



# DEBATES OF THE SENATE

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OFFICIAL REPORT  
(HANSARD)

Wednesday, June 18, 2014

The Honourable NOËL A. KINSELLA  
Speaker

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*Debates Services:* D'Arcy McPherson, National Press Building, Room 906, Tel. 613-995-5756  
*Publications Centre:* David Reeves, National Press Building, Room 926, Tel. 613-947-0609

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## THE SENATE

Wednesday, June 18, 2014

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

Prayers.

### SENATORS' STATEMENTS

#### TRIBUTES

THE HONOURABLE CATHERINE S. CALLBECK

**The Hon. the Speaker:** Honourable senators, I have received a notice from the Leader of the Opposition, who requests, pursuant to rule 4-3(1), that the time provided for the consideration of Senators' Statements be extended today for the purpose of paying tribute to the Honourable Senator Catherine Callbeck, who will be retiring from the Senate on July 25, 2014.

I remind senators that pursuant to the *Rules of the Senate*, each senator will be allowed only three minutes and may speak only once. However, is it agreed that we continue our tributes to Senator Callbeck under Senators' Statements to allow for up to seven tributes?

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** Senator Callbeck will then respond, and time remaining thereafter to be used for other statements. Is it agreed, honourable senators?

**Hon. Senators:** Agreed.

**Hon. James S. Cowan (Leader of the Opposition):** Honourable colleagues, today we pay tribute to our good friend Senator Catherine Callbeck, a great Canadian leader and champion of her beautiful province of Prince Edward Island.

Like all Atlantic Canadians, I am a fan of Anne, so I would like to begin by quoting another great Islander, Lucy Maud Montgomery. She wrote:

It's not what the world holds for you. It's what you bring to it.

That's exactly right — it's what one contributes to the world, and to one's community, that really counts. Senator Callbeck has lived that principle.

Senator Callbeck grew up in a small community of some 150 people. She studied in a two-room schoolhouse and worked from the age of 12 at her family's hardware business. She always knew that she wanted to go to university, and she went on to become the second woman to graduate with a Bachelor of Commerce from Mount Allison University.

I might add that one of her fellow students at Mount A was my wife Shelagh, who tells me that Senator Callbeck was "a Borden girl" and that they were "a colourful bunch." Shelagh didn't elaborate and I didn't ask!

Soon after university, Catherine decided, in her words, "to try teaching." She applied for and was offered a position in the commercial department in McAdam, New Brunswick. However, the school had two pay schedules, one for men — and a different, lower one, for women. This, you can imagine, was not acceptable to her. She pointed out that she would be doing the same job as the men, and should be paid the same. She got the higher pay.

Senator Callbeck later joined the business faculty at the St. John Institute of Technology, now the New Brunswick Community College. Once again, she was a trailblazer; she was the only woman in the faculty.

She then returned to work in the family business — but in 1973 she was asked to help organize the activities for the centennial of the Island — and she did — and then was asked to help out on other committees around the Island — and suddenly both political parties, the Conservatives and the Liberals, were courting her to run. Being a woman of common sense, she of course chose the Liberals — and the rest, as they say, is history.

In 1974, Senator Callbeck was elected to the Legislative Assembly of Prince Edward Island and became the first woman to serve in cabinet with a portfolio, serving as P.E.I.'s Minister for Health and Social Services. The trailblazing continued. In 1988, she became the first woman elected as the Member of Parliament for Malpeque and only the second woman to be elected to the House of Commons from Prince Edward Island. Then, in 1993, she was elected Leader of the Liberal Party of P.E.I. and then became the first elected female premier in Canada, with her party winning every seat but one.

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

**Senator Cowan:** Colleagues, historic accomplishments of that magnitude take extraordinary hard work, dedication, character and in P.E.I., I might add, more than a few Strawberry Socials.

Her accomplishments as premier were too many to list here, so I will confine myself to mentioning only one — well, really two: Senator Callbeck delivered the Confederation Bridge while

making the difficult cuts that were required to get the province's financial situation under control. She left office 10 points up in the polls.

Colleagues, we all know Senator Callbeck to be a dedicated and serious stateswoman. But I've done a little digging and uncovered a few stories that I really think you should hear, in order to have a truly accurate and complete picture of our colleague.

First, there is the story of Bonnie and Clyde — no, not the gangsters or the movie characters, but two Siberian tigers that briefly inhabited Freetown, just east of Summerside, during Premier Callbeck's tenure. As you might imagine, the tigers were very popular with the locals but less so with the wildlife authorities. And so controversy erupted! Appeals and petitions endorsed by thousands of Islanders poured into the government to let the beloved celebrity tigers stay. Yet the premier could not turn a blind eye to the province's exotic animal regulations. After all, on the Island that gave birth to Confederation, was the rule of law to mean nothing? An election was on the horizon, so every day Premier Callbeck was forced to confront her staffers with escalating levels of intensity: "What are we gonna do about the tigers? *What are we gonna do about the tigers? WHAT ARE WE GONNA DO ABOUT THE TIGERS!*" I'm told it got to the point where staffers would duck for cover. Bonnie and Clyde eventually found their way to a Nova Scotia zoo, but I have it on good authority that, to this day, staffers who passed through Catherine's office periodically turn to each other today and say in unison: "What are you gonna do about the tigers?"

• (1340)

And then there was the day when she stormed into the office outraged. Sources tell me they had never seen the premier so angry. It turned out that the government was paying for Barenaked Ladies to come to P.E.I. "We absolutely need to stop this," she reportedly said, "I won't stand for this." The premier continued her livid denunciation for several minutes before pausing to catch her breath, at which point the staff explained that the Barenaked Ladies was not a burlesque show but a band — and, in fact, a band of conservatively and fully-clothed young men.

In 1997, Prime Minister Chrétien appointed Senator Callbeck to the Senate. She served on a number of committees, including our National Finance Committee and Banking, Trade and Commerce Committee. But in all her work here I suspect that among the most personally satisfying may have been her work on the Standing Senate Committee on Social Affairs, Science and Technology, and especially during the several years the members of that committee worked to produce the first of six highly influential reports on the Canadian health care system and then the groundbreaking report on mental health, *Out of the Shadows at Last*, which led directly to the creation of the Mental Health Commission of Canada.

Yes, "It's not what the world holds for you. It's what you bring to it."

Senator Callbeck, we here know what you brought to this chamber; the people of P.E.I. know what you brought to them; and Canadians know what you brought to the country. My very

best wishes to you as you move into this next stage of your life, with your family and many friends back home on the Island.

### 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 Kathleen Casey, MLA for Charlottetown-Lewis Point. She was first elected as MLA for Charlottetown—Lewis Point on May 28, 2007, and elected Speaker of the Legislative Assembly on July 6, 2007. It's a special treat to have you here at this time.

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

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

**The Hon. the Speaker:** Honourable senators, another great maritime Speaker is also in the Speaker's Gallery, namely the Speaker of the Legislative Assembly of neighbouring New Brunswick, the Honourable Dale Graham, who is accompanied by the Member of Parliament for Saint John, Rodney Weston; and Mr. Jim Quick, President and CEO of the Aerospace Industries Association of Canada.

Gentlemen, welcome to the Senate of Canada.

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

### TRIBUTES

#### THE HONOURABLE CATHERINE S. CALLBECK

**Hon. Yonah Martin (Deputy Leader of the Government):** Honourable senators, I rise today to pay tribute to our departing colleague, the Honourable Catherine Callbeck, senator of Prince Edward Island. I've only had the pleasure of knowing her since my appointment to the Senate in 2009 and, to follow on the heels of a wonderful tribute by Senator Cowan, I feel quite humbled. Since my arrival in the Senate I have sat in a committee with real giants of politics like Catherine Callbeck and Dr. Keon, who actually saved my life in my first year, in his diagnosis. I think he saved quite a few of us, if I recall. It is quite an honour for me to have this opportunity to say a few words.

It has been a privilege to get to know Catherine Callbeck through our work on the Standing Senate Committee on Social Affairs, Science and Technology, be it undertaking in-depth studies on critical social issues or studying legislation referred to the committee. Over the years, I observed Senator Callbeck's ability to dissect, assess and intervene ever so skilfully. I especially enjoyed our comprehensive study on post-secondary education and the barriers that prevent fair access to education. As a former educator, I want to thank you, Senator Callbeck, for your leadership in taking the initiative on such an important study. I'm sure that this is but one in a long list of your accomplishments and achievements in the Senate.

Catherine Callbeck, as we heard, is a pioneer in every sense of the word — as the first woman elected to the Legislative Assembly of P.E.I. in 1974; as the first female Minister for Health and Social Services; as the first woman elected as the Member of Parliament for Malpeque; and, of course, as the first female premier of P.E.I.

Senator Callbeck, how can we measure the immeasurable impact of your thoughtful interventions and contributions to all the work you have done over the course of your Senate tenure since September 23, 1997, and throughout your years of service to the good people of P.E.I.? I want to commend you on decades of service to the people of P.E.I. and to all Canadians. Your leadership and presence in this chamber will be greatly missed.

Though our paths have not crossed and may not cross off the Hill, being from opposite ends of our vast country, I take this opportunity to say what an honour it has been for me to serve in the Senate of Canada alongside you in committee and across from you in this chamber over the past five years.

Honourable senators, I hope you will all join me in congratulating the Honourable Catherine Callbeck on her retirement and wishing her our very best as she begins the next exciting chapter of her life.

### VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, as you can appreciate, sometimes there are biases and a certain blindness of those who serve as Speakers of our Westminster system. We have the Speaker of the New Brunswick Legislative Assembly and we are delighted to have the Speaker of the Prince Edward Island Legislative Assembly. We also have Mr. Sean Casey the honourable member from the other place, who is sitting on the right-hand side of the honourable Speaker.

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

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

### TRIBUTES

#### THE HONOURABLE CATHERINE S. CALLBECK

**Hon. Joan Fraser (Deputy Leader of the Opposition):** Colleagues, a few days ago, one of our numbers said to me, “You know, they will be putting up statues about Catherine Callbeck,” and they will. Those statues will be deserved, because she is, as has been said already, a figure of great historical importance in Canada, particularly for women, and of course for Islanders and also because she didn’t become that historical figure by accident. She attained that historical importance because of who and what she is.

I was trying to think of words that describe her. The first two that come to mind are dignity and elegance. Oh, my, dignity and elegance — such elegance! — and reserve. She is a classic example

of a certain kind of Maritimer who is inherently reserved, who does not wear emotions on his or her sleeve and who just gets on and does things. She said once, when she was in the House of Commons and she was a critic in some field, “I’m not a complainer; I’m a doer.” She is a doer.

That brings me to the next phrase that always struck me about her: hard work. This is a woman capable of profoundly impressive amounts of work. No matter what is going on around her or in her personal life, no matter what her health problems may be, she works and works and works. She has worked in the Senate; she has worked everywhere she has ever gone.

• (1350)

On the occasion of International Women’s Day this year, I tried to give some indication of the vast range of her activities and the huge number of awards she has garnered for her work in all those fields, so I won’t repeat that now. But I will say that another characteristic of Catherine Callbeck is her profound commitment to community, combined with a deep sense of where she has come from. She has come from, incidentally, Central Bedeque, which is the most perfect village imaginable, and it is surrounded by Bedeque, Lower Bedeque and North Bedeque. They’re all beautiful villages.

But she has another quality of many Maritimers. She doesn’t respect people because of their titles or their status or their money; she respects people for their character, and they respect her back, every single one of them.

She has wonderful friends. I’ve been privileged to meet a few of them, and their affection for her is palpable. She has a good sense of humour underneath that reserved exterior. She is a fountain of generosity, both to friends and to anybody who happens by. I’m in a particularly good position to say that.

I wanted to tell you, colleagues, what our former colleague Senator Lowell Murray said about her. He said:

Catherine is in many ways the ideal working senator. Through the Senate, her province and country get the benefit of her continued service, tapping her long experience in business and politics, her intimate knowledge of the Island and her dedication and fearlessness well beyond the time when others might have opted for easy retirement.

Another former colleague, Senator Carstairs, said:

Catherine Callbeck is an elegant role model for all women in Canada. Dogged and determined to make her voice heard, she does it with skill and with a quiet elegance which requires that supporters and opponents alike listen and learn.

I don’t think any of us could phrase it any better.

We’re going to miss her. She’s going to go back and spend the summer in her cottage with a view of the Confederation Bridge

which she did so much to bring into being, but I hope she'll come back here to see us again.

Best of luck, Catherine.

**Hon. Jacques Demers:** Honourable senators, I was not supposed to speak today, but I asked for permission.

I would like to thank Senator Fairbairn and Senator Callbeck. When I came into the Senate, they both spoke to me and helped me, in confidence; they had heard that I struggled with literacy. Some people will make fun of and judge individuals who have this difficulty. I will never forget how Senator Fairbairn and Senator Callbeck took me under their wings. Even yesterday I got Senator Callbeck's phone number where I could reach her during the summer. I will never forget that.

Add Yonah Martin and Judith Seidman to that list, four women — I'm the father of three daughters and I also have three granddaughters — who understand the need to help someone.

As Senator Fraser just mentioned, Senator Callbeck doesn't judge people. I thank her so much for that.

Senator, I did not know who you were. I've learned who you are. You are tremendously blessed with character. You live your life close to perfection, and I thank you for that.

I know Senator Fairbairn has gone through a lot in her life. I pray for her often. I wouldn't say every day, because that would not be honest.

Thank you so much for being who you are and thank you for giving me support.

Today, I am able to speak French and English and write and read with the best of them. I thank people like you, Senator Fairbairn, Yonah Martin and Judith Seidman. Have a great time and live the life the way you've lived it. Enjoy life. May God bless you.

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

**Hon. Elizabeth Hubley:** Honourable senators, it is my pleasure to rise today to pay tribute to my colleague and friend the Honourable Catherine Callbeck.

Senator Callbeck has had a distinguished and remarkable career in public service. She has been a true trailblazer for women in politics. From her time as an MLA and cabinet minister in the mid-1970s, to her time as an MP in the late 1980s, to making history as the first elected female premier in Canada and to her service in the Senate, she has truly devoted her life to public service and has paved the way for women in politics.

I had the privilege of serving with Senator Callbeck when she was Premier of Prince Edward Island. At this time, we were part of a group of women who held the top five jobs in provincial

politics. Catherine was our premier; the Honourable Marion Reid our lieutenant-governor; the Honourable Pat Mella, Leader of the Opposition; the Honourable Nancy Guptilla, the Speaker of the legislature; and me as deputy speaker. P.E.I. might be Canada's smallest province, but we certainly aren't afraid to lead the way. Catherine was at the head of that charge.

Catherine also served as my sponsor when I entered the Senate in 2001. My sincere thanks to you for your support and guidance through our years as we served together in both the P.E.I. legislature and the Senate.

As Catherine Callbeck leaves this chapter in her life behind, I know she will continue to devote her time to bettering the lives of the people of Prince Edward Island, of Canada, and to promote the involvement of women in leadership roles in our society.

I wish you all the best in your next career, Catherine, and I thank you for the contributions you have made to Canada while serving here in the Senate of Canada. We are all so proud of you, but I'll tell you: The Islanders are prouder.

**Hon. Percy E. Downe:** Colleagues, I too want to join in the tributes to our old friend Senator Callbeck.

Catherine, tributes are similar to being at your own funeral: You get to hear all the nice things people say about you, but you're still alive to enjoy them. I hope you don't consider this your political funeral and that you'll continue in your efforts that have been so productive over the years for all Islanders and Canadians.

I will not repeat what others have said; I just want to associate myself with those remarks. I want to stress the sense of responsibility, dedication and hard work that our colleague Senator Callbeck brings to not only the Senate but every job she had throughout her long and outstanding career. It was mentioned that she went to Mount Allison University. She graduated with a business degree at a time when not many women did. She was a trailblazer in business. Her family has been extremely successful in Prince Edward Island in the businesses they have been involved in, and Catherine has played a tremendous role in that success.

Then, of course, she made history by being the first woman elected premier in any Canadian province.

I remember a number of the files she worked on, and I remember in particular the Confederation Bridge, which was a public-private partnership project worth over \$1 billion. The then-Premier of New Brunswick, Frank McKenna, for some reason thought he had something to do with the bridge and wanted some of the benefits. As you know, Frank McKenna is a pretty tough negotiator, but he came up against Premier Callbeck. If you go to P.E.I., you'll notice that the tollbooths and jobs connected to that are on the P.E.I. side, and there's a host of other things. I distinctly remember one discussion where Premier Callbeck said, "Frank, we have to get this decided. Where are you on the weekend?" Frank said, "I'm home Saturday night, but we're having people in for dinner." "I'll call you." As the premier walked away Frank said, "Will she call me?" I said, "She'll call you, so be prepared to move away from the dinner."

It was one of her many successes, and she had many, but most notably her dedication to people who called her on a continuous basis, because she's so well known as a former provincial MLA, a former MP and former premier. She was constantly requested by Islanders to bring their concerns forward, which we know she did in this chamber. She did that over and over again.

I will conclude with one small personal story. Years ago, when my eldest daughter was very young, I saw Catherine, and anybody who has children would know how this story goes. I said to my daughter, "You wait outside with your colouring book and crayons. I won't be long." "No, daddy, no, I want to go in!" In we go. Catherine, of course, treats her very well. My daughter quietly colours. We chat, but that evening at home I remember her saying to her mother, "Mommy, the premier had such a nice string of pearls on." I thought isn't it nice my daughter would grow up in a world where the premier wears a nice string of pearls, and that happened because of Catherine Callbeck.

• (1400)

**Hon. Claudette Tardif:** Honourable senators, it is indeed an honour to pay tribute to our dear colleague Senator Catherine Callbeck.

I wish to thank Senator Callbeck for her extraordinary service to Canadians over the past four decades. Many have referred to her as a trailblazer for having broken down many barriers when it comes to women in politics, and indeed she has. We all know that in 1993 Senator Callbeck made history as the first woman ever elected premier in a general election. This remarkable achievement was made possible by women like Senator Callbeck willing to challenge the established mindset in male-dominated occupations such as politics.

Senator Callbeck has challenged the status quo throughout her life. When she attended Mount Allison University in the 1950s, she was the only woman in her business class. When she worked as a teacher at the New Brunswick Business College, she was the only woman on staff. When she worked for her family business, she dealt mainly with men. And when she first ran for office in 1974, it was still common to hear that politics was no place for a woman.

Fortunately, attitudes have evolved dramatically since then and we find many more women in leadership positions. Senator Callbeck has played no small part in helping shape this new landscape for women.

But one thing is evident above all else when looking at Senator Callbeck's illustrious career and contributions to Canadian public life. Her path has always been motivated by a deeply rooted passion for public service. Indeed, Senator Callbeck has spent most of her career dedicated to public service, and since her appointment to the Senate in 1997, she has drawn on her wealth of experience to advocate for the communities she represents and the issues that are dear to her heart.

On a personal note, I wish to thank Senator Callbeck for her advocacy for post-secondary education and literacy in this chamber. When I started in the Senate in 2005 and expressed

my interest in post-secondary education to my new colleagues, Senator Callbeck approached me and told me, "Well, that's my area of interest too. We should have a national strategy." And in fact, my first speech in the Senate was on Senator Callbeck's inquiry on the state of post-secondary education in Canada. I wish to thank her for having drawn this most vital matter to our attention on many occasions.

Senator Callbeck brought to the Senate great wisdom, integrity, independence of thought and a tremendous work ethic. In fact, I believe Senator Callbeck has a near perfect attendance record. This demonstrates her passion for and dedication to public service. These qualities which have guided Senator Callbeck's actions throughout her time in this chamber have elevated the quality of debate in the Senate.

Dear Catherine, I thank you for your extraordinary public service to Canadians, and I wish you much happiness and good health in the next phase of your life and many wonderful years to come.

**Hon. Joseph A. Day:** Honourable senators, I wish to associate myself with the remarks that have been said and will be said about our colleague Senator Callbeck. It's hard to limit the huge number of remarkable accomplishments that have been hers.

One can summarize this list by stating that Senator Callbeck is a woman of firsts. For example — and you've heard this — she was the first woman elected to the Legislative Assembly of Prince Edward Island in 1974. She served as the first female Minister of Health and Social Services from 1974-78, and in 1993 she was elected the first woman premier anywhere in Canada.

Senator Callbeck is a trailblazer for the equality of the sexes in this country as well. Though we do have much more work to do to establish full equality in all facets of Canadian life, the foundation laid by Senator Callbeck has been an immense contribution to furthering that cause.

Fortunately for us, Senator Callbeck has focused her attention on a number of charitable and public service groups and organizations at all levels. One area particularly where we share a passion is in veterans' welfare, and on numerous occasions we have worked together to improve the lives of individual veterans. In one instance we assisted a long-time friend of hers from her teaching days at community college in Saint John, New Brunswick, a veteran by the name of Andy Turnbull. Andy Turnbull and his best buddy Osie Pine, two great New Brunswick names, never failed to ask about their good friend and fellow teacher Catherine Callbeck every time I would meet with them in New Brunswick. Mr. Turnbull is a World War II veteran injured during his service. As World War II veterans age, their injuries sometimes become a little worse, such as hearing loss or a little less mobility than they previously had. Sadly, the programs and resources available to them do not always recognize this. They rely on the efforts of individuals like Senator Callbeck who are interested not only in improving legislation to better serve our veterans but also in taking on individual cases and causes where they can make a difference. This is the type of person Senator Callbeck is, and I have no doubt she will continue to keep her eye on those veterans in need of special assistance.

I had the great pleasure of working with Senator Callbeck on our National Finance Committee. Her experience and preparedness will be greatly missed on that committee. I will forever have the image of a few years ago during one of the hot July days when our Senate committee was meeting, a back injury prevented her from sitting, but she would not let down her fellow committee members as she stood throughout the meeting.

Senator Callbeck, we're losing you and the depth of experience and dedication that you have shown to us. We wish you well, and we look forward to having the opportunity to meet with you again as you take on your new phase in life.

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

### THE HONOURABLE CATHERINE S. CALLBECK

#### EXPRESSION OF THANKS UPON RETIREMENT

**Hon. Catherine S. Callbeck:** Honourable senators, I want to express my sincere appreciation for the wonderful tributes today. I feel very humbled by your kind and generous words. They bring back a lot of memories; and yes, Senator Cowan, I remember those tigers. So thank you all very much.

First of all, I want to thank the members of my immediate family and extended family for their support over the years. I'm sure it isn't easy to have a member of your family in public office.

In leaving the Senate, I leave with a great deal of respect for this institution and its members, and I will forever cherish my time spent here.

It's been an honour and a privilege to serve with all of you. Although we have not always agreed with one another, I have always tried to listen with an open mind and with great respect. Many of our life experiences and our concerns may be different, but we are all determined to improve the daily lives of Canadians.

• (1410)

It has been a distinct pleasure for me to represent the people of Prince Edward Island in this institution. I want to express my deep appreciation to the many Islanders who have supported and encouraged me over the years. I have always been mindful of my responsibilities to stand up in the Senate and raise issues that are of importance to Islanders and to represent their views on the major issues of the day.

I truly believe the Senate performs a very valuable and useful function. As I reflect on my time here, I have always been aware of why the Senate was established with equal representation for the regions and what it is intended to do as the chamber of sober second thought. As an appointed body, we can look at the issues in a fair and objective manner to ensure that the wishes of Canadians are taken into account. This is one of the things that make the Senate such a unique institution.

The Senate is a place whose value has not been fully appreciated by the public. In my experience, the Senate is the most misunderstood institution in Canada, and it has often been criticized. I believe that we need to remind Canadians continually of the importance of the Senate and its role within the parliamentary system. Canadians need to have a better understanding of this institution and how it functions.

At the same time, I believe that the public wants to see meaningful reforms. As you know, Canadians in the 21<sup>st</sup> century are much different than Canadians in the 19<sup>th</sup> century, so it's important to respond to the changing expectations and attitudes of the people of this country.

Now that the Supreme Court has ruled the federal government cannot change the nature of the Senate on its own, and because a change in the Constitution is unlikely in the near future, it is now incumbent on the Senate to get its own house in order. Over the past several months in particular, I have sensed a growing willingness on the part of many senators to engage in discussions leading to meaningful reforms, which I expect will help earn back the respect and the confidence of the Canadian people.

I am sure all of us accepted appointment to the Senate with the idea that we could make a real contribution. As you know, as senators, we have the opportunity to examine areas of public policy that are more difficult and less attractive for elected representatives to pursue, as well as the opportunity to challenge conventional wisdom and break new ground in the development of public policy.

As a senator, I have always appreciated the fact that we have more time to devote to an in-depth examination of matters before us. The benefits of that were brought home to me one time in Halifax when one of the Senate committees was holding public hearings. A witness came up to me afterwards and expressed his appreciation for the time and the attention he had been given by the committee. He had made a similar presentation to a committee in the other place a few weeks previous, and he expressed to me the view that the Senate committee appeared to be taking the matter more seriously and with a broader scope and that senators were better informed.

In my experience here, one of the most gratifying parts was the work in Senate committees. I have had the opportunity of serving in a number of committees, and I have always been impressed with the high level of the discussions, the invaluable input of witnesses and the soundness of reports and recommendations. All of us in this chamber have made a huge contribution and played a large role in the development of public policy through committee reports.

I've been fortunate to participate on a number of Senate committees, including Agriculture and Forestry; Banking, Trade and Commerce; National Finance; Internal Economy; and Social Affairs, Science and Technology. Although I have been involved in some most interesting and productive committee work, one that stands out is the report on mental health and addictions by the Standing Senate Committee on Social Affairs, Science and Technology.

This committee produced a groundbreaking report that led to the establishment of the Mental Health Commission of Canada. That commission has helped to ease the stigma associated with mental health and addiction and has supported and encouraged more effective responses by governments and communities to deal with this issue that affects one in five Canadians.

Honourable senators, this is but one example of the Senate helping to lead the way on an increasing social and health issue. As senators, I believe we have a responsibility to give voice to all those Canadians who have been marginalized for one reason or another.

As well, the Senate has given me the opportunity to raise issues that are important to Islanders and to Canadians, including issues such as literacy, access to post-secondary education, programs and services for Canadian seniors, transfer payments, veterans and their families, the lack of some federal services in my province and more.

One area that has been particularly special to me, both as a senator and as a businesswoman, was the Prime Minister's Task Force on Women Entrepreneurs, of which I had the privilege to be vice-chair. We consulted widely and produced a report with many recommendations, and I'm happy to say that some of those have been implemented and the number of women entrepreneurs has grown greatly.

Honourable senators, I have found being a senator is both fulfilling and demanding, and it has been an honour to serve in this chamber with all of you and to take part in the public policy discussions that help shape the future of this country.

I want to offer a special thank you to my staff and others for helping me to fulfill my duties as a senator. I am fortunate to have had good people who have made my job easier. I am pleased that Melanie Nicholson and Andrew Lockhart are sitting in the gallery today. As well, I want to express my appreciation to all the people who make this Senate function, both inside and outside the chamber, and in committees.

On July 25, I will become a private citizen, but I will still be paying attention to public affairs. Honourable senators, I will be watching you closely as you attempt to reform the Senate and continue to protect the interests of Canadians across the country.

Protecting the interests of Canadians across the country is what the Fathers of Confederation meant the Senate to do.

• (1420)

In 1864, 150 years ago, the Fathers came to Charlottetown, Prince Edward Island, to discuss the possibility of creating a nation. This year my province is celebrating that event — the Charlottetown Conference. I encourage everyone to come join us on the Island to take part in some of our anniversary celebrations.

Thank you. It has been a real pleasure. I have enjoyed it. Best wishes to all.

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

[ Senator Callbeck ]

## 2014 FIFA WORLD CUP

**Hon. Salma Atallahjan:** Honourable senators, when we break for the summer, all eyes will be on the World Cup in Brazil. While you're watching the beautiful game, you may notice the colourful Brazuca soccer ball — the official ball of the 2014 FIFA World Cup. What you may not know is that the Brazuca ball has an interesting history.

You might remember the controversy surrounding the soccer ball in the 2010 World Cup in South Africa. For this World Cup, Adidas has been developing the Brazuca ball for more than two years. Testing involved 600 of the world's top players and 30 teams in 10 countries across 3 continents. When a Chinese supplier was unable to meet high demands for the ball, Forward Sports, based in the eastern town of Sialkot, Pakistan, stepped in at the last minute.

The town of Sialkot has a history of producing hand-sewn footballs in competition with Chinese machine-made footballs. Pakistan is the largest supplier of hand-sewn footballs in the world — that is 30 million to 42 million balls per year. Forward Sports has been working with Adidas since 1995. It has manufactured soccer balls for the German, French and Champions leagues. The company took up the challenge to get their production facility up and running in 33 days, when it usually takes 6 months.

You might be wondering why I am telling you all this. Well, over 350 of the workers in the factory are women. These women are putting together 100 soccer balls per hour. Over 3,000 Brazuca balls from Sialkot will be used in the World Cup. In a country that is male-dominated and where it is frowned upon for women to work outside the home, this is a great step forward for women and a reflection of the changing environment in Pakistan.

This is also important given the current climate in Pakistan, such as the recent violence in Karachi. It is nice to see some uplifting news coming out of the country.

Honourable senators, another interesting bit of trivia is that Canada has supplied the grass for the World Cup. DLF Pickseed in Manitoba developed the grass which covers the pitches in each of Brazil's 12 World Cup soccer stadiums.

Despite having teams that did not qualify, both Canada and Pakistan have still played a major role in this year's World Cup. Without the footballs and the grass on the pitch, there would be no game.

Thank you.

## EDMONTON PUBLIC LIBRARY

### CONGRATULATIONS ON AWARD

**Hon. Douglas Black:** Honourable senators, I rise today to congratulate and celebrate the Edmonton Public Library, which last week was named "Library of the Year" in North America by

*Library Journal* magazine. This award is the highest honour for a public library and has been described as the Academy Award, Nobel Prize or Stanley Cup of the library world.

[English]

Edmonton Public Library is the first Canadian library to win this prestigious award. As noted by the *Library Journal*, this is only one of the many firsts for a library that has been on the leading edge since its humble beginning over a hundred years ago.

In 1941, the library was the first in North America to offer a mobile service from a converted streetcar. In 1979, it was the first library in Canada to use a computerized circulation system. More recently, it was the first library to develop its own iPhone app, and today its 20,000 Twitter followers and 9,000 Facebook fans put it near the top of North American libraries.

In the awards citation, Edmonton Public Library was lauded for having changed the parameters of what it means to be a public library. One of the most important innovations is that the library's deep integration in the community is so meaningful. Many of these relationships focus on at-risk or disadvantaged Edmontonians.

Honourable senators, let us be grateful for our public libraries and recognize their role in ensuring that no person is left behind in a world where access to knowledge is the key to success.

I know that all senators join me in congratulating the Edmonton Public Library; its CEO, Linda Cook; her team; and as well as Mayor Don Iveson and the Edmonton City Council on this tremendous accomplishment.

## THE SENATE

### TRIBUTE TO DEPARTING PAGE

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

[Translation]

Honourable senators, Justin Barrette, assistant senior page, just completed his bachelor's degree in social sciences with a concentration in political science and history.

He plans on working in Ottawa, since he has fallen in love with this dynamic city over the past three years. He also hopes to fulfill his dream of living in Morocco.

Congratulations and good luck.

## ROUTINE PROCEEDINGS

### SENATE ETHICS OFFICER

#### 2013-14 ANNUAL REPORT TABLED

**The Hon. the Speaker:** Honourable senators, I have the honour to table, in both official languages, the 2013-14 Annual Report of the Senate Ethics Officer, pursuant to section 20.7 of the Parliament of Canada Act.

[Translation]

### ABORIGINAL AFFAIRS AND NORTHERN DEVELOPMENT

#### JAMES BAY AND NORTHERN QUEBEC AGREEMENT AND NORTHEASTERN QUEBEC AGREEMENT— 2008-09 AND 2009-10 ANNUAL REPORTS TABLED

**Hon. Yonah Martin (Deputy Leader of the Government):** Honourable senators, I have the honour to table, in both official languages, the 2008-09 and 2009-1010 annual reports of the James Bay and Northern Quebec Agreement and the Northeastern Quebec Agreement.

[English]

### CITIZENSHIP ACT

#### BILL TO AMEND—TWELFTH REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE PRESENTED

**Hon. Kelvin Kenneth Ogilvie,** Chair of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Wednesday, June 18, 2014

The Standing Senate Committee on Social Affairs, Science and Technology has the honour to present its

### TWELFTH REPORT

Your committee, to which was referred Bill C-24, An Act to amend the Citizenship Act and to make consequential amendments to other Acts, has, in obedience to the order of

reference of Tuesday, June 17, 2014, examined the said bill and now reports the same without amendment but with an observation which is appended to this report.

Respectfully submitted,

KELVIN K. OGILVIE  
*Chair*

(For text of observation, see today's Journals of the Senate, p. 1095.)

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

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

### STUDY ON RESEARCH AND INNOVATION EFFORTS IN AGRICULTURAL SECTOR

#### SIXTH REPORT OF AGRICULTURE AND FORESTRY COMMITTEE TABLED

**Hon. Percy Mockler:** Honourable senators, I have the honour to table, in both official languages, the sixth report of the Standing Senate Committee on Agriculture and Forestry entitled: *Innovation in Agriculture: The Key to Feeding a Growing Population*.

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

• (1430)

### CRIMINAL CODE

#### BILL TO AMEND—NOTICE OF MOTION TO AUTHORIZE LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE TO STUDY SUBJECT MATTER

**Hon. Yonah Martin (Deputy Leader of the Government):** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That, in accordance with rule 10-11(1), the Standing Senate Committee on Legal and Constitutional Affairs be authorized to examine the subject-matter of Bill C-36, An Act to amend the Criminal Code in response to the Supreme Court of Canada decision in Attorney General of Canada v. Bedford and to make consequential amendments to other Acts, introduced in the House of Commons on June 4, 2014, in advance of the said bill coming before the Senate;

That, for the months of September and October 2014:

- 1) the committee be authorized to meet for the purposes of this study, even though the Senate may then be sitting, and that rule 12-18(1) be suspended in relation thereto;
- 2) notwithstanding rule 12-18(2)(a), the committee be also authorized to meet for the purposes of this study, even though the Senate may be then adjourned for more than a day but less than a week;
- 3) pursuant to rule 12-18(2)(b)(i), the committee be also authorized to meet for the purposes of this study, even though the Senate may then be adjourned for more than a week;

That, notwithstanding usual practices, the committee be authorized to deposit with the Clerk of the Senate its report on this study if the Senate is not then sitting, and that the report be deemed to have been tabled in the Senate.

### EASTERN SYNOD OF THE EVANGELICAL LUTHERAN CHURCH IN CANADA ACT

#### PRIVATE BILL TO AMEND—FIRST READING

**Hon. Janis G. Johnson** introduced Bill S-1001, An Act to amend the Eastern Synod of the Evangelical Lutheran Church in Canada Act.

(Bill read first time.)

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

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

[Translation]

### CANADA-FRANCE INTERPARLIAMENTARY ASSOCIATION

#### ANNUAL MEETING, APRIL 25-29, 2014— REPORT TABLED

**Hon. Claudette Tardif:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canada-France Interparliamentary Association respecting its participation at the 41st Annual Meeting of the Canada-France Interparliamentary Association, held in Paris and Grenoble, France, from April 25 to 29, 2014.

[English]

**THE HONOURABLE CATHERINE S. CALLBECK**

MOTION TO PLACE INQUIRY ON  
NOTICE PAPER ADOPTED

**Hon. Jane Cordy:** Honourable senators, with leave of the Senate and notwithstanding rule 5-6(2), I move:

That the following inquiry be placed on the Notice Paper for the next sitting of the Senate:

“By the Honourable Senator Cordy: That she will call the attention of the Senate to the career of the Honourable Senator Callbeck in the Senate and her many contributions in service to Canadians.”; and

That, notwithstanding rule 6-3(1), during proceedings on this inquiry no senator shall speak for more than three minutes.

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

**Hon. Senators:** Agreed.

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

**Hon. Senators:** Agreed.

(Motion agreed to.)

[Translation]

**QUESTION PERIOD**

**ABORIGINAL AFFAIRS AND NORTHERN  
DEVELOPMENT**

FIRST NATIONS EDUCATION

**Hon. Claudette Tardif:** My question is for the Leader of the Government in the Senate. As I advised you in writing last Monday, I would like to ask you a question that was sent to me by Doreen Rabbit of Alberta, who is the chair of the Saint Kateri Catholic School Board and a member of Alberta’s Blood Indian Reserve. Her question is as follows:

[English]

In September 2012, Blood Indian parents opened the Saint Kateri Catholic School on the Blood Indian Reserve. We are the only private Catholic school on an Indian reserve

in Canada. Our school has met all the requirements from the Department of Aboriginal Affairs and Northern Development and our teachers, facilities and school curricula have been granted accreditation by Alberta Education.

Despite this accreditation, the Band Council’s Education Authority has refused to provide the Federal funding it administers for educational services. No reason has been provided for this refusal. The Department of Aboriginal Affairs and Northern Development states that it is not responsible for funding the school because the responsibility for the administration of education has been transferred to the Blood Band Council under a five year agreement. However, this delegated administrative authority does not empower the Federal Government to violate denominational school rights guaranteed by sections 120 and 121 of the Indian Act.

The Government has a legal duty to respect the denominational school choice of First Nations. Will the Government take action to restore this right and ensure that Government services are provided within a policy framework that respects the existing statutory provisions?

[Translation]

**Hon. Claude Carignan (Leader of the Government):** Thank you, Senator Tardif, for sharing that question from Ms. Rabbit and, I believe, Mr. Wallace, who is part of the Saint Kateri Catholic School Board.

Our government believes that First Nations students deserve a quality education, like all Canadians. I was informed that, since 2006, we have invested \$100 million so that the Blood Indian Reserve and the Kateri school board can offer education services to the Blood tribe. They are in the best position to determine how best to provide those services. We will continue investing in students.

Since 2006, we have invested over \$10 billion to support primary and secondary education for approximately 117,500 First Nations students on reserve and we will continue to support them.

**Senator Tardif:** I have a supplementary question. I am asking this question, not Ms. Rabbit. It would seem that those in charge of the school board are concerned about the application of section 121 of the Indian Act, which states that a band’s Catholic minority in a band can establish a separate school on reserve.

You are saying that it is the government’s responsibility and that you have provided funding to the council on the Blood reserve. The government still has the responsibility to ensure that rights are respected. Will the government make a decision on this file and provide a satisfactory reply to this group of parents?

• (1440)

**Senator Carignan:** As I said, senator, the Blood Band and the school board are in the best position to make decisions about the best way to provide these services. We will continue to invest in

students, particularly by investing considerable amounts of money in supporting the primary and secondary studies of First Nations students.

**Senator Tardif:** Mr. Leader, you have delegated these responsibilities to a third party that does not respect these rights. That does not relieve the government of its obligation to make a decision to ensure that the rights of these groups are respected. Will you accept that responsibility?

**Senator Carignan:** As I said, senator, those two organizations, the Blood Band and the school board, are in the best position to make decisions about the best way to provide these services. We will continue to invest in the students by making sure we support the primary and secondary studies of First Nations students on reserve.

[English]

## NATIONAL DEFENCE

### ARCTIC SOVEREIGNTY

**Hon. Grant Mitchell:** I'm asking a question on behalf of Graeme Maitland of Calgary, Alberta.

In 2006 this government promised to “increase the Canadian Forces’ capacity to protect Canada’s Arctic sovereignty and security.” Eight years later this promise has yet to be fulfilled. The Arctic Patrol Ships promised by the government, which are being designed to not be able to travel in the Arctic all year, have yet to be built and the costs for the design are in the hundreds of millions. The High Arctic Naval Facility at Nanisivik has been delayed and the costs are rising with that project as well. Not to mention that our submarine fleet cannot operate for extended periods in the Arctic because of their design. And this is all just the tip of the iceberg.

When will this government live up to the promises it made when it came into office, when will it actually begin to defend Canada’s Arctic?

[Translation]

**Hon. Claude Carignan (Leader of the Government):** We consider it a priority to continue supplying the equipment that the men and women who protect our country need to assert our sovereignty over that part of our territory.

[English]

**Senator Mitchell:** Climate change has heightened the stakes up there, as many nations now are taking an increasing interest in the resources and the potential of economic advantage. In fact, China, without any territory or any claim to territory in the Arctic region, is now becoming extremely interested in it.

[ Senator Carignan ]

Has the government taken any steps to partner with the other Arctic nations to defend against the incursion of countries like China that have no territory in that region?

[Translation]

**Senator Carignan:** Senator, as I said, we will continue to protect our sovereignty over that part of the country and to supply the equipment that members of the Canadian Armed Forces need to assert our authority in that part of the country.

[English]

**Senator Mitchell:** One of the elements of establishing sovereignty in the North and the security of the North is the work of that much-applauded organization and group of Aboriginal and Inuit residents of the North — the Rangers. The Rangers are a quasi-military force, but certainly a significant force.

When the leader mentions that the government is making sure that our forces in the North have adequate resources and equipment, is he forgetting the fact that the Rangers’ rifles are now 50 years old, and after its ninth year in government, this government still has not been able to replace those weapons with something more modern and more effective?

[Translation]

**Senator Carignan:** I repeat: we are going to continue to ensure that the men and women who protect our country have the equipment they need. We are working hard, as you know, to make up for the years of darkness that occurred under successive Liberal governments.

[English]

**Senator Mitchell:** Let’s talk about the more recent decade of darkness: Hasn’t bought a jet, hasn’t bought a helicopter, hasn’t cut steel on a major navy ship, hasn’t replaced 50-year-old weapons for the Rangers in the North and hasn’t taken care of their returning veterans from Afghanistan adequately in any way, shape or form. Would the Leader of the Government in the Senate now please stand up and say he has gotten the wrong decade of darkness, and he should be referring to this decade of darkness?

[Translation]

**Senator Carignan:** I know that you do not like us to talk about that decade of darkness but our government is determined to provide the Canadian military with the equipment it needs while getting the best value for money for taxpayers.

However, since you are talking about the government’s track record, I would like to remind you that, since 2006, our government has increased its investments in the Canadian Armed Forces and national defence by 27 per cent. We acquired key military equipment, including four C-17 Globemaster aircraft, 17 C-130J Hercules aircraft and over

1,000 new medium support vehicles and Leopard 2 tanks. We are now moving forward with this new defence procurement strategy that will help our men and women in uniform while maximizing spinoffs for Canadian industry.

When you take a track record like that and compare it to the decade of darkness, it is obvious that we need take no lessons from your side.

[English]

## JUSTICE

### SUPREME COURT—JUDICIAL APPOINTMENTS

**Hon. Wilfred P. Moore:** My question is also for the Leader of the Government in the Senate, and it's in follow-up to the questions yesterday by Senator Hervieux-Payette.

Yesterday, in the other place, when asked about the replacement for the soon to be retiring Justice LeBel, the Prime Minister responded:

Mr. Speaker, at this point in time, there are no vacancies at the Supreme Court of Canada, and there is no ongoing process to choose a replacement for a future vacancy.

Given the history of the Prime Minister's appointments — excepting those in attendance here today — why is there no process yet ongoing to choose a replacement for Mr. Justice LeBel, who gave notice on May 23 of his retirement this coming November 30?

[Translation]

**Hon. Claude Carignan (Leader of the Government):** Senator, as you know, Justice LeBel gave notice that he will be retiring in November, I believe. Quebec therefore has its full complement of judges right now, and we have not yet started the selection process. With regard to Justice Mainville, who was just appointed to the Quebec Court of Appeal, he said that he was interested in transferring to that court for personal and professional reasons that have nothing to do with that fact that a Supreme Court seat might be opening up in the near future.

[English]

**Senator Moore:** Leader, is the transfer you mentioned part of the replacement process?

[Translation]

**Senator Carignan:** I see that you too are beginning to believe in the conspiracy theory put forward by your friends or cousins on the other side. I think you should put an end to those rumours and conspiracy theories.

• (1450)

Justice Mainville was a member of the Barreau for 33 years. He was a Federal Court judge and has been a Federal Court of Appeal judge for the past five years. He is a Quebecer and clearly

qualified to be appointed to the Quebec Court of Appeal. I am sure that his appointment to the Quebec Court of Appeal will be warmly welcomed by the courts, by judges in Quebec and especially by the judges on the Quebec Court of Appeal.

[English]

**Senator Moore:** Honourable senators, I have a supplementary question. Leader, from your response, can we assume that is an affirmative and that the process is under way?

[Translation]

**Senator Carignan:** No, I said the opposite. I said that Quebec has its full complement of Supreme Court judges right now and we haven't started the selection process yet.

## FINANCE

### WEALTH DISTRIBUTION

**Hon. Céline Hervieux-Payette:** Leader of the Government in the Senate, my question is for you. You might think that given my age I might ramble from time to time, but I would like to share with you some new studies on something I am sure you find fascinating.

A study released by three professors from Ottawa, McMaster and York universities shows that income inequality in Canada is more pronounced than previously believed. The study was discussed in the media.

Many of Canada's wealthiest people are funnelling their income through Canadian-controlled private corporations, and that income is not included in standard measures, which only look at individual tax returns filed with Revenue Canada.

Consequently, Canada's top 1 per cent of income earners did not take home an average of \$359,000 in 2011, as previously suggested, but \$500,200, a difference of over 39 per cent. What is more, the study explains that the top 1 per cent accounted for 13.3 per cent of all reported individual income in Canada, an increase from 12 per cent a decade earlier. Let's not forget that Canada was in a recession during that decade. Statistics Canada, which looks only at individual tax returns, estimated that the top 1 per cent earned 10 per cent of all income in Canada in 2011, a number unchanged in 10 years.

Mr. Leader, once again, objective figures show that the government's economic policy — the infamous action plan — is increasing inequality in this country.

Can you explain how the planned or existing free trade agreements will reverse the trend? Can you also tell us what you will do to shrink the gap and ensure that wealth is better distributed, since you claim that the economy is flourishing?

**Hon. Claude Carignan (Leader of the Government):** Senator, a recent study by *The New York Times* showed that the median after-tax income in Canada is higher than ever and that it's higher

than that in all of the other countries studied, including the United States, France, Australia and the United Kingdom. We believe that we need to put the money back in the pockets of Canadian taxpayers.

In fact, in the report he released on May 27, the Parliamentary Budget Officer said that we had already provided \$30 billion in tax breaks, and that low and middle income earners benefited the most, here in Canada. We realize that low and middle income households are not friends to your leader, Justin Trudeau, who drives around in a Mercedes. We don't have the same definition of an average family.

**Senator Hervieux-Payette:** Your reference to someone's car model has nothing to do with what we're talking about. You can cite all kinds of studies. Not only does your answer does not surprise me, but I also have the same statistics. It's a matter of getting back to the basics and looking at how much people are contributing and improving the distribution of wealth.

I want to come back to the study. Dr. Wolfson, from the University of Ottawa, co-authored the report. He was a statistician at Statistics Canada. He said that he realized years ago, when he was working for the finance department, that many individuals were setting up Canadian-controlled private corporations because of the numerous tax advantages. That is what we are talking about, the fact that the government is not receiving all of the money it should, particularly from those who hide income.

Calculating individual income by including data from these private corporations would allow us to really see that disparity. Middle-class individuals pay their taxes. The average income of Canada's richest 0.1 per cent increased to \$2.1 million, not the \$1.3 million we get if we take private corporations out of the equation. We are greatly underestimating income inequality in Canada.

Mr. Leader, recent statistics coming out of the United States demonstrate that the level of income inequality of our neighbours to the south is as bad as it was during the Great Depression. Not that this is a competition, but we aren't much better. Approximately 1 per cent of the population holds 80 or 90 per cent of the country's wealth; the other 99 per cent make up the rest of the economy.

After eight years of economic action plans, perhaps it is time to amend our policies so that we can avoid going back to how things were during the Depression and so that we can ensure that it is not just the regular taxpayers who are filling the government's coffers but that the rich pay their share as well.

**Senator Carignan:** Thank you, Senator. Given that you spoke about a Statistics Canada employee, I will simply remind you that, under Prime Minister Harper's leadership, Canadian families in all income brackets are better off. Furthermore, Statistics Canada has indicated that the median net worth of Canadian family units is up 44.5 per cent from 2005 and almost 80 per cent from 1999. This increase was generated by the middle class. This data is from the Survey of Financial Security, 2012, produced by Statistics Canada.

[ Senator Carignan ]

Statistics Canada also indicated that the net salaries of Canadian families in all income brackets have increased by approximately 10 per cent or more since 2006.

Senator, you should be proud. In the next few hours, we will be voting on our economic action plan. I hope that you will join us and vote for our economic action plan in order to continue putting more money into the pockets of typical Canadian families, which now pay almost \$3,400 less in taxes than they did before we came to power. Therefore, more than one million new jobs have been created and our economy continues to grow at a rate that is envied by every other country in the world.

I hope that you will proudly vote with us in the next few hours in support of our economic action plan.

## NATIONAL REVENUE

### TAX EVASION

**Hon. Céline Hervieux-Payette:** Leader, I realize that the statistics you have provided are correct. However, that does not answer my question: when will the richest people in Canada pay their fair share of taxes? And when will you ensure that these people do not transfer a large portion of their fortune to tax havens?

**Hon. Claude Carignan (Leader of the Government):** Listen, now you are shifting the question to tax havens.

As I have already explained in response to many of your questions, you might think that I ramble, but I will give you the same answer. I don't want you to think that I'm rambling, but we are making every effort to ensure that all Canadians pay their fair share of taxes and that they do not take advantage of an aggressive interpretation or tax planning approach, as they say in taxation circles, to engage in tax evasion.

We will continue to allocate resources to ensuring that every Canadian taxpayer pays their taxes.

• (1500)

[English]

## JUSTICE

### CHARTER OF RIGHTS AND FREEDOMS—INVOCATION OF NOTWITHSTANDING CLAUSE

**Hon. Wilfred P. Moore:** Honourable senators, I acknowledge that the leader is not in the cabinet, but I am sure that he is aware of what's going on within government.

I wonder if you would care to comment on the suggestion that officials within the Department of Justice were instructed to explore the possible invocation of section 33 of the Charter, that

is, the notwithstanding clause, and whether you are aware of such a directive.

[Translation]

**Hon. Claude Carignan (Leader of the Government):** I'm not sure I understood your question. Would you repeat it? It wasn't very clear to me.

[English]

**Senator Moore:** I am wondering whether or not you know if officials within the Department of Justice have been instructed to explore the possible invocation of section 33 of the Charter of Rights and Freedoms and, if so, whether you could explain to us the circumstances under which they have been asked to look into it.

[Translation]

**Senator Carignan:** If I understand correctly, you are talking about someone who would want to invoke the notwithstanding clause in the Constitution. There has been no indication that the government would want to invoke that clause with respect to any bill whatsoever.

At any rate, the bills we pass are constitutional. I don't know why there would be any need to invoke that clause for any bill in particular, but I think that before we pass any bill here, we subject it to a thorough review. You yourself saw how energetically we debated Bill S-4 before concluding that it was a good bill and should be passed.

[English]

**Senator Moore:** It's interesting that you mentioned examples, leader. I think of the recently passed Elections Act and the provisions of that act that will deny Canadians the right to vote under section 3 of the Charter. Given that example, is any research being done with regard to the possible implementation of the notwithstanding clause to enforce that provision of the act, even though the court might rule it to be unconstitutional?

[Translation]

**Senator Carignan:** I'm not sure what you're talking about, and actually, it has nothing to do with my not being a minister. I'd like to set the record straight with respect to your statement that I'm not a member of cabinet. I'm a member of the cabinet committee, specifically the committee on operations, and I'm a member of the Privy Council. I have all of the information I need to answer your questions.

I think that what you're talking about is an invention, another rumour or an aspect of some conspiracy theory.

[English]

**Senator Moore:** Again, you'll have to ask the Auditor General. Do you want to talk about that? Do you want to talk about the project managers you brought to Nova Scotia and screwed up a good project? Do you want to talk about that?

Leader, with regard to that invention, as you call it, the reason I am asking is that, yesterday, the question was put to Justice Minister MacKay in the other place. He did anything but answer the question and would not deny that the government has looked into the possible invocation of the notwithstanding clause with regard to bills that have been passed this session. But I take it from your answers that, as far as you know, the answer is no; is that correct?

[Translation]

**Senator Carignan:** Senator, obviously there are decisions and matters that are secret or confidential, but let me tell you one thing. We truly believe that the bills we pass and debate here are constitutional and in the best interest of all Canadians.

[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: third reading of Bill C-25, followed by all remaining items in the order that they appear on the Order Paper.

### QALIPU MI'KMAQ FIRST NATION BILL

#### THIRD READING—DEBATE SUSPENDED

**Hon. John D. Wallace** moved third reading of Bill C-25, An Act respecting the Qalipu Mi'kmaq First Nation Band Order.

He said: Honourable senators, I welcome this opportunity to explain why I believe Bill C-25, the Qalipu Mi'kmaq First Nation act, should receive the support of the members of this chamber.

Simply stated, Bill C-25 is about protecting the integrity and credibility of the Qalipu Mi'kmaq First Nation by ensuring that at the end of the membership enrolment process of this new band, that is, the Qalipu Mi'kmaq Band, only those individuals with legitimate claims to membership shall become members of the band.

The process and criteria for band membership enrolment were established and are clearly detailed in the provisions of the original 2008 recognition agreement and the 2013 Supplemental Agreement. Both of these agreements were the result of extensive negotiations and consultations between the Government of Canada and the Federation of Newfoundland Indians.

When the final deadline for applications for band membership had closed in the fall of 2012, under the 2008 Agreement for the Recognition of the Qalipu Mi'kmaq Band, more than 101,000 individuals had applied to become members of the Qalipu Mi'kmaq Band. This number far exceeded any reasonable expectations of both the Federation of Newfoundland Indians and the Government of Canada.

Concerns were raised by both parties that these numbers were not credible and that, as a result, the integrity and credibility of the membership enrolment process and the Qalipu Mi'kmaq First Nation itself could be undermined. In response to those concerns, the government entered into extensive good-faith negotiation with the Federation of Newfoundland Indians to find a fair and reasonable solution.

These negotiations resulted in the 2013 Supplemental Agreement, an agreement that was reached not simply in consultation with the federation but in full cooperation and partnership.

It is important to note that the 2013 Supplemental Agreement does not change the enrolment criteria for band membership as established in the 2008 recognition agreement. Rather, it provides clarification to applicants as to the types of documents that can be used to satisfy the evidentiary requirements for Qalipu Mi'kmaq Band membership enrolment.

• (1510)

For instance, the 2013 Supplemental Agreement clarifies that in order to satisfy the requirement for self-identification as a member of the Mi'kmaq Group of Indians of Newfoundland, an applicant can present a copy of their census form from prior to 2006, confirming that they have previously identified themselves as Aboriginal. Alternatively, an applicant who is not currently residing in Newfoundland can provide airline tickets or telephone bills to demonstrate that they have maintained a strong cultural connection with a Mi'kmaq community that includes sustained and active involvement in the community despite their absences. These are just two examples of types of documentation that can be used by applicants to satisfy the evidentiary requirements for band membership enrolment. At the same time, the 2013 Supplemental Agreement provides for a fair, transparent and credible process that ensures the equitable treatment of all applicants and the review of all applications.

Honourable senators, it is possible that following the enrolment review and reassessment process some of the current members of the Qalipu Mi'kmaq First Nation could be found to be ineligible for band membership. If this occurs, it is important and necessary for the integrity and credibility of the band that the names of these individuals be removed from the band list and the Indian Act registry. It is this reality that leads to the need for Bill C-25. Through the creation of a band order, the Governor-in-Council has the power to declare a body of Indians to be a band for the purposes of the Indian Act. However, there is uncertainty that the Governor-in-Council has the authority to remove the names of any individuals that are included in the schedule to such an order.

Clause 3 of Bill C-25 would provide the Governor-in-Council with the explicit authority to remove names of founding members from the schedule to the recognition order that legally created the

Qalipu Mi'kmaq First Nation should any of these individuals be determined following the reassessment process contained in the 2013 Supplemental Agreement not to be legitimately entitled to registration as a status Indian and member of the Qalipu Mi'kmaq Band.

Clause 4 of Bill C-25 clarifies that no compensation or damages will be paid by the Government of Canada, the Qalipu Mi'kmaq First Nation or any other party to any individuals who are determined by the enrolment committee not to be members of the Qalipu Mi'kmaq First Nation following completion of the membership enrolment process.

However, clause 4 does not prevent individuals from appealing to the appeal master, a determination of the enrolment committee made pursuant to the provisions of the 2008 recognition agreement and the 2013 Supplemental Agreement. As well, it does not prevent court challenges to the agreements or to the exclusion of individuals from the schedule to the Qalipu Mi'kmaq First Nation Band Order.

It is important to note that it is not uncommon for a provision such as clause 4 to exist in federal legislation. For example, there was a similar clause in the 1985 legislation that removed discrimination from the Indian registration provisions under Bill C-31. Comparable wording can also be found in the more recent Gender Equity in Indian Registration Act, Bill C-3, and Bill S-11, the Safe Food for Canadians Act, which is not yet in force.

Honourable senators, Bill C-25 is extremely important to the Qalipu Mi'kmaq First Nation people of Newfoundland as it will enable them to continue to move forward with building and maintaining a strong, credible foundation for their Mi'kmaq cultural growth and development. I respectfully urge all honourable senators to provide their support for Bill C-25.

**Hon. George Baker:** I want to congratulate Senator Wallace for his role in this proposed legislation and to say, unfortunately, that a great many people in the Senate today will vote against this bill. I want to explain why because everything Senator Wallace said makes perfect sense.

Before I explain, I want to congratulate the following senators who have been listening to evidence on this bill for several days: Senator Patterson, Senator Dyck, Senator Beyak, Senator Lovelace Nicholas, Senator Meredith, Senator Moore, Senator Ngo, Senator Raine, Senator Sibbeston, Senator Tannas and, of course, Senator Wallace.

Honourable senators, the bill is a good example of good intention, but its drafting elicited such a response legally, from witnesses who appeared before the committee, because of the wording of two clauses, which Senator Wallace spoke to. Allow me to give the rebuttal. We heard Justice Department lawyers verify to the committee yesterday that the wording of the bill was used because the drafters believed it was the best to achieve the objective. However, they neglected to have knowledge of the Indian Act, such that it's forbidden to have an order-in-council add a name or take away a name from a registration under the Indian Act. Many decades ago, it was permissible, but not any longer. A registry procedure and an appeal procedure are in place to do exactly that.

[ Senator Wallace ]

We have to admit that the committee was meticulous in making sure that for everyone affected, some 100,000 people as Senator Wallace said, there was a process in place under the 2013 Supplemental Agreement so that everyone had a fair hearing. There is no doubt about that. Senator Wallace is right about that.

Senators, listen to the wording in two sentences of this bill. The first sentence, as we heard in evidence, is an unintentional affront to a great many people in the Aboriginal community. Clause 3 states:

The Governor in Council may, by order, amend the *Qalipu Mi'kmaq First Nation Band Order*, in particular to add the name of a person to, or remove the name of a person from, the schedule to that Order, along with the person's date of birth.

As I mentioned, it was verified, and everyone knows, that an order-in-council cannot do that according to the Indian Act. There is a process. The Court of Appeal for Ontario in *Etches* established that you cannot do what this clause says you can do.

What was the intention of the government? The intention of the government was exactly what Senator Wallace said. The witnesses yesterday from the Department of Justice said what is in the agreement is okay. Here is how you register; here's the appeal procedure; and here's the 2013 Supplemental Agreement. The 2013 Supplemental Agreement has a founding names list. After the appeal procedure and reassessment, there will be a new founding names list; and then the second list will be used. The first list will be substituted by the second list. The lawyer from the department said yesterday that the word is "substitute." The new list of founding members will become the real list after all of these assessments and appeals are finished with.

• (1520)

That's the intent of the legislation. How is it worded? An order-in-council can be given, the Governor-in-Council, cabinet minister, may add and subtract names, not substitute the list. The lawyer yesterday before the committee was explicit and said this was a draftsman problem in that the drafts people in the Department of Justice feel this is the best way to accomplish what they want to accomplish, this exact wording. Of course strong objection was made by the witness representing a great many of these people who will be removed from the list in the tens of thousands because she maintained — a very good lawyer by the way, in my opinion — that this means an order-in-council, Governor-in-Council, a cabinet minister, can remove at any time, and they can. This is the authority for them to do it, to remove any name, at any time forever, because this is a code unto itself. That's our first major problem with the bill.

The second major problem is in the wording of the next clause, which says:

No person or entity has a right to claim or receive any compensation, damages or indemnity from Her Majesty in right of Canada . . . only because any person's name, or any person's date of birth, was omitted or removed from the schedule to the *Qalipu Mi'kmaq First Nation Band Order*.

Senator Wallace said about five minutes ago that there are two examples of this. The two examples, or two precedents, are concerning because a lot of us believe that there is no precedent for this. Senator Wallace said, yes, there are two precedents for it. He named the same precedents as the lawyers named yesterday to the committee, and they were the same precedents that the minister used, a gentleman I have a lot of time for, the Honourable Bernard Valcourt. I served with him as a member in the House of Commons many years ago. He used the exact same words as the lawyers did and as Senator Wallace just did.

In evidence on March 25, 2014, before the Standing Committee on Aboriginal Affairs and Northern Development in the House of Commons, the question was put to him by the Honourable Carolyn Bennett:

You mentioned that you've been a lawyer all your life. Do you know of any other situation where the government has done this to indemnify themselves against damages?

**Hon. Bernard Valcourt:** Absolutely. If you look, for example, at the Indian Act, at what we did in 1985. . . . I was a young member of Parliament. We did Bill C-31. That was when we wanted to remove the discrimination against women who were losing their status because they were marrying white people. We did that, the Conservative government in 1984. Clause 22 states:

For greater certainty, no claim lies against Her Majesty in right of Canada. . . or deletion of the name of a person from the Indian Register in the circumstances set out.

Then he continues:

The Gender Equity in Indian Registration Act, which the previous Parliament passed in 2010, Bill C-3, contains in section 9:

For greater certainty, no person or body has a right to claim or receive any compensation, damages or indemnity from Her Majesty in right of Canada, any employee or agent. . . .

Then he stops and says, "This is not a novel concept" within the Indian Act, "to protect taxpayers."

The point is this: That relates to, in the first instance, paragraph 6(1)(c), (d), and (e) of the Indian Act. Then he says section 9 of the 2010 act. If you go to 2009, section 9 of the act, what does it say? It says as he said it does, and then it continues on to say that only because a person was not registered and one of the persons' parents is entitled to be registered under paragraph 6(1)(c.1) of the Indian Act.

So it's paragraph 6(1)(c.1), and in the other case he listed it's also (d) and (e) of the Indian Act. What do those sections say? They name a date. Guess what the date is? If somebody neglected

to register with the registry under the Indian Act before September 4, 1951 — let me read it. It says here under section 6(1)(d):

the name of that person was omitted or deleted from the Indian Register, or from a band list prior to September 4, 1951 . . . .

It's the same thing with (e), the list prior to September 4, 1951. My goodness, how many years ago was that? That has no relevance at all to a situation where you have people now who could be, in the tens of thousands, removed by the minister and lose their benefits forever by an act of the minister. No relevance whatsoever.

Let me quote another case that was mentioned a few moments ago, and it involves the exact same situation. Back in 1988, when the bill was before the Senate, it was Bill C-55. I'm taking this from the Federal Court of Appeal, *Sethi v. Canada (Minister of Employment & Immigration)* 1988 CarswellNat 35. I'm quoting from the Federal Court of Appeal, so it's not me saying this, it's the court.

Bill C-55 proposes to abolish the Immigration Appeal Board and discharge its members without right to claim or receive compensation notwithstanding the unexpired terms of their appointments under the *Immigration Act*, 1976 . . . .

The same stipulation: You cannot make a claim against the government but you're being removed. You lose your salaries. The Court of Appeal said:

When we heard the appeal it had been reported back to the Senate by its committee. While irrelevant in my view of the matter, amendments which would continue members of the present board in office as members of the proposed Immigration and Refugee Board have been recommended to the Senate by its committee.

It was an amendment to the bill negating this provision that was put in the bill not to allow them to seek compensation from the Government of Canada because they were losing their employment.

Paragraph 11 is of interest. The report is made to the Senate by a committee of the Senate, and the Court of Appeal is speculating as to whether or not the Senate will stop the government from enacting this legislation and says it's forbidden for them to sue the government.

In paragraph 11, the Court of Appeal says, in trying to figure out what the Senate is going to do:

The forces at work within a government and a Parliament that influence the progress of a bill to law are not very different in terms of predictability than those Dickson J., as he was then, in *Operation Dismantle v. R.* . . . noted as "operating in an arena of radical uncertainty, and continually changing circumstances." That the arena is national . . . .

That's the Senate.

. . . does not appreciably enhance its certainty. As was recently said by the Associate Chief Justice:

I cannot imagine anything less predictable than the course of legislation through Parliament. Indeed, the only thing that is certain about life in Parliament is that nothing is certain. The ever-present possibility of a crisis leading to an election or a general election without such a crisis, to say nothing of a hostile Senate, underline only the most basic realities that make it impossible to predict whether any measure will become law, let alone when.

• (1530)

In that case, senators, the minister of the day, in his wisdom, negotiated with all of those people out of court and gave them their compensation because they were losing their jobs. That is the relevant case law, not the case law suggested by the lawyers yesterday, which was not relevant to the case we have before us.

I give credit to the committee, because the committee got it straight that there would be no discrimination under this act. What is in the agreement and the addition to the agreement would provide for a complete hearing for everybody and a complete appeal procedure. There's no doubt about that. That was established by the committee, and that's why the committees of the Senate stand out when compared to the House of Commons, because that matter was not even addressed and not even visited. Can you imagine, honourable senators, that these two clauses of the bill, major clauses, the main clauses, were not even addressed in the House of Commons committees? I read all of the testimony and all of the speeches. They weren't even addressed. I suppose, why should they? That's not their function. Their function is to play politics most of the time. Our function is to examine this.

Some of us are opposed to this legislation for those very reasons, not for the substance of what's happening but because of the wording and because the drafts people didn't understand that there's a provision of the Indian Act that makes it illegal to take somebody's name off a list by an order-in-council. This will be looked at in our Federal Court. I guarantee you that it will be looked at, and it will be looked at for the very reason that people went to court and tried to get their justice when they lost their jobs. The two provisions that they went to court over were at paragraph 11 and argued the basic principles of natural justice at common law and the requirements of 2(e) of the Canadian Bill of Rights:

. . . no law of Canada shall be construed or applied so as to . . .

(e) deprive a person of the right to a fair hearing in accordance with the principles of fundamental justice for the determination of his rights and obligations;

I had to read out the rest of it, because the Speaker is a former chairman of the human rights associations and he knows the provision inside out.

What hope do we have? We're going to take a vote here. Some people here, like me, are vehemently opposed to the wording but not the process, which was clearly explained. Everybody is going to have their day in court, so to speak. We hope that when a judge looks at this, they will say, "What is the intent? Is it what it says in this bill?" We hope the judge will look at what they often look at in the Supreme Court of Canada, which is a heading called "intent of Parliament." What was the intent of Parliament? It was to substitute a list for a list that's presently there and that the government claims is not adequate. If that's the interpretation, then fine, but in the process, they will strike down this provision of the bill. They will have to, in my opinion. When they visit the question of whether or not compensation can be obtained from the 24,000 families who are presently receiving assistance and all of a sudden have it removed from them after they have sent their children to post-secondary education and they've readjusted their lives around that, all of a sudden, to be cut off and not be able to seek compensation from the Government of Canada, I believe they would have a case that this section of the bill also is unlawful.

Honourable senators, before I sit down, I have to congratulate the committee members for the great job that they did on this legislation. Thank you.

(Debate suspended.)

#### VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, just before we proceed further, I'd like to call your attention to the presence at the bar of Kevin Murphy, the Honourable Speaker of the Legislature of Nova Scotia, who is accompanied by his wife Stephanie, at one time a star student of our colleague Senator Cordy.

#### QALIPU MI'KMAQ FIRST NATION BILL

##### THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Wallace, seconded by the Honourable Senator Eaton, for the third reading of Bill C-25, An Act respecting the Qalipu Mi'kmaq First Nation Band Order.

**Hon. Lillian Eva Dyck:** Honourable senators, I rise to speak to Bill C-25. Senator Baker, you're a hard act to follow.

First of all, I'd like to make some acknowledgments. I would like to acknowledge the hard work of our chair, Senator Patterson; the critic of our bill, Senator Baker; Senator Wallace, who was the sponsor of the bill; and all the other senators who attended the committee, as well as our hard-working staff.

As Senator Baker has already mentioned, we did do an in-depth study of this bill, much deeper than the House of Commons did. In fact, we had the Department of Justice and people from Aboriginal Affairs and Northern Development come back again so that we could quiz them again and really understand what was

going on in this bill. Senator Wallace gave us the intention of the bill, which is honourable. It is a good bill in terms of the intentions. However, as we could hear, clauses 3 and 4 take away from that, and because of that, the bill should be rejected. We should not pass it. We should vote against it.

During the testimony, when we had the officials back, we also heard from Ms. Jaimie Lickers, who was the lawyer for the Mi'kmaq First Nations Assembly of Newfoundland. She gave us a presentation that was extremely clear. In it, she did say very clearly that it was unfair because we would be applying the same criteria for membership in the band, but different documentation would be applied to different groups of people who are applying for membership; so that was unfair. I will come back to that in just a few minutes.

As I said, the intention of the bill is to create the Qalipu Mi'kmaq Band in Newfoundland. They will be a landless band. They don't have a reserve. As was mentioned by my colleague Senator Baker, some of them have already been registered and are receiving some benefits of Indian status, such as eligibility to receive Non-Insured Health Benefits, and for those who are of the age to go to post-secondary education, there are funding dollars available to do that.

The legislation is needed, as was pointed out, to amend the recognition order to add or delete names, to substitute the original list that comprised the founding members of the Qalipu First Nation. Before I get into that, one of the things that struck me as odd right off the bat was that they didn't follow the Indian Act with respect to how Indian status is actually determined by the Indian Act. Basically, it boils down to blood quantum. They didn't do that. Instead, they decided to follow the Metis-led criteria, the *Powley* decision, where the person has to self-identify. They have to come from a recognized Mi'kmaq family. They have to establish that their family was in a recognized Mi'kmaq community. They have to have maintained contact with that community, so as, in a sense, to keep the Mi'kmaq culture and identity alive. That's what they've done. They've taken the Metis-like criteria and, of course, we know right now that that has created problems for the Metis across Canada. They've had appeals. They've been recognized in Manitoba as being Indians, under the Indian Act, but the federal government has appealed that decision. That decision is still waiting for what happens in the appeal process.

• (1540)

They didn't choose to use the rules that are in the Indian Act. They went this other route instead.

When they began, as was pointed out by the sponsor, there was a court challenge where the Mi'kmaq wanted to be recognized as Indians. As part of that settlement, there were lots of discussions with the federal government to come up with the agreement in 2008, at which point they expected to get maybe 9,000 or 12,000 members. In fact, when they made the recognition order on September 22, 2011, they actually had 23,877 who were recognized as founding members, about twice what they expected.

As people began to hear about what was going on, applications kept coming in, the deadline was extended and now, as our sponsor said, over 100,000 people have applied. Of course, this

was much greater than was expected, so then they went back to re-examine the criteria and decided that the criteria are okay, but the documentation you need to submit to prove that criteria has to be tightened up and clarified. Here's where the problems come in with respect to that.

The original group, the 24,000 who were signed on in September 2011, they will be considered as self-identified; they're checked off; they're fine. For those people who applied after September 22, 2011, they have to submit greater levels of documentation to satisfy the criteria of self-identification. Although the criteria is the same, the evidence, the proof, the documentation that they need to provide is at a higher level.

What will be the upshot of this? The upshot will be the supplemental agreement now saying we need more documentation to prove that you're a Mi'kmaq descendant. The upshot will be to reduce the 100,000 to whatever it will be, including the founding members. In addition to that, in the first group that was recognized, there may be people who should not have been recognized. There will be two types of errors. There will be those who got in who shouldn't have got in; and, in the end, those who thought they were getting in will not get in. That's the fundamental flaw, and that's what the lawyer was objecting to.

Our colleague Senator Baker pointed out very clearly that clause 3, talking about the Governor-in-Council adding or deleting names, goes against the Indian Act.

Not being a lawyer — and I was going to ask you about it, Senator Baker — my thought was that with this Governor-in-Council order, the Qalipu Mi'kmaq First Nation Band will be different than any other band across Canada. In a sense, this bill is setting up discrimination and saying, "You're different." From here on in, the Governor-in-Council can say, "I'm going to take a name off or I'm going to add a name," but the Governor-in-Council cannot do that for any other band in Canada.

Clearly, that's not right. The purpose of the Senate is to examine legislation and, if we see a flaw, we fix it or we reject it. In this case, unfortunately, I don't think we can fix the bill, so we have to reject it. That's why we didn't attach observations. The clerk asked, "Are you going to attach observations?" I said no, because basically the bill is so fundamentally flawed, there's nothing we can do to fix it. I urge everybody to reject it.

My honourable colleague also talked about clause 4 and removing the ability to sue the government or the Federation of Newfoundland Indians. The people who are being cut off the list can't sue them for compensation either. We were told they could still take their case to court. However, as was pointed out by my colleague, theoretically you could take it to court. Yes, you have that option, but we know if you do that, you will lose, because of the *Etches* case law. Although in theory you have the right to appeal, in practice you can appeal, but you know the answer will be no. It's a phony appeal. It won't give you anything. You're set up for failure.

It is going to affect the founding members and I don't know how many tens of thousands who have applied. They will not get their answer until sometime in 2016, at which point they will all hear at the same time whether or not they're on the list. They have a long time to wait to find out what the decision will be.

[ Senator Dyck ]

Since clauses 3 and 4, which are the guts of the bill, are so fundamentally flawed, the bill should be rejected.

As I said, our role as senators is to protect minorities. Of course, the Aboriginal peoples, the First Nation people in Canada, are one of the minorities whose interests we should be looking after. I would urge you to carefully consider this.

We are supposed to be here to pass the best legislation possible. Our primary job is to examine legislation. If it's not correct, if it's breaking the law that's outlined in the Indian Act, then how can we say we're in favour of it? It's contravening another law that's already in existence.

This bill is not even necessary for the Qalipu Mi'kmaq First Nation members themselves. They already have the agreement set up. The lawyer said those agreements are legally enforceable. The agreements are already set. It's really not about the Qalipu Mi'kmaq First Nation at all. The bill actually should be renamed. It shouldn't be called the Qalipu Mi'kmaq First Nation act. It should be called the "granting the Governor-in-Council power over the band membership of the Qalipu Mi'kmaq First Nation act." It's granting the Governor-in-Council a new power. It's not about the Qalipu Mi'kmaq First Nation; that's covered by the agreements.

We could call it "protecting the Government of Canada and the Federation of Newfoundland Indians against complaints act." That's what this bill is all about. That's what clause 3 and 4 are all about. Therefore, the bill is really not to help the Qalipu Mi'kmaq First Nation; it's there to protect the Government of Canada and the Federation of Newfoundland Indians, who set up those agreements and then realized they were flawed.

I don't understand this. If they had applied the supplementary agreement to the very beginning of the process, from day one when they started taking applications in June 2008, and had applied the same level of documentation to absolutely everyone who applied, then that would be a different picture. They didn't do that. The witness, Jaime Lickers, said ideally the same criteria and the same level of documentation should have been applied to everyone, not depending on the recognition order of when the founding members' list was ratified, and that the band was actually created.

I urge all senators, especially those on the committee, to vote against this bill.

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

**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:** Yes.

**Some Hon. Senators:** No.

MacDonald  
Maltais  
Marshall

Wells  
White—51

**The Hon. the Speaker:** Those in favour will signify by saying “yea.”

NAYS  
THE HONOURABLE SENATORS

**Some Hon. Senators:** Yea.

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

Baker  
Callbeck  
Campbell  
Chaput  
Charrette-Poulin  
Cools  
Cordy  
Cowan  
Dawson  
Day  
Downe  
Dyck  
Eggleton  
Fraser  
Furey  
Hervieux-Payette

Hubley  
Jaffer  
Lovelace Nicholas  
Massicotte  
McCoy  
Mercer  
Merchant  
Mitchell  
Moore  
Munson  
Ringuette  
Rivest  
Robichaud  
Smith (*Cobourg*)  
Tardif—31

**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:** Do the whips have advice?

**Hon. Jim Munson:** Yes, Your Honour, a 30-minute bell.

**The Hon. the Speaker:** Call in the senators for a vote at 4:20 p.m.

ABSTENTIONS  
THE HONOURABLE SENATOR

• (1620)

Motion agreed to on the following division:

Nolin—1

**The Hon. the Speaker:** Accordingly, the motion is adopted.

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

ELECTORAL BOUNDARIES READJUSTMENT ACT

BILL TO AMEND—THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Batters, seconded by the Honourable Senator Oh, for the third reading of Bill C-37, An Act to change the names of certain electoral districts and to amend the Electoral Boundaries Readjustment Act.

**Hon. Joan Fraser (Deputy Leader of the Opposition):** Colleagues, I expressed myself the other day on the merits — or otherwise — of this bill, and I must say that despite the best efforts of Senator Batters, I haven’t changed my mind. I still don’t like this tendency to pile geographical name upon geographical name upon geographical name in setting the names of House of Commons ridings.

I must say I was absolutely delighted to see that the *Ottawa Citizen*, of all papers, agrees entirely with me.

YEAS  
THE HONOURABLE SENATORS

Andreychuk  
Ataullahjan  
Batters  
Bellemare  
Beyak  
Black  
Boisvenu  
Buth  
Carignan  
Champagne  
Dagenais  
Demers  
Doyle  
Eaton  
Enverga  
Fortin-Duplessis  
Frum  
Gerstein  
Greene  
Housakos  
Johnson  
Lang  
LeBreton

Martin  
McInnis  
McIntyre  
Mockler  
Nancy Ruth  
Neufeld  
Ngo  
Ogilvie  
Oh  
Patterson  
Plett  
Poirier  
Raine  
Rivard  
Runciman  
Seidman  
Seth  
Smith (*Saurel*)  
Stewart Olsen  
Tannas  
Unger  
Verner  
Wallace

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

**Senator Cowan:** You'd better rethink your position.

**Senator Fraser:** That said, this is something affecting House of Commons ridings. I don't really feel like launching some kind of a war over this.

**Senator Mercer:** Why not?

**Senator Fraser:** It might be fun, but it's getting late in the session.

If we're going to do this, we might as well do it and call the question.

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

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

• (1630)

## ECONOMIC ACTION PLAN 2014 BILL, NO. 1

### THIRD READING

**Hon. Larry W. Smith** moved third reading of Bill C-31, An Act to implement certain provisions of the budget tabled in Parliament on February 11, 2014 and other measures.

**Hon. Claudette Tardif:** Your Honour, I would like to ask for clarification with regard to the process for several amendments that I know colleagues on this side of the chamber will be bringing forward with regard to Bill C-31. Would Your Honour provide guidance on this matter?

**The Hon. the Speaker:** Thank you, senator, for raising this matter.

Honourable senators might find it helpful that in order to conduct this kind of business we have had, in the past, a practice whereby motions in amendment, where we expect more than one or two, are, with leave, capable of being considered together. This affords flexibility, allowing the Senate to debate the full range of issues in a bill.

When we would come to a vote, we would decide on each amendment separately, with the bells ringing once for all amendments. We would generally start with the first amendment that had been moved. We sometimes refer to this as stacking amendments, so is it agreed we proceed this way?

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** Thank you honourable senators.

Senator Smith, on debate.

**Senator L. Smith:** Thank you very much, Your Honour.

[*Translation*]

Honourable senators, as I stand before you today to introduce Bill C-31, I am proud to reflect on the improvements we have seen implemented in Canada over the past eight years.

Our government has been disciplined and focused on what matters most to Canadians: the economy, jobs and long-term prosperity.

[*English*]

We have been fortunate to have had the leadership of a team that has steered Canada through a very challenging global economy that was in crisis and that still remains fragile. It is with the greatest of respect that I take this moment to thank the late Jim Flaherty and his team for their diligent work over the past eight years.

[*Translation*]

Before the global recession hit in 2008, our Conservative government paid down a total of \$33.2 billion in net debt, bringing Canada's debt to its lowest level in the past 14 years. As we entered the recession, this government made key decisions that positioned Canada for future success.

[*English*]

This government made strategic changes to strengthen Canada's financial system, and, as a result, for the last six years the World Economic Forum has ranked Canada's banking system as the soundest in the world. An example of the strategic action taken was the \$50 billion injected in the insured mortgage program and the Canada Mortgage Bonds Program. While many countries, including the U.S.A, lost their triple A rating, the actions taken by our government helped Canada maintain its triple A credit rating with Standard & Poor's, Moody's, and Fitch throughout the recession.

The government also reduced the GST to 6 per cent in 2006 and 5 per cent in 2007.

We have supported families with Canada's Universal Child Care Benefit that gave direct assistance of a \$100 per month for parents to support their children's development and care in the first six years.

The government acted quickly to find efficiencies across all ministries and, since 2010, has saved approximately \$19 billion per year while creating a targeted stimulus program, the Economic Action Plan, to keep hardworking Canadians on the job and improving infrastructure across the country.

But it did not stop there. This government, with the use of the Gas Tax Fund, supported municipalities across Canada for infrastructure projects, with \$800 million in 2007, followed by \$1 billion in 2008. The gas tax program was so successful in the first two years that it was doubled to \$2 billion. Then the government committed to continuous, stable funding of \$2 billion per year over the next four years, followed by making it a permanent

program in 2014 and indexed at 2 per cent per year, allowing municipalities to proceed with large-scale infrastructure requirements.

We understood that tax reductions boost the economy and put more money in the pockets of hardworking Canadian families, and we proved that by gradually reducing taxes for job creators and large enterprises from 21 per cent prior to 2006 to the level of 15 per cent as of 2012. We also reduced taxes for small to medium enterprises from 12 per cent to 11 per cent in 2008, while at the same time increasing the allowable income limit for this category from \$300,000 to \$500,000.

[*Translation*]

In addition, we created an action plan to reduce red tape in order to support small- and medium-sized businesses by easing both the regulatory and tax compliance burdens, more specifically, by removing 19 regulations; freezing EI premiums while establishing a stable and predictable process for EI; and most recently, in the bill before you, minimizing the payroll remittance requirements.

[*English*]

On January 22, 2014, Bloomberg moved Canada from sixth to second place in the rankings of the most attractive countries for business to grow.

[*Translation*]

The government made a commitment to maintain transfer payments to seniors, families and provinces for health, education and social services. For the past eight years we have remained committed to that promise, as transfer payments have increased from \$41.9 billion to \$65 billion, which represents a 55 per cent increase since 2006.

[*English*]

Our government has put in place investments in Canadians through programs such as the skills development program for youth employment, in which the government currently invests over \$330 million per year. In 2012, we provided \$50 million over two years to enable the strategy to help more young Canadians get the information and gain the skills, work experience and abilities they need to make a successful transition to the workplace. Additionally, we created programs designed to enable Canadians with disabilities, older Canadians and Aboriginal Canadians to acquire new skills.

The Internship Program is a career-focused program that supports paid internships for recent post-secondary graduates, ensuring they get valuable hands-on work experience. Economic Action Plan 2012 provided funding for an expected 3,000 additional paid internships in high-demand fields. Economic Action Plan 2013 proposed an additional investment of \$70 million over three years to support an additional 5,000 paid internships.

The job grants program was introduced in 2013, providing \$15,000 or more per person, including a maximum federal contribution of \$5,000, and matching the contribution by

employers and provinces or territories to ensure that Canadians are able to access the training they need to get jobs in high-demand fields.

We have increased job matching services by investing \$11.8 million over two years and \$3.3 million per year, ongoing, to launch an enhanced job matching service to help Canadians with available jobs.

As well, the Canada First Research Excellence Fund invested \$1.5 billion in education, research and innovation at the post-secondary level.

As a result of our government's actions, over 1 million net new jobs have been created since the end of the recession in July of 2009. Since 2009, Canada has had the strongest job growth for all G7 countries, combined with the strongest income growth in the G7.

[*Translation*]

We are working diligently to support families and seniors, for example by introducing income splitting for seniors and the biggest increase to the guaranteed income supplement in over 25 years. The government has made 160 tax cuts, putting \$3,400 into the pockets of hard-working families; it also gave volunteer firefighters access to a \$3,000 tax credit and created the tax-free savings account.

On May 27, 2014, the Parliamentary Budget Officer confirmed that our government had offered \$30 billion in tax breaks to Canadians.

- (1640)

[*English*]

We have worked hard to strengthen communities with the success of the 2007 Building Canada Plan. Economic Action Plan 2013 has committed over \$53 billion in investments, including \$47 billion in new funding in support of local and economic infrastructure programs over 10 years under the New Building Canada Plan starting 2014-15; \$32.2 billion over 10 years under the Community Improvement Fund to build roads, public transport, recreation facilities and other community infrastructure across Canada; \$14 billion for the Building Canada Fund to support major economic projects of national, regional and local significance; \$1.25 billion for the renewal of the P3 Canada Fund to continue supporting innovative ways to build infrastructure projects faster and provide better value for Canadian taxpayers through public-private partnerships; \$6 billion to provinces, territories and municipalities under current infrastructure programs in 2014-15 and beyond.

[*Translation*]

I should also mention that we have made over \$10 billion in investments in federal public infrastructure assets, including \$124.9 million to build a bridge-causeway between Nuns' Island and the Island of Montreal as part of the new bridge over the St. Lawrence that will replace the Champlain Bridge, and \$25 million over three years to advance the Detroit River international crossing. Through the Building Canada Fund,

from 2007 to the present, the federal government has implemented infrastructure stimulus measures and other infrastructure initiatives to support over 43,000 projects across Canada that have created jobs, fostered economic growth and contributed to a higher quality of life for Canadian families.

We continue to do everything we can to make public sector wages and benefits fair and in line with the private sector.

[English]

Looking to the future, Canada is in a strong position for future growth and will continue to promote exports and innovation. Since 2006, we've worked diligently to open up five more markets for Canadian export with free trade agreements with Panama, Jordan, Columbia, Peru and the Czech Republic. We recently concluded an agreement in principle with the European Union, Korea and Honduras, and we're continuing negotiations with 12 other countries.

At the recent G20 and International Monetary Fund meetings in April, it was made clear that global economy remains fragile. The result is that our economy has been restrained by weak export markets and a decline in commodity prices. In addition, financial market vulnerabilities in some emerging economies could translate into weaker-than-expected growth in these countries and increased financial market volatility more generally.

The message is clear: Competing in such an uncertain world means sticking to proven strategies and continuing with plans that work. Fortunately, Canada has such a plan in the Economic Action Plan 2014. Today's legislation builds on the foundation of our commitment to create jobs, growth and long-term prosperity.

[Translation]

This plan will pave the way to a balanced budget in 2015.

[English]

I repeat: this plan will pave the way to a balanced budget in 2015.

[Translation]

We have before us Bill C-31, an act to implement certain provisions of Economic Action Plan 2014. This is the first 2014 budget implementation bill. There will be a second bill in the fall.

[English]

Bill C-31 implements additional tax measures such as increasing the Adoption Expense Tax Credit from \$10,000 to \$15,000; expanding the Medical Tax Expense Credit to include individual therapy in service jobs; increasing tax relief for Canadians that donate environmentally sensitive land; removing the application of GST/HST on health-care-related items, such as naturopaths' and acupuncturists' services and public parking at hospitals; adjusting excise taxes to reduce tobacco consumption and increasing the excise tax duty from \$17 to \$21 per carton of 200, plus an indexed adjustment every year; removing tariffs on mobile offshore drilling units for use for exploration; and extending the Mineral Tax Credit.

[ Senator Smith ]

Bill C-31 also improves law enforcement agencies' access to financial information to assist in apprehending money laundering criminals and corrects earning loss benefits for veterans.

Bill C-31 reinforces our government's commitment to build a fast and flexible economic immigration system with a model known as "expression of interest" to begin in 2015 and by ending the immigrant investor and entrepreneur programs, which were underperforming.

Bill C-31 also implements the process for Canada to comply with the U.S. Foreign Account Tax Compliance Act, while preventing financial institutions from reporting directly to the U.S.

[Translation]

Honourable senators, we continue to work diligently to shape new policies and new initiatives with our top priority in mind. We are disciplined and focused on what matters most to Canadians.

[English]

Other major world economies are struggling with the global recession and indebtedness as are many of our provincial governments. Canada needs to continue to utilize discipline to manage its finances while Canadian families need to do the same to live within their means to ensure their economic future.

[Translation]

We are focused on the following priorities:

[English]

Building and developing new and existing trade relationships throughout the world; responsible resource development in the North and throughout our country; training and developing our next generation of educated and skilled Canadian workers; protecting all Canadians of all ages; and continuing to support the values and benefits that make Canada the outstanding country that it is today on our way to a balanced budget in 2015.

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

**Hon. Pierrette Ringuette:** Would the Honourable Senator Larry Smith take a few questions?

**Senator L. Smith:** I would be honoured.

**Senator Ringuette:** I guess my question is technical but very important. In the pre-study of this bill, portions of it were sent to different committees to be studied. I have in front of me the report from the Standing Senate Committee on Social Affairs, Science and Technology in respect of their portion of the pre-study of the bill. My understanding is that the chairs and deputy chairs of these committees were invited before the National Finance Committee to give a summary, including the reports, which were tabled in the Senate.

In this report from the Social Committee, under Division 20, Immigration and Refugee Protection Act, a long and interesting observation was appended regarding the Temporary Foreign

Workers Program, an issue that I discussed in this chamber yesterday. As the Deputy Chair of the National Finance Committee, and, I suppose, the leader of the government in that committee, can you tell me whether these observations will be included as observations at third reading of the bill?

**Senator L. Smith:** Thank you for the question.

Each of the groups that conducted studies for the Finance Committee submitted their reports to Senator Day, the Finance Committee, the steering committee and to me. In the case of Senator Ogilvie's committee, to the best of my knowledge there were no amendments. Any observations in their report would have been submitted when he tabled the report of the committee in the Senate.

**Senator Ringuette:** You are saying that the observations of the more detailed analysis of Division 20 of Bill C-31 will not be added to Bill C-31.

• (1650)

**Senator L. Smith:** My understanding was, as I said earlier, that Senator Ogilvie deposited his report to the Senate. He came in and made a presentation to our committee and went over the various components of the sections that he was asked to evaluate with his committee.

They had a complete report. People had the opportunity to ask questions. My understanding was that our committee did a pretty good job of asking questions of Senator Ogilvie. As a result, at the end of our discussion, Senator Ogilvie said to Senator Day — and of course I'm Senator Day's number two — basically, "I submit the report as it stands." Then he came to the Senate and deposited the report, and it stands as tabled in the Senate.

**Senator Ringuette:** Technically what you are saying is that even though different standing committees of the Senate do a more detailed analysis of parts of this omnibus bill, their observations on the different issues will not be part of your committee's report.

**Senator L. Smith:** My understanding, from what we discussed at our committee, is that we did a clause by clause yesterday at the National Finance Committee. During the clause by clause, if observations were made — and there were observations — they were discussed. It would be the decision of the committee at that time to decide if and what observations would be included in the final report that would be submitted by Senator Day to the Senate.

**Senator Ringuette:** That puts in my mind that we should no longer be doing pre-study of bills, and certainly not sending the different parts of an omnibus bill such as Bill C-31 to committees for study because, in reality, the work that is being done by these committees is not attached to your report.

In essence, you're asking a group of senators to do a more detailed study of parts of a bill, but the results of their studies — their reports — are not part of your report at third reading. I find that these observations from Senator Ogilvie are quite accurate and should serve and be part of your final report.

**Senator L. Smith:** I'm not sure whether that's a question, senator, but each of these groups had a chance to presents to us. If the chair of the group that studied that particular section had agreement amongst his committee that these observations should be put forward to us as the main committee, then we would have been given those observations with hopefully some reinforcement from the committee that presented to us.

I think you'll see that another committee, headed up by Senator Gerstein and Senator Hervieux-Payette, did give us observations, and we discussed those observations in detail. I'm not sure how this will proceed as we move forward today, but there may be some observations that came out of yesterday that your side wants to put forth as amendments today.

I think our committee, from a procedural perspective, did the right thing in the way we treated it. If any of the groups that had been asked to study particular sections wanted to put their observations forward to us, then they should have done so. Then we would have handled those observations and we would have decided by vote whether those observations should be appended to our submission.

I don't think there is a political issue here from the groups that have done work for us upon our request. I think they all did a favourable job, and I think that procedurally — and I'm not a procedural specialist — we did our jobs as we should have.

**Senator Ringuette:** I'm happy that you brought up the Senate Banking Committee, of which I am a member. We did study parts, and there were two issues that I would say most members of the committee were very concerned about. I have no doubt that to a certain extent those concerns were transmitted, and hopefully in observations to be attached to the report. These issues have already been discussed in this chamber.

We put a lot of hours of work into hearing competent witnesses. If our observations as other committee members are not attached to your final report, then again I ask what the purpose is of asking people to do a concentrated study on certain parts of the bill, but then listen to maybe a half hour or hour presentation by the chair and deputy chair of the committee? You do not have the benefit of all the hours of work and hearing witnesses on those issues. You have to take what that committee reports to you.

I'm coming back to the fact that I have in front of me the ninth report of the Standing Senate Committee on Social Affairs, Science and Technology with respect to the divisions of Bill C-31 they had to concentrate on. In two instances they have observations. One observation in regard to the Immigration and Refugee Protection Act is two paragraphs' worth. I have no doubt they did serious work on that.

Where in your final report on Bill C-31 will that stand in order to recognize these observations that are very important? Otherwise, never mind any more pre-study and dividing an omnibus bill into different committees if all the work that is being done by these committees is not part and parcel of your final report.

**Senator L. Smith:** Thank you very much for the question. I think maybe we're going over the same question five times, and I've tried to answer it honestly for you.

Each of the groups that did sub-studies for us on the budget presented to us. It's up to the chair of that particular group, if there's an observation that they want to forward to us for us to include in the program. Senator Day and I would have asked them, "Do you have observations that you have strong feelings about that your group supports and you want to put forward to us?" It is my understanding that that group did not submit observations for us to put forward.

The Banking group, under Senator Gerstein and Senator Hervieux-Payette, did make recommendations on Divisions 6, 14 and 25. I believe that Senator Bellemare made two recommendations as observations that were debated amongst the group. I believe we submitted those observations appended to the report that Senator Day made.

Is that correct, sir?

It's a question of, when you're delegating to people to do their jobs, if they have people on their committees who feel that strongly, they vote to submit observations, and then we would have received those observations and gone through them.

• (1700)

In the cases of Senator Hervieux-Payette and Senator Gerstein, they submitted observations, which were then taken by the group. Senator Bellemare worked diligently. Then we had an intense discussion between both sides to come to a conclusion of how we were going to handle the observations. That is appended to the report.

I think it's important to understand that we're not just shuffling this off for people to do something that we're not going to accept. That's the implication of your suggestion. We listened very well and were trying to be as open-minded as we possibly could and give discussion to things that come back to us, but the observations have to come back to us so that we can entertain them.

**Senator Ringuette:** I was under the —

**The Hon. the Speaker:** Order. Honourable senators, the only question that's before the house is third reading of Bill C-31. We have received the report. The report was presented. No amendments were attached at report stage. Third reading was called. It's third reading that's before us. It's the debate on third reading, as reported by the National Finance Committee.

These are important questions that are being raised, but they're not the question. The question before the house, honourable senators, is third reading of this bill. That's where the debate is.

**Hon. Joseph A. Day:** Your Honour, thank you for reminding us that the question before the house is with respect to Item No. 2, Bill C-31 at third reading and whether it should or should not be given third reading at this time.

I will refrain from talking about what transpired prior to Bill C-31 being received by this chamber and referred to our committee for consideration. It's now back as a result of the consideration that took place.

[ Senator Smith ]

Honourable senators, the report is the twelfth report of the Standing Senate Committee on National Finance. There were two observations attached to this particular report. This report was filed yesterday, and I'll refer honourable senators to the two observations that were developed by the committee. This was a drafting exercise by the committee, so they're Finance Committee observations.

The first is on Part 6, Division 14 — Insurance Companies Act. I'll read the observation so everybody understands what the observation is:

The Minister of Finance should, after consulting the parties involved, consider establishing principles concerning property rights on accumulated surpluses before establishing the rules for the demutualization of Economical or of any mutual property and casualty insurance company because property rights on accumulated surpluses are not clearly defined at this time. If the courts are asked to intervene, they should make sure that all stakeholders (among others, mutual property and casualty insurance companies, cooperatives, insurance brokers and their associations) are able to present their case on the divisibility or indivisibility of these surpluses since the community as a whole could be impacted by any such rulings.

Honourable senators, we referred to this as "demutualization." There has been some discussion by mutual companies of transforming themselves into for-profit, share companies. The concept of a mutual company, like a cooperative, is that the owners of the policies are the owners of the company as long as they remain a stakeholder by virtue of being an owner of a policy in the company.

Over the years, these mutual companies have accumulated a lot of extra funds that they haven't needed to pay out to insurance claims and for operations. It's a very significant amount of money. The question is: To whom should that surplus go if they move over to become shareholding-type companies? That has been the debate. We'll go into that a little more later.

Division 14 authorizes demutualization to a degree, but says that the rules will come later. It's the rules coming later that concerned a number of honourable senators, and we tried to outline in this observation what the parameters should be of the rules.

That's the first one, honourable senators. I can go into more detail on that, but time probably doesn't permit to deal with each of these to the extent that it would be helpful to do so.

The second observation — and there are only two — is on Part 6, Division 25 — Amendments Relating to International Treaties on Trademarks.

We want to underline the quality and quantity of concerns expressed by the business community and intellectual property rights experts on the withdrawal of the written declaration of use when registering a trademark in Canada. In the absence of any outside positive testimony on this matter, it is difficult to evaluate the overall benefit for Canada of the withdrawal of the written declaration of use.

The fundamental rule with respect to property rights from a registration is that the person who is the registrant in Canada must use the trademark, or must have used it. You can file on proposed use but, before it's registered, it must be used, or you can file based on prior use and then you get registration based on use. There is a great concern that use is being taken away from one of the fundamental principles, and that is our observation on this, based on the testimony that we had heard.

That, honourable senators, is the report. Apart from that, there were no amendments made in committee or proposed in committee. There was discussion on many issues, but that is the result of our deliberations at committee.

I have referred to two areas, demutualization, and the Trademarks Act and the use issue. I will come back to those items in due course as I go through the bill to try to explain to you what is here. Time will, I'm sure, pass quickly, because there's a significant amount of information to try to communicate to you. I'll just try to hit some of the highlights. Other honourable senators have participated in their committees and their reports. At page 2, there are six of them. All the committees have studied different portions of this bill. I hope that any member of any other committee that studied this will participate in debate, and certainly any comments would be very much appreciated from honourable members from the Finance Committee, the committee that I'm pleased to chair.

We have a bill with six parts, Bill C-31. Part 1 is amendments to the Income Tax Act and to related legislation. Part 2 is amendments to the Excise Tax Act (GST/HST measures). Part 3 is amendments to the Excise Tax Act, 2001, the Excise Tax Act, (other GST/HST measures) and Air Travellers Security Charge Act. That's all part of Part 3. Part 4 is Customs Tariff. There are four out of the six that relate to fiscal matters. You understand that they flow somewhat from the budget, but they're certainly very important items from the government's point of view and the fiscal situation that the government wishes to put forward.

Then we get into Part 5, the Canada-United States Enhanced Tax Information Exchange Agreement Implementation Act. It's questionable, in my view. That should well have stood as a separate piece of legislation.

• (1710)

Then there is Part 6. Part 6 is various other measures. There are 30 various other measures. What makes this bill turn out to be 370 pages is Part 6 and all the items we have to try to deal with.

**An Hon. Senator:** Here we go again.

**Senator Day:** It's impossible for us to deal with those. We would be well into a study now if we had waited for the bill to come to us, because it just passed in the House of Commons last week on June 12.

My focus will be almost exclusively on Part 6, which has 30 divisions to it. I think in the time that I have available to me I can best communicate to you what we found here by dealing with Part 6, which really should have been a separate piece of legislation.

I looked through all of these initiatives, and you can come up with some general themes. One of them is the issue of privacy, the question of privacy versus information sharing between government agencies. You start to see it in little pieces of legislation here and pieces of legislation there. I will come back to that. I'll go over the general, overall themes first.

A lack of consultation: I can give you some examples of that, and some stakeholders and people who are impacted who say there was a lack of consultation that leaves them very uncomfortable as to what might happen next. If they had been consulted, they might well be supportive of some of this legislation, but not having had the opportunity to suggest how it will impact them makes it very difficult for them.

Items that should not be included in a budget implementation act: I can talk about all of the 30 divisions of Part 6. Acts within an act. I think if something is substantial enough that it deserves of a piece of legislation, to borrow from Shakespeare, these are acts within acts. They could be separate, stand-alone pieces of legislation. There are three of them in this budget implementation act, three acts within acts. That's another general theme worth talking about.

The final general theme is the corrections. We find there is legislation here correcting something that was probably done in haste, probably part of another budget implementation act previously and therefore not thoroughly enough canvassed and dealt with. Now we're coming back with amendments to legislation that we were asked to pass in another budget implementation act previously.

Those are just some of the general themes I wanted to bring to your attention.

With respect to the exchange of information, the privacy or the sharing of information between government agencies, we're seeing more and more of this. You've seen it with Bill S-4 and the digital privacy act that we passed reluctantly on division in this chamber recently. We saw it in Bill C-13 in the other chamber, and all the other articles on cyberbullying, and the ability for government agencies to acquire information, either from Internet service providers or from other sources, without the traditional warrant protection.

In the past, if the government or the police needed information on behalf of reviewing government legislation and determining whether there had been a violation, unless the crime was in the act of being committed, typically to get the information they would go and explain their case to a judge. The judge would say, "Yes, okay, this is a warrant and these are the limits on what you can do with that warrant."

A lot of what we're seeing — Bill S-4, Bill C-13, and now here in this legislation, first under FINTRAC — is getting away from that protection the public has had through the warrant process and the oversight by the judge.

In this particular legislation, Division 19 of Part 6 concerns FINTRAC, the Financial Transaction and Reports Analysis Centre. FINTRAC gets information from all financial

institutions. It analyzes that and then typically would pass that information on from the financial institution, in terms of information collected globally as opposed to about individuals. The concern is the movement towards more individuals' information being passed on.

In the FINTRAC case, we have some interesting information for honourable senators under Division 19. This legislation you're being asked to vote on expands the circumstances that authorize the Border Services people to disclose information collected under this part and forward it to FINTRAC for analysis. Border Services is getting more authority to pass information between government agencies. The amendment clarifies the intent of the existing information-sharing provisions in the current act between FINTRAC and the Minister of Finance, and to streamline the process, FINTRAC is being given more authority. The explanation of the legislation says it expands the list of disclosure recipients to whom FINTRAC can disclose intelligence on suspected threats to security.

It's all under the rubric of security. They can pass on more and more information.

The amendments also enhance the type of information that FINTRAC can disclose in these cases. There are more places they can send it, and it's a wider base of what can be disclosed.

In addition to that, other amendments allow FINTRAC to share, with the Canada Revenue Agency, compliance-related information that would be relevant to the implementation of international electronic fund transfer reporting requirements.

Honourable senators, you can see what's happening. More and more of this information that's being collected by one agency is being shared with another agency, and that could pose some very serious problems in the future.

There's another piece of legislation, still in Bill C-31, still under the rubric of privacy versus disclosure between agencies, and that relates to the Canada-U.S. agreement in Part 5 of this bill. Part 5 is what we talked about earlier on. Part 5, the Canada-United States Enhanced Tax Information Exchange Agreement, was an attempt by the government to avoid, to a degree, the oppression of earlier legislation that the United States had. We have all received many emails about having to make available — the banks have to go through a due process, and for any potential U.S. taxpayer, the information of all the accounts they have must be sent to the U.S.

Canada has entered into an agreement with the United States, and Part 5 deals exclusively with that, but this is one of those acts within an act. What really bothered me is that they want us to pass the act, at clause 99, that includes the words "as amended from time to time." So we adopt a piece of legislation that adopts an agreement between Canada and the United States, and that agreement between Canada and the United States may, from time to time, be amended by the executive branch. We will not see that as legislators. We will not say, "That is far too oppressive on the people of Canada and Canadian citizens who might be doing business in the U.S. and therefore might become subject to U.S. tax payment requirements."

• (1720)

"As amended from time to time" is the wording that appears there. It would be very nice if that were struck out, but it is there for the time being, honourable senators, until we decide otherwise.

Bill S-4 and Bill C-13 all go to this general theme of more and more private information being made available.

There's yet another case of the Supreme Court of Canada called *Spencer*, which came out two days ago, that talks about the importance of private information. The Privacy Commissioner has also come out and suggested that there is a serious need to look at changes to the legislation, including Bill S-4 and Bill C-31, with respect to the provisions I've just brought to your attention.

Let me discuss a lack of consultation. All we have to do is look at Division 14 of this bill, demutualization, and Division 25, Trademarks Act, the lack-of-use issue. In neither one of those was there the kind of consultation that there should have been prior to bringing out the legislation, making the stakeholders nervous.

Items that should not be included in the budget implementation: As I mentioned, all of Part 6 and probably Part 5 as well, because that's the Canada-U.S. agreement that should have been dealt with and studied separately from the point of view of legislation.

I talked about Part 5, and I don't think I need to talk further about that, but Division 29 is another one that is an act within an act. It purports to create an administrative tribunals support service of Canada act. There are 11 administrative tribunals that are getting the same support services.

We got a note from the Canadian Bar Association in that regard, and they were very nervous about this particular matter. They indicated that this should never be passed without being separate legislation so that there could be a separate discussion. Their concern was that administrative tribunals are very specialized in a lot of different fields. International trade is one; one could be for immigration. They deal with a lot of different people who appear before them. The supports needed are different. You can't say one administrative tribunal and the support system will support all of them.

They're very worried about that particular aspect of combining all of these. But they said one of the most important things is that there has been no consultation. There was no consultation to consider the confidentiality aspects of different administrative tribunals. There was no consultation to consider the expertise of the tribunals that develops. From the point of view of "should it be in this legislation?" that's another example of legislation, under Part 6, that should be separate.

Regarding corrections to legislation made in haste, I'll refer you to Divisions 20 and 21. One of them is immigration legislation. I won't go to it, but we have it here: Bill C-4, immigration. We passed it last year. They're back now to make some changes with respect to designating essential services.

**Senator Mercer:** Should have done that before.

**Senator Day:** We did it last year, but we didn't do it properly.

The other is the essential services aspect, which in itself is quite controversial — and the agreements that are being entered into — but that, honourable senators, is an amendment that is being made already.

Other items that are in this Part 6: One was increasing the number of judges in Alberta and in Quebec. These are undoubtedly very important, but does it have to be in a fiscal ominous bill that has to be passed quickly so the government can get on with its running of the country? Can we not deal with some of these items separately?

There's a hazardous products bit. There is also a Members of Parliament Retiring Allowances Act for those members of Parliament who are suspended. This makes provision that they can't collect or pay into their retirement for the time that they are — but it's here; it's in this omnibus bill.

The Customs Act extends the period of time during which the minister may cancel a seizure or reduce a penalty. Do we really need that in a budget implementation bill? It certainly wasn't in the budget itself.

We have dissolving the ACOA the board of directors and dissolving the Enterprise Cape Breton Corporation. We have a provision where the Virtual Museum program is transferred from one department to another. All here — budget implementation.

Nordion — now you get into some serious, important work. Nordion is a company that spun off from Atomic Energy of Canada Limited a number of years ago. Nordion sold isotopes — molybdenum — all over the world. They had a huge chunk of the international market. Because it dealt with the nuclear industry, Nordion had a restriction on who could hold the shares, and there couldn't be a major shareholder more than a certain percentage; it was right in the legislation that created Nordion.

The day the budget implementation bill, Bill C-31, was tabled on March 28, an announcement was made by a company by the name of Sterigenics, which is from the United States. It announced a takeover of Nordion, which obviously it could not do under the existing legislation. Is it coincidental that they might have seen Bill C-31 filed, and they made a bid to do what Bill C-31 is going to allow them to do but which they couldn't do on March 27? They still can't do it on March 28; they still have to wait for it to be passed. But they got that out there, and there it is.

So what's going on behind the scenes, honourable senators?

I talked about demutualization.

Regulatory cooperation — this one bothered me: Remove requirements under the Railway Safety Act and the Transportation of Dangerous Goods Act to publish notices of regulations in the *Canada Gazette*. So the public won't have an opportunity under the Railway Safety Act and the Dangerous Goods Act to review the "gazetting," which is a publication so you can take a look at what's going on and what's being intended.

We're advised that the sickness benefits provision under Division 17 will impact approximately 380 Canadians. But here it is, and it's a huge section in the budget implementation bill.

The Canadian Food Inspection Agency is going to be exempted from the User Fees Act. The User Fees Act was put in there to make sure that government agencies don't charge a user fee more than is necessary to cover the expense of the service the user is using.

- (1730)

It makes good sense to have some limit when you say to an agency, "You can start charging your users." There have to be some limits on what they can charge, and it should be the expense that's being incurred to provide the service that is being used. But the Canadian Food Inspection Agency, which is doing more and more of the user fee side of things, is being exempted from the user fee. They say, "We have our own rules, and we would prefer to use those." Not a good way to go.

I mentioned a number of concerns I have with FINTRAC. There are over 40 measures here in the FINTRAC application alone.

I mention temporary foreign workers only, Senator Ringuette, because this is one of the areas where we correct some provisions that were passed under Bill C-4 last year. So here we are making amendments already, and it's in relation to what Senator L. Smith had to say about expressions of interest and how that's going to make things so much better. We passed it last year. We're making amendments to the legislation this year. It would have been nice to spend a little more time studying that.

For the Public Service Labour Relations Act, that's the essential services aspect, and, again, we're changing the legislation.

I know, honourable senators, that I'm using up a lot of your time and attention, but I'm trying to point out to you that there is a huge amount of diverse information here, any of which is deserving of an awful lot more insight and examination than we can give it.

Taxpayer-backed insurance on mortgages would be CMHC. Those mortgages were being bought up before the economic downturn of 2008. They were bought up, and then a company was raising money selling shares based on what the asset was. The asset was a bunch of mortgages. It was great if you had a mortgage guaranteed by CMHC. CMHC is taking that away. Good idea. It should have been done long ago, but does it need to be in Bill C-31? Could we not have dealt with that otherwise?

On the reduction of Old Age Security, if a person is sponsored to come to Canada, we have a provision that for the first 10 years the sponsor has to pay for that person's Old Age Security. They don't get it from the government. The government has decided that 10 years wasn't enough. We're being asked to extend that to 20 years that the sponsor will be required to pay.

Then we have the new bridge for the St. Lawrence act, a new act to create that activity and a new administrative tribunal. All of these items are there, honourable senators.

I could talk further and at length about the demutualization, but I will leave that to other honourable senators to try to deal with.

I would like, just for the time that I have remaining, to deal with Part 6, Division 25, the trademarks section. It's here, allegedly, because there are three international conventions that the government would like to enter into, and they say that we have to have these amendments in order to do that, although there was much evidence to the contrary saying that that's not necessary.

There really wasn't anybody who thought it was a good idea to remove the fundamental principle we have had since the 1850s. I think it was in 1868 that the first trademarks act had use as the basis for having an exclusive right. Trademark and name on a product or on a service is yours exclusively if you obtain a registration of that mark in Canada. Then you have to go and register in the U.S. and other places if you want to carry on business in those places. Virtually all of the countries that we have dealt with would have a use requirement. The United States requires an affidavit of use after a period of time. Are you using the mark? Get it off the register if you're not.

The concerns here are very strong reservations with respect to these changes that are being proposed in Division 25. Every witness, with the exception of government witnesses, had reservations, including about this provision. Let me go over some that sent us letters or appeared and indicated reservations: the Canadian Bar Association; the American Bar Association; the trademarks counsel for Tim Hortons Inc.; the chief legal counsel for Irving Oil Ltd.; Bereskin & Parr. A good friend of many of us here, Dan Bereskin has been practising in this field for many, many years. Gordon Henderson of Gowling Lafleur Henderson, if he'd been still living, would have been here and of the same stature as Dan Bereskin. Dan Bereskin appeared before the committee.

We also had a letter, signed by over 230 country-wide intellectual property lawyers, practitioners, recommending the removal of this division and calling for further consultation in relation to the declaration of use provisions. Some of them would be members of the Canadian bar, the American bar, the trademark council et cetera. The International Federation of Intellectual Property Attorneys was against this. The Canadian Chamber of Commerce was against it. Canadian Manufacturers and Exporters were against this change, as was the Intellectual Property Institute of Canada. As you know, they are hosted here on an annual basis. They are based here in Ottawa. There were many, many others, honourable senators, who came before us.

Let me just tell you what some people had to say. Daniel Bereskin, of Bereskin & Parr, said:

Canadian IP lawyers from across Canada overwhelmingly oppose the conversion of our use-based statute into a registration-based statute.

They are overwhelmingly opposed to it, because it will be so easy — You heard the term “trolls” here a couple of days ago. These are non-users, people who want to get in the business of getting a registration and then forcing somebody else. If you want to start a business, you have to search the register, see what marks

are registered and then see if there is an opening for your particular trademark. With no requirement for use, you get all of these people or companies registering marks to create a business for themselves, and then it's put on the businesses to go to court. So the courts will be loaded down with cases to remove a registration that shouldn't be there, that's not a bona fide registration for use purposes.

The Canadian Bar Association, in their brief submitted to the committee, stated:

The fundamental requirement that a trademark be used before its owner will be granted exclusive rights has been a cornerstone of Canadian trademark law since the first statute was enacted in 1868.

I had the year right.

They also said:

An abrupt change from a use-based system, without consultation and analysis by stakeholders, serves only to disrupt the economic relationship between Canada and the US.

... Division 25 should be removed from Bill C-31 and be the subject of detailed consideration and consultations with all interested parties.

That was the Canadian Bar Association.

• (1740)

The American Bar Association, in a brief submitted just last week, said:

No rationale has been presented in favor of the amendments other than the administrative efficiency of the governmental body responsible for the operation of the Trade-marks Office.

They were saying that everyone was holding up well. The United States has signed these international treaties and is saying that in order to sign these international treaties you need to make this change; but the American Bar Association is saying “No, you don't. We didn't.” In the U.S. they still have a use-based system; and they are members of the international treaties.

Honourable senators, in a nutshell those are the concerns expressed to us by the Canadian Bar Association, the Intellectual Property Institute of Canada, the American Bar Association and many others.

A number of other points were raised in relation to this matter before the Banking Committee that heard evidence on Division 29 of Part 4. One interesting point arose that I hadn't heard or seen before in the many letters and documents sent to me that outlined concerns. One was from the *Fédération Internationale des Conseils en Propriété Intellectuelle*, another well-known and highly respected group. The work done by the Banking Committee brought out another point, which is in their report, one of six at

page 2 of our Order Paper today. If Canada abandons use in its trademark legislation, then it will abandon its constitutional basis for having federal legislation. Trade and commerce requires use and if they don't have use, they don't have a basis for the legislation under trade and commerce. I thought that was a very interesting argument.

All of this could easily have been studied and looked into at length if this hadn't been part of a budget implementation bill. Because it's budget implementation, there was no pre-consultation. It's being rushed through, and there is extreme unease throughout all of Canada on this particular matter.

#### MOTION IN AMENDMENT

**Hon. Joseph A. Day:** For that reason, honourable senators, I move:

That Bill C-31 be not now read a third time, but that it be amended, on pages 207 to 259, by deleting Division 25 of Part 6.

**The Hon. the Speaker:** Senator Callbeck.

**Hon. Catherine S. Callbeck:** Honourable senators, I too want to say a few words on Bill C-31, the budget implementation bill. This is yet another omnibus bill in a long line of Conservative budget bills. I think it's rather fitting that what could very well be my last speech on a piece of legislation in this chamber is on a topic I have spoken about time and time again.

In my opinion, these omnibus bills, once the exception but now the norm, are no way to present legislation. Quite frankly, I think it's an abuse of power to cram so many unrelated items into one massive bill. Bill C-31 contains 486 clauses that propose changes to dozens upon dozens of different pieces of legislation. It also, much like the previous omnibus budget bills we have had to deal with, is full of items that are nowhere to be found in the budget. I simply can't understand how it is acceptable to present a budget bill with anything but items directly laid out in the budget itself; yet we see it time and time again.

Today, however, I want to focus my comments on one specific division of the 30 divisions in Part 6 that I'm worried about because it could have a serious impact on my province of Prince Edward Island and rural communities all across the country. I'm speaking about Division 14, which deals with the demutualization of mutual insurance companies.

Currently, there are 100 mutual insurance companies operating all across Canada with a combined \$5.3 billion in premiums. The majority of these companies were formed between 100 and 175 years ago by farmers in small rural communities out of need in the farming sector as well as for rural property owners to provide insurance not adequately serviced by stock companies. To this day, most mutual companies are based in small Canadian towns and have boards that consist of farmers, business people and community leaders. They serve local residents and make decisions locally to suit the needs of many Canadians. Mutuals are well-known for giving back to their local communities through donations as well as providing jobs to local residents.

Over the 100 plus years that many of these companies have been operating, they have built up strong surpluses to help provide financial security for the next generation. Built on the premise of mutuality and sharing, these companies have always operated with the greater good and long-term prosperity of their policyholders as their driving force. It is these surpluses that are at the very heart of demutualization found in Bill C-31. If a company decides it wants to demutualize, what happens to the surplus? How is it divided up? Who benefits from it? There isn't a clear answer, and that is a major problem for the industry.

Currently, the Economical Mutual Insurance Company is trying to demutualize. This is a massive company with close to \$2 billion in surplus and 1 million policyholders. However, Economical is claiming that they have only 985 mutual policyholders that are actually entitled to a piece of that surplus. Not surprisingly, many of those 985 policyholders have a direct connection to Economical, including ties to the board and high-ranking positions within the company. To the rest of the industry, the thought of only 985 out of 1 million policyholders getting a piece of that surplus is unthinkable. It goes against the core beliefs of the mutual industry and is effectively stealing from previous generations who, through prudent fiscal management, have built up such a large surplus to ensure stability for the next generation.

The Prince Edward Island Mutual Insurance Company, which has been Island owned and operated since 1885, has spoken loud and clear about their concerns with this section of the bill. In speaking with them, it becomes very obvious that they do not believe demutualization should be an option.

Blair Campbell, in his capacity as General Counsel and Corporate Secretary for Prince Edward Island Mutual Insurance Company, told the other place while testifying at a committee on this matter:

It is preferred that no enabling rules be established and that mutuals remain mutuals as they began. Individuals have the option of buying shares in stock insurance companies or buying insurance from a stock company if that is their wish. A mutual should not be converted to a stock company for reasons of greed or self-interest of the generation of the day. It is repugnant that a current generation can be unjustly enriched in this way when there will be no option of turning back over 100-175 years of history of these significant companies.

It's important to note that Mr. Campbell is also on the Executive Committee of the Canadian Association of Mutual Insurance Companies.

• (1750)

However, if enabling rules are to be established, P.E.I. Mutual has laid out what I believe are a number of fair and reasonable requirements that should be implemented.

The first is that a decision to demutualize should receive the highest level of scrutiny within the company. There should be super-majority quorum and approval thresholds for votes taken

on the matter. In Ontario, by example, present legislation requires 90 per cent approval.

When it comes to who actually gets to vote on that matter, they proposed that:

All policyholders, not just purported mutual policyholders, must vote on a demutualization proposal. All Policyholders, not just purported mutual policyholders, must be the recipients of equal shareholding. Government should pass a law requiring that all policyholders of a Mutual are considered Mutual or Voting members of the company.

This would prevent a situation like we see right now with Economical, where you have 1 million policyholders but claims of only 985 mutual policyholders who have a so-called legitimate claim to that surplus.

Finally, when it comes to the surplus, P.E.I. Mutual recommended that:

If a Mutual chooses to convert to a stock company the Surplus of the company being an indivisible asset and a common good should remain in the Mutual Insurance System. The policyholders on a demutualization proposal can decide at the same time where, within the Mutual Industry, the Surplus would be directed.

For example, that surplus could be passed along to another mutual insurance company. The key is to keep it within the mutual insurance system.

Honourable senators, I think that the enabling rules laid out above are more than reasonable. However, since this is all being done through regulations, we have no idea what these rules are going to look like. I, personally, believe it's a very complex issue that deserves its own bill and not to be crammed through in a budget bill with hundreds of other changes.

#### MOTION IN AMENDMENT

**Hon. Catherine S. Callbeck:** Therefore, honourable senators, I move:

That Bill C-31 be not now read a third time, but that it be amended, on pages 145 and 146, by deleting Division 14 of Part 6.

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

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

[*Translation*]

**Hon. Pierrette Ringuette:** Honourable senators, at second reading of the bill, we debated trade marks and demutualization. However, today, I want to talk about clause 5

[ Senator Callbeck ]

of the bill, which concerns the Canada-U.S. tax information exchange agreement.

On Monday, we discussed the very important matter of people's privacy. Unfortunately, a few days later, the new Privacy Commissioner said the following which, I believe, is at the heart of what I will share with you later.

[*English*]

In an interview before MacKay's comments, privacy commissioner Daniel Therrien said the government treated basic customer data as relatively benign, which may have been reasonable at the time.

But now that the Supreme Court has ruled that this information deserves a high level of privacy, the government needs to take C-13 and S-4 back to the drawing board, he said.

"The premise under which this legislation was constructed has been held to be invalid," said Therrien.

Privacy is a very important issue. Colleagues, for three years now I've taken a very keen interest in the issue of taxation for dual citizens in Canada. Living in a border community with the U.S., as many of us do, I know that many Canadian citizens were born in the U.S. and vice versa. We have a major issue all along border communities, and I have been working on this for three years now. I have my file here. I've been in discussion with the U.S. embassy here that seems to have quite a revolving door in regard to this issue and getting answers for Canadians.

I think one of the things that is kind of funny in this situation is that the U.S. is a country that bases personal income tax on citizenship and not residency like the rest of the world. Their tax policy has always been that way. It's funny that a country that had a revolution started by the Boston Tea Party based on taxation without services would have legislation to tax citizen non-residents who are not getting services from their government, but I guess that's it.

The issue is that their income tax law has always been that way. However, a few years back they noticed that a lot of Canadian citizens and residents were not complying with their income tax act. Therefore, they said that what they will do is say to all foreign banks with a banking institution within their territory that they will have to comply in their home country subsidiary to the taxation information and law in the U.S. with regard to information for citizens — not residents, citizens.

That has sparked a lot of discussion throughout the country, and I've had a lot of discussions with the U.S. embassy here on the issue. Honestly, how can a Canadian government enforce, directly or indirectly, foreign legislation?

Second, how can this country sign an agreement to give private Canadian citizens' information via Canada Revenue Agency to the U.S.? From my perspective, that's a clear breach of our Canadian citizen, whether they are dual or not.

• (1800)

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

**Senator Ringuette:** That is a clear breach of their privacy.

I also believe it is a clear breach of our Canadian Charter of Rights of Freedoms, section 8, which says, “Everyone has the right to be secure against unreasonable search or seizure” and section 15(1), which says, “Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination” —

**The Hon. the Speaker *pro tempore*:** Allow me to interrupt you a few seconds, Senator Ringuette. Is there agreement that we do not see the clock?

**Hon. Senators:** Agreed.

**The Hon. the Speaker *pro tempore*:** Agreed.

[*Translation*]

Senator Ringuette, I’m sorry. I used up one of your minutes, so you can have one more.

**Senator Ringuette:** If you want to give me more time, Mr. Speaker, I will take it.

**The Hon. the Speaker *pro tempore*:** We will start with one minute.

[*English*]

**Senator Ringuette:** I will repeat section 15(1) of the Charter of Rights and Freedoms:

Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

In my opinion, Part 5 of Bill C-31 is a clear violation of the Canadian Charter of Rights and Freedoms. It is also, from my perspective, a clear violation of our Canadian citizens’ right to privacy.

**Senator Moore:** Sure it is.

**Senator Ringuette:** The Canadian government has not signed such an agreement with the Chinese government, the Russian government, with France or with the U.K. This is done particularly for Canadian citizens who also are U.S. citizens, and this has all been done in order to help the Canadian banks that have branches in the U.S. That is the basis of this agreement. It’s to save Canadian banks from this U.S. legislation.

By the way, the way the act is written, it removes any kind of court challenge for that information within the Canadian banks. It puts all the onus on the Canada Revenue Agency. That’s phenomenal. As a government, you say that you pride yourselves with regard to private business and competition and so forth, and you would remove that onus of responsibility from these banking institutions.

I will tell you again that many of the citizens from my area of the country are very upset with the U.S. legislation, and they are doubly upset with the fact that the Canadian government is acting against the fact that they reside in Canada. They are Canadian citizens, just like anyone else, and they are being targeted by this agreement and the current bill we have in front of us, and it is not right. If the Americans want to collect personal income tax, that is their responsibility. They are not given facts that someone might be corrupt or there must be money laundering or something else. There’s no criminal intent here, none whatsoever. It’s not like talking about the FINTRAC issue. That is not the purpose. The purpose of this bill is to give personal financial information about Canadian citizens to a foreign country. I have been through that issue before in the case of Tepper in New Brunswick. I know what can happen when that kind of misleading information is provided to a foreign nation.

#### MOTION IN AMENDMENT

**Hon. Pierrette Ringuette:** Therefore, honourable senators, I move:

THAT Bill C-31 be not now read a third time, but that it be amended,

(a) on pages 72 to 83, by deleting Part 5; and

(b) on pages 316 to 357, by deleting Schedule 3.

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

**Senator Ringuette:** I’m willing to answer questions.

**Senator Cordy:** They don’t want questions. They don’t want the answers.

[*Translation*]

**Hon. Céline Hervieux-Payette:** Honourable senators, for those who need more details, I would like to add a few comments as a member of the Standing Senate Committee on National Finance and vice-chair of the Banking, Trade and Commerce Committee.

To begin, clause 99 refers us to a section in the agreement signed with the United States earlier this year that must be enacted through legislation. It should be noted that Canadian banks will be charged a 30 per cent penalty for undeclared funds. That is a major penalty.

Canadians who have been living here for 20, 30 or 40 years, who have not renounced their American citizenship and who have a bank account worth less than \$50,000 — I’m talking about

general bank accounts — with various terms and conditions or an insurance contract under \$250,000 will not be affected. Everyone else is.

We have received letters from distressed Canadians who have been here since the 1970s and 1980s. They retired in Canada and are worried about losing their home because of these retroactive contributions that go back decades.

Canadians who have accounts in the United States are also targeted. Many Canadians, including a large number of Quebecers, spend a good part of the winter in Florida. Usually they do some shopping, have some fun and have a bank account. These people are required to declare their bank account. In this case, Revenue Canada deals with the files of Canadians in the United States. They have to fill out a form. There is a process in place for that. They don't have a choice because they won't be able to return to the United States if they don't complete the required documents.

• (1810)

I must say that the government has a lot of nerve taking money out of Canadians' pockets in this way, given the wrongdoing that occurred on Wall Street and the impact of the financial collapse in the United States. It is therefore obvious that I support my colleague's motion regarding clause 99.

My colleague spoke very eloquently about clause 211, but there is one problem. I don't know whether the legislative drafters in the House of Commons know how to draft a bill, but usually the minister's powers are included in the text of the bill, not in the regulations, because the regulations do not include any guiding principles or standards on how to deal with the matter of the reserve.

In general, insurance companies have a reserve of \$1.6 billion to cover risk. We know how hard it is for farmers to be in business. I am thinking about serious droughts and floods, like the one in Alberta. We are being told that the cost is currently at \$5 billion, so \$1.6 billion will certainly not cover all risks. I am also thinking about how mad cow disease could resurface.

The reserve is there for a reason, and it should not be used to make people with insurance policies richer. The purpose is to be insured. It is great if the reserve was well administered over the years and no disasters occurred, but I find it absolutely unthinkable for the government to make regulations to tell us how those amounts will be allocated among the million members.

Clause 211 even talks about the courts. In other words, rules have not yet been established, but the legislation already stipulates that regulations may provide for court intervention. For a government that generally doesn't like the judiciary, I find that this is an odd way of approaching things and including in legislation that the court may intervene. This is unnecessary. I support the amendment simply because clause 211 is invalid.

As far as Nordion is concerned, I just want to say that in a court of law, the witnesses would have been considered hostile. In committee they were rather vague. In short, there is no way of knowing when the production of isotopes will end. There is no

way of knowing whether the company, which coincidentally filed a request to buy the company, had heard rumours about the changes made in the budget.

The fact remains that at the end of the day — and as legislators this is something we should be aware of — given the major crisis we went through with the isotopes and how very important they are for treating certain types of cancer, we are again passing on the burden on to the provinces.

Isotopes are a tool used by our hospitals and doctors for treating patients. We do not eat them at a restaurant. If the day comes that we need them, then that means we are not well. The only place they are used is in hospitals. What is more, it will likely be a foreign-owned company, an American company. There is practically no competition, which means the bill will be passed on to the provinces.

I would now like to talk about clause 317, which deals with trademarks. At first there were extensive discussions about the failure to remove a measure that had existed for years, namely the commitment to using trademark.

When a trademark was not being used, the Department of Industry would take measures to remove the name that was not being used. It was an administrative procedure. We are being told that this is an improvement, but it would mean that businesses will now have to go to court instead of following a minor administrative process.

The lawyers we heard from kindly told us that this measure made no sense. They said that the costs could be upwards of \$1 million to solve a minor problem. Companies will have to go to court in order to remove or repurchase the name they registered and did not use. It's easy to see why that makes no sense. It doesn't take much judgment to see that.

This is an important issue because it affects all kinds of companies. Innovative companies are generally the ones registering trademarks. A witness who appeared before the committee told us about his Ottawa restaurant, the Backyard Door. This person had not registered his trademark because there was already a garden furniture company in France registered under the name Backyard Door. As a result, our Ottawa restaurant owner will have to change his restaurant's name because that name has already been registered, even though his business has existed in Canada for 20 years. This is just a little practical example. We're not talking about multinational companies here.

I am also thinking of companies with revenues of over a billion a year that certainly have all the funding they need but still told us they oppose this measure. I think that we have no choice but to propose that this section be withdrawn from the bill, since it does not make any sense, it will be challenged, and it will generate needless costs and delays.

I don't know what the Department of Justice and its legal people are thinking when they come up with legislation that is illegal. It's obvious to me that this will end up in court and there will be delays as it goes from the Superior Court to the Court of Appeal to the Supreme Court.

First there is the demutualization part that is absolutely illegal, and then there is the part about trademarks. I would like to wind this up with a look at clause 313, which is about the \$150 million fund that the government is asking for to buy out securities regulators in small provinces. The federal government, guided by its lofty principles, is going to cut cheques to the small provinces so that it can create its national securities regulator.

First of all, that is a useless expense. A government that spends its time cutting costs doesn't need to do that. Don't tell me our system isn't working. This system has protected us. We probably have better protection with the provincial securities regulators. Plus, there's only one process for securities issuers to get approval, and the others confirm through the passport system.

• (1820)

It is a useless expenditure. As a Quebecer, I find this clause insulting.

I would like to talk about clauses 254 to 298. I know, the sheer number of them seems intimidating. A little over a year ago, the Banking Committee tabled a report on the proceeds of crime and money laundering. It included recommendations for the government. I had high hopes that this bill would include some of those measures. That is not the case. One of the most important measures in the bill is "timing," namely the proposal of 30 days to conclude a transaction exceeding \$10,000. However, after 30 days, the money is spent and gone forever. The requirement should be in real time. All financial transactions are electronic. I feel that this entire section is another attack on privacy because information zips here and there throughout the government, unrestricted. I have the impression that we are living in a glass bubble, or under a less-than-democratic regime, where no restrictions are put in place concerning personal information.

**Hon. Maria Chaput:** Honourable senators, I would also like to say a few words about Bill C-31. I would like to speak about a few divisions of the bill specifically. I have studied these divisions closely, as a member of two Senate committees — namely national finance and social affairs, science and technology — which both did a pre-study of Bill C-31. I will be talking about Division 11 of Part 6, which deals with amendments to the Museums Act, and Division 29 of Part 5, which is designed to create the Administrative Tribunals Support Service of Canada Act.

These are some examples of measures that should not be included in a bill called Economic Action Plan 2014. Bill C-31 would make amendments to the Museums Act, which would authorize Canadian Heritage to transfer the administration of the Virtual Museum of Canada and online reference materials to the Canadian Museum of History. It is a good thing that a museum, not a department, is responsible for managing this virtual museum. This responsibility is also very well aligned with the mandate of the new Canadian Museum of History. This measure makes sense and is well thought out, if, of course, two principles are respected. The first is that the government must honour its commitment to continue funding these virtual programs. Canadian Heritage is no longer directly responsible for the program and might well be tempted to look at this as an opportunity to save money. I am not saying that there is such a plan. However, we must remain vigilant.

What about consultation and accountability? The Hon. Senator Nancy Ruth asked several questions about the representation of invisible groups in Canada's history. The President and CEO of the museum provided assurances that he was consulting with those groups. Did Canadian Heritage include clauses to that effect in the transfer agreement? Will MPs and senators be able to question the Museum about that in a parliamentary committee? Those are a few questions that we did not even have time to ask.

I would like to draw your attention to another measure that we studied: Division 29, Part 6 of Bill C-31. There was absolutely no consultation about the creation of the Administrative Tribunals Support Service. With the creation of this service, the employees and resources of 11 courts will be transferred to a single integrated organization, including the employees and resources located in the regional offices of these tribunals. The tribunals affected have very different missions. They include the Canada Agricultural Review Tribunal, the Canada Industrial Relations Board, the Canadian Human Rights Tribunal, the Competition Tribunal and the Social Security Tribunal.

The Canadian Bar Association is concerned that this merger of services will compromise the expertise of the tribunals. In fact, employees from all of the tribunals will be transferred to a single agency. Every employee will have to deal with cases from 11 different tribunals, which all have different mandates. The Canadian Bar Association also expressed concerns about the independence of these tribunals, since the new agency will fall under the direction of the Department of Justice.

The Interim Privacy Commissioner expressed her concerns about this merger because, by bringing together the resources of a number of small tribunals, the new agency could expose complainants to media attention that would have been unheard of decades ago.

The Canadian Bar Association also expressed concerns — and this is not surprising — about the consultations held with the interested parties before the decision was made. We learned that an information session was held only after the bill was introduced. That is a far cry from a proper consultation process. Given that the concerns pertain to the independence of the tribunals and the protection of personal information, we have the right to expect better.

Honourable senators, there are measures in this bill that are good and others that raise many questions that we do not have time to ask. This is not an approach that I can support. Although we may be used to seeing omnibus bills under this government, we still need to oppose this way of doing things. We need to speak out against this attitude so that this government's tactics do not serve as a precedent for future governments. My concern is that this bad habit will become a tradition. We must therefore always express our disagreement.

We do not have one bill before us, but dozens of bills packaged together. As a senator, I can't really say that this compressed schedule has allowed me to fulfill my duty to properly study legislation. The different parts of this bill are so disparate and so numerous that study in committee was often limited to a succession of witnesses, often public servants, who came to explain the desired effects of implementing certain provisions.

As you know, we had to divide the immense task of this pre-study among different committees. I understand this was done to make the study easier. However, I ended up having to choose between two committees, both charged with studying the same bill at the same time, quite often while the Senate was sitting as well.

Can we honestly say that we gave this bill the serious consideration it deserves? In my opinion, that is nonsense.

The only thing I will say about the other parts and divisions of Bill C-31 is that I support the honourable senators who presented amendments today. The thing that bothers me, honourable senators, is the flagrant lack of consultation, the potential for constitutional consequences, the threat to privacy and the fact that the onus seems to be on the individual, to name but a few of my concerns.

[English]

In conclusion, I invite all of you to go back in time by approximately 20 years, when Stephen Harper, an opposition MP, got up in the other place to say:

Mr. Speaker, I would argue that the subject matter of the bill is so diverse that a single vote on the content would put members in conflict with their own principles.

I quote again:

Second, in the interest of democracy I ask: How can members represent their constituents on these various areas when they are forced to vote in a block on such legislation and on such concerns?

We can agree with some of the measures but oppose others. How do we express our views and the views of our constituents when the matters are so diverse? Dividing the bill into several components would allow members to represent views of their constituents on each of the different components in the bill.

This was Mr. Harper's reaction to a 21-page budget bill. The one he has submitted to us today is 380 pages long. We have certainly come a long way from 1994.

I, for one, cannot stand in conflict with my own principles. Bill C-31 is not a good thing for our country. We should not be forced to vote in a block when we agree on some of the measures but are opposed to others.

**The Hon. the Speaker pro tempore:** Earlier today, we agreed unanimously to proceed with all the amendments together, so I will first put the question on the first amendment, which is the amendment of Senator Day.

It was moved by the Honourable Senator Day, seconded by the Honourable Senator Moore:

That Bill C-31 be not now read a third time, but that it be amended, on pages 207 to 259, by deleting Division 25 of Part 6.

[ Senator Chaput ]

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

**Some Hon. Senators:** Yes.

**Some Hon. Senators:** No.

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

**Some Hon. Senators:** Yea.

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

**Some Hon. Senators:** Nay.

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

*And two honourable senators having risen:*

**The Hon. the Speaker pro tempore:** Is there an agreement on the bell?

**Hon. Jim Munson:** One hour.

**The Hon. the Speaker pro tempore:** Call in the senators. The vote will take place at 7:31p.m.

• (1930)

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

That Bill C-31 be not now read a third time, but that it be amended, on pages 207 to 259, by deleting Division 25 of Part 6.

Motion in amendment negated on the following division:

#### YEAS THE HONOURABLE SENATORS

Callbeck  
Campbell  
Chaput  
Charette-Poulin  
Cordy  
Cowan  
Dawson  
Day  
Downe  
Dyck  
Eggleton

Jaffer  
Kenny  
Massicotte  
McCoy  
Mercer  
Merchant  
Mitchell  
Moore  
Munson  
Ringuette  
Rivest

Furey  
Hervieux-Payette  
Hubley

Smith (*Cobourg*)  
Tardif—27

Charette-Poulin  
Cordy  
Cowan  
Dawson  
Day  
Downe  
Dyck  
Eggleton  
Furey  
Hervieux-Payette  
Hubley

McCoy  
Mercer  
Merchant  
Mitchell  
Moore  
Munson  
Ringuette  
Rivest  
Smith (*Cobourg*)  
Tardif—27

NAYS  
THE HONOURABLE SENATORS

Andreychuk  
Ataullahjan  
Batters  
Bellemare  
Beyak  
Black  
Boisvenu  
Buth  
Carignan  
Champagne  
Dagenais  
Demers  
Doyle  
Eaton  
Enverga  
Fortin-Duplessis  
Frum  
Gerstein  
Greene  
Housakos  
Johnson  
Lang  
LeBreton  
MacDonald  
Maltais

Marshall  
Martin  
McInnis  
McIntyre  
Mockler  
Nancy Ruth  
Neufeld  
Ngo  
Ogilvie  
Oh  
Patterson  
Poirier  
Raine  
Rivard  
Runciman  
Seidman  
Seth  
Smith (*Saurel*)  
Stewart Olsen  
Unger  
Verner  
Wallace  
Wells  
White—49

NAYS  
THE HONOURABLE SENATORS

Andreychuk  
Ataullahjan  
Batters  
Bellemare  
Beyak  
Black  
Boisvenu  
Buth  
Carignan  
Champagne  
Dagenais  
Demers  
Doyle  
Eaton  
Enverga  
Fortin-Duplessis  
Frum  
Gerstein  
Greene  
Housakos  
Johnson  
Lang  
LeBreton  
MacDonald  
Maltais

Marshall  
Martin  
McInnis  
McIntyre  
Mockler  
Nancy Ruth  
Neufeld  
Ngo  
Ogilvie  
Oh  
Patterson  
Poirier  
Raine  
Rivard  
Runciman  
Seidman  
Seth  
Smith (*Saurel*)  
Stewart Olsen  
Unger  
Verner  
Wallace  
Wells  
White—49

ABSTENTIONS  
THE HONOURABLE SENATORS

Nolin—1

**The Hon. the Speaker:** Honourable senators, the question that is now before the house is it was moved by the Honourable Senator Callbeck, seconded by the Honourable Senator Moore:

That Bill C-31 be not now read a third time, but that it be amended, on pages 145 and 146, by deleting Division 14 of Part 6.

• (1940)

Motion in amendment negatived on the following division:

YEAS  
THE HONOURABLE SENATORS

Callbeck  
Campbell  
Chaput

Jaffer  
Kenny  
Massicotte

ABSTENTIONS  
THE HONOURABLE SENATOR

Nolin—1

**The Hon. the Speaker:** Honourable senators, the question before the house is it was moved by Honourable Senator Ringuette, seconded by the Honourable Senator Tardif:

That Bill C-31 be not now read a third time, but that it be amended,

(a) on pages 72 to 83, by deleting Part 5; and

(b) on pages 316 to 357, by deleting Schedule 3.

Motion in amendment negated on the following division:

YEAS  
THE HONOURABLE SENATORS

Callbeck	Jaffer
Campbell	Kenny
Chaput	Massicotte
Charette-Poulin	McCoy
Cordy	Mercer
Cowan	Merchant
Dawson	Mitchell
Day	Moore
Downe	Munson
Dyck	Ringuette
Eggleton	Rivest
Furey	Smith ( <i>Cobourg</i> )
Hervieux-Payette	Tardif—27
Hubley	

NAYS  
THE HONOURABLE SENATORS

Andreychuk	Marshall
Ataullahjan	Martin
Batters	McInnis
Bellemare	McIntyre
Beyak	Mockler
Black	Nancy Ruth
Boisvenu	Neufeld
Buth	Ngo
Carignan	Ogilvie
Champagne	Oh
Dagenais	Patterson
Demers	Poirier
Doyle	Raine
Eaton	Rivard
Enverga	Runciman
Fortin-Duplessis	Seidman
Frum	Seth
Gerstein	Smith ( <i>Saurel</i> )
Greene	Stewart Olsen
Housakos	Unger
Johnson	Verner
Lang	Wallace
LeBreton	Wells
MacDonald	White—49
Maltais	

ABSTENTIONS  
THE HONOURABLE SENATORS

Nolin—1

• (1950)

**The Hon. the Speaker:** Honourable senators, the question now before the house is it was moved by the Honourable Senator Smith (*Saurel*), seconded by the Honourable Senator Unger: That

Bill C-31, An Act to implement certain provisions of the budget tabled in Parliament on February 11, 2014 and other measures, be read the third time.

Motion agreed to and bill read third time and passed on the following division:

YEAS  
THE HONOURABLE SENATORS

Andreychuk	Marshall
Ataullahjan	Martin
Batters	Massicotte
Bellemare	McInnis
Beyak	McIntyre
Black	Mockler
Boisvenu	Nancy Ruth
Buth	Neufeld
Carignan	Ngo
Champagne	Nolin
Dagenais	Ogilvie
Demers	Oh
Doyle	Patterson
Eaton	Poirier
Enverga	Raine
Fortin-Duplessis	Rivard
Frum	Runciman
Gerstein	Seidman
Greene	Seth
Housakos	Smith ( <i>Saurel</i> )
Johnson	Stewart Olsen
Kinsella	Unger
Lang	Verner
LeBreton	Wallace
MacDonald	Wells
Maltais	White—52

NAYS  
THE HONOURABLE SENATORS

Callbeck	Hubley
Campbell	Jaffer
Chaput	Kenny
Charette-Poulin	McCoy
Cordy	Mercer
Cowan	Merchant
Dawson	Mitchell
Day	Moore
Downe	Munson
Dyck	Ringuette
Eggleton	Rivest
Furey	Smith ( <i>Cobourg</i> )
Hervieux-Payette	Tardif—26

ABSTENTIONS  
THE HONOURABLE SENATORS

Nil

[ The Hon. the Speaker ]

- (2000)

## CRIMINAL CODE

### BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator White, seconded by the Honourable Senator McInnis, for the second reading of Bill C-10, An Act to amend the Criminal Code (trafficking in contraband tobacco).

**Hon. Jane Cordy:** Honourable senators, I am speaking today to Bill C-10, the government's trafficking in contraband tobacco legislation.

As I stated last year when we debated the previous incarnation of this bill, I am pleased to see this government acknowledge the considerable problem contraband tobacco operations have become in Canada. I'm in favour of legislation which aims to curb these activities and limit young people's access to tobacco products, particularly contraband tobacco.

Teenage smoking is a health issue. It is important for the health of our young people that the Government of Canada be continually vigilant and proactive in countering all smoking, but particularly teenage smoking. We know those who start smoking at a young age are likely to continue smoking for a long time.

We know that contraband tobacco is particularly attractive to young Canadians because of its low price and easy access with no identification checks. Having fewer young people who take up smoking is always a positive thing. I am always supportive of efforts by any government — federal, provincial or municipal — that takes serious steps to curtail tobacco use among Canadians.

Contraband tobacco is not only a health issue, but it can also be a public safety issue. With contraband tobacco we must also be aware of the nature of the business. It can be a criminal activity. We know that contraband tobacco can be closely linked to smuggling and organized crime with profits directly funding other illegal and sometimes violent activities.

Bill C-10 addresses the illegal activities of contraband tobacco by specifically targeting traffickers of contraband tobacco with amendments to the Criminal Code to create a new offence of trafficking in contraband tobacco. The bill sets conviction penalties of minimum and maximum imprisonment sentences for repeat offenders.

I support the government's intent of targeting traffickers of contraband tobacco and agree they should be penalized; however, I strongly object to the limitations placed on a judge's discretion proposed in this bill by imposing yet once again mandatory minimum sentences.

I have heard from an official of the Department of Justice that the deterrent effect of mandatory minimum sentences is speculative — speculative. The deterrent effect of mandatory minimums is speculative and this seems to be the government's solution to any new law related to crime.

It was a year ago when we debated the previous incarnation of this bill and at that time I commended the government for its efforts to tackle the serious issue of contraband tobacco in our communities. At the same time, I expressed concerns with the bill, as Bill C-10 is basically a carbon copy of that previous bill, my concerns with this legislation bear repeating.

As I said, I am very supportive of legislation that targets tobacco use in Canada, especially by young people. Tackling the problem of contraband tobacco across Canada is an important step to reduce tobacco usage and it can be a tool to target organized crime.

But, as with any piece of legislation, there can be unintended consequences. In the case of this bill, some concerns have been expressed by Aboriginal and First Nations leaders, as some of Canada's contraband tobacco originates from First Nations territories. However, I was surprised to hear during the hearings last year that an increasing amount of contraband tobacco is actually making its way into Canada from China.

Because of the fact that much of the contraband tobacco originates from First Nations communities, they often become the focus of law enforcement agencies. This focus of law enforcement on their communities has raised concerns from Aboriginal and First Nations leaders that these new measures are somewhat misguided as a tool to target organized crime. The leaders believe that their communities are being unfairly targeted and their people are disproportionately prosecuted. It has been stated that the majority of those taking part in these activities are from off the territory, primarily run by organized crime.

The Mohawk Council of Akwesasne has expressed its views on the bill and, while politically they do not have any harsh objections to what Bill C-10 proposes to accomplish, they are concerned with the impacts of the legislation. The Mohawk Council of Akwesasne, the Government of Ontario and the Government of Quebec have worked together to build a cooperative relationship around common interests. This cooperative approach with the federal government, however, is sadly lacking, as the Mohawk Council testified it was not even given the thoughtfulness of being consulted by the federal government when this bill was first drafted last year.

Aboriginal and First Nations leaders have also expressed concerns that this bill will worsen the serious issue of incarcerated First Nations youth. At a time when the incarcerated Aboriginal population comprises over 20 per cent of the federal prison inmate population, while making up only 4 per cent of the Canadian population, they fear more Aboriginal youth who are tempted into these activities will ultimately end up in prison in increasing numbers. These concerns were raised by Brian David, Chief of the Ontario portion of the Akwesasne First Nation, who said that recruiters — some from organized crime groups outside the reserves — work hard to pull their young people into smuggling.

Also concerned by the implications of this bill and the criminalization of tobacco on Six Nations territories is a group of Six Nations business owners I had the opportunity to meet with earlier this month. The Six Nations Trade Collective fears the criminalization of the tobacco trade on reserves will devastate their business and their way of life. Tobacco is the major industry on the Six Nations territory, employing thousands of residents and supporting many small mom-and-pop businesses. The fear is that Bill C-10 will criminalize the tobacco industry on their territories, putting at risk jobs and the economy of the Six Nations Reserve. I was told that this bill will affect 2,000 employees in the community and about 150 businesses. Honourable senators, 2,000 jobs could be lost on the reserve.

I had the opportunity to speak with Six Nations Chief Ava Hill last week and she expressed the same frustration of not being consulted by the federal government. She fears that Bill C-10's criminalization of the tobacco trade will hurt business on reserve. Her MP made public statements that he had been in conversation and consulted with her regarding Bill C-10 and assurances were made to ensure the legal tobacco trade on reserve will be unaffected. However, Chief Hill said that no such conversations ever took place, either between her and her MP, Mr. McColeman, or between her and any officials from the federal government.

**Senator Mercer:** Did they lie? Well, I guess so.

**Senator Cordy:** She feels ignored by the government in this matter and stated that it is the Six Nations' treaty right to regulate their own tobacco industry and not that of the federal government. She is quoted as saying:

The Six Nations elected council has repeatedly informed the government that the economy and trade in our territory is our right to govern and regulate. In 1994, the elected council passed a resolution stating that any product made on Six Nations is tax free.

I encourage the committee that will study Bill C-10 to include the Six Nations Chief Ava Hill as a witness at the hearings when this bill is studied in committee. She can explain the effect the bill will have on her community and the jobs that may be lost on the reserve.

Chief Hill also shared her concerns that Bill C-10 will open the door to on-reserve taxation; that Bill C-10 will also allow on-reserve confiscation of property; and that Bill C-10 will criminalize First Nations business people. I believe these

concerns should be addressed before the bill passes. It is our responsibility as senators to ensure that there are no unintended consequences that would harm good business owners and their employees.

Honourable senators, targeting contraband tobacco traffickers with possible imprisonment penalties may be a positive approach to combatting the problem of contraband tobacco, but, again, I do not agree with Bill C-10's approach of imposing mandatory minimum sentencing policies.

• (2010)

I do not believe minimum sentences are an effective deterrent and I do not agree with taking away a judge's discretion on sentencing. Why does this government not seem to trust that judges, whose job it is to weigh evidence, can come up with a punishment that fits the crime? In Canada, we have one of the best justice systems in the world, and I believe that judges have the knowledge and wisdom to determine an appropriate punishment without mandatory minimums.

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

**Senator Cordy:** I look forward to the opportunity to continue to study this bill in committee.

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

**Some Hon. Senators:** Yes.

**Some Hon. Senators:** No.

**The Hon. the Speaker:** Carried, on division.

(Motion agreed to and bill read second time, on division.)

REFERRED TO COMMITTEE

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

(On motion of Senator White, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.)

(The Senate adjourned until Thursday, June 19, 2014, at 1:30 p.m.)

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