at the expense of the health and safety of Canadians and at the expense of government tax revenues. The Government of Canada recognizes that contraband tobacco smuggling has become a serious problem in the last number of years. Canadians want these contraband tobacco smuggling activities stopped. Protecting society from criminals is a responsibility that we and this government take seriously. Accordingly, this bill is part of the government's continued commitment to take steps to protect Canadians and to make our streets and communities safer. While it is clear that the contraband tobacco market is a significant law enforcement issue, this bill is, first and foremost, directed at criminals who engage in contraband activities, particularly recidivist offenders. I believe this bill will also contribute to a decrease in the use of contraband tobacco and, as a result, will improve the overall health of Canadians.

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

## PERSONAL INFORMATION PROTECTION AND ELECTRONIC DOCUMENTS ACT

### BILL TO AMEND—SEVENTH REPORT OF TRANSPORT AND COMMUNICATIONS COMMITTEE ADOPTED

The Senate proceeded to consideration of the seventh report of the Standing Senate Committee on Transport and Communications (Bill S-4, An Act to amend the Personal Information Protection and Electronic Documents Act and to make a consequential amendment to another Act, with an amendment), presented in the Senate on June 10, 2014.

**Hon. Dennis Dawson** moved the adoption of the report.

**Hon. Joan Fraser (Deputy Leader of the Opposition):** I understand the report includes an amendment to the bill. Senator Dawson, I wonder if you could explain it for us, please.

**Senator Dawson:** The amendment adopted at committee modifies the proposed section 10.1(6), in clause 10 of the bill, removing text that would have allowed government institutions to request that an organization delay informing individuals of a breach of security safeguards for a criminal investigation relating to a breach. Following the witnesses' testimony, it was considered that notice to individuals should not be delayed even when there is a criminal investigation under way, as a delay could negatively impact the individual whose personal information has been compromised by a breach of security safeguards. This amendment was unanimously adopted, and the bill was adopted on division.

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

**Hon. Senators:** Agreed.

**Senator Fraser:** On division.

(Motion agreed to, on division, and report adopted.)

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

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

## CANADA ELECTIONS ACT

### ALLOTMENT OF TIME—MOTION ADOPTED

**Hon. Yonah Martin (Deputy Leader of the Government)**, pursuant to notice of June 10, 2014, moved:

> That, pursuant to rule 7-2, not more than a further six hours of debate be allocated for consideration at third reading stage of Bill C-23, An Act to amend the Canada Elections Act and other Acts and to make consequential amendments to certain Acts.

She said: Honourable senators, I rise today to speak to the motion for time allocation that states that, pursuant to rule 7-2, not more than a further six hours of debate be allocated for consideration at third reading stage of Bill C-23, an Act to amend the Canada Elections Act and other Acts and to make consequential amendments to certain Acts.

The motion before us will ensure that the debate at third reading will be conducted in a thorough and efficient manner. Bill C-23 is an important government bill that strengthens the integrity of our voting process. In response to many of the issues identified in the Chief Electoral Officer's report, Bill C-23

implements 38 of the recommendations. In doing see, the bill makes the Canadian elections laws transparent and easier to follow, restoring confidence in our electoral system. As the bill addresses many issues that are fundamentally important to a stronger democracy, Bill C-23 has received focused attention in both houses. First reading of Bill C-23 occurred in the House of Commons on February 4, 2014. Second reading occurred in the House of Commons on February 5, 2014, and the bill was referred to the Standing Committee on Procedure and House Affairs on February 10, 2014.

• (1450)

Concurrently, the Standing Senate Committee on Legal and Constitutional Affairs had the opportunity to examine the bill prior to it coming before the Senate. The committee held six meetings on the pre-study of Bill C-23 and proposed nine recommendations that resulted in a number of significant amendments to the bill. The committee also had the opportunity to study the amended bill on June 4 and 5.

In our daily meetings at scroll, Senator Joan Fraser and I have discussed the significance and timeline of Bill C-23. However, I regret to inform all honourable senators that we were not able to come to an agreement about the proposed timeline for Bill C-23. Therefore, I urge all honourable senators to support this important motion to ensure a timely debate and adoption of this important bill. Thank you.

**Hon. James S. Cowan (Leader of the Opposition):** I listened carefully to what the Deputy Leader of the Government said. She spoke a bit about the merits, in her view, of the legislation, but she offered not one scintilla of evidence, not one word of argument, not one word in support of this motion.

I'm not going to speak at length today. I've spoken far too often on this business.

**An Hon. Senator:** Oh, oh.

**Senator Cowan:** But you have not listened yet, Senator Plett. That's the difficulty. I live in the hope that someday you might actually listen and might learn from what people say.

Far too often in the last few years this government has brought in the guillotine. It has brought down the hammer and shut off debate before senators have had an opportunity to carefully consider the merits of the legislation that's before them.

When the government brings in a motion to shut off debate, presumably it's on the basis that there is some urgency about the matter before it and there is some reason to believe that some objectively determined deadline will not be met if the house is allowed to proceed in the ordinary course of events.

I listened carefully to what the deputy leader said. She said nothing about why it was necessary today to bring down the hammer to impose time allocation. Let's be clear: There is absolutely nothing, no evidence, no argument that has been led to persuade any of us in this house that there is any need for this motion at this time. We're not talking about the merits of the bill; we're talking about a motion to shut off debate. It is incumbent on the government, I would suggest, to come forward with persuasive arguments in support of a motion that shuts down the ordinary course of debate in this house.

Even if the question was, "We need to have this passed before we rise at the end of next week," even if that argument were made, and it was not, but even if it were, and even if that were true, there is no reason why we can't have a debate over the next 10 days and finish debate on this bill and bring it to third reading vote before we leave for the summer.

So the question is: Why are they doing this today? The only conclusion I can reach, honourable senators, is that they're doing it not because it's necessary but simply because they can. They are simply throwing their weight around. They are simply saying, "We have the power to do this so we're going to do it."

If they are prepared to do this with respect to government business without providing any justification whatsoever, what would they do if the rule changes that are proposed by the majority of the Rules Committee applied not only to government business but to any other piece of business on which the government might choose to abort a debate in this house?

This is not the way in which we should conduct ourselves. One should go back and reread the decision of the Supreme Court of Canada. It made it very clear that our primary role in this place is to be not a rival to the House of Commons but a complement to the House of Commons and to be the house of sober second thought and the house of careful review. Every time the government brings down closure and brings in time allocation and shuts off debate before there has been a reasonable opportunity to discuss the merits of a bill, it flies in the face of what the Supreme Court of Canada has told them and all Canadians is the proper role of this chamber. That, honourable senators, is shameful.

[*Translation*]

**Hon. Fernand Robichaud:** Do I understand correctly that, on this side, we were prepared to pass the bill before the summer recess and that was simply not enough for the government at this time?

[*English*]

**Senator Cowan:** That's correct.

**The Hon. the Speaker** *pro tempore*: On debate? I would remind colleagues that this debate is special. Thirty minutes is allocated to each leader and ten minutes to each senator, including the question period, of course. Senator Moore.

**Hon. Wilfred P. Moore:** Colleagues, this is clearly an abuse of purpose and process.

We are dealing here with one of the most fundamental things we have, the underpinning of our democracy, the vote, the right of people to vote, to have access to vote and the integrity of our electoral process. It's interesting that a couple of the key officers in that process, the Chief Electoral Officer and the Commissioner of Canada Elections, were not consulted at all. They appeared before committees, but they were not consulted in the preparation

and the thinking that went into the preparation of this bill. You have to wonder why. I mean, these are honest, hard-working servants of the people. They have great experience. They had good things to bring to the table to help make this bill better, but they were not consulted, and their advice to committees was not followed.

That does not make sense to me, especially when, in 2007, the same government brought in changes to the Elections Act and those two officers were consulted and their opinions were heavily relied upon, but not today. In the past, in 2007 when we dealt with changes to the Elections Act, members of the House of Commons had extensive opportunities to discuss the bill. People in authority who know how the process operates, academia and so on, were involved.

Today, we are seeing a push to jam this through. I don't know why. Why are we muzzling the debate? We can add over here. You have the numbers. You can get your way on the final day, but that does not justify the government's proceeding in this manner and putting a squeeze on the debate of this very important issue.

The bill is still deeply flawed. It was tinkered with, but it's not right, and members opposite have to know that. It's been pointed out to them many times. I don't know why it is being pushed through at breakneck speed. It is not appropriate, and it's just contrary to the whole Canadian way of doing things, of open discourse, especially on something that is such a very important part of our whole democratic process, our way of life, our way of doing things in a reasonable way. It doesn't say much at all for the sober second thought that this chamber is supposed to provide and that the Canadian public looks to us to provide.

I think this time allocation motion is completely out of order.

**Hon. Mobina S. B. Jaffer:** Honourable senators, I am really troubled by us looking at time allocation on this bill. Placing time allocation on a bill that deals with voting, an aspect of our democracy that's so integral to its legitimacy, is truly unwise.

You have heard from me a number of times on this issue, and I believe now it's appropriate that we hear from some of the other people for whom we say we are here, Canadians. This is what they have to say. I will read to you what a number of Canadians are saying about us debating this bill.

• (1500)

Honourable Senator

> Today I received my notice to vote in the upcoming Ontario Provincial election which made me decide to write to you.
>
> You are in the process of debating Bill C-23, the Fair Elections Act. I would like to add my voice to those opposed to this Bill.
>
> This Bill is intended to stop voter fraud, but to my knowledge, there is little voter fraud to stop. What it actually does is make it more difficult for Canadians to take part in the most basic of our Democratic institutions, the ability to vote.
>
> The ability for a citizen of Canada to vote is so important that it is included in our Constitutional Rights, and this Bill looks to limit that Right for some Canadians.
>
> The "Gold Standard" to be able to vote is the Driver's Licence, it is the most acceptable piece of identification, in fact, when you produce your licence you don't even need to show any other ID in order to vote.
>
> My wife doesn't have a Drivers Licence.
>
> Her name also does not appear on our bills, most of these accounts were set up before we were married and come in my name alone. We have a passbook at the bank, so we don't get a statement and I am the primary card holder for our credit cards so her name doesn't appear in the mailing address for our credit card bill.
>
> Fortunately, the government allowed an amendment to allow for vouching albeit with more hoops to jump through than before.
>
> I am also concerned that my father may not be able to vote in the next General Election. He has recently lost his licence to drive because of his eyesight. He has lost his "Gold Standard." The last time we spoke of Health Cards, he still had the old style of card, without his picture on it. I'm not sure how this legislation will affect his ability to vote.
>
> My father grew up in occupied Europe in the Second World War, he knows about oppression, the loss of civil liberties and rights such as our right to vote. He became a Canadian in the 1950s and has voted in every election since. He even took me to the polls when I was young to see what voting was about. Maybe that's where I learned my love of Democracy.
>
> It would be sad if this Bill caused him to miss voting in an election.

Honourable senators, many Canadians are very concerned about this bill and what our democracy will look like. I've heard from someone in my province, Chris Kelland from Salt Spring Island, B.C. He states:

> What about "ordinary Canadians"? From everything I've seen, the vast majority of Canadians who know even a little bit about the bill think it's terrible too. Every poll that I've seen asking about this bill indicates that most informed Canadians think this is a bad bill. Recent comments on the Minister for Democratic Reform's Facebook page (which comments may have been deleted by now) make it clear that the bill is widely unpopular. I have screenshots of the hundreds of comments, and almost every single one of them was against this bill. I've been watching the newspapers across the country for letters to the editor on this bill, and

> from what I've seen, they have been overwhelmingly negative too. I have compiled a list of organizations that oppose the bill, and it includes teachers' associations, CARP, various unions, the Canadian Federation of Students, the Canadian Civil Liberties Association . . . and the list goes on.
>
> So, there is every reason to believe that this is "ill considered legislation" and that it does not represent the "deliberate and understood wishes of the people." In addition, it is "hasty". Time allocation was used at every turn, and at the House Committee stage there wasn't even time to consider every proposed amendment.

Honourable senators, I don't need to remind you that one of the things we will all look at as a highlight of our time in the Senate is when the Senate Standing Senate Committee on Legal and Constitutional Affairs, after its pre-study, sent a number of recommendations for the minister to consider and, happily, some amendments were made. But there is still a lot of work to be done on this bill.

As the deputy leader was speaking, I heard from Leslie Parrot; and this is what she says:

> Dear senators: Don't rubber-stamp Bill C-23. It may send our election process even further into the dark. At the very heart of Canadian society is the belief in fairness. We may not always toe the line, but we always believe in the end that we will arrive at it. As a 66-year-old Canadian, I'm losing faith in our country's ability to put itself back on track; and this bill only makes getting there much harder. Please think hard, honourable senators, before you have time allocations and support this bill.

Honourable senators, there are hundreds and hundreds of letters I could read, but in the time allocated to me of 10 minutes, I want to say: We are the chamber of sober second thought. It is absolutely wrong that we continuously use time allocation. We already have an uphill battle over our reputation. We are just making sure that our reputation suffers even more when we continue to have time allocations on such important bills.

**Hon. Donald Neil Plett:** Honourable senators, I would like to also take part by saying a few words on this particular issue.

The Leader of the Opposition went on at length about us stifling debate. I would like to say that in fact time allocation opens debate. We are now debating. We are debating time allocation. We will debate the motion. In fact, adjourning debate is stifling debate. That is what the opposition tries time and time again if they don't have any other avenue — let's adjourn this.

All honourable senators here, I believe, had a pretty good idea that our deputy leader would be introducing this motion. Of course, everybody could have prepared speeches and speaking notes. I didn't do it either but decided to put some together quickly now.

Nevertheless, as the leader said, we have a limited amount of time to bring this through. There is an awful lot on the agenda, and he's well aware of that. Here again, they are upset that we are going to limit debate, in his opinion.

I would like to quote a few statistics on what we have done. I'm very happy to be a member of our Legal and Constitutional Affairs Committee that studied this bill. In our committee, we had six meetings over three days. We heard from 20 witnesses. I think that is a fair number of witnesses. As our deputy leader pointed out very clearly, our committee had nine recommendations, and very much members opposite were part of those recommendations. We unanimously supported those recommendations and sent them over to the other place.

The minister and others in the other place accepted five of our recommendations. Indeed, as Senator Frum said yesterday or the day before, we took a good bill and made it even better.

In the other place, they didn't just ram this through, as has been said so many times. There were four days of second-reading debate in the other place. On the first day, eight MPs intervened either speaking or asking questions. On the second day, there were 19 different MPs. On the third day, 22 MPs intervened. On the fourth day, 18 MPs intervened with speeches and/or questions.

Then the House of Commons Procedure and House Affairs Committee held 19 meetings on Bill C-23. By my count, that committee heard from 74 witnesses. At the same time during pre-study of Bill C-23, our Legal and Constitutional Affairs Committee, as I said, held six meetings and heard from 20 witnesses. Again, five of our committee's recommendations were accepted.

There has been a considerable amount of debate on this. We have not stifled debate. We had a very open dialogue at our committee meetings. Indeed, some amendments proposed at committee weren't accepted but the suggestions we had for the minister were unanimously accepted by both sides.

I don't want to prolong this today and I don't want to prolong this at the next six hours of debate. In the five years that I've been here, I don't think there have been very many days that we have completely exhausted the time limits that we've been given in these debates, and I doubt we'll exhaust two and a half hours here today; but maybe you'll prove me wrong about that.

• (1510)

Again, I don't think the two and a half hours we are allowed today and the next six hours we will be allowed are going to be adequate for everybody to get up in this chamber and say what they need to say on this very good piece of legislation.

Canadians across the country are happy with this legislation, from coast to coast to coast. As I said at committee the other day, the five or six people who may have had a problem voting before we made some of the changes are now able to vote.

The senator opposite says there are people now who will not be able to vote. We have an election going on now in Ontario. That election wasn't called yesterday for a vote tomorrow; that election was called five or six weeks ago for an election tomorrow. Everybody in the Province of Ontario knew that there would be an election on June 12. Everybody in Ontario who didn't have proper identification could have ensured they had that proper identification.

Every Canadian knows that our pre-fixed election date is for October 2015. Surely to goodness anybody who does not have an adequate piece of identification with their picture or their address on it can either get that piece of identification or, between now and next October, get to know somebody who will come and vouch for them, because the vouching is still there if they don't have that proper piece of identification. Somebody can still swear that oath.

They now should be on notice, when this gets Royal Assent, that by a year from October they will need to have that piece of identification or get to know the person who will vouch for them.

Honourable senators, we have not stifled debate. Our deputy leader is most certainly not stifling debate. We would very much like the debate to continue, but clearly, as she has said, we couldn't reach agreement on when this would happen. When you can't reach an agreement, you have to do something.

If the Leader of the Opposition says we do it because we can, that is what he has done for years: "Because we can." Now, leader, you're finding out that maybe you're going to have to try to keep debate going and not adjourn the debate on something that you can very easily continue to keep going.

I challenge us here to embrace this motion and keep the debate going today for as long as you feel you have speakers to keep the debate going. For the next six hours, my word, I would suggest maybe we all get into our offices and prepare our 10-minute speeches, because, if that's what we have in the next speech, then that means we need a whole bunch of speakers to absorb those six hours.

I certainly support this. I believe this is absolutely necessary at this time in order to get a very good piece of legislation through and so that this piece of legislation can get Royal Assent before we rise for the summer to be law for the next election.

**Senator Moore:** A point of order, Your Honour.

**The Hon. the Speaker** *pro tempore***:** No points of order are allowed.

**Senator Moore:** A clarification for the record, then. How do I correct the record?

**The Hon. the Speaker** *pro tempore***:** Okay, correct the record.

**Senator Moore:** The senator opposite said that the report that came out of the Standing Senate Committee on Legal and Constitutional Affairs was unanimous. It was not unanimous. There was a minority opinion attached to it with nine recommendations and none of those were adopted.

**The Hon. the Speaker** *pro tempore***:** I think the point was made.

**Senator Plett:** I would like to rebut that point, Your Honour.

**The Hon. the Speaker** *pro tempore***:** That was a question, so go ahead, Senator Plett.

**Senator Plett:** I think if we check the record, senator, you will find that I said that the recommendations were unanimously supported. I said that there were amendments made at the Senate that were not accepted. I did not talk about the minority report at all, but I did say that the nine recommendations we had made were unanimously accepted. Unfortunately, the deputy chair of the committee just left, but I think he would probably have agreed that, in fact, is what happened.

**The Hon. the Speaker** *pro tempore***:** On debate.

[*Translation*]

**Hon. Céline Hervieux-Payette:** Honourable senators, I would like to participate in the debate, but first I would like to examine the fundamental issues. Changing a parliamentary regime, particularly with regard to the right to vote that allows people to choose their government, affects the very basis of the democratic system.

Instead of inviting the other parties to reach a consensus from the beginning and correct the flaws in the law, the Conservatives introduced a bill without consulting the other parties. In my opinion, changing the way people vote without any consultation is completely undemocratic.

The members of the other place and of this chamber did what they could in an attempt to fix the clauses that would decrease the quality of the vote and democracy. However, I believe that this bill is inherently flawed.

Our colleague believes that only five or six people were opposed to it. I don't know whether people forgot to send copies to our Conservative colleagues. I received a great many letters from Canadians. They were not form letters in which the same message was repeated over and over again, but heartfelt, well thought-out letters in which Canadians shared their serious concerns. To them, the very foundation of their country is in question. Those people, like me, travel around the world and are very proud of their Canadian institutions. We cannot be proud of how things were done or the end result, let alone today's procedure.

I wonder if it is an illness to constantly want to do things in this way. The party quite simply decided to pass the bill before adjournment and impose closure in an absolutely perverse manner.

I agree with the Leader of the Opposition that we don't even know why time allocation is being imposed. Such a tactic can be used when it comes down to the wire and the government does not think there will be enough time for a bill to be passed. However, we agreed to pass this bill at third reading before we rise for the summer. There is therefore no reason to proceed in this fashion, except to undermine the democratic process, discredit it and put us in a position where we must rise not to discuss the substance of the issue, but its form. This approach lacks originality, to say the least. I would even go so far as to say that it is insulting.

I join all of my colleagues in saying that I am disappointed and hurt by the way the government is dealing with this fundamental issue. One of the reasons why I belong to this institution is the quality of our democratic system; otherwise, I would not be here.

I would be going about my business, like most Canadians, who do not have access to the Senate. I am here to serve the public good and work for people who have put their faith in us, but we are unable to work with our colleagues in an atmosphere of trust.

Honourable senators, for these reasons, I cannot support this motion. I am sorry that the government does not place enough value on our democratic system. From now on, when I am outside the country, I will no longer be able to brag about how Canada has a higher-quality system than most other democratic countries. On the contrary, the quality of our democracy has been diminished.

[*English*]

**Hon. Joan Fraser (Deputy Leader of the Opposition):** Colleagues, this is a complete travesty. Here we are imposing closure — closure — stifling debate on a law about democracy. Democracy is supposed to be about debate and informed decision. Not this time. Not this time.

This bill has been rammed through in a truly shameful fashion. My friend Senator Plett — I'm sorry he has left the chamber — alleges that this bill is supported by the people of Canada. I've been here 16 years and I have very rarely seen such an outpouring of public opposition to a piece of legislation.

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

**Senator Fraser:** It was opposition not just from ordinary voters — we are all ordinary voters — but also from experts and from international institutions. This bill has been recognized for what it is: an attempt to skew the system in favour of the government of the day.

• (1520)

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

**Senator Fraser:** I find it truly shameful. It has been rammed through in an absolutely appalling fashion.

Yes, the Legal Committee did a pre-study of the bill, and it's a good thing too, looking at what we're faced with today; and yes, they heard some learned witnesses. But, as we know, the bill was then amended. It's not the same bill that the Legal Committee pre-studied. Never mind consideration in committee of the bill as it now stands, the document that will become the law of the land once this government has had its wicked way with the Senate. The bill is not the same bill that was pre-studied. But the hearings were compressed. Oh no, we wouldn't want to hear witnesses at any great length about the actual bill, would we? We wouldn't want to hear, would we, in committee, from the Chief Electoral Officer of Canada, from the Commissioner of Canada Elections?

Colleagues, one of the most shameful elements of this whole experience has been the character assassination of the Chief Electoral Officer of Canada, whom we trust to administer our elections fairly and who does his level best to do that important — I almost want to say sacred — work, to say nothing of Sheila Fraser, as my leader says, and the character assassination of her.

But the Chief Electoral Officer and the Commissioner of Canada Elections are surely the people in Canada who know most about how elections actually work, how we put into play the principles that we all say we believe in. Does the actual bill meet the high standards that Canadians have historically been entitled to expect? Does the Chief Electoral Officer think that the amendments served the necessary purpose? We weren't allowed to find out. He wasn't allowed to answer the truly outrageous accusations that have been made against him of self-interest and I don't know what all.

So we rammed the bill through committee, which is actually where we should have been able to do, collectively, our best examination of this fundamentally important legislation. We whip it back into the chamber and, boom, time allocation.

It's not necessarily the number of hours of debate; it's the degree of information that senators are able to accumulate on debate. Senators have not had the opportunity to become as fully informed as we should be about a bill of this importance. It's truly scandalous, absolutely scandalous. It's even worse because, as my leader and some other speakers have noted, there is no reason for this rush. Assuming that the Prime Minister abides by his very own legislation on fixed election dates, the election won't be for another 16 months. We could have taken a little longer to think through this bill. But, no, it's convenient for the government to get it shoved out of the way and hope that the public indignation will dissipate once it's no longer on the parliamentary agenda.

Does nobody have any sense of responsibility to the citizens of Canada here?

Senator Robichaud asked if we would have been able to reach agreement to get this done before we rose for the summer, and I think we could have. But agreement was not actually sought. There was not agreement on the timetable in committee, which, as I have suggested, would be the most important thing. Agreement was not sought on longer periods available for debate in the Senate. No. Agreement was sought on the basis of, "Will you or will you not agree to time allocation?" That is, I must say, the way this government, acting, I suspect, on instructions from across the street, tends to approach time allocation. It doesn't begin with, "Can we decide how best to handle this legislation?" It is, "Well, we'd like to allocate time. We're going to allocate time if you don't do what we want." Period.

I don't consider that negotiation; I really don't. I've had enough experience with my colleague opposite to know that when negotiation is possible, it does occur. That's why I suspect that some gentlemen in short pants may have had a word to say about this.

We could have debated this bill right up to the day when we left for the summer. Nothing would have prevented that, and we would have been able to hear again from Canadians to express their concerns, to try to do the job that we are supposed to do, to do our duty. It is our duty to give sober consideration to legislation that is before us. We're being prevented from doing that, and I, personally, am truly ashamed.

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

**Hon. Elaine McCoy:** A question for Senator Fraser, if she would entertain one. Let me understand you, particularly. If you had been asked whether you anticipated, on behalf of Liberal members of the Senate, that debate on this bill would have been completed by June 24, what would your answer have been?

**Senator Fraser:** My answer would have been that's certainly possible. I believe we could have reached agreement if we had agreed to extend committee sittings, perhaps even have a Committee of the Whole with the Chief Electoral Officer. That would have been very instructive for everyone, every member of this chamber. But these were not the subjects of negotiation, I regret to say.

[*Translation*]

**Hon. Ghislain Maltais (The Hon. the Acting Speaker):** If there are no other questions, the debate is closed. Are honourable senators ready for the question?

**Hon. Senators:** Agreed.

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

**Some Hon. Senators:** No.

**Some Hon. Senators:** Yes.

**The Hon. the Acting Speaker:** Will those honourable senators in favour of the motion please say "yea"?

**Some Hon. Senators:** Yea.

**The Hon. the Acting Speaker:** Will those honourable senators who are opposed to the motion please say "nay"?

**Some Hon. Senators:** Nay.

**The Hon. the Acting Speaker:** In my opinion, the "yeas" have it.

*And two honourable senators having risen:*

**The Hon. the Acting Speaker:** Is there agreement on the bell? Call in the senators. A standing vote will be taken at 4:29 p.m.

• (1630)

[*English*]

Motion agreed to on the following division:

YEAS
THE HONOURABLE SENATORS

Andreychuk
Ataullahjan
Batters
Bellemare
Beyak
Boisvenu
Carignan
Champagne
Dagenais
Demers
Doyle
Eaton
Enverga
Fortin-Duplessis
Frum
Gerstein
Greene
Housakos
Johnson
Lang
LeBreton
Maltais
Manning
Marshall
Martin
McInnis
McIntyre
Meredith
Mockler
Neufeld
Ngo
Ogilvie
Oh
Patterson
Plett
Poirier
Raine
Rivard
Runciman
Seidman
Seth
Smith (*Saurel*)
Stewart Olsen
Tannas
Tkachuk
Unger
Verner
Wallace
Wells
White—50

NAYS
THE HONOURABLE SENATORS

Callbeck
Campbell
Chaput
Charette-Poulin
Cools
Cordy
Cowan
Dawson
Day
Dyck
Eggleton
Fraser
Furey
Hervieux-Payette
Hubley
Jaffer
Joyal
Lovelace Nicholas
Massicotte
McCoy
Mercer
Mitchell
Moore
Munson
Ringuette
Rivest
Robichaud
Smith (*Cobourg*)
Tardif
Watt—30

ABSTENTIONS
THE HONOURABLE SENATORS

Nolin—1

BILL TO AMEND—THIRD READING—MOTIONS IN AMENDMENT NEGATIVED—VOTE DEFERRED

On the Order:

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

And on the motion in amendment of the Honourable Senator Moore, seconded by the Honourable Senator Robichaud, P.C.:

That Bill C-23 be amended in clause 10, on page 11, by replacing lines 32 and 33 with the following:

"any other Act of Parliament, and he or she may fix and pay".

That Bill C-23 be amended in clause 46,

(*a*) on page 24, by deleting lines 42 to 44;

(*b*) on page 25,

(i) by replacing lines 1 to 9 with the following:

**"46. (1) Paragraph 143(2)(*b*) of the Act is",**

(ii) by replacing line 16 with the following:

**"(2) Subsection 143(2.1) of the Act is",**

(iii) by replacing lines 25 to 31 with the following:

**"(3) Subsection 143(3) of the Act is replaced by the following:**

(3) An elector may instead prove his or her identity and residence by taking an oath in writing", and

(iv) by replacing line 43 with the following:

"(*b*) vouches for him or her on oath"; and

(*c*) on page 26,

(i) by replacing lines 6 to 9 with the following:

"(iv) they have not vouched for another elector at the election, and

(v) they have not been vouched for by another elector at the",

(ii) by replacing line 11 with the following:

**"(4) Section 143 of the Act is amended by", and**

(iii) by deleting lines 16 to 22.

That Bill C-23 be amended in clause 47,

(*a*) on page 26, by replacing line 26 with the following:

"her identity and residence by taking an oath in writing in the"; and

(*b*) on page 27, by replacing lines 1 and 2 with the following:

"(2) If a person decides to vouch for an elector by taking an oath in writing in the".

That Bill C-23 be amended in clause 50,

(*a*) on page 28,

(i) by replacing lines 7 to 11 with the following:

"(*b*) proves his or her identity and residence by taking an oath in writing in",

(ii) by replacing line 28 with the following:

"(ii) vouches for the elector on", and

(iii) by replacing lines 36 to 40 with the following:

"(D) they have not vouched for another elector at the election, and

(E) they have not been vouched for by another elector at the";

(*b*) on page 29, by deleting lines 34 to 37; and

(*c*) on page 30, by deleting lines 1 to 3.

That Bill C-23 be amended in clause 51, on page 30,

(*a*) by replacing line 7 with the following:

"her identity and residence by taking an oath in writing in the"; and

(*b*) by replacing lines 14 and 15 with the following:

"(2) If a person decides to vouch for an elector by taking an oath in writing in the".

That Bill C-23 be amended in clause 57, on page 34, by replacing line 12 with the following:

"subsection 169(2) or to take an oath otherwise".

That Bill C-23 be amended in clause 60, on page 37, by replacing line 10 with the following:

"residence in accordance with subsection 169(2).".

That Bill C-23 be amended in clause 93,

(*a*) on page 193, by deleting lines 27 to 40; and

(*b*) on page 194,

(i) by replacing line 1 with the following:

**"93. (1) Paragraphs 489(2)(*d*) and (*e*) of the Act", and**

(ii) by replacing line 7 with the following:

**"(2) Subsection 489(3) of the Act is".**

That Bill C-23 be amended in clause 46, on page 25, by replacing lines 21 to 24 with the following:

"document may be authorized, regardless of who issued it.".

That Bill C-23 be amended in clause 108, on page 227, by adding after line 19 the following:

"**510.01** (1) If, on the *ex parte* application of the Commissioner or the authorized representative of the Commissioner, a judge of a court described in subsection 525(1) is satisfied by information on oath or solemn affirmation that an investigation is being conducted under section 510 and that a person has or is likely to have information that is relevant to the investigation, the judge may order the person to attend as specified in the order and be examined on oath or solemn affirmation by the Commissioner or the authorized representative of the Commissioner on any matter that is relevant to the investigation.

(2) No person shall be excused from complying with an order under subsection (1) on the ground that the testimony required of the person may tend to criminate the person or subject the person to any proceeding or penalty, but no testimony given by an individual pursuant to an order made under subsection (1) shall be used or received against that individual in any criminal proceedings that are subsequently instituted against him or her, other than a prosecution under section 132 or 136 of the *Criminal Code*.

(3) The Commissioner or the authorized representative of the Commissioner may administer oaths and take and receive solemn affirmations for the purposes of examinations pursuant to subsection (1).".

And on the motion in amendment of the Honourable Senator Jaffer, seconded by the Honourable Senator Chaput, that Bill C-23 be not now read a third time, but that it be amended

(*a*) in clause 46, on page 26,

(i) by replacing lines 5 to 8 with the following:

"the polling division, and

(iv) their own residence has not been", and

(ii) by deleting lines 18 and 19;

(*b*) in clause 47, on page 27, by replacing line 7 with the following:

"subsection 143(6) or 549(3).";

(*c*) in clause 50,

(i) on page 28, by replacing lines 35 to 39 with the following:

"the polling division, and

(D) their own residence has not been", and

(ii) on page 29, by deleting lines 36 and 37;

(*d*) in clause 51, on page 30, by replacing line 20 with the following:

"subsection 161(7) or 549(3).";

(*e*) in clause 54,

(i) on page 32, by replacing lines 11 to 15 with the following:

"the polling division, and

(D) their own residence has not been", and

(ii) on page 33, by deleting lines 19 and 20;

(*f*) in clause 55, on page 33, by replacing line 40 with the following:

"subsection 169(6) or 549(3).";

(*g*) in clause 60, on page 37, by replacing lines 21 to 23 with the following:

"(3.1) No elector whose own residence has";

(*h*) in clause 93,

(i) on page 193,

(A) by deleting lines 29 and 30, and

(B) by deleting lines 36 and 37, and

(ii) on page 194, by replacing lines 1 to 6 with the following:

**"(3) Subsection 489(2) of the Act is amended by adding "or" at the end of paragraph (*c*) and by replacing paragraphs (*d*) and (*e*) with the following:**

(*d*) contravenes subsection 169(6) (attesting to residence when own residence attested to).''; and

(*i*) in clause 94.1, on page 194, by replacing lines 24 to 29 with the following:

"(*a*) contravenes subsection 237.1(3.1) (attesting to residence when own residence attested to); or

(*b*) contravenes any of paragraphs 281(*a*) to".

**The Hon. the Speaker:** Honourable senators, yesterday the Senate, with leave, agreed to allow two amendments, that of the Honourable Senator Moore and that of the Honourable Senator Jaffer, to be considered simultaneously. In such situations, debate covers both amendments in the stack, as it were, and often ranges quite widely. The debate on the two amendments is distinct from debate at third reading, which would occur if there is still time remaining and if a senator stands to speak. It would seem appropriate, honourable senators, if a request for a standing vote is made at the end of debate on the amendments, assuming that the full six hours is not exhausted, that the bells ring only once for the length the Senate determines according to the rules.

Honourable senators, the following is important: A vote on the second amendment, if requested, would therefore take place without the bells ringing again. In this case since the six hours for debate is not exhausted, the automatic deferral provided for in rule 7-4(5) would apply only to the decision on third reading not on the amendments. If the debate on the two amendments takes the full six hours, the vote on them would be deferred and would be immediately followed by the third reading vote.

Is there agreement to proceed in this way?

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** So ordered. On debate.

• (1640)

**Hon. Elaine McCoy:** Honourable senators, first let me say that I wish to recall a comment made by Senator Lowell Murray in 2004, 10 years ago, when dealing with a bill that addressed electoral issues. He said:

> There is too much actual and potential conflict of interest in these matters among those who have to be elected. The Senate should take these issues on as a special interest and responsibility.

I must say I think that the Senate has indeed done that in this instance.

The sponsor of the bill, Senator Frum, said yesterday when she was introducing it at third reading that indeed she felt that the committee and the senators who have dealt with the matter so far did give it special attention. They did bring amendments back. They did force the bill to go back to the House of Commons. They inspired even further amendments. I think all of that is helping our parliamentary system work the way it should. I'd like to congratulate Senator Frum; Senator Baker; Senator Runciman, the chair of the Standing Senate Committee on Legal and Constitutional Affairs; and all those who sit on that committee for getting us this far. Well done.

However, I don't think that the amendments have gone far enough. I also think that the amendments that were proposed yesterday go too far. I wish to put on the record my position on this bill and the amendments as they stand.

To try to put it into some kind of context, tomorrow, in Brazil, is that wonder of all wonderful quadrennial events, the World Cup, soccer, the beautiful game. Imagine what would happen if, before the World Cup starts every fourth year, the authorities who make the rules suddenly stripped all the referees of their whistles; and, not only that, but they robbed them of their yellow cards and red cards; and more than that, they actually said to all these referees, "Sorry, we can't replace your soccer cleats because the budget doesn't stretch that far."

What would happen? In your imagination, honourable senators, what do you think would happen to that series of games? How many cheaters would get away scot-free? How many of the good players would just get ground into the mud? Maybe more to the point, how many fans would ever again trust the game? To a great extent, that is what we are doing to the Canada Elections Act and the great four-year event called general elections, plus everything that happens in between.

I was not familiar with the Canada Elections Act because I'm one of the senators so I don't have to worry about the Canada Elections Act. However, I can take a special interest in it with no self-interest involved, and I did work my way through it. It is a very thick act, 338 pages, and it is excruciatingly detailed in the process it lays out.

Overall, it imposes on the Chief Electoral Officer, whom I'll call the CEO, a duty to run elections fairly. Given that nearly 230,000 people are employed to run elections on general election days, at some 65,000 polling stations across this country, that's quite a challenge for the CEO. In addition, the CEO oversees political parties, candidates and riding associations with respect to other things like registration expenses and financial expenditures. Those rules apply both during and between campaigns. The CEO reports to the House of Commons, not to the government. He reports to the House of Commons.

As things have stood for the past almost 150 years, the CEO appoints a Commissioner of Elections. The commissioner is, in effect, the referee. The commissioner is explicitly, in section 509, tasked with the duty to ensure that this act is complied with and enforced. That's not the CEO's job; it's the commissioner's job — enforcement and compliance.

Non-compliance with the rules gives rise to a criminal offence, whether it is stuffing a ballot box or stuffing the wrong envelope with the ballot results. If there is an infraction, it gives rise to a criminal offence. It's the commissioner's job to ferret out

instances of alleged non-compliance, investigate them and then take appropriate action.

The action includes a number of things he can do. He can apply to a judge for an injunction to stop or make certain things happen. He can refer cases. As it stands now, he refers cases to the Director of Public Prosecutions, the DPP, with the recommendation that a criminal charge be laid and that a prosecution be instituted. That's the DPP's decision.

The commissioner can also enter into what is called a compliance agreement. The compliance agreement imposes conditions on individuals or organizations to correct non-compliant behaviour. I think Senator Gerstein would be able to advise us on the terms and conditions of those applications. As long as a compliance agreement is honoured, it is a bar to criminal prosecution. If it is breached, then the prosecution can go forward.

The commissioner is given a broad power to carry out all of these duties. Section 513 allows him to "take any measures, including incurring any expenses, in relation to an inquiry, injunction or a compliance agreement" that the commissioner "considers to be in the public interest." Unfortunately, Bill C-23 erodes that broad power, and that is why I am concerned about the further progress of this legislation.

First, the DPP, the Director of Public Prosecutions, rather than the CEO, will appoint the commissioner and do so explicitly, it says in the act, without consulting the Chief Electoral Officer. It also says that the DPP may fire the commissioner for cause and is also given the control of paying the commissioner's payroll and other expenses. Now, it's true that the bill says the commissioner is to "conduct the investigation independently" of the DPP, but we all know the golden rule. He who owns the gold makes the rules. These arrangements, I fear, will inevitably place the commissioner's independence in question, especially since the DPP reports to a politician, a cabinet minister. We are putting what should be a neutral position into the danger zone of making it political.

Furthermore, these arrangements fly in the face of normal practice. Our justice system — and others have mentioned this — goes to some considerable effort to separate investigative powers from prosecutorial powers. That's why, for example, the Commissioner of the RCMP does not report to the DPP. Although the RCMP refers cases to the DPP, with recommendations for further criminal proceedings, again, the DPP is independently making that decision. The RCMP does not report to the DPP; these two entities, the investigative and the prosecutorial, are kept strictly independent.

• (1650)

I believe that the Commissioner for Canada Elections should be dealt with in the very same way. He has investigative powers, and he should be kept independent of the prosecutor's office.

Now, even worse, the commissioner is subjected to a blanket non-disclosure order while enforcing compliance under the act. Limited exceptions, including — if you can believe this — the consent of persons under investigation, do little to alter the general rule, although a public interest exception has been added in the latest round of amendments.

However, the general rule appears to be reinforced by clause 146 of the bill, which allows the DPP to refuse to disclose investigative information requested under the Access to Information Act. I am and we should all be absolutely flabbergasted to think we could even contemplate putting a gag order on alleged cheating under our Canada Elections Act, our political finances acts or our campaigning acts. This is the free and fair conduct of our democratic institutions, and there should be no gag order at all.

Many Canadians are asking that the commissioner be given the power to compel testimony, and it was one of the amendments brought forward by Senator Moore yesterday. I myself do not go quite that far. Compelling witnesses to testify is a power reserved for judges in almost all cases; it is not given to police officers. And the general rule is that judges cannot compel a witness to testify against himself or herself, and that is section 11 of the Charter of Rights and Freedoms.

Investigative authorities are typically given broad powers to search for and seize evidence with or without warrants. I certainly would agree that the commissioner should have this power explicitly spelled out in the Canada Elections Act — which it hasn't — but no such amendment has come forward.

But I think compelling testimony from witnesses goes too far, and I think we should stop and change that to a robust power to search for and seize evidence rather than breach yet another of our very carefully constructed balance and separation of powers. We don't want investigators to get carried away with the honest commitment to seeing themselves reach a successful outcome when they believe someone has done something wrong. We want another person who does not have that same passion behind the investigation to carefully review the evidence to see whether it's appropriate to move it forward another stage.

All these checks and balances are there for very practical reasons. We don't need to invite any breaches of those goals.

Needless to say, the robo-call incidents from the last general election have alarmed many Canadians, and the bill does contain new sections to address them, but they don't extend very far. Again, this has been spoken to.

May I have more time?

**Hon. Senators:** Agreed.

**Senator McCoy:** It does three things. The first is that it sets up a registry of call centres and who hired them. That is to be lodged with the Canadian Radio-television and Telecommunications Commission, which is called the CRTC. Second, it requires the call centres to keep a record of scripts and the dates they were used. Now, with the new amendment, it requires them to keep those records for three years. Third, it requires the CRTC to give the Commissioner for Canada Elections any information he requests about the scripts and dates used.

Obviously — and I believe Senator Moore mentioned this yesterday, and others have raised it as well — something is missing. If voter suppression is suspected, surely one would want to know whether eligible voters received accurate information via robo-call. It is just as simple as that.

In order to determine that, one would need to know who received what information. That's a very easy thing to do. It is simple to keep a record of who the robo-calls were connecting with, and then what they were told. It's very easy. I think the suggestion was to keep a record of all the phone call numbers, and that is what should be done. At a minimum, call centres should be required to keep a record of who was called on each date and what information was given on each of those calls.

Those are the shortcomings of this legislation as it's going forward. Those are the most serious. There are others, and one can argue them back and forth. I agree that five years would have been better than three in terms of keeping the robo-call records. Never mind; we can live with three for the moment.

But there is one final point I haven't heard mentioned that I want to raise. Bill C-23 now requires Elections Canada to wait until cabinet or the PMO actually asks it to give assistance or information to other countries on electoral processes. That's in the new section 18.1. It must wait for the Governor-in-Council to ask it before it gives any assistance in the international field.

Why? Why, I ask you, are we politicizing what should be a completely neutral process? Why are we inviting cabinet ministers to intervene in a network of officers of Parliament? What on earth are we thinking of? That, too, is a serious flaw.

For those reasons, I won't support the bill.

I am in a bit of a dilemma as to what to do about the amendments put forward yesterday, because I support many of them. On the other hand, I don't support the amendment that goes forward on allowing the commissioner to compel witnesses. Therefore, to be perfectly consistent, I will vote against the amendments, as well.

If I thought the amendments would pass here and therefore the bill would go back to the House of Commons for more consideration, I would support them, because then there would be yet another opportunity for some deliberation and some consideration of improving and not jettisoning one of the bulwarks of our democratic institutions.

I have come to appreciate, however, that the likelihood of the Conservative majority in the Senate supporting those amendments is nil. Therefore, I will take the opportunity to be at least consistent in my decision and not support the amendments any more than I support the bill.

• (1700)

**Hon. James S. Cowan (Leader of the Opposition):** Honourable senators, as I begin, I want to congratulate Senator McCoy for what is always a thoughtful intervention in these debates. I think she brings a perspective which we would do well to listen to. We may not always agree with her, but I think we would all agree that she brings a useful and different perspective to our debates. I thank her for her contribution. I also want to thank my colleagues, Senator Jaffer and Senator Moore, for their interventions and for proposing amendments, which at the outset I say that I support.

They were talking about the substance. All three senators were talking about particular sections that were in the act, and pointing to what, in their view, were certain omissions that should have been in the act. They covered that territory very well. For those of you who were not in the chamber when they spoke, I commend their speeches to you for reading before you cast a vote on the amendments and also on the main bill itself.

I want to take a few minutes and reflect on how it is that we got where we are today. As I've said many times before, I think process does matter. It does matter how we do things. It does matter how a government does things. It does matter how certain conclusions are reached. It does matter the level to which interested and informed parties are involved in consultations that lead to legislation.

I want to remind colleagues that it was in March 2012 — that's more than two years ago — when, as Canadians were becoming increasingly aware of and angered about the robo-call scandal, the Harper government promised to introduce changes to the Elections Act. It was in March 2012 that the Conservatives supported a motion in the other place promising to enact reforms to the Elections Act within six months. That would have been in the early fall of 2012.

Fast-forward to April 2013. That's when the then-Minister of Democratic Reform, Tim Uppal, was scheduled to introduce or to table the government's electoral reform bill on April 18, 2013. That's 14 months ago or so. A technical briefing was scheduled for the media but, the day before, the government changed its mind and announced that the bill would not be introduced.

Instead, it waited until February 2014 to table its proposed legislation; another 10 months when no study of specific proposals could be made and no bill was actually put forward that could be reviewed and commented on. No specific proposals were laid before the Canadian people, much less the Canadian Parliament.

All of this, I remind colleagues, was done behind closed doors. From media reports, we know there was obviously consideration in the Conservative caucus, and that's certainly appropriate. The rumours are that that's why the bill, which was to be presented in April 2013, was scrapped.

The main point here is there never was any consultation with Canadians, to say nothing of the Chief Electoral Officer of Canada, the person who is responsible for overseeing elections in this country.

Colleagues, I think we should reflect and compare that to the way in which previous changes to the Elections Act were developed and then studied by Parliament. I go back to 1996,

when the government of then-Prime Minister Jean Chrétien introduced a set of extensive changes to the Elections Act. These put in place, you'll recall, amongst other things, the permanent voters list and the 36-day election period. In that case, there were extensive public consultations, the presentation of the proposals to a committee in the other place and a request that its members initiate consultations with their caucuses. Changes were made in response to the recommendations that were received back.

There were then lengthy deliberations in Parliament that followed those consultations, including pre-study by the House of Commons committee. A number of amendments were made there, including several amendments which the minister at the time said, "addressed the understandable opposition concern that election reform must not disadvantage any one party in favour of another."

With Bill C-23, that process was thrown out. That process was not followed, and I think in no small measure, as a result of that process not being followed, or a similar process not being followed, the unanimity of opposition across the country has been striking.

I quote Jean-Pierre Kingsley, the former Chief Electoral Officer, when he testified in the other place about the removal of the section dealing with vouching. He said that without amendments, ". . . Canadians will lose their trust and their confidence in our elections. That is not acceptable." That's really what it's all about, trust and confidence by Canadians in the process by which they elect their members of the House of Commons.

*The Globe and Mail* — and I've said this before — took what I think is an unprecedented step. It devoted a whole week of editorials, day after day after day, to the problems that they identified in Bill C-23. Each editorial was headed "Slow it down, Mr. Poilievre." Instead, as we know now, that only encouraged the government to speed it up, to ram it through the House of Commons and now we're in the same situation here.

One hundred and sixty political scientists from universities across the country wrote an open letter, which was published in the *National Post*, protesting some provisions in Bill C-23. Thousands of ordinary Canadians — and those of us who do take the time to review the email traffic which we receive witnessed this — have expressed their concerns, almost all of which were totally ignored by the government. The government has raised the spectre of rampant or widespread voter fraud and has used that as an excuse to eliminate the concept of vouching, which has been so important and is so critical to ensuring that many Canadians who would otherwise not be able to vote have the opportunity to vote.

I remind you of what Senator Jaffer said yesterday. Remember that she said: We're not concerned about the 87 per cent or 90 per cent who have one or more of these items of identification and have no difficulty, as everybody in this room would have, getting on a voter's list, no difficulty getting to the vote. If we stand for anything in this chamber, we stand for those who have no voice of their own, those minorities who need protection. Amongst those minorities, I would suggest — and it's more than five or six Canadians, as Senator Plett said today — are thousands of Canadians who will be disenfranchised when this bill passes. Those are the Canadians who are looking and are entitled to look to the Senate of Canada and individual senators to stand up for them.

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

**Senator Cowan:** I mentioned that opposition to this bill extended beyond our borders. Nineteen international scholars and political scientists from as far away as Australia, New Zealand, the U.K., Ireland, Denmark and the United States wrote to express their deep concern about this bill. They didn't do that because they were concerned about the right of individual Canadians to vote. They did it for a very specific reason, and I will quote from the letter. They were "concerned that Canada's international reputation as one of the world's guardians of democracy and human rights is threatened by the passage of the proposed Fair Elections Act."

**Senator Campbell:** That's true.

**Senator Cowan:** Canada has been a model around the world. It has been a country to which other countries have looked for guidance as to how to design and how to run fair and open elections. These international scholars and political scientists have talked about Canada's hard-earned reputation, and this is not something that those of us on this side who were supporters of previous Liberal governments take credit for. This was a reputation that was built by Liberal governments and by Progressive Conservative governments in the past, following processes that I've described this afternoon.

• (1710)

Colleagues, I suggest that this is really not the way we want to proceed. As I said, I'm addressing particularly the process by which Bill C-23 is being imposed. This is not a legitimate debate as a result of which a consensus will emerge on something as vital to our very being as a country, a democratic country, a democracy, as the right of people to vote. This is not what this is about. This is unprecedented and I believe it's wrong.

Canadians have to believe — and I suggest that, up to now, they have believed — that their elections are fair and that their democratic voice will be heard on election day. Earlier in the day, we heard reports of the IPU and other organizations where people from this chamber join with people from the other chamber to travel around the world, talking about democracy, urging other people to uphold the principles of a democracy and urging people to look to us, as they do, as a model for how a modern democracy ought to be run and how modern elections ought to be run.

How can we pass this bill in good conscience, knowing that so many of our citizens are writing to us, emailing us, begging us not just to slow down the process but to also make sure that the so-called Fair Elections Act is just that, a fair elections act? How can

we turn our backs on that flood, that tsunami, of public opinion, of informed opinion, not just from ordinary citizens but also, as I've said, from experts and observers of elections, people who actually run elections in this country, who have said, almost unanimously, that there are parts in this bill that need to be changed?

As we've said so many times, we in this chamber pride ourselves on being a chamber of sober second thought. Our fundamental job is to review legislation that we receive from the other place. Where we believe, based on the evidence we hear, based upon the submissions that we receive from Canadians, that it requires improvement, then we have an obligation to speak up for those people, to present their views and, where necessary, to make the amendments that are required.

I acknowledge that there are some things in Bill C-23 that are good and I would support them. However, there are many other things in there that I simply can't support.

I support, as I said at the beginning, the amendments proposed by my colleagues Senator Moore and Senator Jaffer, and I commend those amendments to you. I have the same sense of optimism about the success of those amendments as my colleague and friend Senator McCoy has, but, nonetheless, they are good amendments. They would significantly improve the bill. Without those amendments, I certainly can't support the bill.

I want to close, colleagues, by reading a short article that appeared in the April 16 edition of the *Ottawa Citizen*, by Alan Bowker, a retired diplomat and author. This is what Dr. Bowker had to say. The heading of the article is "Conservatives should remember Borden on electoral reform." Maybe, as a Nova Scotian, I picked that up because Sir Robert Borden was a very distinguished Nova Scotian, as well as a great Prime Minister of Canada, a Conservative Prime Minister of Canada.

This is what Mr. Bowker says:

> In May 1920, Sir Robert Borden was on the verge of retirement, exhausted after leading Canada through the Great War, which had cost the lives of 66,000 Canadians and shaken Canadian society to its very foundations. His last act before walking into the sunset would be the passage of the Dominion Franchise Act, which would fundamentally reform Canada's electoral system.
>
> Not least of the stresses of the war had been its impact on Canada's democratic traditions. The War Measures Act had given the government virtually unlimited power to govern through Orders-in-Council, and the government had become increasingly accustomed to using it. And in 1917 when Borden concluded that only conscription — adamantly opposed by French Canadians — would provide the manpower needed to win the war, he drew some English-speaking Liberals into a coalition government and then loaded the dice to ensure that it won the election of that year. Female relatives of soldiers were given the vote, the soldiers themselves were also allowed to vote, but even longtime immigrants from enemy countries were disenfranchised. The coalition won, but Canadians were deeply divided, French Canada was isolated, and democratic norms had been trampled.
>
> With the challenges of reconstruction and social unrest in the charged atmosphere of the postwar, and to ensure its own survival, Borden's government might well have wished to retain these wartime powers. But to Borden and his ministers, a crucial element of postwar reconstruction was the restoration of democracy for which so many had given their lives, and the removal of abuses that had blighted Canadian elections since Confederation.
>
> The War Measures Act was allowed to lapse at the end of 1919 and amnesty was given those who had resisted conscription. In March 1920 the government introduced a Dominion Franchise bill which gave the vote to almost all Canadians, created a Chief Electoral Officer responsible to parliament, provided for standardized voters' lists, advance polls, and time off to vote, and laid down detailed procedures for all aspects of the conduct of elections. These measures were considered in detail by a parliamentary committee and the government accepted most of the changes requested by the Opposition. Of course there remained disagreements within and between parties, and Aboriginal people continued to be excluded, as well as those disenfranchised by provinces "for reasons of race." But the Dominion Elections Act which came into force on July 1, 1920 was nonetheless the product of consultation, debate, and broad political agreement.
>
> The proof of the pudding was the federal election of 1921, a watershed in Canadian history. Mackenzie King and his revived Liberals won a minority government and French Canadians returned to the mainstream of Canadian politics. The Conservatives were decimated but would recover in the 1925 election. The Progressives and a small Labour contingent began a third party tradition that continues to this day. As important as the result, however, was the way the election was run. With women voting for the first time, the federal electorate was the largest in history. Under Chief Electoral Officer Oliver Mowat Biggar and 75,000 quickly trained election officials, it was the best-managed election Canada had yet seen. It was not perfect and many improvements would be made over the years. But the foundation had been laid for the electoral system we take for granted today.
>
> It is astonishing that less than a century later, a Conservative government has introduced a so-called Fair Elections Act that appears to favour the governing party; that diminishes the powers of the Chief Electoral Officer and proposes to return, at least in part, to the party-dominated system the 1920 Act replaced; that is being forced through Parliament by a fiercely partisan minister who shows disdain for opposing views, endlessly repeats talking points, contemptuously attacks expert opinion (not to mention the experts themselves), and offers only the most grudging possibility that any amendments might even be considered. There may be many good things in the Act. But the way it is being handled is an affront to our democratic traditions.

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

**Senator Cowan:** These are Mr. Bowker's conclusions, and this is him speaking:

> I regard Sir Robert Borden, not John Diefenbaker, as the greatest Conservative prime minister of the last century. But both men regarded the spirit of democracy as a sacred trust hallowed by sacrifice. The Harper government is behaving more like the Borden of 1917, without the national crisis that motivated his actions, than the Borden of 1920 whose government restored and revitalized Canadian democracy. Conservatives of today need to ask themselves which Borden they want to be, which legacy they wish to preserve.

**Hon. Linda Frum:** Will the honourable senator accept a question?

**Senator Cowan:** Of course.

**Senator Frum:** Senator, you make reference to the haste with which this bill has been processed, which you object to, and you say that in spite of 19 meetings of the Procedure and House Affairs Committee in the other place, where they heard from 74 witnesses, and six meetings of the Senate's Legal Committee, which had 20 witnesses. One of the witnesses at the Procedure and House Affairs Committee was Marc Mayrand, Chief Electoral Officer of Canada, who said that it is his hope that any amendments to the bill will be adopted by spring 2014 for his office to implement changes and secure additional resources in time for October 2015. In light of the fact that the CEO himself has asked for this bill to be passed by this spring, will you retract the comments you made about how we need to see the debate on this bill drag on and on into the fall?

• (1720)

**Senator Cowan:** Not likely. It's pretty clear, Senator Frum, that this bill will pass probably today or tomorrow, certainly some time before we rise for the break. I don't think there's any question about that. Senator Fraser said that had assurances been asked for, those assurances would likely have been given. They weren't asked for. The reason I took the time to go through the process is that promises were made by the government back in 2012 about the need for legislation and they said they would do this within six months. There were some discussions and a bill was to be announced. If the bill had been announced at the time, there would have been lots of time to discuss it. Ten months went by before the bill was finally introduced, without the kinds of consultations that previous governments, both Liberal and Progressive Conservative, had followed before. My objection is to that process.

There's no doubt this bill will pass. You've got the numbers; and we understand that. My concern is about the process, about the lack of consultation, and about the unwillingness of the government to listen to the reasoned opinions of Canadians, including the experts that you quote. I'm sure that if I were the Chief Electoral Officer, I would want the elections law in place as far in advance of the election as I could possibly have it. It's obviously in his interest to do that. I think you would agree that his basic concern is to get it right. The real concern that I have is that I don't believe that this bill has it right, even with the reasoned amendments proposed by my colleagues.

**Hon. Joseph A. Day:** Honourable senators, I welcome the opportunity to go on the record with respect to the debate of this bill. I have received, like many of us, countless emails from Canadians from coast to coast to coast who are very concerned about this proposed legislation. Obviously, the circle of individuals across Canada who get in touch with me is not the same group that Senator Plett mentioned earlier.

**Senator Mercer:** He travels in different circles.

**Senator Day:** There are two points of view out there, at least.

This is not a good bill, honourable senators. I want that to go on the record. This bill will not stand up to court scrutiny and will be back before Parliament to get cleaned up and amended. It won't make elections fairer or more accountable or more democratic.

How did we get here? We agreed to do a pre-study of the bill, which is not usual for this institution. One can say, well, the Senate Committee on Legal and Constitutional Affairs had six meetings and met all kinds of different witnesses, but that was all pre-study. That was getting us ready to understand what was in the bill. That is not sober second thought. This is sober second thought. This is when we should be looking at the bill that has finally passed the other place and has come here. That is what was intended by this institution — sober second thought: Think about what has been passed, and apply our points of view — our mandate as senators — to this proposed legislation, which is not a rule of the majority. It is to look after the interests of minority groups and the interests of regions. That can be done only after we've seen what the majority has sent to us. I'm concerned about the lack of proper sober second thought on this matter.

In addition, honourable senators, we're dealing with closure. Not only are we not applying the normal sober second thought to this proposed legislation, but we're also being forced to deal with it on a very abbreviated time frame so that the government can move the bill through.

I conclude with the statement I began this intervention with: This is not good proposed legislation, for those reasons.

I accept and commend you to look at the arguments made here today by Senator Cowan and Senator McCoy. They were very helpful. There are so many different issues that any one of us could focus on, but we can't, obviously, within the time that's allotted to us. The reviews by Senator Moore and Senator Jaffer are extremely helpful to our understanding of the bill. Unlike Senator McCoy, I accept the amendments proposed by Senator Moore and Senator Jaffer; and I will vote for those amendments because I believe they are a good step in the right direction.

I also commend the government for moving on at least some of the observations provided by the committee following its look at the subject matter of the bill — nine different recommendations, five of which were acted upon, to some degree. I commend the government for that. If there is any advantage to a pre-study, that is it: The government can look at what is being proposed by the Senate and the way the Senate studies the bill and react before the bill is sent here for sober second thought.

I also remind honourable senators that there was a minority opinion attached to the study when it was sent back, and there are seven other recommendations. Four recommendations that were not acted upon were sent by the majority; and seven others that were not acted upon were sent by the minority. We have 12 recommendations that the government did not act upon, and I find that regrettable.

Honourable senators, I could probably summarize the appointment process and what has happened here by reading from Andrew Coyne, a well-known and respected political commentator, with whom I don't always agree. The article by Andrew Coyne on Bill C-23 states:

> Very little "fair" about how Conservatives are pushing controversial Elections Act.
>
> It is coarse to imagine the Conservatives are conspiring to fix the next election, in plain sight of everyone. If you were bent on suppressing the opposition vote, evading spending limits, and otherwise participating in electoral fraud, presumably you would not take the trouble to advertise this in legislation.
>
> On the other hand, if they are not up to no good, they are doing their best to convince people they are. The secrecy surrounding the Fair Elections Act, the failure to consult in advance of its drafting, the curtailment of debate after, the supreme indifference to legitimate criticism, all under the chilling oversight of the Minister for Democratic Reform, Pierre Poilievre, would be enough to make anyone nervous.
>
> More troubling has been the minister's failure to explain why the bill's most controversial measures were deemed necessary — what problems they would solve — and why they should have diverged so sharply from what every expert in the field has recommended, or from existing practice, in Canada and abroad.

• (1730)

That is very telling commentary by someone who knows very much about the political process.

He goes on to say:

> Mr. Poilievre told a Senate committee Tuesday the CEO, Marc Mayrand, is motivated by nothing but a desire for "more power, a bigger budget and less accountability."

This is a minister of the Crown describing an officer of Parliament in that kind of term.

> The former Auditor General, Sheila Fraser, other government members hinted, was on the take: hadn't she accepted payment to sit as co-chair of Elections Canada's Advisory Board? The board's other members, among them some of the country's most widely respected political and legal figures, were dismissed by a Tory senator as "celebrities." The provincial chief electoral officers, political scientists, law professors and other specialists who have denounced the bill were derided as "self-styled" experts.

This, honourable senators, is a government attempting to convince the public that this legislation is necessary.

Let me just talk for a short while about the officers of Parliament, because when we talk about the Privacy Commissioner, the Auditor General and the Chief Electoral Officer, they are officers of Parliament. We've studied in this chamber and in committee the issue of officers of Parliament and how important it is for them to remain independent and non-partisan and the question of conflict of interest, because they have to be involved in requesting their own salaries for their departments and their departmental employees. Senator Gerstein will recall the studies we did in Finance on those issues and the points that were made by Sheila Fraser in departing from the job after 10 years about how important it is to create the atmosphere of four officers of Parliament to act in an independent manner for all members of Parliament, not just for the government side but for all members of Parliament.

This officer of Parliament we are talking about, let me tell you how he was described by the Prime Minister in 2007:

> A strong and energetic manager with a proven background in operations and regulatory oversight, Marc Mayrand is particularly well-suited to take on this important position.

Now that is the Prime Minister speaking in 2007 when Mr. Mayrand was appointed by the Prime Minister. And then what do we have? We have Pierre Poilievre coming forward and saying he is wearing the jersey of one of the political parties in Parliament and can't be trusted and he's just trying to build up his own affairs. It's is a very serious matter, honourable senators, when we decide that the way to deal with an officer of Parliament is not to consult and say, "You have done this job for some considerable period of time. Let's talk about what should be done and let's bring in the previous officers of Parliament and the Chief Electoral Officer and talk about what should be done."

Government doesn't have to accept it all, but they should at the very least rely on the advice and expertise of those who have done the job, instead of saying, "Well, they are not worthy of talking to. We're not going to do any consultation. If they make any comment on our proposed legislation, which we never consulted them on, then we'll just say that they're not capable. We'll say that their advice is not worthy of any consideration and put them down in whatever way we can."

That is primarily the point I wanted to make because it fits in the work we do at National Finance, honourable senators, in relation to officers of Parliament.

There is one other point that I think is important to put on the record, and that was brought up by Mr. Colin Bennett, a professor in the Department of Political Science at the University of Victoria, and he appeared as an individual before the committee. His concerns were with respect to the privacy implications, and there are provisions in this bill that require, as he refers to them, the bingo sheets. That's who has voted and who hasn't voted. The bingo sheets are prepared by the deputy returning officer at each polling station, and there are provisions here to require those to be made out and to be made available to representatives of the candidates. That's in the provision.

The other concern in relation to privacy is that the legislation requires that the Chief Electoral Officer make available to representatives and show to representatives of the candidates the ID that is being produced by a potential voter. The concern there is that some potential voters might well show some evidence to establish who they are that is information you wouldn't expect to be made public to everybody. He's very concerned about those two issues, and they should be softened. He felt there should be some protection for privacy. In fact, an amendment was proposed in the House of Commons to cover these two issues, and that was rejected.

Those, honourable senators, are just some of the points to put on the record in the time I've had available. I reiterate that this is not good legislation and we should not proceed with this legislation at this time.

Thank you, honourable senators.

[*Translation*]

**Hon. Claudette Tardif:** Honourable senators, Bill C-23 has stirred up a great deal of controversy over the past few months, and there is still disagreement on a number of measures.

During their interventions, the Honourable Senators Moore and Jaffer shed light on many of the flaws in this bill. I don't want to repeat all the points they mentioned, but it is worth recapping some that I consider to be important.

First, the bill proposes to establish stricter rules on voter ID and the right to vote.

It abolishes the use of voter cards as valid ID even though Elections Canada will continue to distribute these cards to voters.

• (1740)

What is more, the bill gets rid of the vouching system for voters who don't have the required ID. To justify that measure, the government cited the risk of electoral fraud, even though there are no known cases of fraud related to this practice.

The vouching system is a mechanism that protects the right to vote of citizens who do not have officially recognized forms of identification. What will replace this system? Nearly 120,000 people used the vouching system during the 2011 general election. According to the Chief Electoral Officer, getting rid of this mechanism will have a disproportionate impact on the right to vote of individuals who are already quite marginalized in the electoral system, such as young people, Aboriginal people and the less fortunate.

The measures that limit Elections Canada's powers instead of making it easier for that agency to conduct its investigations are another aspect of this bill that gives cause for concern. Elections Canada has been calling for changes to the legislation for a very long time, including stricter rules on robo-calls and broader investigative powers.

Investigations conducted by Elections Canada over the past few years have been hindered by the agency's inability to compel the production of documents and testimony in a timely fashion. It is important to give the Commissioner of Canada Elections the power to apply to a court for an order to compel witnesses to provide evidence in an investigation. There is nothing of the sort in the bill. Instead of providing the commissioner with the powers he is seeking, the bill proposes to completely eliminate Elections Canada's power to compel and transfer it to the Office of the Director of Public Prosecutions.

I agree with my honourable colleagues, Senators Jaffer and Moore, who said that we should do everything we can to encourage as many Canadians as possible to exercise their right to vote. That is why I would like to raise a point that was not adequately addressed during the examination of Bill C-23. I would like to talk about upholding the spirit of the Official Languages Act.

The government does not seem to have evaluated the repercussions this bill could have on official language minority communities. Therefore, I would like to mention two concerns pertaining to francophones in minority situations.

The first concern is related to provisions in the bill governing the appointment of election officers, as set out in clauses 18, 19, 21 and 44. Currently, under the Canada Elections Act, deputy returning officers and poll clerks are appointed from lists provided by candidates whose party came first or second in that riding during the previous election. As the president of the Fédération des communautés francophones et acadienne du Canada said when she appeared before the House of Commons Standing Committee on Procedure and House Affairs, these provisions are already very problematic for francophone citizens who wish to receive services in the official language of their choice at polling stations.

Unfortunately, the changes proposed in clauses 18, 19, 21 and 44 extend this process to other positions, including that of central poll supervisor. They also add registered riding associations and political parties to the list of bodies that can recommend candidates for these positions. Neither the candidates, nor the party associations, nor the political parties themselves have any obligations under the Official Languages Act. Consequently, as the president of the Fédération des communautés francophones et acadienne du Canada pointed out, Bill C-23 could potentially strip Elections Canada of the means it has to ensure that candidates on those lists for election officers' positions would be able to meet their obligations under the Official Languages Act. In other words, if Elections Canada cannot guarantee that its election officers are able to offer services in both official languages, we are concerned that francophones in minority situations may not exercise their democratic right.

Clause 13 in the bill regarding field liaison officers being appointed by the Chief Electoral Officer of Canada could be one way for francophones to be involved in the electoral process. Unfortunately, as you know, our communities do not have the critical mass required for such a measure to be effective.

Furthermore, there are many problems with clause 7, which has to do with the Chief Electoral Officer providing information to the public. With this proposal that the Chief Electoral Officer no longer be able to inform the public about the electoral process, the CEO will no longer be able to develop French-language information programs to encourage Canadians living in minority situations to vote.

With the proposed amendments, political parties would have to take on the educational and civic role, and they are not subject to the Official Languages Act. What will happen in regions where francophones are spread out or are a very small minority? What will happen in regions where anglophones are spread out or are a very small minority? How will we encourage francophones to get out and vote? How will we encourage anglophones in Quebec to get out and vote? I see some potential barriers to full participation in the electoral process for Canadians who want access to services and information in the official language of the minority.

The proposed amendment violates the spirit of Part VII of the Official Languages Act, which states that:

> The Government of Canada is committed to . . . enhancing the vitality of the English and French linguistic minority communities in Canada and supporting and assisting their development; and . . . fostering the full recognition and use of both English and French in Canadian society.

By limiting access to essential sources of information, clause 7 of Bill C-23 could create a situation in which Canadians are not all treated equally. In the United Kingdom, Australia and New Zealand, electoral commissions are mandated to promote and inform their linguistic and cultural minorities through programs that educate and encourage civic engagement. The Canada Elections Act should strengthen the role of the Chief Electoral Officer in order to promote civic engagement in these communities and encourage people to exercise their democratic rights.

I lament the fact that Elections Canada's educational role will be limited to elementary and high school students.

• (1750)

Honourable senators, the one hundred and fiftieth anniversary of Confederation gives us an opportunity to get all Canadians involved, to reaffirm our commitment to our shared values and proudly assert our democratic values and the originality of our country, our culture and our linguistic duality, which must be preserved and promoted across the country. This bill, however, is out of step with the spirit of one of the pillars of Canadian duality, Part VII of the Official Languages Act.

Honourable senators, I will conclude with a reminder that the principle that should guide our evaluation of any electoral system reform is the guarantee that every Canadian has the right to vote, a right protected by the Canadian Charter of Rights and Freedoms. Currently, that right and our electoral system are threatened by the falling voter turnout rates of the last few years. To strengthen our electoral system, we have to look at measures that will encourage Canadians to get involved in the democratic process. For one thing, we have to make it as easy as possible for people to exercise their right to vote. Unfortunately, this bill includes measures that run counter to that principle.

I therefore invite all senators to support the amendments proposed by Senator Moore and Senator Jaffer to fix these problems and protect the integrity of our electoral system for the greater benefit of Canada and all of its citizens.

[ Senator Tardif ]

[*English*]

**Hon. Terry M. Mercer:** Will the honourable senator accept a question?

**Senator Tardif:** Yes**,** certainly**.**

**Senator Mercer:** Senator Frum talked about the meetings in the other place and the pre-study here, but what she didn't talk about was meetings with Canadians. Wouldn't it have been a good idea for there to be public hearings across the country? The question is: What do the people of St. John's, Newfoundland, think about this? What do the people in Charlottetown think about this, or my hometown of Halifax? What about Fredericton, Quebec City, Toronto, Winnipeg, Regina, your hometown of Edmonton, Victoria, or indeed the three territories? What do they think about it?

Wouldn't it have been a good idea, if you were making a fundamental change to how Canadians select their representatives to the House of Commons, that you do a very simple thing and ask Canadians what they think?

**Senator Tardif:** Senator, you have said it so much better than I could ever have said it. I completely agree with you. I find it appalling that this first step was not taken.

**The Hon. the Speaker** *pro tempore***:** On debate, Senator Dyck.

**Hon. Lillian Eva Dyck:** Honourable senators, I would like to say a few words with respect to the aspect of vouching within the fair elections act because it will have a great effect upon First Nations people who are living on reserves.

As was pointed out earlier, one of the aspects of elections should be to allow all Canadian citizens the greatest opportunity to vote. As part of our history, we must remember that Canadians of First Nations ancestry did not get the federal vote until 1960 unless they gave up their Indian status. On the other hand, Canadians of Chinese ancestry got their vote in 1945. I bring those two up because my parents were First Nation and Chinese. Had my mother still been alive when I was in high school, I would have had to say that when I was in Grade 9, my mother would not have been allowed to vote in elections if she had retained her Indian status. In a country like Canada, it's hard to believe that we have that sort of history.

I'm still concerned about the aspect of vouching because in Canada, right now, we probably have about 150,000 or 170,000 First Nations people living on reserves who are of voting age. That's a guess. It's in that ballpark area. As we all know, on reserves about half the population is quite young and not everybody has a driver's licence. Of course, your driver's licence has your picture on it and your address. It is government issued; it is standard issue. We all know that it's difficult on reserves because you don't have a driver's licence and you probably don't have a bill or anything else that has your address on it because you don't have an address. That's an impediment to voting.

Every First Nation person living on a reserve will have their Indian status card, but by itself that is not accepted even though it looks very much like my driver's licence card. It took me almost a

year to get my new Indian status card. It's secure; it has the little hologram with my number and date of birth. It does not have an address, but it does indicate my reserve, which is George Gordon First Nation. I don't live there, but even if I did it would not have an address. It's a concern.

In the new bill there are three options whereby you can vote, even though you don't have your driver's licence, that indicate your address. Interestingly, on the Elections Canada website we already have our new options. We haven't even passed the bill yet. So much for the Chief Electoral Officer having to do all that work.

It already says that Option 1 is one original piece of identification with your photo name and address, like your driver's licence.

Option 2 is two original pieces of authorized identification. Both pieces must have your name and one must also have your address. For instance, with my status card I could have used my health card or some other card that has the address on it.

Option 3 in the bill: take an oath and have an elector who knows you, vouch or for you. This person must have authorized identification and be from the same polling division as you, and that person can only vouch for one person. If I'm on a reserve and someone has to vouch for me, probably the majority — I don't know, 99 per cent — will not have the proper identification, so who will vouch for me? They will have to prove they are properly authorized with two pieces of ID.

I think we envision it's not going to be difficult, but I suspect on reserve it will be more difficult because people who are going to vouch for you are also people who don't have the standard identification, and they can only vouch for one person. Right away, if 2,000 people on the reserve are voting age and you can only vouch for one, it creates a situation that is going to disadvantage First Nations people living on reserves.

I don't know the details of the amendments that were proposed by Senator Moore. I hope that those amendments will address that; Senator Jaffer's does. Amendments to the bill to fix the vouching aspect will be necessary. However, we've also brought up other provisions of the bill that are not fair, so for those reasons I do not support the fair elections act.

**Senator Mercer:** Honourable senators, I rise to speak on this bill. I want to follow up on something my friend Senator Dyck talked about and how we encourage Aboriginal people to vote.

In my previous life I made a proposal to the Chief Electoral Officer that one of the ways would be to have mobile polling stations on reserves. Aboriginal people continue to feel that they are not wanted, and one of ways to make someone wanted is for representatives of the political parties to knock on their door, present a ballot box and say, "We're here." It becomes a little more difficult for Aboriginal people to say no, but it also makes it much easier for Aboriginal people to say yes, which is really what we want them to do.

• (1800)

I rise today, Your Honour, to speak at third reading of Bill C-23, an act that dramatically alters the manner in which elections are conducted in Canada and also fundamentally changes the manner in which we approach the act of voting.

From start to finish, Bill C-23 goes against the spirit of having an open dialogue to maintain the integrity of the process that lies at the very heart of our democracy — voting. We are left, today, with a process and a finished product that have done damage to what has been perceived by many across the world as a model for aspiring democracies to emulate.

What do we tell the people of Crimea whose way of life was so changed last February, which triggered a series of events that led to the recent elections in Ukraine? Hundreds of Canadian election observers, including our friends Senator Campbell and Senator Andreychuk, were there as observers to ensure proper procedures and to ensure that every citizen who is entitled to vote was given the chance.

With Bill C-23 before the Senate for third reading, we have a bill that dramatically threatens the very reputation Canada has enjoyed for so many years.

Honourable senators, here we are debating a flawed piece of legislation that is supposed to enhance democracy while, at the same time, the Deputy Leader of the Government has introduced time allocation on the very bill. Just like the bill, the Conservatives' notion of democracy leaves something to be desired, especially when we remember that 60 per cent of Canadians did not vote for them in the last election.

Why are we here, honourable senators? What prompted this bill? You will hear from the Conservatives that a variety of things prompted it, but I'd like to talk about what should have been included in the bill. Does anyone remember the "in and out" scandal? That was the Conservatives' attempt to get around the election laws through an orchestrated effort — on the national level, keep in mind — to bilk money out of Elections Canada through a shady transfer of funds between the national and local campaigns to buy ads on a national level while returning the receipts to be claimed at the local level.

In April 2007, the Chief Electoral Officer, Marc Mayrand, refused to pay elections refunds to the Conservatives, and so the Conservatives sued Elections Canada to get their money back. They lost at the Federal Court level. Eventually, that lead the Conservative Party to plead guilty and be convicted — that's right, convicted — but not before they struck a deal that saw the party forced to pay back $230,000 for the scheme, the largest fine in Canadian electoral history. It has been charged against these people who are trying to preach to the rest of Canadians about a fair elections act. They were fined $230,000 for breaking the election laws.

Then came the election of 2011 and the ongoing robo-calls scandal. Honourable senators, this is the reason why Canadians demand election law reforms — to deal with this heinous act of

suppressing the vote. That is merely the starting point for why this bill is so completely counterintuitive to those we have heard express their concerns over Bill C-23. Since it was the robo-call scandal that prompted the outrage that forced this government to act, why does Bill C-23 go after vouching and not the raison d'être of this bill in the first place?

Since the dawn of Confederation, vouching during elections has been an acceptable way to cast your ballot. If you don't have a proper ID, a voter in your own poll can vouch for you. As a matter of fact, I have done so over the years in polling stations in ridings I have lived in. How many people don't have the proper ID to vote? In 2011, 120,000 people needed vouching. That's about 1 per cent. As an aside, Your Honour, after the election of 2007, I believe, I had a student working for me. Over the summer, I had her do an analysis of all of the electoral districts across the country to look at how many people actually were added to the voters' list on election day. I was looking to see if there might be a hint of, perhaps, some fraud of adding too many people to the voters' list. I was out looking for our friends in the New Democratic Party, but I'm afraid I couldn't prove it. Even I, who was out looking for the fraud of our opponents, couldn't find it at that time.

Back to my comments about how many people needed vouching — as I said, 120,000 — what did the Conservatives do? They said that it was unacceptable and opened up the system to electoral fraud. The Chief Electoral Officer has said it has not and will not. Throngs of academics and experts on democratic reform and elections say it does not, but the Conservatives maintained for weeks that it would and that the elimination of vouching was somehow the Holy Grail of election fraud prevention, instead of, for example, teaching and informing voters to vote properly and how to be prepared at the polling station by allowing Elections Canada to advertise, especially to young voters. Never mind; they're going to prevent that too. In the meantime, under very serious pressure, the Conservatives backed down and changed their minds. A win for democracy, you say. Not really. They're still removing vouching but have introduced the oath system. Where a voter has ID but cannot prove a current address, they can sign an oath as to where they live. Then a second voter signs a second oath, and the first voter can vote.

I'm quite happy to see that the Conservatives for once listened to the concerns and that the officers of Parliament did something to allay these concerns. Will it prevent someone from casting a ballot on election day? We shall have to wait and see. Even one vote that is lost because of the Conservatives' moves in this section in Bill C-23 will be a loss for democracy in Canada. That is something we should not stand for, honourable senators.

It bears repeating that Bill C-23 was, at the outset, the fulfillment of a promise to heed the outrage Canadians felt at the fraud that occurred during the election of 2011. Canadians believe their elections should be honest and open. They understand that our elections are a key cornerstone of our democracy. This bill is an utter failure in this regard. It does not protect Canadians from further election fraud and does nothing to help prosecute those who perpetuate the fraud in the first place. We learned last week, from the Guelph robo-call trial, that the Crown witness believes that the robo-call scheme was national in scope. We're back to those guys who paid $230,000 in fines, the largest fines in the history of elections fines in this country. We're back to these guys. It's national in scope. The accused did not act alone, they say, and, indeed, more questions than answers have been the result of the trial.

This is not a comfort to Canadians who want the truth. So, then, why are we proceeding with a flawed bill that does not even live up to its own short title? Where is the power for the Commissioner of Canada Elections to actually get to the bottom of these sordid affairs? We all know what process Bill C-23 followed, the secretive, behind-the-scenes writing of the legislation, consulting with none of the stakeholders, including the Chief Electoral Officer. Its rollout has been nothing short of a debacle and, frankly, a complete insult to those who consider the Canada Elections Act to be the cornerstone of our democracy.

Finally, honourable senators, the behaviour of the minister was appalling through his over-the-top defence of this flawed piece of legislation. We saw his attempt to assail the integrity of the Chief Electoral Officer, the former Auditor General Sheila Fraser and, indeed, anyone who had an opinion different than his own. Did we need that childishness? Did that do anything to help legitimize the legislation or the process? Hardly. Minister Poilievre is an embarrassment to Parliament, an embarrassment to the Conservative Party, an embarrassment to his constituents and, indeed, an embarrassment to his own Prime Minister.

• (1810)

I remain convinced that this bill was created badly, debated poorly and shoved down the throat of Parliament by the bully in the other place. The experts deserve better; Parliament deserves better; and Canadians certainly deserve better.

Quite simply, honourable senators, I'm not supporting the legislation as it presently exists, nor should you or anyone who believes in democracy, and fair and open elections. I encourage you all to support the amendments of Senators Moore and Jaffer to make this legislation better. Honourable senators, Canadians deserve that.

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

[*Translation*]

**Hon. Grant Mitchell:** Thank you, Senator Chaput. I greatly appreciate the opportunity to speak at this time. I have several comments to make concerning this bill. As usual, I very much appreciated the speech by our colleague, Senator Mercer.

[*English*]

Particularly, he mentioned the importance of a single vote to underline how significant even losing one vote due to the restrictions on vouching would be — and, of course, the way the vouching has been so limited by government, the almost irrefutable odds are that many people will be disenfranchised.

It reminded me of a personal story about the significance of a single vote. Just the weekend before the 1993 election — I was at that time a member of the legislative assembly and I had won

three elections. I was driving with one of our sons, who was about 6 or 7 years old and in the back seat of the car. We had been talking in our family about elections, and it was the federal election that Monday. So politics were on his mind, as they still are.

He said to me: "Dad, do you vote for yourself?" I said, "Well, Lucas, of course I vote for myself. First, I'm clearly the best candidate; that's indisputable. Second, how could I ever face all the people who supported me, those who worked for us, those who valued our ideas and those who had voted for me in an election if I didn't vote for myself, and I lost by one vote?" Lucas said, "Dad, you'd never lose by one vote. There will never be just one vote."

That Monday night, Anne McLellan, at the end of the count, before the recount, had won by one vote on 50,000 votes. The next morning, the headline was something like: "Landslide Annie: One Vote." I said to my son, "Lucas, you get over here and read this. This is the significance of a single vote." At that point, she had won by one vote. It turned out that it was 11 votes after the recount, but that's 11 votes on 50,000.

Tell me that one vote doesn't matter. One vote is profoundly significant. That was a lesson I drove home to Lucas and that was driven home to me. I wish Lucas were here so he could stand up this in place and say, "I'm telling you: One vote matters."

The core of my concern is the vouching issue — the vouching issue that will absolutely, fundamentally limit the number of voters. What really underlines the hypocrisy of those particular provisions in this act is the fact that, if this government thinks that it isn't sufficient for somebody to be vouched for — the fact that they live just down the road from the polling station — that's not without identification or without this identification process that they have now structured — that's not good enough just to be vouched for somebody. Yet, you don't have to do anything whatsoever to prove that you're a Canadian citizen to vote.

So, on the one hand, they're willing to say, "We're accepting that you're a Canadian citizen without even declaring it." You don't have to declare it; you don't have to sign anything. Yet, on the other hand, they won't accept that somebody lives in that constituency on the basis of that person's word and the word of a third party, somebody who knows them. It is, in fact, incomprehensible.

It begs the question: Why would they be so concerned about limiting vouching on the one hand, and not be concerned whatsoever about proving that you're a Canadian citizen? I agree with the fact that you shouldn't have to prove that and, on the other hand, I disagree with the hypocrisy of their position on vouching.

What would ever motivate them not to understand that hypocrisy? If you had to prove you're a Canadian citizen before you voted, that would inconvenience every Canadian voter. In fact, it would inconvenience their base. It would absolutely, fundamentally inconvenience every Canadian voter, and it would inconvenience their base.

But the vouching is very specific. The argument has been made by experts, people who are much more knowledgeable about this than I am, that this will disenfranchise people who are not the Conservatives' base. I don't know whether that is just a coincidence, but it certainly begs that question. That hypocrisy — that difference in how you treat the proof of Canadian citizenship versus the proof of where you live just down the street — begs the very question of why. When you start to delve into answering that question of why would the government be concerned about one but not the other, then it raises the issue, or at least begs the question, of which voter is being disenfranchised and who is being affected.

I've never heard an adequate answer to that effect, unless it is that there's a hidden agenda and the government is really going to move to some sort of state card, where you have to have some kind of state identity card. I don't believe in that and I don't think that should be the case, but there is this gaping hole in the logic of their bill and their approach to the franchise of Canadian voting citizens.

The second point that I'd like to reiterate — one I've made before and others have, too — is that there has been no proof of voter fraud due to vouching. There has been profound proof of voter fraud due to robo-calling. The government that has been so deeply concerned about vouching as an issue — a problem that they're trying to fix that doesn't exist — when there is clear evidence — and it has been proven in a trial; the judge has ruled — of robo-calling, using the Conservatives' own database. That is evidence of quite widespread fraud. Yet the Conservatives have done nothing of consequence except weaken the rules that might in any way, shape or form confront the robo-call issue; that is, the rule concerning the retention of data. They have weakened the rules with respect to investigations into voter fraud, like robo-calls, because the authorities won't actually be able to compel witnesses. They have done nothing to proactively investigate why it would be that their database has been hacked.

For vouching to be a problem, as I said over and over, you need a voucher who is a liar and a vouchee who is a liar. You need two liars to work together to make vouching a problem. But you just need one person who has access to SIMS to have a widespread effect across the country. You need a lot of vouching problems. One vote does matter, but it would have to matter in a variety of different ridings. But SIMS access-hacking, robo-calls, that can be a widespread problem, and they haven't done anything to address or investigate it. One can only wonder why. Again, it begs the question of coincidence: Is it a coincidence or is it not?

The provision in the act that will not allow the commissioner to compel witnesses is also very disturbing, particularly for a government that is, at its roots, hard on crime. Why would they want to limit investigations? Again, it is an interesting coincidence. Who has been investigated? Who has been offended by those investigations? Clearly, the government's own party has. There you are. Is that a coincidence or is it not?

Just for argument's sake, let's look at the argument that Senator Frum made earlier invoking Mr. Mayrand's point that he had to get this passed by the spring of this year because he wouldn't have time to implement the law before the fall of 2015. I expect the

election will be quite a bit earlier than that. In any event, that argument has already been discredited, because Mr. Mayrand is clearly working on it. These provisions are on the website now. They can work on it because they know, unless you're having trouble with your whip, that you will pass the bill. It's not as if we had to invoke closure to get this done as quickly as this government is arguing that it needs to be done. We can still have reasoned debate.

• (1820)

I would like to emphasize the point made by colleagues who asked whether the public consulted. If not, why not? Why is the government forging ahead without adequate, proper public consultations? Why is the government not allowing this version of the bill to be subject to further consultation through expert testimony before committee? Those are the points I want to emphasize.

I underline that this bill is a bad bill and it's bad for democracy. The members of this Senate should stand up and stop it, because that's what we're here to do.

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

[*Translation*]

**Hon. Maria Chaput:** Honourable senators, ask any Canadian or expert to identify the major issue for Canadian democracy and they will probably talk to you about voter turnout. The voter turnout rate, whether we are talking about that of young people or the general population, is symptomatic of the health of our electoral system. A high turnout rate is indicative of an interested and engaged population, whereas a low turnout rate could even affect the legitimacy of an election. I don't believe I am stirring up controversy by saying this.

When the government decided to introduce an electoral reform bill, we had every right to expect an initiative that would deal with the issue of voter turnout. We had every right to expect measures to promote higher turnout. In short, we had every right to expect electoral reform with a sound vision for the future.

Bill C-23 proposes the opposite. It is an initiative that primarily seeks to restrict voting. The specific provisions of Bill C-23 that I am talking about today have been amended. I would like to congratulate the senators on the Standing Senate Committee on Legal and Constitutional Affairs for the role they played in drafting the proposed amendments. However, I must tell the truth. The purpose of the amendments was to mitigate the damage. These amendments do not make this a good bill. We simply have a bill that is not as bad as it was initially.

First, I would like to draw your attention to the provisions that will essentially muzzle the Chief Electoral Officer. Let us first look at section 18 of the Canada Elections Act, as it reads now:

> 18. (1) The Chief Electoral Officer may implement public education and information programs to make the electoral process better known to the public, particularly to those persons and groups most likely to experience difficulties in exercising their democratic rights.



> 18.(2) The Chief Electoral Officer may, using any media or other means that he or she considers appropriate, provide the public, both inside and outside Canada, with information relating to Canada's electoral process, the democratic right to vote and how to be a candidate.
>
> 18. (3) The Chief Electoral Officer may establish programs to disseminate information outside Canada concerning how to vote under Part 11.

Part 11 has to do with special voting rules. This is the section they want to remove. Can anyone here explain how carrying out public education and information programs can hurt our democracy? Does anyone here not believe that special attention should be paid to groups of people who might be more likely to have trouble exercising their democratic right?

The new section 17.1 enables the Chief Electoral Officer to implement public education and information programs to make the electoral process better known to students at the primary and secondary levels exclusively. I would note that this exception did not even exist in the first version of the bill. The report of the Senate Legal Affairs Committee recommended adding it. However, it doesn't include students in college or university, who are actually able to vote and whose turnout rates are often very low. Does anyone here think it's a good idea to have less education and information?

I know that there has since been an amendment enabling the Chief Electoral Officer to run ads related to his mandate. But that can't replace targeted programs. Overall, we now have less information and less education, and although I can't claim to be clairvoyant, less participation.

The government's suggestion that it is up to political parties to educate people is not convincing. Minister Poilievre made a clumsy and unfounded attempt to accuse the Chief Electoral Officer of trading his referee jersey in for a team jersey. The truth, of course, is that this bill is more like an attempt by one of the teams to don the referee jersey.

[*English*]

There is an understanding in Canada that bills aiming to reform the rules of the game need to achieve a broad consensus. This is what many Manitobans and Canadians have told me in dozens of emails. One constituent of Kildonan—St. Paul in Manitoba deplored that the government would go ahead with an electoral reform bill that only had the governing party's support. As he says, "This is not democracy as Canadians have come to know it." He further implored us to "do our job in the interest of ALL Canadians."

[*Translation*]

Our political system is deeply partisan, and we do not hide from that fact. Each political party has its ideas about how to improve our country, but we all recognize that the parties have to look after their own interests as well. The system itself should only protect the interests of Canadians.

The Fédération des communautés francophones et acadienne believes that political parties will not have the time or the interest in promoting civic engagement among official language minority communities. In addition, unlike the Chief Electoral Officer, political parties are not required to comply with the Official Languages Act and therefore have no obligation to enhance the vitality of official language minority communities. Of course, political parties will benefit from getting votes wherever they can, but the minority status of these communities is already a major obstacle. Every political party aims at a majority.

The example of official language minority communities applies elsewhere as well. Minority groups in Canada, the vulnerable people who find it difficult to exercise their right to vote, are losing an important ally. Canadian democracy will suffer the consequences.

The second provision has to do with the ability to vouch for another voter. Clearly, if there is a situation where someone is vouching for another person, it means that the people have already made it to the polling station. These are often voters who are accompanied by a parent or child and who depend on that person to vouch for them. Don't forget that vouching used to be acceptable. What message are we sending if the next time they come to the polling station to do their civic duty, as they have in the past, they are turned away?

By allowing someone to vouch for another voter's identity, we can effectively combat apathy and the loss of confidence in our electoral system. We already know that this will happen. We know that, with this bill, more voters will be denied their right to vote than in previous elections. More voters will show up at the polling station only to be told that they do not have a voice. That is the reality. We cannot downplay that. We certainly cannot downplay the seriousness of this violation. Despite advice to the contrary, the government decided that it was comfortable with these restrictions and it wanted to move forward at all costs in some supposed war on election fraud. That fraud has never been identified, I might add. We are limiting very real, fundamental rights in an effort to combat some imaginary threats.

Two of our colleagues, Senator Moore and Senator Jaffer, presented amendments. The Honourable Senator Jaffer proposed amendments to protect the right to vote of the most vulnerable. These amendments do not create a new measure or a new obligation. They would simply protect an important existing measure. These amendments were simply an attempt to mitigate the devastating effects of Bill C-23 and avoid the most serious problems that will arise when it is implemented.

Thanks to some amendments, Bill C-23 will now allow someone to vouch for the residence of a single voter.

• (1830)

In other words, if a voter uses a piece of ID to identify himself, but does not have proof of residence, he can ask a duly identified voucher to attest to his residence. Both parties must take an oath. Under Bill C-23, a voucher can vouch for only one voter. That is unacceptable. That is what Senator Jaffer's proposed amendments tried to rectify.

Consider the voucher who brings both of his elderly parents to the polling station. Why can he attest to the residence of only one of his parents? Don't forget that the voucher is already an identified voter and that the voucher and the voter both have to take an oath. Isn't that enough? Are we so afraid to trust Canadians, even in the absence of proof?

I support the amendments proposed by Senator Jaffer and Senator Moore. They are good amendments that promote more participation and a healthy vision for Canadian democracy.

Honourable senators, I urge you to do the same. I am opposed to Bill C-23 because it proposes an electoral system based on voter suppression instead of a system that promotes even more participation. This bill is devoid of the democratic values that are important to me and that make Canada a role model around the world.

[*English*]

**Hon. Jane Cordy:** Honourable senators, I rise today to speak to Bill C-23, a bill that I believe will make elections less fair for Canadians.

It's June and the days are warmer, thank goodness. Summer is just around the corner, and here we go again with yet another slew of government bills being unnecessarily rammed through Parliament with little debate and yet another closure motion — so much for sober second thought.

There is absolutely no practical reason why this bill is thrust on us now and why it is being rushed into passage at this late stage. Here is a bill that should have been introduced by this government years ago to allow for proper scrutiny by Parliament and for input from Canadians. Instead, we wait until the last minute and then proclaim that the bill has to be passed this spring so that Elections Canada can work on it before the next election.

This bill should have been drafted with the consideration of non-partisan electoral experts and academics, not by politicians with axes to grind. All political parties should have been consulted if indeed the purpose of the bill is truly to make elections more democratic and to encourage more people to vote. The result of this wrong-headed and unilateral approach is the bill we have before us today — a hastily written, detrimental, ideological-driven and vindictive piece of legislation that *The Globe and Mail* accurately labelled as the 2014's worst piece of legislation.

One of Canada's most sacred rights is the right to vote, and one of society's most sacred institutions is our electoral system. Careful thought and consideration should always be given before tinkering with one of Canada's institutions charged with ensuring our democratic rights. This is one area of public policy that should never be altered without careful thought, and never unilaterally by any one political party. This government does not appear to be concerned with that.

Reforms to the Canadian electoral system are a delicate matter that should be handled with a sense of reverence. Changes to our electoral system should never be altered unilaterally by any one

party and never in a fashion that provides that party with a perceived advantage at the polls. In this case, most experts and observers feel that this is exactly what has occurred with Bill C-23.

We have a Prime Minister and a government who appear intent on punishing Elections Canada for doing their job. Unfortunately, it is Canadians who will be punished with the passage of this bill.

At a time when increased investigative powers are required by Elections Canada to properly investigate election irregularities, this bill further erodes Elections Canada's investigative powers.

To listen to the Minister of Democratic Reform's sermons on this bill, the true evildoers are Canadian voters intent on manipulating our election process. The minister has been extremely vocal on this particular point, boisterously proclaiming *ad nauseam*, every chance he gets, that the process of vouching will be the downfall of our democratic system.

We have heard from Conservative caucus members that they have witnessed election fraud, but unfortunately none of them actually reported it to Elections Canada. Of course, this flies in the face of the evidence, where voter fraud is seen as virtually non-existent, according to a report by Harry Neufeld.

If the minister a truly concerned about election manipulation, he may wish to turn his attention not to the non-existent threat of Canadian voter fraud but to his own party where allegations of voter suppression in the last election are very real. I cannot think of a more grievous attempt at election manipulation than obstructing Canadians from casting a ballot. I think everyone in that chamber is disgusted by the alleged actions of a few campaign staffers who actually worked to obstruct Canadians from voting in the last election. I know we all agree that every effort must be made to prevent this type of thing from ever happening by any party's candidates or election team during a campaign. Those who engage in this type of activity should be penalized severely.

You would expect, then, that these fraudulent actions would be the focus of a bill to strengthen Canada's electoral system. Instead of bolstering Elections Canada's independence from government influence, and instead of increasing investigative powers and giving access to vital campaign data, this government gives no power to Elections Canada to compel witnesses to testify. This deficiency has stalled and ultimately led to the collapse of several Elections Canada investigations.

The bill also moves the person in charge of pursuing investigations of electoral wrongdoing out of Elections Canada and into a branch of government, effectively neutering Elections Canada's investigative powers.

The bill puts an unnecessarily short expiry date on campaign automated phone call data collected by the CRTC. The CRTC will store the scripts of all automatic phone messages from an election for a period of three years, after which they are legislated to destroy the records. This is essential information that is needed to investigate cases such as the robo-call scandal from the 2011 election.

There are allegations of voter suppression in the last election and, in a strange twist of irony, the government in its wisdom feels that the responsibility to promote and engage Canadians to turn out to vote falls solely on the political parties. Elections Canada is not only discouraged from promoting voter turnout; they are now prohibited from doing so by measures in this bill.

This is backward thinking. What possible benefit does restricting Elections Canada from promoting voter participation provide? Absolutely none. The minister argues that the historically low voter turnout in recent years is proof that voter promotion campaigns are not working and therefore prohibiting Elections Canadian from undertaking this type of activity is necessary. This logic could not be more flawed. Combatting voter apathy and promoting voter participation should be a priority for Elections Canada. We will be the only democracy in the world that prohibits their electoral body from educating the population on the electoral system. This will include prohibiting any form of voter awareness campaigns designed to encourage people to vote. Why is this government making concerted efforts to deter even more Canadians from voting?

Coincidentally, the plummeting voter turnout just so happens to coincide with Prime Minister Harper taking power and the seemingly new low level of discourse on Parliament Hill over the last few years.

• (1840)

I would like to believe the political parties want Canadians to vote and I am truly puzzled that any political party would want to forbid Elections Canada from encouraging a high voter turnout. I strongly disagree with this measure and feel that the job of voter promotion is not mutually exclusive to Elections Canada or to political parties.

I believe much more can be accomplished with Elections Canada and political parties working together to encourage Canadians to vote at election time. Our democracy will only be stronger as more Canadians participate. Restricting Elections Canada's ability to educate the Canadian public on our democratic system and election policies just does not make sense and seems to be intended to further deter voter participation.

With all of the ministers blustered, decrying the non-existent voter vouching fraud, it was a show of misdirection to distract Canadians from the unfortunate fact that this bill is really an attack on Elections Canada, just the latest in a long line of Canadian institutions vindictively targeted by the Harper government. Bill C-23 is another bill that should be scrapped altogether and sent back to the drawing board.

With leading non-partisan experts on these matters not supporting this bill, it should give the government reason to pause and reflect on the legislation they hastily drafted, tinkered with in the other place and are now ramming through Parliament. Our democratic systems are too important for any one political party to unilaterally alter. This is especially true in the face of universal criticism that this bill is a seriously flawed piece of legislation. Independent experts and academics believe that, at

worst, this bill is an attack on Elections Canada and, at best, moderately harmful to our democratic system and biased to the majority party.

We are constantly bombarded by this government to pass this urgent piece of legislation so that the powers that be will have sharper teeth, a longer reach and a freer hand in place before the next set election date in October 2015. But, honourable senators, as we have heard from expert testimony on this bill, you will be hard pressed to find anyone outside of the government caucus who would agree that this bill is either fair or good. However this criticism falls on deaf ears with this government, as they continue to run roughshod over Canada's once proud institutions and publicly smear the character of those who disagree with them.

Mr. Harper exclaimed that we won't recognize Canada when he is through with it. Sadly, honourable senators, this is becoming more of a reality every day. This bill is wrong and I cannot support it.

**Hon. Joan Fraser (Deputy Leader of the Opposition):** Colleagues, there are so many things wrong with this bill that it is just not possible in the time available to us to enumerate them all. I want to thank all my colleagues who have done a good job of drawing our attention to some of the elements that are wrong in this bill. There is no way we can touch on them all.

Senator Chaput made a central point, one that has also been drawn to our attention by the Chief Electoral Officer. He said:

> It is essential to understand that the main challenge for our electoral democracy is not voter fraud, but voter participation.

If we are not all extremely worried by the falling rates of voter participation, then I wonder if we're paying much attention to the foundations of the system we all profess to love.

So many elements of this bill are so clearly designed one way or another to hinder voter participation, for example, the Chief Electoral Officer's capacity to communicate with Canadians to encourage voter participation is being sharply limited. He's going to be able to encourage high school students to think about voting, but not people who are actually of voting age. That's kind of strange.

There is the whole vouching element that has been so eloquently described by colleague after colleague, and which is indeed deeply disturbing not just because of the details of the proposal but of what appears to be the intention behind it.

Here's another element that bothers me. It's one of so many examples of things that look small but, when you add them all up together, they are very worrisome. This bill says that when a voter turns up and offers voter ID at the polling station, the ID may be examined but not handled by a candidate's representative. I don't really see much need for that. It would be, I would think, the job of the deputy returning officer to verify the acceptability of voter ID. Why would the candidate's representatives get involved in that? I have deep suspicions, which I hope are not borne out in experience, but we've all seen elections where voters were challenged when they came to vote and where the challenges all too often tended to apply to certain groups whose votes were being discouraged — ethnic groups, linguistic groups.

This has perhaps reached its highest point of perfection in the United States where sometimes the fuss made over voter ID is so systematic and so obstructionist that lineups to vote can last all day. When the time comes to close the polls, people are still on the streets because the people ahead of them in the line have had to go through such hoops to be allowed to vote, if they're allowed to vote. Surely that's not where we want to go. Particularly in this chamber we should be worried about that kind of thing because, as we constantly observe, one of our duties is the duty to protect minorities and it is usually minorities who are the targets of this kind of effort.

There are so many elements in this bill that are very worrisome, but let me address a couple that are the subject of our amendments, which I support. One is vouching and that's been talked about a great deal, so I won't repeat everything that everybody has said, except to say that the points made by my colleagues who have active experience in this field should give us pause for very serious thought.

Think about Senator Dyck's experience with Aboriginal peoples and about Senator Jaffer's experience with the homeless. Senator Ringuette, I think it was, made a wonderful point about her own mother who, under this bill, might not be able to vote. Her own mother is an Acadian who has been Canadian for centuries.

**Senator Ringuette:** She is only 70.

**Senator Fraser:** The ancestors, I mean.

Another element that I would like to urge your support for is Senator Moore's amendment about compelling testimony. Here I part company with my esteemed colleague, Senator McCoy. The power to compel testimony does exist in electoral systems in Ontario, Quebec, three other provinces and in Australia, the country that our Prime Minister seems to consider his new best friend. The absence of that power to compel testimony — this is not theoretical; this is real — obstructs investigations into apparent abuses of our electoral system.

The Commissioner of Canada Elections said:

> We have hit the wall on a number of investigations, some of which were quite serious in terms of the alleged facts. We hit the wall because people who — we knew — knew things about that refused to talk to us.

• (1850)

Those people who had pertinent, relevant, necessary testimony to give were free to refuse to give it. Senator Moore is not suggesting giving the Commissioner of Canada Elections some kind of ability to run rampant through every party organization in the land just because he feels like it. His amendment is carefully crafted to ensure that you would have to get permission from a judge before you were able to compel testimony. I think we can be

absolutely certain that no judge would give such authority unless the apparent grounds for seeking that testimony were very compelling indeed.

In the absence of that power, I hate to use the horrible word "robo-calls" again, but there we are. We were told explicitly that the reason that investigation had to be curtailed was not because nothing had gone wrong. It was because people who knew what had happened refused to testify. That's a serious business. It's serious on two levels. One, it may well mean that actual abuses, maybe even illegal acts, were concealed. Two, and perhaps even more corrosive, is that it is one more contributing factor to the diminution of public confidence in our electoral system. If they are not confident in the system, why would they bother to vote?

Here we are in a time allocated debate. I find it rather sad that the only people who have spoken in this debate today are members of opposition. Yesterday, Senator Frum spoke, not at great length but making the points she wished to make in a clear and cogent fashion. That was it. Senator Plett said today that time allocation was a good thing and that the bill was excellent, but he did not address himself to the substantive concerns that have been raised on this side.

A few minutes ago, I looked over and counted the people on the other side of the chamber. There were 19 of them. Eleven of them were engaged in conversations with each other.

**Senator Tkachuk:** Order!

**Senator Fraser:** I believe I am in order, Senator Tkachuk. If you wish to speak, you should indeed be in your chair, in your place.

More saddening than the fact that people were engaged in conversations — people do have conversations in the chamber — is that nobody has wanted to stand up and engage in debate on the substantive issues. We're not doing our job. Let me quote what I consider to be very wise words from the unjustly maligned Chief Electoral Officer:

> It is the responsibility of Parliament to provide — and it is my responsibility to administer — an electoral process that is accessible to all who wish to exercise their constitutional right to vote. Election day should be a time, and it may be the only time, when all Canadians can claim to be perfectly equal in power and influence, regardless of their income, health or social circumstances.

I wish I thought that the bill now before us was going to achieve that truly noble goal. Unfortunately, I don't believe it is. I urge all honourable colleagues to support the amendments but then, even if the amendments are carried, to oppose this bill.

[*Translation*]

**Hon. Fernand Robichaud:** Honourable senators, I would just like to say a few words to show my support for the amendments. I believe that our role in this chamber is to ensure that the election process is fair and allows all those who have the right to vote to exercise that right.

In my opinion, these amendments are a way to enable everyone who has the right to vote to do so.

I ran for election several times. I visited the polling stations like all the other candidates who were running. Never was I informed that questionable things had happened at the polling stations, because the returning officers were responsible and did their job, regardless of whether they were appointed by one party or another — you know how it works — at the suggestion of Elections Canada officials. Never was I informed that things had happened that shouldn't have happened or that someone had tried to cheat the system or a voucher had tried to somehow circumvent the process and help someone to vote when that person didn't have the right to do so.

In my opinion, these amendments will allow these people to exercise their right to vote. I believe that the right to vote is sacred. We need to do everything in our power to ensure that people can show up and vote. That is why, honourable senators, I support the amendments that have been presented.

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

**Hon. Senators:** Yes.

[*English*]

**The Hon. the Speaker:** Honourable senators, we are dealing with the motions in amendment. We will begin with the motion in amendment by the Honourable Senator Moore, seconded by the Honourable Senator Robichaud:

> That Bill C-23 be amended in clause 10, on page 11, by replacing lines 32 and 33 with the following:
>
> "any other Act of Parliament, and he or she may fix and pay".

Is it your pleasure, honourable senators, to adopt the motion?

**Some Hon. Senators:** Yes.

**Some Hon. Senators:** No.

**The Hon. the Speaker:** Those in favour of the motion, please signify by saying "yea."

**Some Hon. Senators:** Yea.

**The Hon. the Speaker:** Those opposed to the motion signify by saying "nay."

**Some Hon. Senators:** Nay.

**The Hon. the Speaker:** In my opinion, the "nays" have it.

*And two honourable senators having risen:*

**The Hon. the Speaker:** Call in the senators.

Do the whips have advice? A one hour bell. My clock says seven o'clock. The vote will take place at eight o'clock. Agreed?

**Hon. Senators:** Agreed.

• (2000)

**The Hon. the Speaker:** Honourable senators, the question before the house is the motion in amendment moved by the Honourable Senator Moore, seconded by the Honourable Senator Robichaud:

> That Bill C-23 be not now read the third time but that it be amended in clause 10, on page 11, by replacing lines 32 and 33 with the following:
>
> "any other Act of Parliament, and he or she may fix and pay".
>
> . . .

**Hon. Senators:** Dispense!

Motion negatived on the following division:

YEAS
THE HONOURABLE SENATORS

| | |
|---|---|
| Chaput | Hubley |
| Cordy | Jaffer |
| Cowan | Lovelace Nicholas |
| Dawson | Massicotte |
| Day | Mercer |
| Dyck | Moore |
| Eggleton | Ringuette |
| Fraser | Robichaud |
| Furey | Tardif |
| Hervieux-Payette | Watt—20 |

NAYS
THE HONOURABLE SENATORS

| | |
|---|---|
| Andreychuk | McCoy |
| Ataullahjan | McInnis |
| Batters | McIntyre |
| Bellemare | Meredith |
| Beyak | Mockler |
| Boisvenu | Nancy Ruth |
| Buth | Neufeld |
| Carignan | Ngo |
| Champagne | Oh |
| Cools | Patterson |
| Dagenais | Plett |
| Demers | Poirier |
| Doyle | Raine |
| Eaton | Rivard |
| Enverga | Runciman |
| Fortin-Duplessis | Seidman |
| Frum | Seth |
| Gerstein | Smith (*Saurel*) |
| Greene | Stewart Olsen |
| Housakos | Tannas |
| Lang | Tkachuk |
| LeBreton | Unger |
| Maltais | Verner |
| Manning | Wallace |
| Marshall | Wells |
| Martin | White—52 |

ABSTENTIONS
THE HONOURABLE SENATOR

Nolin—1

**The Hon. the Speaker:** Honourable senators, the question before the house is the motion in amendment by the Honourable Senator Jaffer, seconded by the Honourable Senator Chaput:

> That Bill C-23 be not now read the third time but that it be amended:
>
> (*a*) in clause 46, on page 26.
>
> (i) by replacing lines 5 to 8 with the following:
>
> . . .

**Hon. Senators:** Dispense!

**The Hon. the Speaker:** All those in favour of the motion will signify by saying "yea."

**Some Hon. Senators:** Yea.

**The Hon. the Speaker:** Contrary minded, nay.

**Some Hon. Senators:** Nay.

**The Hon. the Speaker:** In my opinion, the nays have it.

*And two senators having risen:*

**The Hon. the Speaker:** Pursuant to the house order, we will now conduct a standing vote.

Motion negatived on the following division:

YEAS
THE HONOURABLE SENATORS

| | |
|---|---|
| Chaput | Hubley |
| Cordy | Jaffer |
| Cowan | Lovelace Nicholas |
| Dawson | Massicotte |
| Day | Mercer |
| Dyck | Moore |
| Eggleton | Ringuette |
| Fraser | Robichaud |
| Furey | Tardif |
| Hervieux-Payette | Watt—20 |

NAYS
THE HONOURABLE SENATORS

| | |
|---|---|
| Andreychuk | McCoy |
| Ataullahjan | McInnis |
| Batters | McIntyre |
| Bellemare | Meredith |
| Beyak | Mockler |
| Boisvenu | Nancy Ruth |
| Buth | Neufeld |
| Carignan | Ngo |
| Champagne | Oh |
| Cools | Patterson |
| Dagenais | Plett |
| Demers | Poirier |
| Doyle | Raine |
| Eaton | Rivard |
| Enverga | Runciman |
| Fortin-Duplessis | Seidman |
| Frum | Seth |
| Gerstein | Smith (*Saurel*) |
| Greene | Stewart Olsen |
| Housakos | Tannas |
| Lang | Tkachuk |
| LeBreton | Unger |
| Maltais | Verner |
| Manning | Wallace |
| Marshall | Wells |
| Martin | White—52 |

ABSTENTIONS
THE HONOURABLE SENATOR

Nolin—1

• (2010)

**The Hon. the Speaker:** The question before the house is resuming debate on the motion of the Honourable Senator Frum, seconded by the Honourable Senator Tkachuk, for third reading of Bill C-23.

[ The Hon. the Speaker ]

**Hon. Art Eggleton:** Honourable senators, I rise to speak on this bill, Bill C-23, the elections bill, as it is unamended, unfortunately.

This bill has been a disaster right from the start. It was panned by expert after expert. Even a *Globe and Mail* editorial said — in fact, there were several of them, but this one said:

> The original Bill C-23 threatened to do real harm to Canadian democracy, and to undermine public confidence in what is supposed to be a fair and non-partisan electoral system.

They haven't changed their mind very much even with the paltry revisions that have come forward.

Thankfully, Canadians have spoken. They have called and emailed and made their voices heard. They have pushed the government to make changes to the bill.

Gone are some of the most outrageous parts of this bill. The section that would have changed campaign spending rules so that the cost of fundraising from previous donors to the party would no longer be considered a campaign expense? It's gone. This would have given a distinct advantage to one party over the others. Guess which party.

The section that would have given the winning party in a riding the power to name the riding's chief poll supervisor is also gone. That would have taken what is supposed to be a non-partisan position and made it very political.

But, honourable senators, the changes don't go far enough. There are still glaring problems with this bill. Even some of the areas where changes or compromises were made by the government don't do enough to justify supporting this bill. This bill still makes our electoral system worse off — worse off.

Let me start with the compromise on vouching. It was proven time and time again by experts that there is not widespread electoral fraud in Canada, despite the fairy tales and the imaginations of some of the members of the other house. The only people claiming this, in fact, are the government — not the experts.

The government proposed getting rid of vouching altogether. Then they compromised. The government amendment requires voters to produce one piece of personal identification but, if they lack an ID with proof of address, they can sign a written oath of residence. Another voter with full identification, both name and address, will have to vouch for the voter by co-signing the oath. Unfortunately, they're not going to accept the voter identification card that so many people have gotten used to using for so many years as a part of that. They're making it far tougher.

You've all been involved in going to get people out to vote. Tomorrow some of us will be doing it again. You know that getting somebody out to vote when you have to put a whole

difficult proposition in front of them on how they're going to identify themselves is just not a good way to go about it.

Honourable senators, although this is a compromise, it's still not good policy. This makes the process more complex. Harry Neufeld, B.C.'s former Chief Electoral Officer, said of this change:

> This certainly doesn't make it easier to vote. This makes it more difficult to vote and, I think, it will effectively drive down the voting turnout numbers.

There is a very straightforward expert opinion. In sober second thought, we should really be considering an opinion like that.

The second compromise was the so-called un-muzzling of Elections Canada. Before the amendment to C-23, Elections Canada could only tell Canadians when and where to vote. After the amendment, Elections Canada can continue, at least, to promote voting in secondary and elementary schools, as they currently do, to help get our young people accustomed to the democratic system of voting. Still forbidden, however, is Elections Canada's ability to run public education outreach programs designed to encourage people to vote. In an era of low voter turnout that continues to drop, that is appalling. Yes, Canadians should want to vote, but we should be doing everything we can to encourage people to exercise their right to vote. That is fundamental to a healthy democracy.

Honourable senators, there are a couple of problems with this legislation that the government has not addressed. Currently, Elections Canada has direct access to the Consolidated Revenue Fund to hire outside experts or investigators on a temporary basis. This gives them direct control on who they hire and for what purpose. But now, with Bill C-23, that independence is being tainted. Elections Canada would be required to obtain Treasury Board approval before hiring outside experts. David Brock, the Northwest Territories Chief Electoral Officer, said that this power to possibly refuse a request "muddles and undermines the basic relationship between the Chief Electoral Officer of Canada and Parliament." Having to go to the government to get the funds and to get permission on who they hire.

The other problem follows along the same line. The bill separates the Chief Electoral Officer and the commissioner who would initiate investigations into possible electoral misconduct. It moves the commissioner into another level of government that will reduce his independence. It also serves to reduce Elections Canada's powers.

Honourable senators, if the government were truly interested in bettering our electoral process, they would have included in the bill measures that election experts, including Elections Canada, have been calling for. They would have given the Commissioner of Canada Elections the ability to compel witnesses to testify in cases of alleged wrongdoing. Elections Canada has admitted that this has significantly impacted the robo-calls investigation. In a recent report, the commissioner stated that without this power, "some investigations will abort because of our inability to get at the facts."

• (2020)

So here are the officials saying, "You're handcuffing us; you're preventing us from doing our job."

Honourable senators, this same kind of power is held by the Competition Bureau and many provincial bodies. In fact, the Competition Bureau recently stated they used the power 26 times last year during investigations. As a group of election experts recently stated, again in *The Globe and Mail*:

> Not only does the power to compel witness testimony play a crucial investigative function, it also acts as an effective deterrent to wrongdoing for all parties."

An effective deterrent.

Honourable senators, Canada's electoral system has been known as one of the best in the world. We regularly train and advise emerging democracies on best electoral practices. Bill C-23 in its original form would have severely diminished our standing in the world and would have severely hurt our democracy. It was a divisive piece of legislation that was only designed to help the governing party and not to fix our electoral system. Thankfully, Canadians have spoken and changes have been made. But remember, honourable senators, these changes only limit Bill C-23's destructive alternatives and do not make our electoral system better. It makes it worse, and that is why this bill is not worthy of our support.

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

**Hon. Senators:** Question.

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

**Some Hon. Senators:** No.

**Some Hon. Senators:** Yes.

**The Hon. the Speaker:** Those in favour of the motion will signify by saying "yea."

**Some Hon. Senators:** Yea.

**The Hon. the Speaker:** Those opposed to the motion will signify by saying "nay."

**Some Hon. Senators:** Nay.

**The Hon. the Speaker:** In my opinion, the "yeas" have it.

*And two honourable senators having risen*:

**The Hon. the Speaker:** What do the whips say?

**Senator Hubley:** Your Honour, I request that the vote be deferred.

**The Hon. the Speaker:** The vote will be deferred, pursuant to the rules, until 5:30 tomorrow, which is Thursday, June 12.

## THE ESTIMATES, 2014-15

### SUPPLEMENTARY ESTIMATES (A)—ELEVENTH REPORT OF NATIONAL FINANCE COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the eleventh report of the Standing Senate Committee on National Finance (Supplementary Estimates (A) 2014-2015), tabled in the Senate on June 10, 2014.

**Hon. Joseph A. Day** moved the adoption of the report.

He said: Honourable senators, this report reflects the work that the Finance Committee did in relation to Supplementary Estimates (A). It's my intention to give you a bit of a background and put this report in perspective in relation to the supply bills, which we received today. However, in light of the long day that we've had, with your permission, I would adjourn the debate for the rest of my time.

(On motion of Senator Day, debate adjourned.)

## LEGAL AND CONSTITUTIONAL AFFAIRS

### COMMITTEE AUTHORIZED TO MEET DURING SITTINGS AND ADJOURNMENT OF THE SENATE

**Hon. Yonah Martin (Deputy Leader of the Government),** pursuant to notice of June 10, 2014, moved:

> That the Standing Senate Committee on Legal and Constitutional Affairs have the power to meet on Friday, June 13, 2014, and Monday, June 16, 2014, even though the Senate may then be sitting, with the application of rule 12-18(1) being suspended in relation thereto; and
>
> That, notwithstanding rule 12-18(2)(a), the committee be also authorized to meet on those days, even though the Senate may be then adjourned for more than a day but less than a week.

**The Hon. the Speaker:** Is there debate, explication? Are honourable senators ready for the question?

**Hon. Senators:** Question.

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

(Motion agreed to.)

## FOREIGN AFFAIRS AND INTERNATIONAL TRADE

### COMMITTEE AUTHORIZED TO MEET DURING SITTINGS AND ADJOURNMENT OF THE SENATE

**Hon. Yonah Martin (Deputy Leader of the Government),** pursuant to notice of June 10, 2014, moved:

> That, notwithstanding rule 12-18(1), the Standing Senate Committee on Foreign Affairs and International Trade have the power to meet on Friday, June 13, 2014 and Monday, June 16, 2014, even though the Senate may then be sitting for the purposes of its study of Bill C-20, An Act to implement the Free Trade Agreement between Canada and the Republic of Honduras, the Agreement on Environmental Cooperation between Canada and the Republic of Honduras and the Agreement on Labour Cooperation between Canada and the Republic of Honduras, should this bill be referred to the committee; and
>
> That, notwithstanding rule 12-18(2)(a), the committee be also authorized to meet for the purposes of this study, on those days, even though the Senate may be then adjourned for more than a day but less than a week.

She said: Your Honour, I wish to move this motion, but I'd like to make a modification to motion to No. 49. If I may explain, it is to allow the committee of Foreign Affairs to meet on additional days. However, I'd like to amend this motion for the committee to meet Thursday, June 12, 2014, and Friday, June 13, 2014, instead of Friday and Monday, so one day ahead of what's on this current motion on the Order Paper.

The reason for asking this leave to amend my own motion is that some negotiations have taken place. At the request of the chair and the deputy chair of the committee, and after consulting with Senator Fraser, it has been agreed that the modification to this motion should be made. So I request leave to modify motion No. 49.

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

**Hon. Senators:** Agreed.

MOTION IN MODIFICATION

**Hon. Yonah Martin (Deputy Leader of the Government):** Honourable senators, in modification, I move:

> That the motion be amended in the first paragraph by replacing the words "Friday, June 13, 2014 and Monday, June 16, 2014" with the words "Thursday, June 12, 2014 and Friday June 13, 2014".

**The Hon. the Speaker:** Is it the pleasure of the house to adopt the motion, as modified?

**Hon. Senators:** Agreed.

(Motion, as modified, agreed to.)

## BUSINESS OF THE SENATE

**The Hon. the Speaker:** Honourable senators, now that we are beyond Government Business and it being past 4 p.m., pursuant to the order adopted by the house on Thursday, February 6, 2014, I declare the Senate continued until Thursday, June 12, 2014, at 1:30 p.m., the Senate so decreeing.

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(The Senate adjour1ned until Thursday, June 12, 2014, at 1:30 p.m.)

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