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Friday, June 19, 2015

The Honourable LEO HOUSAKOS
Speaker

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THE SENATE

Friday, June 19, 2015

The Senate met at 9 a.m., the Speaker in the chair.

Prayers.

SENATORS' STATEMENTS

SYRIAN CONFLICT

Hon. Mobina S. B. Jaffer: Honourable senators, I rise today to speak about the Syrian conflict, a conflict that has proven to be one of the worst humanitarian crises since the end of the Second World War. What began as a call for democracy and a push by Syrians for change has tangled itself into a complex regional problem that requires the immediate attention of Canada and the international community.

What you see today is more than a clash between Syrian government forces and an opposition group. Rather, what we see is the development of a regional crisis as the rise of ISIS has threatened not only the region's security, but our security as well. This begs the question: What is the solution to this problem? We all know that even if we wanted to negotiate with ISIS, they would never sit to negotiate with us under the circumstances. They have a stringent ideology which impedes on our ability to find a solution to this problem.

Where does this leave Syrians? The crisis has entered its fifth year, only for the conflict to be getting worse and for human rights abuses to be committed by more actors. In such a complex situation where the rights of Syrians are being infringed upon, we as Canadians should do our best to alleviate their suffering. Canada's history in peacekeeping has encouraged me to come before you and urge that we support all peacebuilding efforts for Syria, if we are truly serious about helping Syrians.

Honourable senators, peacebuilding efforts can begin even while a conflict is ongoing. Peacebuilding can come in the form of diplomatically pushing for democracy, helping to re-establish educational and health institutions, rebuilding infrastructure, offering trauma counselling and supporting gender empowerment initiatives. These are all efforts that Canada should strive to be at the forefront of.

As for the threat of ISIS, while I may not have a solution for you at this time regarding how we should deal with them, I do know that we should not let ISIS's presence deter us from embarking on a peacebuilding journey. Let us help Syrians reintegrate peace into their lives. Let us support Syrian civil society organizations because indeed it is civil society that does the vast majority of peace work, but oftentimes lacks the resources and finances to aid its efforts.

Honourable senators, let us not go away for the summer and brush off the conflict in Syria until we sit again. The conflict in Syria will only protract if we do not act now and push for justice and peace in the country and surrounding region.

[*Translation*]

TRIBUTES

THE HONOURABLE MARJORY LEBRETON, P.C.

The Hon. the Speaker: Honourable senators, I have received a notice from the Leader of the Government, 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 Marjory LeBreton, who will be retiring on July 4, 2015.

I remind senators that pursuant to our Rules, each senator will be allowed only three minutes and may speak only once.

[*English*]

Hon. Claude Carignan, (Leader of the Government): Dear colleagues, I rise today to pay tribute to our colleague Senator Marjory LeBreton, who will leave the Senate for a well-deserved retirement on July 4, on the day of her birthday. Senator LeBreton has said that she does not want any tributes, and her wish will be respected. However, it seems to me that we cannot keep silent on the passage of our colleague in the Senate, but also on Parliament Hill, where she has worked for some 50 years.

In spite of your wish to leave us discreetly, dear Marjory, I would like to say a few words.

Our paths crossed for the first time in September 2008 in Saint-Eustache. I was a candidate in the federal election, and our riding was the first stop in Quebec for the Prime Minister's regional tour. You were by his side and in the campaign plane. I understood that you played an important role for the Prime Minister and for our government.

Then we met again in the Senate of Canada the following year. That is where I really got to know you. I saw you thriving in this environment which was totally familiar to you. I was impressed by your ability to grasp issues in a variety of areas at the same time. You always had confidence in me, and you entrusted me with increasing responsibilities. It was a privilege to serve next to you as deputy leader — in fact, next to a legend of Parliament Hill. A person who, like you, fulfills several responsibilities on Parliament Hill over 50 years is definitely a legend.

Actually, if I'm not mistaken, during those years you served or worked alongside eight leaders of our political party, from John Diefenbaker to Robert Stanfield, from Joe Clark to

Brian Mulroney, who appointed you to the Senate in 1993, and to our Right Honourable Stephen Harper, who appointed you Leader of the Government in the Senate in 2006. You saw 10 prime ministers come and go, six of whom were Conservatives — I say that in passing for those of you who are numbers fans.

Marjory, these last two sentences are telling; they reveal that you have been a witness to all the transformations that our country went through during half of the past century.

As you enter retirement, it would be fantastic if you could be moved to write your memoirs, your many memories of your time in federal politics. We could all benefit from your unbiased, objective and non-partisan opinion of the past 50 years of Canadian political life.

Marjory, you are authentic, intense, committed and loyal. Your accomplishments in politics are impressive, and I feel quite privileged to have been able to work by your side.

In my personal name, on behalf of our caucus colleagues and on behalf of all the members of our institution, I would like to thank you for your outstanding contribution to Canadian democracy. I hope that you will enjoy to the fullest the years to come, far from the limelight, with those who love you.

• (0910)

Thank you, Marjory, and happy retirement.

Hon. James S. Cowan (Leader of the Opposition): Colleagues, by any measure, Senator LeBreton has had a long-lived, impressive and defining political career. More than 50 years ago, she began work at the Progressive Conservative Party headquarters, and she went on to devotedly serve three successive party leaders: John G. Diefenbaker, Robert Stanfield and Joe Clark. When the Progressive Conservative Party formed government, she became a key member of the Prime Minister's Office as Deputy Chief of Staff and Government Appointments Director for Prime Minister Brian Mulroney.

In the Senate, Senator LeBreton distinguished herself through her hard work on social issues. Serving as the Deputy Chair of the Standing Senate Committee on Social Affairs, Science and Technology, more commonly known as the Kirby committee, she helped lead a comprehensive and extensive study on the federal government's role in our health care system. Then there was her advocacy against impaired driving, where she served as the chair of Mothers Against Drunk Driving, following her own personal family tragedy.

For a number of years, when she was Leader of the Government and I was Leader of the Opposition, we interacted on a regular basis. While we seldom saw eye to eye on anything in the chamber or in Question Period, our relations outside of the chamber were always cordial.

Though she may be leaving this chamber, given her energy, I am certain that this is not the last we will hear of Senator LeBreton. I wish her and her husband Douglas much health and happiness in the years ahead.

Hon. Marjory LeBreton: Honourable senators, I had intended to speak on inquiries and not on tributes, as you all know very well my views on the long amounts of time that are spent on tributes, but, be that as it may, it appeared that procedurally I was not going to be able to speak on inquiries. And I actually got that idea from Senator Robichaud. He was the one who, when he left, put down an inquiry and made a very short speech. I was fully intending to do exactly the same. Unfortunately, that was not to be, so I am now on the Senate Order Paper under tributes, which is really quite an irony.

Honourable senators, yesterday marked the very date, 22 years ago, that I was summoned to the Senate of Canada.

I will begin my remarks by thanking a few people who have been instrumental in my success as a senator.

Senator Cowan mentioned my husband, Doug, who has been a sometimes reluctant observer as his spouse indulged herself in her much-loved political career. As some of you know, Doug is a retired auto mechanic, and he and his circle of like-minded friends — my Tim Hortons focus group, as I call them — always kept me grounded. Everything I ever did would be prefaced by thinking, could I explain my actions to my family, friends and neighbours, to my son, Michael Bruce, a custom home builder in Victoria, and his accountant spouse Jessica Escovilla LeBreton; my son-in-law, accountant Ed Holmes — spouse of my late daughter, Linda — and my daughter-in-law, his spouse now, lawyer Tracey Eisenberg; my precious grandchildren Steven, Jenna and the late Brian LeBreton-Holmes, Maddy Eisenberg Carson — who is Tracey's daughter before her marriage to Ed — and the indomitable Drew Brian Eisenberg Holmes, my youngest grandchild, who will be turning 16 soon; my dear brother, Tom Mulvagh, and his spouse, Jan; my sister and my best friend Kay Stanley; and, until her death just a year ago, my late sister, Leah?

My staff — I thank them all profusely. They were a joy to be around. While time does not allow a verbal sketch of each and every one, they will understand if I single out a few.

Sandy Melo, who's up in the gallery, has been my trusted aide and confidant for over 15 years. She served as my chief of staff for the entire seven and a half years I was Leader of the Government in the Senate. Her wise counsel and level-headed advice were and still are invaluable.

Karen Adams, who Senator Carignan inherited and who worked in caucus research when we were in opposition, was the first person Sandy and I called when I was named to the cabinet. Karen's keen knowledge and solid advice basically kept me out of trouble answering for the government in all those many Question Periods in the Senate.

Chris Montgomery — the famous Chris Montgomery — my Director of Parliamentary Affairs — his knowledge of parliamentary procedure and rules and his honest, unfettered advice were without parallel.

Louise Haddock's meticulous attention to detail and welcoming personality put a friendly face on my office to anyone who walked through the door. Of course Louise is still with me and is moving on to Senator McInnis when I depart this place. Well, she's working for both of us right now.

Nick Mamo was my travelling companion morning and night for every single day I was in cabinet. I still miss our interesting chats about just about everything, but always about sports.

Others worked in my government leader's office over the years, some going on to interesting careers inside and outside of politics, and I will simply name them: Nick Ward, Monique Charron, Marcel Poulin, Johanna Quinney, Greg Kung, Amy Leindecker, Cheryl Stone, Jeffrey Kroeker, Rebecca Murphy, James Maunder, Wes McLean and George Rae. Wes McLean, of course, is another one that Senator Carignan has inherited. Thanks to all of them so very much.

To all of the Senate staff, the maintenance people, the security staff, the pages and the clerks and table officers, my sincere thanks. And allow me to single out one, the former Clerk of the Senate, Gary O'Brien, who did much to put the Senate on a proper path going forward.

To my Senate colleagues, all of you, but especially the leadership group, Claude Carignan, who was my deputy leader and now the leader, Beth Marshall, in the same position as whip, and Rose-May Poirier, the caucus chair, their support and advice and loyalty saw us through some very good times but also some very tough times.

To Prime Minister Brian Mulroney, who appointed me to the Senate, for allowing me to continue on in my then 31-year career in politics, and opening new doors to all that being a parliamentarian entails. As Senator Cowan mentioned — and I won't put on the record all of the various things we did in the Senate — there were many, many things, and of course I look at Dave Tkachuk and I think of the Pearson Airport inquiry as another stellar moment of our time in the Senate.

With regard to the time on Social Affairs, I absolutely enjoyed every single moment on that committee under the chairmanship of Michael Kirby. He was a great chair, we had a great cohesive group, and some of the senators are still here. I'm really proud especially of the Social Affairs study on mental illness, and I'm extremely proud of the fact that our government took the advice of that committee and named Michael Kirby as the first chair of the Mental Health Commission of Canada.

I will be forever grateful to Mr. Mulroney for the opportunity to serve in the Senate and to continue my political career.

To Prime Minister Stephen Harper, who reached out to me after the Conservative family reunited and entrusted me with the opportunity of a lifetime to serve in cabinet as Leader of the Government in the Senate, as well as serving as a member of several cabinet committees, including priorities and planning, operations, social affairs, Treasury Board and on the Treasury Board subcommittee, overseeing strategic and operating review.

As well, thanks to Prime Minister Harper, I had the honour to serve for three years as Minister of State for Seniors. During that time we increased support for the New Horizons for Seniors Program considerably and launched the Elder Abuse Awareness campaign.

[Senator LeBreton]

I had the distinct pleasure of travelling with Stephen and Lauren Harper on three national campaigns — Claude mentioned that. I remember that. I actually bought some wine in that wonderful winery and vineyard, even though I'm not a big wine drinker, but it was surely good. In the campaigns of 2005-06, 2008 and 2011, we saw first-hand what everyone in the Conservative national caucus knows — our Prime Minister is a decent, principled, intelligent and hard-working leader who has demonstrated over and over again that our country is in very good hands.

• (0920)

Some Hon. Senators: Hear, hear!

Senator LeBreton: He is his own person; he knows who he is; he takes the job seriously; he has great respect for the dignity of the position of prime minister; and he is not given to overblown rhetoric and un-prime ministerial phony photo ops — in other words, the type of person, when most people think about it, one would want to see in a prime minister. Of all the leaders I have been associated with, he is the one I most identify with. The late Robert L. Stanfield was another who had similar strength of character.

Honourable senators, now that I've got that part out of the way, I want to put on the record some facts that — frustratingly for me, at least — are overlooked, perhaps deliberately. The following can be described as the closing chapter of a speech I delivered in this place on May 22, 2013, where I laid bare my feelings on the attitudes, actions and motives of some. It was very clear that I had serious issues with how the Senate operated over the years, with a very much closed-club attitude. Some of my colleagues disagreed with that speech and they told me so. Some journalists missed my point, fixated as they were on my “lickspittle” adjective describing some of them. A few actually got it — Anthony Furey comes to mind.

Honourable senators, the record is clear.

Fact: Since the end of World War II, Liberals have dominated the Senate.

Fact: In those 70 years, Conservatives have held the majority in this place for slightly over 10 years.

Fact: When we formed the government in 2006, there were 23 Conservative senators facing a combined opposition of 77 — 67 Liberals, 4 Progressive Conservatives and 6 Independent.

Fact: As promised in the 2006 campaign, Prime Minister Harper did not fill Senate vacancies — with two exceptions: Michael Fortier, in February 2006, to give voice to Montreal in the cabinet; and Bert Brown, in July 2007, who was elected in Alberta.

Fact: At the time of the October 2008 election, there were only 20 Conservative senators in this place, facing a combined opposition of 67. There were 18 vacancies.

Fact: The day after the 2008 election, Prime Minister Harper indicated he would appoint senators, stating that the government could no longer tolerate having its agenda thwarted by Liberal senators appointed by previous Liberal prime ministers.

Fact: The Prime Minister recommended 18 individuals to be summoned to the Senate effective January 2, 2009 — the result being that we were still seriously outnumbered, 67 to 38.

Fact: Even though we were the government since 2006, our minority status in the Senate meant the Senate was still controlled by the Liberal majority, particularly the influential Internal Economy Committee.

Fact: Paul Bélisle, the Clerk of the Senate for 15 years, from 1994 to 2009, was replaced by Dr. Gary O'Brien in September 2009.

Fact: Conservatives gained majority status in the Senate in 2010, fully four years after being elected as the Government of Canada.

Fact: Following a March 3, 2010, Throne Speech, the Conservative side finally gained control of committees, including Internal Economy with Senator Tkachuk named as the chair. That was an important moment in the history of the Senate.

Fact: In 2010, with Senator Tkachuk in the chair, assisted by Clerk O'Brien, Senate procedures were changed whereby, in the name of accountability and transparency, senators' expenses would be publicly reported on a quarterly basis.

Fact: In January 2011, the first of these quarterly reports was released covering the period September to November 2010.

Fact: For the first time ever, the media and therefore the public had access to this information.

Fact: This single act in the name of transparency and accountability shone a light where it was never shone before and exposed, as we know, some very serious flaws. Naturally, public and media interest grew with each quarterly report, culminating in a series of troubling news stories beginning in December 2012.

Fact: The Internal Economy Committee, under the chairmanship of Senator Tkachuk and Deputy Chair Senator Furey, and assisted by Clerk O'Brien, called in outside auditors to deal with errant senators.

Fact: Following the report of the outside auditors and the tabling of same on May 9, 2013, the Internal Economy Committee approved 11 specific rule changes, specifically as they relate to Senate travel and expense policies. Time does not permit me to go over all of these, but they are all well known.

Fact: As a result of new information following the May 9, 2013 report, the case of one senator was referred back to Internal Economy, which then unanimously decided to refer the matter to the RCMP.

Fact: Public outrage demanding action continued unabated — with no appetite to have this matter dealt with internally in the Senate. It was clear that this could only be handled by outside expertise.

Fact: Considering the above and other matters, and after consultation, I made the decision to introduce a motion in the Senate calling in the Auditor General. On June 3, 2013, I issued a press statement indicating my intentions and tabled the motion on June 4, 2013.

Fact: The motion was debated in this place on June 5 and was approved on June 6.

Fact: This decision by the Senate was the first time in months that this institution got out ahead of this controversy and, importantly, the move had public support.

One additional fact, honourable colleagues: The Conservative Government introduced nine separate pieces of legislation to reform the Senate.

Honourable senators, as I complete my remarks, I must say that, despite the many improvements that were made between 2010 and 2013, it should have been clear to all of us that the public taxpayers, who after all fund the Senate, had to be reassured that we were serious. There was no appetite for following past practices hoping that the issues would fade away or be resolved from within. There was really only one serious option and that was to call in the Auditor General.

Now, honourable colleagues, there is no denying that the past few years have been extremely difficult and caused considerable stress and anguish for all of us. I have taken my share of abuse and cheap shots, as many of you know. It was not a pleasant time for me, I don't mind telling you that. It was certainly not how I thought I would be ending my career in the Senate. However, be that as it may, and to quote Winston Churchill, "You have enemies? Good. That means you've stood up for something sometime in your life."

Honourable senators, as difficult and stressful as this has been, the time had come. This had to happen. Thanks to the Auditor General's report, we can now set out on a path of total transparency and accountability and, until such time as some real Senate reform takes place, we should support our leaders and our Speaker and reform this place from within as much as possible. That I played an important role in setting the Senate on this path is a badge of honour I will wear proudly forever.

With that, honourable senators, I thank you for your attention and I bid you farewell from the Senate.

Hon. Senators: Hear, hear!

[*Translation*]

TRADE DEVELOPMENT

Hon. Céline Hervieux-Payette: Honourable senators, I ask for leave to revert to my statement since I left my speech at my office.

Honourable senators, I thank you for giving me this opportunity to provide a bit of an overview of some of the topics I talked about most often in this chamber and to leave you with something to think about during your vacation.

• (0930)

[*English*]

Past experiences reveal that free trade agreements do not create surpluses. They expand the preexisting balance, surpluses become larger surpluses and deficits become larger deficits. Trade with the United States remains the dominant part of Canada's export, but export to the U.S. plateaued in 2001. Free trade agreements create opportunities, but capitalizing on those opportunities eludes Canadians.

We also discovered that the claim of 80,000 jobs from the Comprehensive Economic and Trade Agreement with Europe, CETA, has no concrete substantiation. The joint study done with Europe did not produce a figure of 80,000 jobs. The CETA pre-study was published in 2008 and its data was 11 years out of date and ignored the economic turmoil of the last several years. After profiling Canada's situation we compared our policies to international best practices and we drew up a list of seven recommendations.

[*Translation*]

That is what I wanted you to think about.

[*English*]

The first recommendation is a single ministry for trade and industry, since the barrier between domestic and foreign commercial activity is evaporating.

The second is the use of modern analysis methods, known as global value chain. This analysis method enables Canadians to understand how the largest producer, the service sector and the largest exporter, the manufacturing sector, link up. That link being the service content of our manufactured goods.

The third is a technology and education strategy. Canada is entering a new age of high-service content manufacturing and these two inputs are critical to success.

The fourth is a privately run export office program since the incentive structure would encourage business to develop these trade strategies as opposed to waiting for the bureaucracy to lead the way.

The fifth is the development of a robust network of medium-sized firms, since medium-sized firms improve the distribution of the benefits of international trade.

The sixth is a national program to coordinate federal and provincial policies. This must include a public forum held every two years that brings together all the stakeholders and the periodic review process for the entire system.

Our seventh recommendation is a transparent process to ratify Canada's free trade agreement in the future. Currently, Parliament will have to pass CETA without up-to-date figures. We recommend that the Parliamentary Budget Officer, PBO, be mandated and given the necessary resources to independently review and evaluate Canada's free trade agreement.

Honourable senators, the global environment has changed and our efforts to keep pace with this change have been insufficient. Canada's exports future will be in high-service content production. This transition can be achieved with the proper reform. I would encourage all of you to read through our report. It is available in English and French on my website, and I wish you good reading during the summer.

Thank you.

QUESTION PERIOD

ENVIRONMENT

CLIMATE CHANGE

Hon. Grant Mitchell: Honourable senators, as this session comes to a close, and as this term of government comes to a close, and I might say, as I hope this government comes to a close —

Senator Plett: Wishful thinking.

Senator Mitchell: I won't say that with any kind of emphasis. We are left with the startling and striking international stance of the Prime Minister saying that he really could see dealing with the climate change issue by 2100 — 85 years from now. In stark contrast to that, it's very interesting, The Weather Channel in the United States has launched a dramatic campaign that it says is intended to help shift the climate change conversation from science, which it accepts, to solutions.

Interestingly enough, it features some remarkable speakers and I'll start with one: U.S. Army General Charles Jacoby. Some of us know him because he hosted the Defence Committee in Montana. He was the head of NORAD at the time, second highest general rank in the U.S. military, and he was head of the U.S. Northern Command — hugely impressive and a huge responsibility that he had. He is one of the featured speakers on this Weather Channel campaign, and he makes it very clear in his presentation that climate change is one of the greatest security and defence issues facing the world in the years to come.

I wonder why it is that a general of his quality and with his understanding of security matters would be saying we have to do something urgently about climate change when we have a Prime Minister who says he's worried about defence and national security matters, saying it is okay to wait until 2100.

[*Translation*]

Hon. Claude Carignan (Leader of the Government): The G7 was unanimous on climate change. As for Canada, our government announced ambitious targets for our country that are in line with those of other major industrialized countries. By 2030, we will reduce our greenhouse gas emissions by 30 per cent compared to 2005, which is a 225-megatonne reduction. We will continue to take a responsible and balanced approach.

[*English*]

Senator Mitchell: Some of the other speakers make it clear that this isn't a left-right issue so much any longer in the United States. Two very prominent Republicans are part of this campaign. Henry Paulson, who is the former CEO of Goldman Sachs and who served as Secretary of the Treasury under — wait for it — President George Bush, and Christine Todd Whitman, who was the administrator of the Environmental Protection Agency — wait for it — under President George Bush, both participated in this campaign and both emphasized the urgency of action.

Why is it that if the Republican right-wing side of the spectrum in the U.S. gets that climate change is urgent and important when this government thinks it's not even sufficiently urgent that we should not really worry about it until 2100 and between now and then isn't doing anything about climate change and emissions with respect to the oil sands?

[*Translation*]

Senator Carignan: I heard a speech, but I didn't hear a question so I don't know if there was a question.

[*English*]

Senator Mitchell: I would be happy to say that again, thanks. Why is it that the right wing in the U.S., with prominent Republicans, gets that there is urgency about acting on climate change but this Conservative Prime Minister doesn't get that it's so urgent that it needs to be done now? He's willing to wait until 2100 to see it fixed, and he's not willing to take action against one of the greatest emitters in the country, which is the oil sands. How is it that the Republicans down there get the urgency of it and right-wing Conservatives up here don't?

Senator Cowan: Pretty clear question.

Senator Mitchell: That's a question. I could say "eh?"

[*Translation*]

Senator Carignan: We don't intend to interfere in American domestic policy. We have formally presented Canada's target, known as our intended nationally determined contributions under

the United Nations Framework Convention on Climate Change. As I said, it is a balanced but ambitious target that is in line with the targets of other major industrialized countries, such as the United States.

It reflects the country's circumstances, namely our role as a world leader in the production of hydroelectricity.

• (0940)

[*English*]

Senator Mitchell: I think B.C. has the number one, strongest performing provincial economy in Canada since it implemented its carbon tax.

Does the government think that there's a coincidence that B.C. has perhaps, if not the number one, one of the top performing economies in the country in spite of or maybe because of the fact they implemented a carbon tax?

Senator Tkachuk: We don't have a carbon tax in Saskatchewan.

[*Translation*]

Senator Carignan: Senator, we are actually the first government in the history of Canada to have reduced greenhouse gas emissions.

[*English*]

ORDERS OF THE DAY

ECONOMIC ACTION PLAN 2015 BILL, NO. 1

THIRD READING—VOTE DEFERRED

Hon. Larry W. Smith moved third reading of Bill C-59, An Act to implement certain provisions of the budget tabled in Parliament on April 21, 2015 and other measures.

He said: Honourable senators, we have had in the last week a very busy period within our National Finance Committee going through the pre-study and the detailed analysis of Bill C-59.

I guess at this particular point in time we have had discussions after first and second reading, so I think the only thing to add is that it's important to move forward and get this bill passed for hardworking Canadians, the measures outlined in the bill. Let's gather together, vote it through third reading and move forward.

Hon. Joseph A. Day: Honourable senators, I think this bill is important. Notwithstanding the fact that we pre-studied it in order to expedite things and move the matter along, it's still important that honourable senators understand what is in Bill C-59, the first budget implementation bill for this fiscal year.

As honourable senators will recall, we talked about the differences of a budget implementation bill, which has all kinds of things in it. Believe it or not, there are some budget items in the budget implementation bill, but there are many other items in this bill as well, and that's part of the omnibus legislation that we have to deal with.

Now, since I spoke on this bill two days ago at second reading, it has gone to committee. We had a clause-by-clause analysis based on the work that our committee had done previously in the pre-study, but also based on the work that was done by five other committees. We have their reports; you have their reports, which are very important for all of us to help understand what is in this particular legislation. They are on the Order Paper, and you can see those six reports in total by committees on different aspects of this particular bill.

On Wednesday when I spoke at second reading, I did not spend any time on the first two parts. As I indicated, there are three parts, and the third part has 20 different divisions to it. I spoke on some of those divisions and some of my concerns that arose from the work that we had done and the work that other committees had done.

Let me just say that with respect to the first two parts, the fact that I didn't comment on them doesn't mean that they're not important. You can't comment on everything, honourable senators.

The first two parts deal with income tax issues. The real concern with respect to the income tax aspect was expressed — and I share this concern — by Aaron Wudrick from the Canadian Taxpayers Federation, who was one of our witnesses. He noted the ever-increasing complexity of the tax code. It has become an extremely complicated document, and it takes accountants and lawyers to help the average citizen find his or her way through this compendium of many different initiatives that appear.

The Income Tax Act currently stands at 3,283 pages, and here we are adding more complexity with Parts 1 and 2. Let me state that figure one more time, honourable senators — 3,283 pages. We should be working on a study to reduce the complexity of the income tax legislation and to actually make the Income Tax Act readable and usable by the citizens of Canada. This temporary measure of income tax, which was introduced back during the First World War, has grown to a very significant and complex document that all citizens are expected to follow.

Now, the next point that I wanted to make, honourable senators, is that there are some good items in this legislation. You might not have thought that I felt that way after hearing my statement on Wednesday, and I haven't had an epiphany since then. I felt this at the time, but my time was limited. I do want to let honourable senators know that there are some good items in here. Omnibus bills are not desirable. There are good items and there are bad items all mixed together. That's the problem. We're required to vote once for all of this and it's very difficult. Sometimes we take the out by abstaining because, you see, there are many good things here, but there are some things I just can't live with, so what do I do? Abstain. I don't particularly like that option.

[Senator Day]

What I would like to see us do is introduce aspects of this bill at different times under different pieces of legislation so that we could deal with them separately. There is really no reason for combining all of this, other than maybe wanting to move it through more quickly, and we have seen that with respect to what was in Bill C-58 in relation to veterans, which was moved into Bill C-59. I will briefly talk about that later, honourable senators, but that is an example of a standalone bill that, for reasons of expediency, for reasons of moving this through more quickly, for reasons of not having as much scrutiny, it was moved into Bill C-59 and therefore was determined that it would get through a whole lot faster. That's my concern with respect to omnibus bills in a nutshell, honourable senators.

Let me just talk about some of the divisions in Part 3. I believe some of these are good initiatives and are worthy of comment because they are good initiatives.

Division 3, intellectual property, privileged communication between patent agents and inventors, the creators of the intellectual property. This privileged communication is something that the patent agency group had been seeking for a long time. The government has finally moved on this, and privileged communication, similar to solicitor-client privileged communication, is now to be provided for patent agents and their communications with their clients.

• (0950)

Division 4 deals with compassionate care, leave and benefits, which is going from 8 weeks to 28 weeks for a member of the family to stay home from work and look after the ailing and diagnosed as a terminal member of the family. Increasing the number of weeks allowing for compassionate care is a good initiative. There are those who will argue that this should be funded out of a program other than Employment Insurance. The more we load on to Employment Insurance, the more we require the employers and the employees to pay for other programs to make work programs and now we have got a huge increase here.

Is Employment Insurance the right place? Employment Insurance is basically an employment tax. It is a tax for operating and employing people. Is that the right place to support this very worthwhile initiative? That is a question I will put to you. It is one we should always put whenever we introduce new initiatives in relation to individuals in Canada: Should we be dipping into the Employment Insurance fund which is intended as insurance for those who are working?

Division 5 deals with the Copyright Act. This is to put Canada in line with other countries in the world in relation to copyright in created works, such as music, paintings and that ilk of intellectual property. Copyright for unpublished works and written works is now 50 years, and there is a provision to move that to 70 years. Then, once you publish that, you get an additional 50 years. For example, you can write the music and then you get an additional 50 years once the work is published. There is a maximum of 100 years whether published or unpublished. That is to bring the legislation into compliance and conformity with legislation in other parts of the world.

Probably more than most areas of law, intellectual property tends to be very much internationalized under the World Intellectual Property Organization in Geneva. There are many initiatives to have intellectual property harmonized throughout the world, and this is just bringing Canada into line in another area.

Many aspects of free trade arrangements between countries will include provisions with respect to intellectual property. It is important that Canada comply with its international trade obligations.

The Export Development Act is in Division 6. This will allow for Export Development Canada to invest in other development activities, as opposed to just business activities, which will complement the international development agency type activities that already exist. Now Export Development Canada can get involved in that particular area as well.

Division 7 relates to changes to the Canada Labour Code for interns, to give them protections with respect to occupational health and safety. That is a very good initiative and I'm pleased to see it.

The National Energy Board Act is amended in Division 9 — and I don't know enough about this particular area to know whether or not this is a good initiative — but it was explained to us that international trade is looking for natural gas export licences to be for 40 years rather than 25.

Currently, if you are exporting natural gas, you can go into an agreement for 25 years. The international market seems to want more. They want 40 years because of the capital expenditures, perhaps, that are necessary in different countries, so they need some certainty over a longer period of time. It is there, and you will be voting for it. I just wanted you to know about it.

In Division 10, the Parliament of Canada Act creates new parliamentary protective services, the unified force with the RCMP having the lead.

In Division 11, the Employment Insurance Act amendments expand the labour market development agreements with federal government and the provinces, and this expands who is eligible to receive funds to continue to work and to get back to work. That is the concept here.

Division 12 deals with the Canada Small Business Financing Act. This initiative expands the criteria for loans to small businesses and allows for loans in relation to real estate for small businesses. Because of inflation, and because in many communities the cost of real estate has gone up significantly, the maximum amount for a small business loan is going up from \$500,000 to \$1 million in this particular initiative.

Division 13, the Personal Information Protection and Electronic Documents Act is tucked away in here. This one would have been nice to have as a separate piece of legislation so we could have studied this thing more thoroughly. There is an article on this particular matter that I was going to bring to your

attention, honourable senators, if I could put my hand on it. It is by Michael Geist, and he brings out Charter concerns with respect to this. The initiative is expanding PIPEDA. PIPEDA has as a constitutional basis a little bit of a complicated situation. Under the trade provisions of the British North America Act, the Constitution Act, the federal government has some jurisdiction with respect to trade, but property and civil rights are for the provinces. Normally, privacy legislation would fall under property and civil rights and, therefore, the privacy legislation, in the normal case, would be provincial jurisdiction. But this relates to personal information collection by private companies and the federal government used its trade jurisdiction to pass PIPEDA. There is an organization in Montreal that feels that the provincial legislation is not strong enough, and that's the World Anti-Doping Agency. There are privacy issues here, and the agency in Montreal is concerned that the legislation is not as strong in Montreal as it is in other parts of the world.

• (1000)

They're contemplating moving this agency. The federal government's response to try to fill this gap and beef up the protection of private personal information and electronic documents is to expand PIPEDA, which is personal information protection of documentation. You can imagine in anti-doping that the personal information is gathered from athletes and different organizations across the country. They're expanding it to cover this particular anti-doping agency, but that is not a commercial entity that would allow for the federal government to use its jurisdiction under the Constitution, and there's a very real question of the constitutionality of this initiative.

That is the kind of issue that's too complex to be found in a finance omnibus bill, but it is there. What is going to happen is that there will be a challenge on this, undoubtedly. The challenge will be in the courts, and the Senate will have lost and abandoned its opportunity to have sober second thought to avoid the necessity or the requirement for the court to solve these issues. There are so many of them. This is another one of those.

Division 14 relates to the proceeds of crime and money laundering, expanding FINTRAC's disclosure authority.

FINTRAC is the financial institutions' tracking agency. All bank transactions go through and are reported. Every commercial bank and every loan company reports every transaction to FINTRAC.

Now FINTRAC is going to be authorized not only under the various anti-terrorist legislation that allows personal information out there to be shared by different departments — 17 different government departments that we saw under Bill C-51 — but this now allows for disclosure to the provinces. Provinces that have regulatory agencies will now be able to receive proceeds of crime information and money laundering information from FINTRAC as well. It's not just for the RCMP and CSIS any longer but also the provinces.

How much private information will be disseminated to the various provinces, and what restrictions and protections are there on the provinces?

A lot of this goes to privacy and protecting individual information. It's all about your bank accounts and banking activities. That is a concern.

Division 15 relates to the Immigration and Refugee Protection Act. It expands biometric screening and electronic information. There's going to be a lot more information brought to bear and gathered on individuals. It's expanding very considerably.

Division 16 deals with the First Nations Fiscal Management Act. This is more self-nation, self-governing. It is a very good initiative, but we never learned, with 158 First Nations already involved, why they need 43 administrative changes. Why couldn't this have been dealt with separately so it could be looked into in more detail?

Division 17 with respect to veterans, I referred to that Wednesday when I spoke. The initiatives are for a very small number of people, but who is going to say, "No, thank you," to any money that might be coming from Veterans Affairs? It does not solve, in any way, the need for a full review of the Veterans Charter. That has been set by the Veterans Ombudsman and the National Defence Ombudsman. Each of them said it's a good first step, but it's only a step. They're hoping that there will be more coming from that.

Division 18 deals with ending of the long-gun registry. I spoke of that at length previously.

Division 19 concerns the Trust and Loan Companies Act and the confidential information of banks and trust companies when they are required to give information in a court proceeding. This particular section expands that information, which historically has been described as "confidential," to "privileged."

It's the same as the privileged right that is being created in this legislation for patent agents that I referred to earlier. Two different places in this legislation deal with privileged communication, privileged information. These clauses protect that information, which will allow the individual who is the owner of the personal information to have some confidence that the information won't be disseminated broadly and improperly.

Those initiatives, honourable senators, are there. We have to go into each one of the particular matters to understand why they are necessary, but they are there.

Honourable senators, with my review of the various divisions in second reading, and my review of the others here today, that now outlines generally what is in this particular bill. I would recommend you read the six committee reports that go into more depth in relation to this matter.

Finally, I would like to reiterate my plea and hope that this chamber and the Rules Committee will look into moving how we deal with these bills that one step further, and allow those committees that look into portions of this kind of bill — those portions we feel they're best suited to study — to conduct clause-by-clause consideration as well.

What has happened is a committee will do the work and give us a report. I very much appreciate the chair and deputy chair of another committee coming to the Finance Committee to explain to us what they have found, but we haven't heard the witnesses. It makes it difficult for us to do clause by clause on those sections. It would be much better to have those committees do the clause by clause on those sections and report back.

Those are my comments, honourable senators.

Hon. Jane Cordy: Senator Day, would you take a question?

Senator Day: Yes.

Senator Cordy: A couple of weeks ago, I had a student from the University of Ottawa in my office, and he and some of his colleagues are trying to get students more engaged in the political process and in voting and paying attention to the issues during an election campaign, but they're also looking at budget bills.

They studied a few budget bills. He told me that they were under the misconception that budget bills would actually be about money and expenditures. They were quite surprised when they read them. They said they discovered that all the budget bills they looked at that have already been tabled — including this year's budget bill — were actually policy documents.

We know that every time we receive a budget bill in this place, the deputy leader on the government side stands up and gives the parts of the bills to seven, eight or nine committees to study, because the budget bills are so diverse.

• (1010)

In fact, this year, to my surprise, Internal Economy dealt with part of the budget bill. They actually dealt with the security aspect that is in a budget bill. In my mind, when you're discussing security, that should definitely be a stand-alone bill, but that was not the case. It was buried within a budget bill.

I'm wondering if you have noticed a change in budget bills since the Conservatives have been in power. Have they changed from being what one might expect them to be, financial bills, to actually becoming policy bills?

Senator Day: Thank you, Senator Cordy, for your question. Fortunately, or otherwise, I've been involved with National Finance and dealing with this type of issue for a number of years, so I can see trends. There are two trends that I want to mention in replying to your question.

One trend is that a few years ago we started seeing two budget implementation bills per year. Previous to that, we didn't have two. There was one to implement certain provisions of budgets.

The second is that budgets themselves are very much a policy statement. They can be used by the party in power to define where they would like to go over the long term. Budget implementation is intended to implement those portions of the most recent

[Senator Day]

budget, plus other budgets many years past — three, four or five years past — where the government has decided to move and go ahead with some of the initiatives and the policy statements.

That's what we see in a budget implementation bill, and the two ways that the initiatives are financed are either through estimates or in the budget implementation, in the statutory initiative that is there.

The other thing about budget implementation bills is that not only are two of them expected, and it almost is repeated every year, but each one is longer. They keep getting longer, and each one of them keeps getting longer than we've seen in the past. That is not because of the finance and the budget items that appear there.

You always see these words "and other items" in the title of the bill. It's in the title of Bill C-59 as well. That is what I've just been talking about this morning. In Part 3 of this bill, there are 20 different initiatives, any one of which could take full debate.

Your students are absolutely right. They're starting to see very strange things in budget implementation bills that are getting us away from the concept that a budget should speak for a little bit shorter term and implement those portions that you want to implement, but don't put all these policy statements down the road 5, 10 or 15 years. Who knows what party will be in power? Who knows what money will be available? Many things can change.

We don't even vote on the budget because it's not helpful to us. I've expressed my concerns about the omnibus nature of budget implementation. I also am very concerned that we're forced to do pre-study on this and divide it all up. Thank you for your question.

Hon. Grant Mitchell: Honourable senators, I just had a couple of things I wanted to say. I certainly endorse the concerns with omnibus bills and some of the things that were in this bill that don't necessarily apply to the budget and, I guess, to the economy.

I should just mention that it might be interesting to senators, and they might want to hear this, that there is a provision in the omnibus bill that means that our pension can't be severed from the House of Commons members' pension. I believe the Canadian actuary, even though he has had the power to do that to this point, was prepared to consider that.

The government has brought in a piece of legislation, a change to the pension legislation, that will mean that even though our demographics are extremely different and our experience as subscribers to a pension plan is extremely different structurally than the House of Commons, we are lumped in with them. That means that each of us will be spending about \$5,000 a year more, come 2017, on our pension than we would be if we were severed.

I just want to let you know that that's the case. In fact, each of us is subsidizing three members of Parliament. It's not as though we're having to pool risk, because there is no pool. It's strictly a

mathematical, notational formula that they use, and it's strictly the fact that we pay a lot longer because we stay here longer and we collect a lot shorter because we retire older and die sooner in the life of our pension payments than they do. Essentially, each of us will be subsidizing the House of Commons by \$5,000 a year and that has been surreptitiously put into this bill, just so you know. It is \$5,000 each, just so you know.

Up until this moment, the actuary has had the authority to sever our pensions if he or she so chose to do. My understanding is that that was a possibility, but it isn't now if you vote for this bill. Just so you know. I'm sure Mr. Clement didn't tell you.

I'm concerned much more broadly with what is being neglected in this budget bill and really in the entire economic approach of the government. The problem is that the world is changing. It's changing on fossil fuels. Canada has had a wonderful economy and it has been driven largely by fossil fuels. We can continue to fight that fight, and we can continue to say that people don't understand, and we can continue to say that it's not fair, and we can continue to say that we don't produce very much of the world's greenhouse gases. We can do all that.

However, as one of the premiers of Alberta once said — it was very interesting, and I liked Ed Stelmach very much, and he was criticized heavily, but he was actually very visionary — "You know, you may want to sell black suits, but if people only want to buy white ones, you've got to start selling white ones."

I think at some point we have to come to grips with the fact that the world is changing on fossil fuels and that climate change is beginning to drive societies and social mores. It is beginning to drive broad societal concerns and economic concerns. The world is beginning to turn on it.

It's not a coincidence, I think, that we haven't been able to get the social licence to build Gateway. We haven't been able to get the social licence to build a west-to-east pipeline. We haven't been able to get the social licence to build Keystone XL.

If you add up all the economic development that could have been generated by those pipelines, had we done something and proven to the world that we were working on climate change and taking the wealth from what will perhaps become an anachronistic energy and turn our economy into a renewable, futuristic energy-driven economy ahead of the curve, if you can consider that, then you can see where the possibilities exist and you can see where the world is passing us by.

The fact is that if we had begun to do that, and when we begin to do that, we might well get the social licence to build several of those pipelines so we have the wealth to get to an economy of the 21st century. Right now, depending on the oil prices, we're probably losing \$60 billion or \$70 billion a year because those pipelines don't exist. They could have been built four or five years ago. We might have lost already \$500 billion, half a trillion dollars, of economic enterprise because we haven't had those pipelines when we could have had them. We could have been using that wealth to begin to generate, as I say, a new and different kind of economic future.

We're already losing money because of climate change. We're losing it in storms. In my province now, it's hardly rained. I'm not sure that they've declared it an official drought, but it's very dry, exceptionally dry. Okay, droughts happen, but the weather patterns are changing and we all know it. These changes in weather patterns are damaging the economy, which are costing us jobs and money as well.

• (1020)

What I'm saying is that it's not that we need to be critical of the oil sands, and I'm not; they're wonderful people. It's not that we need to be critical of energy, of oil and gas. It's been a remarkable thing, they're wonderful people and it still is an engine of our economy. But if the world turns on us, somebody has to have the vision, hopefully before it begins to turn, so that we can anticipate and begin to develop an economy of the future. I know that Senator Mockler would want to build the economy on maple syrup, and I wish him all the luck because that's a fantastic product, but the world will never turn on maple syrup. However, the world might just be turning on fossil fuels. That's the point that I want to make.

The second point is that it's very interesting that our balance of trade has dropped from a positive \$20 billion, give or take, about 10 years ago, to a negative \$65 billion to \$75 billion today. Maybe there's been a negative turn of \$85 billion to \$100 billion in balanced trade in any given year during the last 10 years. I don't know if that's a coincidence. But I think one of the reasons is that Canada is dropping off the international scene. Our reputation has been so damaged by some of the things that we've done and that we've failed to do, and by how we haven't worked with the world on climate change. It has become quite apparent that the world is getting that and is not particularly happy about it.

We've had this drop in our balance of trade even though for most of that period the dollar has been dropping, so we should have actually been increasing, not decreasing exports. Before oil prices began to drop, we also saw this fundamental change in balance of trade in spite of the nine or ten trade agreements that the government has negotiated.

In spite of all of those things that should have increased and enhanced our balance of trade to a positive level, it has gone negative by \$85 billion to \$100 billion. So you ask yourself why? I believe that the reason, in part, is because our reputation has been so damaged internationally that the world's investors aren't thinking of Canada when it comes to where they might put their money. They're worried about Canada, or it's just not top of mind anymore because we don't have the same kind of stature and status that we once had.

I just make those two points. One, I think that we need to start thinking very seriously about a different kind of economic future. We need visionary leadership to get us there, and we need to use the wealth that has been generated by traditional oil and gas and by the oil sands to begin to develop into the new 21st century economy so that we can sustain our standard of living. We need to listen to the leaders in the energy industry like Steve Williams, CEO of Suncor, the largest oil company in Canada, who

is saying, "Please give us a carbon tax." We need to listen to Preston Manning and Paul Martin, both of whom are on Canada's Ecofiscal Commission advisory board. Imagine the new M-and-M combination, Manning and Martin, saying that we need to tax what we don't want, that we need to stop taxing what we do want, and if we tax carbon then we could put that money, as B.C. has, into lowering income taxes and corporate taxes so that we would stimulate an economy.

B.C., Norway and some European countries have done this. A recent report to the European Commission outlines that carbon taxes haven't hurt economies but have actually stimulated them. You just have to get the Conservatives' minds — hopefully we won't have to worry about that after the next election — the government's mind out of where they are now, stuck in the past, and move into and imagine a new future. We have the resources, people, education and possibilities to do it. I just think we need to get started, and it isn't in this bill.

Hon. Daniel Lang: Would the last speaker, Senator Mitchell, take a question?

Senator Mitchell: I sure would.

Senator Lang: I'd like to pursue the question of the construction of pipelines and the importance of it to Canada. I think it's important during the course of debates on construction projects that are so important to the nation that we don't try to rewrite history as time moves on. I notice the senator pointed out that it was the government that has done everything to prevent this type of construction going forward and carries that responsibility.

Could the senator confirm for the house why his Liberal Party and the NDP voted against the construction of the Northern Gateway pipeline a number of years ago? Could he tell us why they voted against it, especially when the environmental assessment process hadn't been completed?

Senator Mitchell: I'm not sure exactly when they did vote against it or if they did. Of course, I don't speak for the Liberals because I'm not in their caucus. You might want to try that because you'd find that you would actually have some independence and you wouldn't have to worry about what the Prime Minister's Office is telling you to say.

I just love Senator Lang. He's a great guy and I'm going to take his question at face value.

I want to say that the Prime Minister didn't drive that pipeline. The Prime Minister said that once we get through the 292 environmental questions that the NDP raised, then of course it would be okay to do the pipeline. It wasn't a question of voting against the pipeline. The Prime Minister himself said that we have to wait for those environmental assessments. Good for him.

What's really interesting is that it raises another issue about what the Prime Minister could be doing to encourage pipeline construction. After 10 years in power, the man hasn't been able to

[Senator Mitchell]

build a pipeline. Imagine that in what he called super energy-rich Canada, an energy power, he can't build a pipeline. Mr. Harper can't build a pipeline; he can't change the Senate. Promises made; promises not kept.

Here's one of the problems: We are never going to build a pipeline in this province until you deal with and get Aboriginal support. Just about the time that you're trying to get Aboriginal support, what do you do? You deny a repeated request by Aboriginal peoples for an investigation into murdered and missing women. You bring up an education bill, and the moment that they say they're opposed — they want to just question, not oppose, but just to question and have some input into the education bill for Aboriginals — you just shut it down. It's almost as though you go out of your way to antagonize the very people whose support is a critical step in getting the pipeline built.

It isn't about who voted for what over there. Mr. Harper didn't push it and he hasn't been able to build it.

I look at Senator Neufeld. He's going to yell at me pretty soon, just like the last time I gave a speech like this; he's not happy about that. But you know what? You've got to face the facts.

Senator Day: Would the honourable senator accept another question?

Senator Mitchell: I sure would.

Senator Day: This gives me an opportunity to apologize to honourable senators for not mentioning an area that I should have mentioned because it impacts directly on this Senate Chamber, and that is the Members of Parliament Retiring Allowances Act and the amendments. It's in Part 3, Division 8, for your review.

I have two questions, and I'll put them both together. Could you confirm that in this particular division the members of Parliament will be required to meet 50 per cent of the costs by January of next year? That's the intended sharing of the pension.

The second point is that you talked about the impact of this in relation to the Chief Actuary and the costs to each honourable senator. I was not able to find any basis for why this particular initiative appears and why it was necessary. Have you any background that you can help us out with in that regard?

Senator Mitchell: Yes, I do.

The Hon. the Speaker: Senator Mitchell, your time has elapsed.

Will the chamber grant five more minutes?

Hon. Senators: Agreed.

Senator Mitchell: Thank you.

That's a very good question. There is background on that. We had a subcommittee that worked on it.

• (1030)

Actually, a former Speaker wrote a letter to the government side suggesting that the two pensions be split, that there's no need for us to be lumped in with the MPs' pensions, and the response back was apparently quite rigorous — if I can use that word — saying that wasn't acceptable. And I think it's not a coincidence that this piece of legislation has arrived in this bill because of that.

I'm looking at a younger senator who might be here for 10 or 20 years which will cost \$50,000 that he or she wouldn't have to pay to subsidize the pensions of members of Parliament on the other side. And that subsidy may actually go up, given that there are going to be 30 more members of Parliament.

I'm not saying in any way, shape or form that we shouldn't pay 50 per cent of what our pension value is; absolutely we should. That's the right thing to do. We need to pay our fair share absolutely. We're going from about 9 per cent to 50 per cent. Absolutely it is the right thing to do, but all I'm saying is I'm not sure we need to help them pay their 50 per cent.

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

Some Hon. Senators: Question.

Hon. Wilfred P. Moore: On debate.

Honourable senators, I rise today to speak to Bill C-59, the proposed Economic Action Plan 2015 Act and, more specifically, to Division 18 of that bill, entitled Ending the Long-gun Registry Act. This section of Bill C-59 is nothing more than an end run around the concerns of the Information Commissioner of Canada and a flagrant abuse of our Parliament.

I will briefly outline the concern here as reported to Parliament by Information Commissioner Suzanne Legault in a report tabled in May 2015. These are the facts.

On October 25, 2011, Bill C-19, the Ending the Long-gun Registry Act was introduced in Parliament. On March 27, 2012, an access to information request was made by an individual who wished to obtain a copy of the information and long-gun registry. That was March 27, 2012.

On April 13, 2012, the Information Commissioner wrote to the Minister of Public Safety and Emergency Preparedness, then the Honourable Vic Toews, asking that no records for which a request to access has been received be destroyed until a response could be provided under the Access to Information Act. Keep in mind this ministry is the one to whom the RCMP reports, and we should take note that the motto of the RCMP is "defending the law."

Mr. Toews replied on May 2, 2012, assuring the commissioner that the RCMP would “abide by the right of access described in section 4 of the Act and its obligations in that regard.”

You should know what section 4 of that act says.

4. (1) Subject to this Act, but notwithstanding any other Act of Parliament, every person who is

(a) a Canadian citizen, or

(b) a permanent resident within the meaning of subsection 2(1) of the *Immigration and Refugee Protection Act*,

has a right to and shall, on request, be given access to any record under the control of a government institution.

(2) The Governor in Council may, by order, extend the right to be given access to records under subsection (1) to include persons not referred to in that subsection and may set such conditions as the Governor in Council deems appropriate.

(2.1) The head of a government institution

That would be the minister, Minister Toews or the Director of the Canada Long-gun Firearms Program, Mr. Robert MacKinnon.

. . . shall, without regard to the identity of a person making a request for access to a record under the control of the institution, make every reasonable effort to assist the person in connection with the request, respond to the request accurately and completely and, subject to the regulations, provide timely access to the record in the format requested.

(3) For the purposes of this Act, any record requested under this Act that does not exist but can, subject to such limitations as may be prescribed by regulation, be produced from a machine readable record under the control of a government institution using computer hardware and software and technical expertise normally used by the government institution shall be deemed to be a record under the control of the government institution.

So it's clear that the requester has every right to this information. The Information Commissioner of Canada put that in writing to the minister of the Crown who is responsible for the RCMP and he agreed that would happen.

Then, between October 25 and 29, 2012, the RCMP, who is there to defend the law, destroyed all records of non-restricted firearms. Those records belonging to the Province of Quebec were spared.

On January 13, 2013, the RCMP provided a response to the access to information request of March 27, 2012. On February 1, 2013, a complaint regarding the response provided by the RCMP was received by the Information Commissioner and the complaint stated:

1. That the information provided is incomplete
2. That the RCMP did not justify the incomplete response;
3. That by destroying the responsive records, the RCMP obstructed the complainant's right of access

Commissioner Legault initiated an investigation which concluded that the response provided by the RCMP was indeed incomplete. The commissioner made three recommendations that were submitted to the Minister of Public Safety and Emergency Preparedness on March 26, 2015. The minister is now the Honourable Steven Blaney. These recommendations included the processing of the information related to the registration of unrestricted firearms in the province of Quebec and a new response to the requester; process the remaining information within the Canadian Firearms Information System and include this in a new response to the requester. Also, the commissioner asked the minister to preserve the records until an investigation and related proceedings take place.

The commissioner also concluded that the RCMP had destroyed records which had been requested, knowing full well that the records are subject to subsection 4(1) of the act, which guarantees the requester the right of access. The Information Commissioner has referred her findings to the Attorney General and has filed an action before the Federal Court to defend the rights of the requester.

On May 7 of this year, Bill C-59 was introduced in the House of Commons. Division 18 of this bill attempts to amend the Ending the Long-gun Registry Act to provide that the Access to Information Act and the Privacy Act does not apply to the destruction of gun registry records retroactively to October 25, 2011.

Division 18 also provides that there can be no proceedings against the Crown, a Crown servant, the Commissioner of Firearms, a CFO, a government institution or a head of a government institution or any person acting on their behalf or under their direction or any act or omission done between October 25, 2011, and the coming into force of the new section concerning the application of the Access to Information Act or the Privacy Act to those records. These amendments are intended to comprehensively address the original intent of the act to destroy the long-gun registry.

Senators, I didn't think in my time on the Hill that I would be standing here being asked to support a bill which essentially provides a ready-made defence for individuals who may have broken the law. For all intents and purposes, this bill seeks to have the Parliament of Canada enact a retroactive law that will allow a potential criminal act to appear to have never happened.

The Information Commissioner describes Division 18 as “denying the right of access of the complainant, it will deny the complainant’s recourse in court and it will render null and void any potential liability against the Crown.”

• (1040)

When you read Division 18 and you reflect on it, you can’t help but think of the words “aid and abet.” I think we, as legislators, are being asked to aid and abet this breaking of the law, and I don’t intend to support it. I think it is a trampling of our rights. It is really an abdication of our duties. We took an oath here. It was to maintain the law and not to play with the law, not to use it when it is convenient for us.

I looked up in the parliamentary guide the section “How a bill becomes law” in Canada. Let me quote the relevant information from the guide:

After a bill has passed third reading in the House of Commons, it goes through a similar process in the Senate. Once both Chambers pass the bill in the same form, it is given Royal Assent and becomes law.

Indeed, there was a chart next to the text which backs up this assertion. This says that once a bill passes both houses and is given Royal Assent, it becomes law. Nowhere did I see a part where the bill becomes law when it is introduced into Parliament. I know this is not accurate because I have a couple of bills before this chamber and they’re not law. They were introduced, but now we’re going to change the whole modus of —

Senator Mitchell: It’s just a timing thing.

Senator Moore: — how a bill gets to be law. We’re skipping a few key parts here, including Her Majesty.

Bills don’t become law at the introduction stage. If they did, there would be a great deal of confusion in the land and there would probably be many more lawyers, which I don’t think is a bad idea. That is why there are so many other steps in passing a bill.

The Ending the Long-gun Registry Act was introduced October 25, 2011. It became law on April 5, 2012. While I was on the Standing Senate Committee on Banking, Trade and Commerce, it was common practice that retroactivity taxes were never a good idea. Governments do not, for example, decide to recoup more income tax dollars by retroactively raising income taxes in previous years. It is about stability and faith in our system.

Retroactively changing the coming-into-force provision of a bill in order to give the impression that access-to-information laws have not been broken does not lend faith to our system. It is just another chip away from the confidence Canadians have in their political system.

This is a very worrisome act. The question has to be asked: Where does this precedent leave us? What laws can and cannot be retroactively changed to suit the whims of the government of the day? Ask yourselves how far a government might be willing to go to shield itself from its own laws. The long-gun registry has always been a contentious subject. We all know that. It has been a political tool for fundraising and political support. Even though Wednesday of this week, in the other place, when questioned about the action taken by the RCMP in destroying the registry — despite the laws which called for the maintenance of the documents contained in the registry — the Prime Minister did not speak of the rule of law. He spoke of innocent hunters and farmers being the object of attacks by opposition parties — a specious position at best.

The law to destroy the registry has passed. The destruction of the documents would be legal the moment the outstanding legal issues were resolved. These issues were not and have not been resolved. The destruction of the documents runs contrary to the law of the land — a law passed by this government but not followed.

The retroactive nature of Division 18 is not the only concern here. The relationship between the retroactive provisions and the no liability provisions regarding the destruction of the documents and the breach of access laws is troubling to say the least.

To put this simply, it appears as if the Information Commissioner has been deceived at every step. Ms. Legault sought assurances from Public Safety Minister Toews in writing that the registry information would not be destroyed pending the outcome of her investigation, and she was indeed given those assurances on May 2, 2012.

Senator Ringette: Are you talking about Vic Toews, the director?

Senator Moore: I’m talking about Vic Toews — Minister Toews as he then was.

He’s very clear. He was straightforward in his response; he wasn’t being conditional. He said it will be maintained. We will follow section 4, which I just read to the chamber.

It is also interesting that the records with regard to the Province of Quebec were maintained. This was all, as Senator Day mentioned the other day, in the affidavit of Mr. Neil O’Brien that appears in the Federal Court documents. In there it is noted that the documents pertaining to the Province of Quebec were subject to an order from the Superior Court of Quebec prohibiting their destruction.

Here we have a minister of the Crown saying that these records will not be destroyed, and we have the order of the Superior Court of Quebec stating that they will not be destroyed, yet somehow the word of the minister of the Crown of Canada is not adhered to.

The people who were in this registry, who were acting under instruction to destroy these records — their correspondence is unbelievable. Mr. Pierre Perron, Assistant Commissioner of the Canadian Firearms Program, sent an email on May 29, 2012, to Mr. Robert MacKinnon, the director of the program:

Just for the record, [the] minister's office is putting a lot of pressure on me to destroy the records sooner.

As expected, the fact of the accelerated phase 2 has raised questions.

Could I have more time?

The Hon. the Speaker: Will the chamber offer Senator Moore five more minutes?

Hon. Senators: Agreed.

Senator Moore: Thank you, colleagues.

So we have the lead hands that are running this program now going against the minister's written word. I'm sure they had to be aware of that.

I have met Vic Toews over the years. He has come before different committees that I have been on, and he's always been an honourable, straightforward man. I don't know — did he have knowledge of this? These are the top guys and the people that run this program destroying it.

I read the comment — and this is so bad — of Mr. Jacques Laporte, the manager of the Canadian Firearms Program:

Between you and me, someone will owe us lots of drinks at PMO if they want this to happen by end of August.

I'll start drinking right away, even if I don't really drink.

The contempt and the arrogance in that, flying in the face of their own minister's undertaking — it is hard to believe that we're having this discussion.

The current minister says, well, Division 18 is merely closing a loophole. The issue before us is far from that. The Information Officer refers to it as an attempt to create a black hole.

As I mentioned, the motto of the RCMP is defending the law. I suggest it is clear that the RCMP did not keep its motto. Rather, it trampled on the rights of the information requester and the rights of the Information Commissioner of Canada.

[Senator Moore]

Colleagues, it is up to us to defend the law. It is understood that the commissioner will challenge the constitutionality of this division if and when it becomes law. The worry of the commissioner is that the remaining documents, the Quebec registry, will be destroyed when this occurs. It is a sad testament to the state of our democracy that the commissioner is seeking an emergency court order to prevent this from happening.

By the way, the Ontario Provincial Police have been handed the file by the public prosecutor.

Monday, June 15 marked the eight hundredth anniversary of the creation of the Magna Carta. This document is the foundation of our modern democracies. Its anniversary is a reminder why we are here today.

• (1050)

As historian Carolyn Harris put it:

Magna Carta had established that nobody, not even the king, was above the law of the land, and this idea was essential to the development of the constitutional monarchy.

When the Constitution was repatriated in 1982, the legal rights codified in the Magna Carta were guaranteed in the Canadian Charter of Rights and Freedoms as fundamental justice.

Honourable senators, this attempt to retroactively move the goalposts in order to make an action appear legal goes against this notion. This is not a fair application of our legal system. It is an affront to the rule of law, the very principle that is at the core of a mature democracy and of the functioning of our civil Canada. To use Parliament in such a manner sullies it. As legislators, there's nothing more important than our task of upholding the law of this land and protecting the principles on which our democracy is built. I would ask you to keep these comments in mind when you consider my amendment.

MOTION IN AMENDMENT

Hon. Wilfred P. Moore: I would move, colleagues, seconded by the Honourable Senator Dyck:

THAT Bill C-59 be not now read a third time, but that it be amended on pages 135 and 136 by deleting Division 18.

Thank you.

Some Hon. Senators: Hear, hear.

The Hon. the Speaker: It was moved by the Honourable Senator Moore, seconded by the Honourable Senator Dyck:

THAT Bill C-59 be not now read a third time, but that it be amended on pages 135 and 136 by deleting Division 18.

On debate.

Hon. George Baker: Mr. Speaker, it is unfortunate that this is coming at the closing stages of this Parliament, and I'm hoping that the house leader of the government will keep in mind that we wish, before we close, to vote on Bill C-586, the reform bill.

Let me add these remarks to the amendment made. It's another historic moment for the Senate because the House of Commons completely missed this in its analysis of the bill.

It reminds me of when they missed nine pages in a complex omnibus piece of legislation and the NDP came down the hall to us and said, "Please, will you hold up this legislation, this 550-page amendment to the Income Tax Act, because we didn't see those nine pages? It dealt with a major change to the Income Tax Act, that we didn't see, as it pertains to the Canadian film industry." Do you remember that? The NDP came to meet with several of us in public to ask us to do something, and the Senate did. That wasn't too long ago and it was under this government, one of the first large bills they introduced, and at that time the NDP praised the Senate for its action.

Here, I think it's important that senators brought this up. I want to congratulate Senator Smith, the former professional athlete and corporate lawyer Smith, as opposed to the other Senator Smith. I want to congratulate Senator Smith (*Saurel*) — is that the correct designation? — for his work on this committee. He has done a marvelous job.

Senator Day has done an extraordinary job as well, as chair of the committee, as has Senator Moore for bringing this up.

I just wanted to highlight this because this is extraordinary. I have never seen a piece of legislation in which an entire division is devoted to a retroactive application of the law to excuse public servants, the police and various departments of government, including those under the Privacy Act, Access to Information Act and so on.

The first and the entire division deals with retroactive legislation, retroactive to date back a piece of legislation from 2012 to 2011 when the bill was introduced in Parliament. Imagine. When the minister introduced the bill at first reading in Parliament, that's when they want to retroactively apply the bill to, and exclude everybody who violated provisions of the bill for that period of time of one year.

It deals with the Access to Information Act and the Privacy Act. It deals with the Commissioner of Firearms, the Crown, all civil and public servants. It deals with all heads of government institutions, all persons, under the heading of "no liability — retroactive application of the law." This is rather extraordinary.

As Senator Moore pointed out, the seriousness of it is found in our case law. I just referenced *Whaling v. Canada*, 2014 Carswell, B.C. 690 at paragraph 55 where the Supreme Court of Canada said:

In addition to the common law presumption against retroactivity, there are principles of non-retroactivity specific to the criminal law . . .

Here we have a case where it's applied to the criminal law as well as civil law.

If you go to our tribunals, reference the British Columbia tribunal that makes reference to it in 2005 Carswell B.C. 3869 at paragraph 67 when the tribunal said:

It is apparent from the reasoning in . . . decision that the panel was concerned with the retroactive effect of the policy. The panel may have found that a strained interpretation of the policy was required, so as to not to contravene common law presumptions about retroactivity or retrospectivity. The question as to whether the panel's interpretation was correct requires consideration of these common law principles. . .

So, in the criminal law and in civil law, there it is: The Supreme Court of Canada, all of our courts, have ruled against the retroactive application of the law. This is not retrospectivity; this is retroactive. It says the word "retroactive" throughout this entire division.

It affects the archives of Canada. It affects section 12 and 13. I quote from 2014 Carswell, Ontario, 10756 at paragraph 261. It says:

The deputy head and librarian and archivist of Canada, pursuant to subsections 12(1) and 13(1) of the Library and Archives of Canada Act, is of the opinion that records described in the attached agreement are of historic or archival importance.

It excludes that section of that act.

If you go to the Privacy Act, 2006 Carswell NAT, 903, Supreme Court of Canada, *H.J. Heinz Company of Canada Ltd. v. the Attorney General of Canada* and there's a whole section, paragraph 73, that outlines that privacy interests of third parties are protected by the Privacy Act, in particular by section 29 which protects the personal information of third parties, excluded in this retroactive application of the law.

Then you get to the section here that deals with liability, where it says we exclude from any civil action all officials, all police officers and everyone else in positions of authority as it relates to this matter or derivative matters that originate with this matter.

I'll just quote from the Saskatchewan Court of Queen's Bench. This is commonly referred to in 2003 Carswell SASK 692 at paragraph 82. The Superior Court of Saskatchewan quotes from the annual review of civil litigation, Toronto Carswell 2001. Mr. Justice Todd L. Archibald of the Superior Court of Justice of Ontario concludes at pages 38 and 39. It's a short paragraph, but it brings us up to date on the way our law has evolved in Canada to not excuse intentional actions on the part of the police and officials of departments.

• (1100)

I quote:

There is little doubt that police officers and other public officials are being exposed to increased liability. Courts are permitting accused persons to sue the police, not only for malicious prosecution, but for negligent investigation and for *Charter* breaches.

The final sentence in that paragraph says:

The emerging case law, however, marks a departure from this approach in the direction of an increased scope of liability

So what do we have here? We've got an entire section of a bill that excuses the very thing that our courts have ruled should not be excused in law as a very serious matter, and it's to the credit of the Senate committee to bring it up and put it on the record. That's the important thing and one of the important functions of the Senate, to put things on the record in sober second thought that were missed by the House of Commons. If they had caught this, they would have excluded this section from the bill. If they had caught it.

So this will serve as a warning to them again, that you can't just not read everything that's in a bill, and it should not be left to the Senate, in the final closing days of this Parliament, when there are other important matters that have to be dealt with by this chamber, to have to bring to the attention of the House of Commons that they have made an error in this section. They've made an error that's plain on the face of it, that appears in established case law and that is repeatedly referenced by our courts and quasi-judicial tribunals in this country.

In civil and criminal actions, this section is unlawful, as Senator Moore pointed out, and I congratulate him for bringing it up. It now stands on the record as an observation of the Senate that this should have been corrected at the House of Commons level.

Hon. Pierrette Ringuette: Would the honourable senator take a question?

Senator Baker: Absolutely.

Senator Ringuette: Senator Baker, you have been on Parliament Hill for a number of years, and you have been a cabinet minister during that time. Is it not the proper process for government bills, before they are tabled in the House of Commons, to be thoroughly reviewed in regard to their constitutionality and in regard to previous court rulings on issues? How could they explain the current situation in regard to this issue?

Senator Baker: You're absolutely correct that all government legislation is reviewed for its constitutionality.

[Senator Baker]

However, I would draw your attention to a proceeding that's before the Ontario Superior Court in which an official from the Department of Justice, a lawyer who was tasked with reviewing the constitutionality of government and private members' legislation, is bringing an action against the Department of Justice for changing the policy that was always in place of now not reviewing the constitutionality of legislation as thoroughly as they should. It's an interesting case before the Superior Court of Ontario.

I think the important thing is that an error has been made here, and it will be challenged. I don't know what the evidence was before the committee, but I imagine somebody suggested that this will be challenged in the future. Is that correct, Mr. Chairman? Yes. And it will be challenged.

But I think the value in it is that it should have been caught at the House of Commons level and it should have been corrected. It stands for us to bring it to the attention of the Government of Canada and say, "Look, don't go doing this anymore." Yes, we have sober second thought, but we're not here to defeat government bills. We were never put in this place to defeat government legislation. That's not the purpose of this place, and we shouldn't be put in the position even of having to go down that road, but unfortunately, because of the neglect here in this section, retroactively applying civil and criminal law, it's a no-brainer for anybody looking at it.

Again, I congratulate Senator Moore and Senator Day for bringing this to our attention.

Hon. Mobina S.B. Jaffer: Senator Baker, would you take another question?

Senator Baker: Yes.

Senator Jaffer: Senator Baker, you are seen as the dean of the Legal and Constitutional Affairs Committee, and we all look to you on many of the bills that come before us.

One of the things we always ask when the minister or officials come to the committee is whether this bill was looked at against the Constitution and against the Charter of Rights. I have never, ever heard any of the officials say, "No, it wasn't."

Yet what does this case in Toronto do? What faith do you have when officials say, "Yes, it meets the Charter challenge"?

Senator Baker: I think it's the degree of examination that has happened. From my knowledge of and my conversations with officials and in private conversations, I've learned there are two ways of examining the constitutionality of legislation and referencing it to a cabinet committee, and that is there's a one-pager and then there's an analysis. A one-pager is done for all private members' bills, and a complete analysis is done for government-sponsored bills. It appears to me, though, that in this particular instance, either this process was overlooked or the information given was not correct.

You referenced my time on the Hill. I am the oldest person here; I've been here for 42 years. Prior to that, I was the law clerk of a provincial legislature, and we had the job in those days of actually drawing up legislation. Part of my job as the law clerk of the Newfoundland and Labrador House of Assembly was to have an active part in developing legislation.

In this particular case, it just points out the value of the Senate. I can't but point that out. The value of the Senate in this one instance right here, how valuable this observation by these senators is, bringing this to the attention of the House of Commons so that they can be alerted to a constitutional challenge down the road. They should have caught it. They've got to amend their policies so that they don't institute something like this. On the face of it, you don't put "retroactive application of the law." You don't use the word "retroactive" a year prior to a bill's coming into existence. You can't do that.

The Supreme Court of Canada in a case called *Kingstreet*, which I think I've referenced before, made a judgment that you could have retroactive application of the law where the national interest was engaged, such as in the case of a province with taxation, for example.

I notice my time is up, but thank you for the question.

Senator Ringuette: On debate. I certainly would like to thank my colleagues — Senators Day, Moore and Baker — for having provided, I would say, the voice of reason within this chamber in regard to Bill C-59.

I would like to bring to the attention of my colleagues two other sections of this bill that are, as far as I'm concerned, not proper, and one is certainly not constitutional. I'm talking about sections 19 and 20.

Later, Senator Baker, who seems to regularly review all federal and Supreme Court decisions, could probably corroborate the fact that I have never witnessed legislation from a government that is being consistently and constantly challenged before the courts for not being proper in regard to the letter of the law or the Constitution and Charter of our country.

- (1110)

That brings me to section 20. We have been hearing for over a year now the President of the Treasury Board is trying to hammer out the removal of sick leave and sick benefits from the Public Service of Canada. That, to me, is certainly appalling, especially when the words of the minister publicly have been seriously challenged by the Parliamentary Budget Officer in regard to the cost. The cost that has been consistently made public by the Treasury Board minister is not the reality. That is one thing.

The second thing is that these benefits have been negotiated in good faith through the years. It is part of the contract between the Government of Canada, that is, the people of Canada, and its public servants. It is a collective agreement, and the process of

collective agreements, the right to association, is within the Charter. This section is completely contrary to what Canadians for decades have stood for — completely contrary.

There's a purpose for people having sick leave benefits. It is because unfortunately some people do get sick. It is not a question of will; it's a question of fate. Each one of us here has the possibility of sick leave, and, actually, we also have long-term sick leave benefits — each one of us. It's part of our "contract."

I've been here for 12 and a half years, and I'm very fortunate; I have been absent only three sitting days in those 12 and a half years. I'm fortunate because I'm a relatively healthy person. But it's not the case for everyone; and, more and more, we have to accept the fact that when we talk about health and sickness, we have to consider the unfortunate fact that there is also the issue of mental health, stress for whatever reason. It could be personal; it could be in the context of work.

All of this, the sick leave that the Parliamentary Budget Officer says costs practically nothing to the taxpayers of Canada, is being included in section 20 of Bill C-59, without reason. It's a breach of contract. It's an insult, and I find it is also a breach of Charter rights. This is certainly one issue that you should be very well aware of.

The other issue is within section 19. Section 19 creates a whole new slate of privileges for the banks and the financial institutions in Canada. Before this bill was introduced as Bill C-59, there were numerous court challenges and issues. The documents that create links or advisory notes between OSFI, the Office of the Superintendent of Financial Institutions, and the banking industry, the insurance industry and so forth were considered to be confidential. In the instance of civil court, that allowed the judge to look at the documents in order to seek the truth on an issue to decide whether or not that document would be allowed in regard to seeking the truth, and to which degree it would become public or would be within the confines of the judge and the two or however many parties were involved in the court challenge on a confidential basis.

Section 19 takes the confidentiality of these documents, and, all of a sudden, these documents between OSFI and the Canadian banks and the insurance companies become privileged documents. Like cabinet documents, like Parliament documents, they become privileged and therefore, no longer accessible in a court of law in Canada if a group of consumers finds that they have been ill-advised or provided misguided information by these financial institutions — all of a sudden.

Colleagues, we are facing two extremes. We are facing within Bill C-377 an issue where the Harper government wants every hard-working Canadian who earns \$5,000 or more, to have that amount of money be disclosed publicly, and at the other extreme, it protects the elites by taking the documents of exchange between OSFI and the financial institutions in Canada from being confidential to being privileged documents, blocking consumers seeking restitution. In Division 19, we are giving the financial institutions of this country a free ride against any consumer in any civil litigation, and that's a double shame.

But you can see now the double standards. Hammer the heads of the hard-working consumers and workers of Canada, but give protecting privilege to big-time Canadian financial institutions.

• (1120)

As a New Brunswicker and a Canadian, I just cannot believe what this government is trying to do: enhancing the division between the haves and the have-nots, not only on a financial basis but in regard to the public-disclosure basis. That is a darn shame. Yes, it is embarrassing.

That's only in this issue in regard to Bill C-59, trying to hide their protectionist measures against hard-working Canadians and for the elite of this country that, as far as I'm concerned, should be treated as any other citizen.

MOTION IN AMENDMENT

Hon. Pierrette Ringuette: Therefore, colleagues, I move a subamendment that reads as follows:

That the bill be not now read a third time but that a subamendment be adopted as follows: That Divisions 19 and 20 be removed from Bill C-59.

The Hon. the Speaker: Senator Ringuette, this is not a subamendment. This is Division 18 of the amendment that Senator Moore has made. This is an additional amendment. Either the house will agree to stack this amendment or it can be heard later on.

Will the chamber grant the stacking of this amendment?

Hon. Senators: Agreed.

The Hon. the Speaker: On debate.

Hon. Senators: Question.

The Hon. the Speaker: It is moved by the Honourable Senator Moore, seconded by the Honourable Senator Dyck:

That Bill C-59 be not now read a third time, but that it be amended on pages 135 and 136 by deleting Division 18.

All those in favour of the amendment please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: All those against the amendment please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker: The "nay" side clearly has it.

[Senator Ringuette]

And two honourable senators having risen:

The Hon. the Speaker: Do we have agreement on a bell?

Hon. Jim Munson: A one-hour bell, Your Honour.

The Hon. the Speaker: A one-hour bell. That will bring the vote at 12:24.

Call in the senators.

• (1220)

Motion in amendment of Senator Moore negated on the following division:

YEAS THE HONOURABLE SENATORS

Campbell	Jaffer
Cools	Massicotte
Cordy	Mitchell
Cowan	Moore
Dawson	Munson
Day	Ringuette
Fraser	Sibbeston
Hervieux-Payette	Smith (<i>Cobourg</i>)—16

NAYS THE HONOURABLE SENATORS

Andreychuk	McInnis
Ataullahjan	McIntyre
Batters	Mockler
Bellemare	Nancy Ruth
Beyak	Neufeld
Black	Ngo
Dagenais	Ogilvie
Doyle	Oh
Eaton	Patterson
Enverga	Plett
Fortin-Duplessis	Poirier
Gerstein	Raine
Greene	Rivard
Lang	Runciman
LeBreton	Seidman
MacDonald	Smith (<i>Saurel</i>)
Maltais	Stewart Olsen
Manning	Tkachuk
Marshall	Wells
Martin	White—40

ABSTENTIONS THE HONOURABLE SENATORS

Nil

The Hon. the Speaker: Honourable senators, the question is as follows: It was moved by the Honourable Senator Ringuette, seconded by the Honourable Senator Moore, that Bill C-59 be not now read a third time but that it be amended as follows: that Division 19 and 20 be removed.

Senator Martin: Dispense.

The Hon. the Speaker: All those in favour of the motion will please say “yea.”

Some Hon. Senators: Yea.

The Hon. the Speaker: All those opposed to the motion will please say “nay.”

Some Hon. Senators: Nay.

The Hon. the Speaker: Clearly the “nay” side has it.

And two honourable senators having risen:

The Hon. the Speaker: I see more than two senators arising. Is there an agreement?

Senator Marshall: Pursuant to rule 9-10, I’m requesting that the standing vote be deferred until Monday at 5:30.

The Hon. the Speaker: Pursuant to rule 9-10(2), the vote is deferred until 5:30 p.m. at the next sitting, with the bells to ring at 5 p.m. at the next sitting.

• (1230)

[*Translation*]

CANADA NATIONAL PARKS ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-72, An Act to amend the Canada National Parks Act.

(Bill read first time.)

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

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

[*English*]

CANADA-NOVA SCOTIA OFFSHORE PETROLEUM RESOURCES ACCORD IMPLEMENTATION ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-64, An Act to amend the Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act.

(Bill read first time.)

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

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

CRIMINAL CODE

BILL TO AMEND—THIRD READING

Hon. Paul E. McIntyre moved third reading of Bill C-35, An Act to amend the Criminal Code (law enforcement animals, military animals and service animals).

He said: Honourable senators, I am pleased to participate in the third reading of Bill C-35, the Justice for Animals in Service Bill.

The Standing Senate Committee on Legal and Constitutional Affairs has studied this proposed legislation and has reported it back without amendments.

I would like to start by acknowledging the presence in the gallery of Mrs. Diane Bergeron, and her dog Lucy. Mrs. Bergeron is the Executive Director, Strategic Relations and Engagement at the Canadian National Institute for the Blind. She made a very touching statement during her testimony on Bill C-35. She demonstrates to all Canadians that people suffering from a visual handicap can contribute to legislative changes that benefit all Canadians.

Bill C-35 will give effect to the October 16, 2013, Speech from the Throne commitment to bring forward Quanto’s Law, which recognizes that animals used in law enforcement are put at risk assisting police, enforcing laws and protecting society.

Bill C-35 extends special protection in law to a dog or horse that is trained to aid a law enforcement officer in carrying out that officer’s duties. This is an animal that is trained to aid a member of the Canadian Forces in carrying out that member’s duties, as well as a certified service animal that is required by a person with a disability for assistance.

Bill C-35 proposes several amendments to the Criminal Code that would specifically prohibit the killing or wounding of a law enforcement animal, a military animal, or a service animal, through the creation of the new Criminal Code hybrid offence.

Bill C-35 proposes to create a new section 718.03 that would be similar to section 718.02, with regard to offences relating to law enforcement animals, military animals and service animals. In the future, courts would be required to give primary consideration to denunciation and deterrence with respect to the new hybrid offence in section 445.01.

Those animals that do not fall within the ambit of the proposed new offence will still be protected under the existing animal cruelty provisions in the Criminal Code.

Honourable senators, when I spoke at second reading, I gave you an example of how Bill C-35, once in force, would be applied by a court. The measures contained in this proposed legislation are measured and reasonable. I hope that we can join together to pass this important legislation quickly.

Thank you.

Some Hon. Senators: Hear, hear.

Hon. Jim Munson: Thank you, Your Honour. Senator McIntyre, did you say Lucy, the dog?

Senator McIntyre: Yes.

Senator Munson: I love Lucy.

Some Hon. Senators: Oh!

Senator Munson: It's Friday.

Honourable senators, I rise today to add to the comments of Senator McIntyre at third reading stage of Bill C-35, the Justice for Animals in Service Bill. Let's be clear: I support this bill. As you may recall from the debate at second reading earlier this week, the main feature of this legislation is the introduction of a six-month mandatory minimum sentence for killing an on-duty law enforcement animal.

Yesterday in the Legal and Constitutional Affairs Committee, we gained better insight into the scope of this bill. Mr. Stephen Kaye, President of the Canadian Police Canine Association, responded to a question from the Honourable Senator Joyal that roughly 500 police dogs are in service with police forces across the country. As I noted during my speech at second reading, only 10 police dogs, in addition to Quanto, have been killed in the line of duty over the past 50 years. These two figures capture the narrow focus of this bill, which would otherwise lead us to believe that violence toward law enforcement animals is much more common.

Bill C-35 also includes provisions for consecutive sentencing. I'm concerned about the government's increasing use of these two mechanisms in its crime legislation. The problem, honourable senators, is that they can result in punishments that in their totality might be unduly harsh. As we know, similar provisions for other offences have been struck down by the Supreme Court

of Canada for contravening section 12 of the Charter of Rights and Freedoms, which protects Canadians from cruel and unusual punishments.

Having said that, honourable senators may be surprised that my foremost concern with this bill is actually its lack of proper penalties. The person who killed Quanto, in addition to a 26-month prison sentence, of which 18 months were specifically for killing Quanto, was banned from pet ownership for 25 years.

To me this was an important part of the sentence, but the provision that allowed the judge to impose this punishment, subsection 447.1 of the Criminal Code, is not amended by Bill C-35. Therefore, someone convicted of an offence under this measure would not be subject to such a ban unless they were also convicted of a cruelty to animals offence.

During yesterday's committee hearings on the bill, Michael Spratt, a criminal defence counsel and member of the Criminal Lawyers' Association, captured the bill's strengths and its weaknesses perfectly. He said:

Moving on to the bill, we should start by saying the [Criminal Lawyers' Association] doesn't oppose the creation of a specific offence as seen here. Indeed, the evidence from criminologists has suggested that creating an offence actually does deter crime and does help keep communities safe. The part we disagree with won't come as a surprise — it is the mandatory minimum sentence in the bill. The evidence on that specifically is quite different.

Personally, after spending the day with the deaf-blind associations from across the country, having that recognition in June, and seeing the beautiful guide and service dogs yesterday, I feel that anybody who willfully tries to maim or kill an animal should be banned for life from owning an animal.

• (1240)

I remain concerned that these amendments to the Criminal Code will not actually prevent harm to service animals. But to conclude, honourable senators, we have before us an imperfect but well-intentioned bill. If this were not the end of the session — and I know that Senator White believes this — I would propose an amendment to allow for judges to ban offenders convicted under the act from pet ownership. I feel this would better protect service animals in our country. However, at the end of this day, I believe we should still support Bill C-35 as presented, as it is an important first step and recognizes the value of service animals to Canadians.

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

Hon. Senators: Question.

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

Hon. Senators: Agreed.

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

**CANADA NATIONAL MARINE
CONSERVATION AREAS ACT**

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Beyak, seconded by the Honourable Senator Batters, for the second reading of Bill C-61, An Act to amend the Canada National Marine Conservation Areas Act.

Hon. Joan Fraser (Deputy Leader of the Opposition): Colleagues, this bill arrives before us in one of those pell-mell rushes preceded by a few scant minutes in the House of Commons where they deem, deem, deem, deem everything to have been done, as we are ourselves heavily burdened with end-of-session duties. It is no way to run a railway or a Parliament.

The preparatory work for the establishment of the Lake Superior National Marine Conservation Area began nearly 20 years ago, in 1999, and had advanced sufficiently far that, eight years ago, Prime Minister Harper was able to promise that it would be established any day now. Well, eight years later, in the dying days of the Forty-first Parliament, it looks as if it's going to happen.

Since the bill has only very recently come to us, I have not had the time to do detailed research on it, but I must say that this seems like an entirely worthwhile proceeding.

Lake Superior is one of the treasures not just of Canada but of the world. It holds something like 10 per cent of the world's fresh water, and a great deal of it is our responsibility. This marine conservation area, as I interpret the map, would run east-west for about 200 kilometres just at the northern hump of Lake Superior. Its administrative centre would be in the town of Nipigon, if that helps to situate it for colleagues familiar with that part of the country.

I think it's really important for Canada to set up these marine conservation areas. This one, in particular, sounds interesting because of the archaeological elements that are there referring to First Nations who have inhabited that area for 5,000 years and who have left, among other things, rock paintings that are truly national treasures.

The establishment of the marine conservation area has been negotiated with the Government of Ontario, and we all know that's not an easy thing to do, to achieve federal-provincial agreement on anything. However, they have achieved agreement on it, so I think it's appropriate to send this bill on to committee and I look forward to seeing the results of that committee's study.

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

Hon. Senators: Question.

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

Hon. Senators: Agreed.

(Motion agreed to and bill read second time.)

REFERRED TO COMMITTEE

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

(On motion of Senator Martin, bill referred to the Standing Senate Committee on Energy, the Environment and Natural Resources.)

**ENERGY, THE ENVIRONMENT AND
NATURAL RESOURCES**

MOTION TO AUTHORIZE COMMITTEE TO MEET
DURING SITTING OF THE SENATE

Leave having been given to revert to Notices of Motions:

Hon. Richard Neufeld: Honourable senators, with leave of the Senate and notwithstanding rule 5-5(a), I move:

That the Standing Senate Committee on Energy, the Environment and Natural Resources have the power to sit at 6 p.m. on Monday, June 22, even though the Senate may then be sitting, and that the rule 12-18(1) be suspended in relation thereto.

An Hon. Senator: Why don't they meet earlier? They could meet at 2 p.m.

Hon. Joseph A. Day: While the leaders are conferring, I wonder if Senator Neufeld would indicate whether it would be possible to meet earlier on Monday with the committee, and then he could report back when we're sitting on Monday of the same day.

Senator Neufeld: This was with extensive discussion, as I understand, between the two parties.

Senator Day: Thank you. If you and I keep talking, there may be some more extensive discussion going on.

Hon. Joan Fraser (Deputy Leader of the Opposition): I wonder if I can put a question to Senator Neufeld.

The Hon. the Speaker *pro tempore*: Yes, Senator Fraser.

Senator Fraser: I've just said I think this bill should go to committee, and it is going to your committee. Why would your committee not be meeting until the evening of Monday? Why would you not be preparing to meet earlier in the day at 1 p.m., 1:30 p.m. or 2 p.m.?

Senator Neufeld: I'm not party to all the discussions that go on in regard to when committees sit, but this is to also accommodate the deputy chair of our committee, who has other things that he has to deal with and won't get here in time, and then it actually coincided with the vote that's set for 5:30 p.m. So 6 p.m. seemed to be the best time to meet. This is so we can get the notices and the bill out to everyone and make sure that all members of the committee have all the information.

I would actually meet Saturday if you wanted to.

Senator Fraser: I'm not sure I'd go that far, but the deputy chair had assured me that he would meet at any time on Monday, or that the committee could meet at any time.

I'm deeply disappointed that you're not getting to the Lake Superior bill earlier. I find that a great pity. I would strongly suggest that you seek an amendment to your motion, but if you don't do it, you don't do it.

The Hon. the Speaker *pro tempore*: Is the honourable senator asking leave to move the motion now?

Senator Neufeld: Yes.

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

Hon. Paul J. Massicotte: May I ask a question?

The Hon. the Speaker *pro tempore*: Yes, Senator Massicotte.

Senator Massicotte: Senator Neufeld, to your motion, if I, the deputy chair, were available at 2:30 p.m., could we start at 2:30 p.m.?

Senator Neufeld: As far as I'm aware, this is not the place to have those discussions. I have actually been informed that this was the time that was settled and agreed to.

I defer to my leadership. If they wish to change the time and change the motion, I will go through the whole process again.

• (1250)

The Hon. the Speaker *pro tempore*: Have the honourable senators come to some agreement between them?

Senator Cordy: Yes, 2:30 p.m.

Hon. Anne C. Cools: He is only seeking leave to move a motion.

The Hon. the Speaker *pro tempore*: Would you like —

Senator Fraser: Might I make a suggestion? Since there does seem to be significant disagreement as to what was agreed, and since we're taking up a lot of valuable chamber time about this, might I suggest that the motion simply be amended to say that the

committee have the power to meet on Monday, including at times when the Senate may then be sitting, allowing for negotiations then to occur outside the chamber to settle on timing?

Some Hon. Senators: Hear, hear.

Hon. Yonah Martin (Deputy Leader of the Government): May I just add one more piece of information that we could consider?

An Hon. Senator: If it's important.

Senator Martin: Yes, it's very important. Earlier today, when we received the two bills that will most likely go to the Energy Committee, I had asked leave to have them looked at the next day, which is Monday. We sit at 2 p.m. Therefore, to give us time to look at those bills at second reading, I ask all honourable senators to give leave to Senator Neufeld to adopt the motion for the Energy Committee to sit at 6 p.m., which is what I had asked you.

The Hon. the Speaker *pro tempore*: Please. Maybe this could be done in negotiation. This is chamber time.

Senator Martin: Yes. I just wanted to add that bit of information. I ask all honourable senators to consider the leave to adopt the motion.

Senator Cools: But it is not leave. Leave is permission to move the motion. It's out of order.

The Hon. the Speaker *pro tempore*: Senator Cools, please. Everybody, this is not a chamber meeting. Could you go off-line and settle this between you? It would be a lot easier. Thank you.

Senator Martin: Yes, Your Honour. Thank you.

The Hon. the Speaker *pro tempore*: We will proceed now with the Order Paper.

ECONOMIC ACTION PLAN 2015 BILL, NO. 1

TWENTY-SECOND REPORT OF NATIONAL FINANCE COMMITTEE ON SUBJECT MATTER ADOPTED

The Senate proceeded to consideration of the twenty-second report of the Standing Senate Committee on National Finance (Subject matter of Bill C-59, An Act to implement certain provisions of the budget tabled in Parliament on April 21, 2015 and other measures), tabled in the Senate on June 11, 2015.

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

He said: Honourable senators, this is consideration of the twenty-second report of the Standing Senate Committee on National Finance regarding the study that the committee did in relation to Bill C-59. You've already heard all the debate on that

particular pre-study that was conducted and that formed a basis for our dealing with second and third reading of Bill C-59. Therefore, for the record, I'd like to have it adopted now by the chamber.

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

(Motion agreed to and report adopted.)

[Translation]

STUDY ON BEST PRACTICES FOR LANGUAGE POLICIES AND SECOND-LANGUAGE LEARNING IN CONTEXT OF LINGUISTIC DUALITY OR PLURALITY

SIXTH REPORT OF OFFICIAL LANGUAGES COMMITTEE AND REQUEST FOR GOVERNMENT RESPONSE ADOPTED

The Senate proceeded to consideration of the sixth report (interim) of the Standing Senate Committee on Official Languages entitled: *Aiming Higher: Increasing Bilingualism of our Canadian Youth*, tabled in the Senate on June 16, 2015.

Hon. Suzanne Fortin-Duplessis moved:

That the sixth report of the Standing Senate Committee on Official Languages entitled: *Aiming Higher: Increasing Bilingualism of our Canadian Youth*, tabled in the Senate on Tuesday, June 16, 2015, be adopted and that, pursuant to rule 12-24(1), the Senate requests a complete and detailed response from the government, with the Minister of Canadian Heritage and Official Languages being identified as the minister responsible for responding to the report.

She said: Honourable senators, I am honoured to present the sixth report of the Standing Senate Committee on Official Languages entitled: *Aiming Higher: Increasing Bilingualism of our Canadian Youth*.

I would like to begin by thanking the chair, Senator Tardif, the members of the committee, Senators Maltais, McIntyre, Chaput, Poirier and Seidman, as well as all of the other honourable senators who participated in the meetings for their important contribution to the committee's work in preparing this report.

On behalf of the committee, I would also like to thank our analyst, Marie-Ève Hudon, and our clerk, Daniel Charbonneau, both of whom once again did excellent work preparing this report.

In the spring of 2013, we adopted the terms of reference for a study on the best practices for language policies and second-language learning. I proposed the idea for a study because I truly want all young Canadians to have the same opportunities.

The committee held 19 meetings in Ottawa to conclude the Canadian portion of the study. We heard from 51 witnesses who helped us identify the primary obstacles and challenges, as well as a series of good practices in place across the country.

Bilingualism is at the heart of the Canadian identity, our history and our future. There are many advantages to being bilingual, including social, economic and cognitive advantages. Bilingualism is an added value, and all Canadians should be able to benefit from it.

We were able to identify the main challenges to learning a second language, and we present seven recommendations to the federal government in order to work towards improving the current situation. I would like to briefly share a few important observations with you.

Let's begin by taking a look at second-language instruction programs. These kinds of programs exist all across Canada, but vary depending on the province. There are core programs and intensive programs. There are also immersion programs, which are becoming more and more popular across the country and were the subject of many of our meetings. We found a serious problem when it comes to accessing these programs.

Demand for immersion programs definitely exceeds the supply in many parts of the country. Many parents stand in line in the wee hours of the morning when the time comes to register their children for these programs. In some schools, registration is even done by lottery. We need to solve this access problem so that all Canadians can benefit from these excellent programs.

In addition to the problem of accessing immersion programs, there is also a shortage of teachers in these programs in general, and this problem is particularly significant in rural areas and in Western Canada.

This shortage sometimes results in the cancellation of programs. We must find a way to attract and retain teachers, because they are the key to the success of future generations.

• (1300)

All efforts to improve programs must also consider the problem of how to retain the knowledge acquired. The second-language retention rate tends to peak while young people are in school and then drop as they age. Students who graduate from immersion programs generally maintain their bilingual capacity for a longer period of time, but very few of these young people speak French after high school.

It is crucial to focus on the transition periods — the periods between elementary and secondary school and between secondary school and university — to improve the situation. That is often where we lose anglophone students who want to continue learning French. We must actively promote existing post-secondary programs to ensure that students do not lose what they have learned.

Nevertheless, young people must want to learn and retain the other official language. In order to want to learn, they must be motivated. Motivation is key and even the driving force.

What motivates young people to learn and continue to learn the other official language? Just understanding the advantages of being bilingual is itself a huge source of motivation for young people. That is why it is vitally important to promote the many advantages of bilingualism. There is no shortage of studies to that effect. For example, from a financial standpoint, bilingualism improves job prospects. Furthermore, bilingual employees often earn more.

Also, a number of studies show that bilingualism stimulates brain development. People who know a second language generally find it easier to learn a third or fourth language. An interesting fact is that bilingualism can reduce the effects of aging and can even help prevent certain cognitive disorders such as Alzheimer's. It also enhances creativity, the ability to reason and concentration. Once again, we must promote these advantages in order to motivate young people to learn and to continue learning.

Authentic experiences can provide another source of motivation. Students need to be motivated to use their second language in real situations — in their everyday lives — outside the classroom, with their friends, at home, online and on social media.

[English]

Several witnesses, if not all of them, claim an increase in opportunities for exchanges between young Canadians from all provinces and schools.

[Translation]

As we heard from one of our witnesses, you have to live a language in order to learn it. There is clearly an interest in exchanges. Demand continues to grow. Students want to have this kind of experience.

The Commissioner of Official Languages said that the government could implement a new program to give students an opportunity to take intensive programs in their second language at a Canadian institution. This would be similar to the European Erasmus program, which has become a cultural phenomenon. This program has been hugely successful in Europe.

Teachers should also participate in exchanges. Teachers in Western Canada could teach intensive English programs in Quebec, and teachers from Quebec could teach in immersion programs in the West. However, mobility between the provinces is a challenge in the Canadian federation. The federal government could choose to develop a strategy to help with this.

One point that emerged from the testimony was that we need a common framework. A standardized Canadian test would serve as a reference for all learners across Canada and would facilitate

[Senator Fortin-Duplessis]

youth mobility throughout the country. Furthermore, young people could be more motivated to learn the other language and set goals for themselves if there were meaningful recognition of proficiency.

Another challenge has to do with accountability in how the provinces and territories use federal government funding.

[English]

Several witnesses have repeatedly told us over the years that difficulties remain with regard to transparency and accountability. It seems very difficult to know how the federal funds are used by the various ministers of education.

The government must take steps to improve transparency and to ensure that distributed funds are invested in a manner that is consistent with our expectations and needs.

[Translation]

Official languages policies and laws vary greatly from one province to another, and time and time again witnesses called for stronger national coordination. Our committee believes that the federal government has a critical role to play in developing a national strategy and that it is in the best position to actively promote bilingualism.

Our government must continue to actively promote our two official languages and support the development of official language minority communities. English and French are among the most influential languages in the world. There is no doubt that a Canada with a more bilingual population would also have a stronger global presence.

In closing, I would like to thank you, honourable senators, for being so kind as to allow me to present this report. I will be leaving after Senator Fraser's speech, and I would like to tell you that I really enjoyed working with all of you. I am really going to miss you.

Hon. Senators: Hear, hear!

Hon. Céline Hervieux-Payette: Since the senator is in good shape and she did a lot of work on this committee, while she is enjoying her retirement, I would like to invite her to work on an issue that is of great concern in Quebec, and that is literacy. It is not enough to debate the issue of official languages. People have to master one language before they can learn the other, and that applies to both languages. The literacy rate of francophones and people immigrating to Quebec could definitely be improved, and there are groups already working on that. I would like to suggest that you do some volunteering with those groups in your free time to help ensure that their unemployment rate declines and that they are able to master Quebec's official language.

Since you are a resident of Quebec City, I think you are in a good position to understand that the two governments should take action to significantly reduce this problem that ultimately denies these groups access to all jobs.

I would therefore like to ask the senator to consider the possibility of doing literacy volunteer work in her retirement.

Senator Fortin-Duplessis: First of all, thank you for that positive comment. I'm always prepared to lend a hand to anyone who asks.

• (1310)

However, my comments are not entirely related to your question. In committee we heard from witnesses, immigrants who arrived in Quebec and learned the language, but were invited to live and work in the West, where francophones are in the minority.

I must say that it is not uncommon for Quebec to lose immigrants who learned French there because the other provinces are very interested in having them.

I think your comments have more to do with the fact that we in Quebec need to focus on young Quebecers as a whole. According to the testimony we heard, the situation varies across Quebec, despite the political will to ensure that English is taught at elementary school. This is not standardized across the province. It all depends on how much money the school boards have and what the leadership wants to do. There remains work to be done. This is not over.

Hon. Joan Fraser (Deputy Leader of the Opposition): Honourable senators, as you know, the chair of the Standing Senate Committee on Official Languages had to step out. However, before leaving the chamber, she asked me to read her speech on this report. Pardon my accent, but this is Claudette Tardif speaking now.

I would like to begin by acknowledging the contribution of Senator Fortin-Duplessis, deputy chair of the committee. Her determination to promote bilingualism for young Canadians is what drove the committee to undertake this major study.

Senator Tardif goes on to thank the same people that Senator Fortin-Duplessis thanked: the members of the committee, the staff members, who are excellent, as well as the witnesses. I will continue with Senator Tardif's speech.

In the spring of 2013, members of the Standing Senate Committee on Official Languages undertook their study of the best practices for language policies and second-language learning. We know that many countries have systems that recognize two or more official languages.

Taking into account changing sociodemographic realities and the increasingly apparent desire to promote linguistic and cultural diversity, the committee chose to examine Canada's practices, policies and systems for the promotion of official languages and official-language learning.

This report provides an overview of French second-language education outside Quebec and English second-language education in Quebec.

In 2011-12, 2.4 million young Canadians were learning English or French as a second language in elementary and secondary schools across the country. Beginning in 2011, Quebec introduced pilot projects for intensive English instruction in grades five and six. In addition, 62,000 students participated in intensive French programs outside Quebec. Nearly 350,000 young anglophones were enrolled in French immersion programs in all Canadian provinces.

[English]

Although the numbers are on the rise for specialized programs, the proportion of students in public schools enrolled in a core French program has decreased compared with 20 years earlier, dropping from 53 per cent in 1991 to 44 per cent in 2011.

[Translation]

This decline is of course very worrisome. The Senate committee also deplores the shrinking proportion of young Canadians who can carry on conversations in French and in English. In 2011, 22.6 per cent of young Canadians aged 15 to 19 had some knowledge of both official languages, but that represents a decline. From 2001 to 2011, that figure dropped from 23.9 per cent to 22.6 per cent.

We have to take that decline very seriously. The findings of that study enabled the committee to identify obstacles to the growth of bilingualism in Canada and to present recommendations to increase the rate of bilingualism in our country.

There are a number of challenges to be overcome, including the lack of equal access to second-language instruction programs; the lack of educational resources; the shortage of teachers and the lack of support for their training; the absence of a common Canadian framework for second-language instruction; access to programs and the fact that immigrants' needs are often overlooked when French-as-a-second-language programs are implemented.

To improve the situation, the committee made 10 recommendations to the federal government, divided into four specific areas: active promotion of bilingualism, increased official-language proficiency, innovative practices and funding.

[English]

Immediate action is needed on two fronts. First, second-language programs must be made accessible to everyone everywhere. To do so, the federal government must encourage the public and the business community to foster the recognition and use of the two official languages, and it must launch a national awareness campaign to encourage Canadians to learn their two official languages.

[*Translation*]

We then need to set clear and ambitious targets for the future in order to increase official language proficiency, especially among Canadians between the ages of 15 and 19, by 2018.

Canadian Heritage must take a leadership role in convincing its provincial and territorial counterparts to adopt a specific national target. There should be discussions with the main stakeholders: language organizations, school boards and teachers. The target would set measurable objectives to be attained by 2018, the year when the Roadmap for Canada's Official Languages expires.

The committee is of the opinion that the federal government must actively promote bilingualism, increase awareness of the advantages of bilingualism and act as a champion to ensure that all partners develop a pan-Canadian strategy to promote official-language learning.

In light of the testimony we heard, this strategy could take a number of approaches: ensuring access everywhere and for everyone to courses in either official language; promoting the second-language teaching profession; supporting post-secondary institutions in providing more French-language programs; and adopting a common Canadian framework of reference for languages linked to teaching, learning and evaluating language proficiency in Canada.

A major factor in motivating students to stay in school would be to increase the number of exchange programs for students and teachers. We need to encourage innovative practices based on new teaching approaches. The government must play an active role by supporting research based on innovative practices, as well as sharing results, offering fair and sustainable funding, and improving accountability.

Throughout our study in committee, the witnesses told us that bilingualism provides numerous social, economic and cognitive advantages, and that it represents an asset that all Canadians should be able to take advantage of.

The committee thinks it is important to immediately take measures to improve the status and equality of Canada's official languages. There is no doubt that a Canada with a more bilingual population would also have a stronger global presence.

• (1320)

The Canadian Teachers' Federation believes that:

Learning French outside of Quebec is part of our country's national identity. Learning French is something more than simply learning another language for oneself. It is part of a larger project that is essential for our country as a whole.

[Senator Fraser]

Honourable senators, as the 150th anniversary of Confederation approaches, Canada must take steps to ensure that bilingualism regains its rightful place as a fundamental value across the country. I strongly recommend supporting this motion and adopting this report. Thank you.

That was the end of Senator Tardif's speech. I too would like to add a few words and congratulate Senator Fortin-Duplessis on the work she has done here and throughout her career. I wish her a wonderful, happy and active retirement.

Good luck.

Hon. Senators: Hear, hear!

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

Hon. Senators: Question.

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

Hon. Senators: Agreed.

(Motion agreed to and report adopted.)

[*English*]

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Leave having been given to revert to Notices of Motions:

Hon. Richard Neufeld: Honourable senators, with leave of the Senate and notwithstanding rule 5-5 (a), I move:

That, for the purposes of its consideration of government bills, the Standing Senate Committee on Energy, the Environment and Natural Resources have the power to sit on Monday, June 22, 2015, even though the Senate may then be sitting, and that rule 12-18(1) be suspended in relation thereto.

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

Hon. Senators: Agreed.

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

Hon. Senators: Agreed.

(Motion agreed to.)

REFORM BILL, 2014

BILL TO AMEND—THIRD READING—
VOTE DEFERRED

On the Order:

Resuming debate on the motion of the Honourable Senator Tannas, seconded by the Honourable Senator Oh, for the third reading of Bill C-586, An Act to amend the Canada Elections Act and the Parliament of Canada Act (candidacy and caucus reforms).

Hon. James S. Cowan (Leader of the Opposition): Thank you, Madam Speaker. Colleagues, I rise to join the third reading debate on Bill C-586, the private member's bill originally put forward in the other place by Mr. Michael Chong.

This bill is being presented to us and, more importantly, to Canadians, as a step in the renewal of our parliamentary democracy.

Senator Tannas, the sponsor of the bill here in the chamber, told us last week that the intent of the bill is, in his words, "to re-empower individual caucus members so that Canadians can be confident that their elected MPs are representing their constituents without being rigidly controlled by party leaders."

Colleagues, like many Canadians, I'm deeply concerned about the state of our parliamentary democracy. On March 31, John Ivison wrote a piece in the *National Post* saying that the Canadian Parliament has been "reduced . . . to the status of a Potemkin parliament. It has become a fake legislature designed to fool the tourists and visiting dignitaries [that] Canada retains a vibrant parliamentary democracy."

Harsh words, colleagues, but many Canadians would say they're uncomfortably close to the truth. So it is small wonder that so many of them have been encouraged by this bill ambitiously named the "Reform Bill." But will this bill truly effect the change that Canadians know is needed?

I am afraid that to the contrary, Canadians will be deeply disappointed. The bill, despite Mr. Chong's good intentions, will do nothing to address the real issues with our parliamentary democracy.

For example, one of the biggest issues today is the unprecedented centralization of power in the Office of the Prime Minister, and the corresponding abdication of power by parliamentarians. I agree, colleagues, that the issue of centralization of power in the PMO is a problem that has been developing for decades.

Senator Wallace named the centralization of power in party leaders as "the fundamental problem that Mr. Chong identifies." Senator Wallace went on to say, "Simply stated, Bill C-586 proposes to rebalance power between the elected members of Parliament and their party leaders."

Colleagues, that would be wonderful, if it were true.

Unfortunately, the bill is much more modest than that. As Senator Tannas explained, the bill would do several things: First, it would provide that each political party would authorize individuals to sign off on party candidates, instead of the party leader. Colleagues, I think many Canadians would view that as a distinction without much of a difference. Senator Tannas listed this as his first example of how the bill strengthens caucus as a decision-making body. But I think many Canadians would fail to see how moving the power from party leader to someone authorized by the party will actually re-empower caucus.

The bill also changes the rules on how members of a caucus in the other place may be expelled from or readmitted to that caucus. It provides rules for the selection of caucus chairs, interim leaders, and — this has been the most controversial — how party leaders can be removed and replaced.

That's it.

Colleagues, when you have heard Canadians express their frustration about the state of their parliamentary democracy, how often have you heard someone say, "Well, if only there were a better procedure for the selection of caucus chairs, everything would be fine"? Or how often have you heard someone express their anger over the rules around the selection of an interim leader of a party?

In all of my years being active in politics, serving on party executives at various levels and canvassing door to door in more campaigns than I care to remember, I can't remember a single occasion when those issues were raised with me.

The issues I hear about from Canadians are these: Why don't parliamentarians exercise their judgment on legislation before them? Why don't they listen to Canadians? Why aren't amendments made that will actually improve the laws that are adopted? Why is party discipline more important than the evidence brought before Parliament?

Colleagues, nothing in this bill would change any of that.

Canadians are frustrated with the unfairness of the first-past-the-post electoral system, saying it is wrong — in fact, it is undemocratic — to have a majority government that was elected by only 23 per cent of Canadians eligible to vote.

Nothing in this bill will change that.

Bill C-586 is "inside baseball," dressed up in a grand title. In my view, most of the issues in the bill could be, and perhaps should be, addressed in the rules of caucus or in a party's constitution. They do not rise to the level of a grand "Reform Bill" because they will not reform any of the very serious problems that we're actually facing in our parliamentary democracy.

We all know the old adage that lovers of law and sausages should never watch either in the making. Well, colleagues, here the majority in our Parliament has taken that a step further,

turning law-making into something awfully close to a sausage factory. We go through the motions of fulfilling our parliamentary role, but all too frequently, that is all it is — going through the motions.

• (1330)

How many pre-studies have we conducted in the past year on bills of critical concern to Canadians, while we don't even bother to have reports in this chamber on those pre-studies?

How many times have we ignored eminent Canadians, including constitutional authorities, who urged us to reconsider or to amend bills to make concrete improvements?

How many omnibus bills have we passed in the full knowledge that we could not possibly do our job of seriously examining all the provisions in the hundreds of pages presented to us?

Our role as a chamber of sober second thought is being jeopardized. Make no mistake, colleagues: It is we ourselves who are allowing this to happen.

For example, our former colleagues Senator Banks and Senator Murray found a provision buried in an omnibus bill that removed from Parliament the power to oversee government borrowing of money. That omnibus bill, like all of them, was rushed through, so that provision was only discovered long after the bill had received Royal Assent.

Colleagues, there's nothing more fundamental to parliamentary democracy than the power of Parliament to oversee money matters, and there it was, buried in an omnibus bill.

Senator Murray introduced a private member's bill to return this power to Parliament. My colleague Senator Moore took the bill over, reintroducing it in each new session. The government has buried it. It's still on the Order Paper. It is now Bill S-204. Passing this bill would be a significant step forward. Returning Parliament's power over the public purse would be real reform, but I see no appetite for that.

In the past year, colleagues, we passed two bills with known mistakes, mistakes that we found and could fix. That's our job, colleagues. That is sober second thought. The government refused, as usual, to accept any amendments, so bad laws, flawed laws, were passed.

We were assured that the government would introduce legislation to fix the mistakes we discovered. We all know that Parliament will rise for the summer very soon — perhaps the other place has risen as I speak — and there will be an election in the fall. No bills have been introduced by the government to fix those mistakes. The result of our not doing our job is that bad bills are now Canadian law. Small wonder that Canadians despair of parliamentary democracy.

You can understand why I view with skepticism the promises that the provisions of this bill will re-empower parliamentarians.

Colleagues, in the final analysis, parliamentarians in either chamber don't need a bill to be re-empowered. They never lost that power in the first place. All anyone needs is to exercise the power they already have. All anyone needs is to just do their job.

That's also why I object to the pressure that's been put on us, in the words of some, including Mr. Chong, to "rubber-stamp" Bill C-586.

Colleagues, you don't empower parliamentarians to do their job by telling other parliamentarians not to do theirs. We've had a number of excellent, thoughtful interventions on this bill. I've been proud of the quality of the debate we've had. Frankly, this is how a parliamentary democracy ought to work.

While I accept that Mr. Chong is genuinely anxious to advance the case of parliamentary reform, I find it ironic that he's urging us to just rubber-stamp his bill, saying, in effect, we have no business debating or even thinking about amending it, while on another bill, Bill C-290, the single-sport betting bill, he has written to each of us, urging us, and I quote from his letter:

... to exercise your constitutional role as the chamber of sober second thought by defeating Bill C-290 in the Senate.

So rubber-stamp his bill, but exercise our constitutional role as the chamber of sober second thought and not just amend but actually defeat a bill he doesn't like.

Colleagues, this is no way to strengthen our parliamentary democracy. That's parliamentary democracy when it suits the person calling for it, and, frankly, that doesn't fit my definition of democracy, parliamentary or otherwise.

In fact, looking at the reforms that Bill C-586 would introduce, I must question whether they would actually advance reforms in parliamentary democracy or would, in fact, set them back.

Last week, when Senators Wallace and Tannas spoke, I questioned them about an issue that troubles me, and that is the provisions in the bill which relate to leadership review.

As colleagues know, the bill would provide a single set of rules enshrined in law for all political parties, irrespective of how each political party chooses its leader. The bill provides that 20 per cent of the elected members in the other place could trigger a vote for a leadership review, and 50 per cent of the elected members could vote to replace that leader.

Colleagues, it's true that it used to be that party leaders were chosen by small groups — usually of white middle-aged men — who made decisions for the hundreds or even thousands of party members. I'm sure all of us are glad that those days are gone.

In my party, the Liberal Party of Canada, as Senator Plett reminded us the other day, our leader was elected by 81,389 Canadians on a one-person, one-vote basis. As you know, the Liberal Party has a caucus of 36 members in the other place. Twenty per cent of that is a little over seven. Under this bill, just seven or eight people could trigger a leadership review.

How is it a democratic advance to take a decision by 81,389 people and allow seven or eight people to challenge it? How is it a democratic advance for 18 or 19 people to overturn the decision of those 81,389 members and supporters of a political party?

What troubles me especially is the idea that we, as legislators, are being asked to change the rules, rules that were made by these party members — and in the case of my party, supporters of the party — and that are enshrined in the party's constitution. Wouldn't a party's constitution be the best place to change those rules, rather than us, as a small group of legislators, imposing those changes on the party's members and supporters who passed the constitution in the first place?

If the members of a political party — my party or any other party — wish to confer those powers or delegate those powers to members of the House of Commons, then so be it. It's not our role as parliamentarians to make that decision for them.

Let me be clear, colleagues. I'm not in the least troubled by the bill's definition of "caucus." I'm not troubled by the fact that it only includes members of the other place. My issue is not that senators are excluded. My issue is that party members and, in the case of the Liberal Party, party supporters are excluded.

Under the provisions of the bill, entire provinces that might not have elected a member in a political party could be ignored, cut out, even though tens of thousands of Canadians in those provinces may have voted for a particular leader. Is that democratic?

Caucus members represent their constituents. They don't represent party members or supporters as a whole, and they certainly don't represent members or supporters from other provinces; nor should they. Given that, surely it's wrong to give them the power, as this bill does, to overrule members or supporters from other provinces, who didn't win first past the post in the previous election. Surely that is compounding problems in our current system, not alleviating them.

I know that I, and I'm sure everyone else in the chamber, have received hundreds of emails from Canadians imploring us to pass Bill C-586. I also know that when I raise these concerns, particularly about leadership review, in conversations with party members, they stop and say, "I never thought of that. That is a problem."

So what do I propose to do? I accept that this is a bill that relates to internal matters of the other place, but equally, it relates to internal matters of political parties. My objections are not as a senator but as a long-time member of a political party. Like other party members, I drew these issues to the attention of senior officers of the political party to which I belong. They don't seem to share my concerns. Nonetheless, as a party member, I am very disappointed.

• (1340)

However, that is different from the position in which I find myself as a senator considering this bill. As I have stated, many of the provisions of this bill relate to the way members of the other

place conduct their internal caucus affairs and those members have passed the bill. Given that, I do not believe it would be right for me, as a senator, to vote to defeat it. However, for the reasons I have stated, I cannot in good conscience support the bill.

Accordingly, I have decided to abstain from the vote. This is not a course of action I usually take, but the particular nature of this bill and the particular nature of my concerns lead me to conclude that this unusual step is in fact the appropriate one for me to take.

Colleagues, we've had a good, vigorous debate on all aspects of the bill, and I understand there will be further speeches this afternoon. I'm absolutely sure that the provisions of this bill — the merits and demerits of the bill — have been considered at length in the caucuses in this chamber. We've all received hundreds of emails from Canadians eager for us to pass the bill.

In the circumstances, I hope that senators would agree that, after colleagues have made their interventions this afternoon, we could proceed to a vote at the conclusion of the debate this afternoon. Thank you.

The Hon. the Speaker *pro tempore*: Senator Ringuette would like to ask a question, Senator Cowan. Would you take a question?

Senator Cowan: Of course.

Hon. Pierrette Ringuette: I was a member of the other place from 1993 to 1997. At that time, sitting across the floor from me was the leader of the Reform Party, Mr. Manning, and his right-hand person, MP Stephen Harper. Both of them, for a period of that Parliament, were asking for recall legislation. It is funny that one of the two people wanting recall legislation when an MP was not voting in accordance with his constituency and not his leadership has been the Prime Minister of Canada since 2006, for nine years.

My question to you, Senator Cowan, is if the Prime Minister of Canada had the guts in regard to parliamentary reform to put forth a piece of legislation in regard to recall of MPs in the process of constitutional and parliamentary reform, if we had such a piece of legislation in front of us, how would you vote?

Senator Cowan: In my personal view, I don't favour recall legislation. I don't think it's appropriate in our system. I think our system works perfectly well with some of the adjustments that could be made to it, but I don't think personally that recall legislation is a good thing.

Hon. David M. Wells: Honourable senators, I rise today to speak on Bill C-586, An Act to amend the Canada Elections Act and the Parliament of Canada Act. It is better known as the reform act. I have enjoyed the debate both here in our chamber and in the other place and in the media. The bill has elicited a very public debate; I only wish that all legislation elicited such healthy discourse.

There are a number of provisions in this bill that I have no issue with: the process by which candidates for election to the House of Commons are endorsed by their political parties, the selection of the chair of parliamentary caucuses, the expulsion and readmission of members of a parliamentary caucus in the House of Commons. That is correctly a decision that should rest solely with the members of the House of Commons or that party. I think these issues perhaps are better left, as Senator Cowan said, as they are now with the individual party, but if it's desired by both the Senate and the other place that it be codified into law, then that's fine with me.

I do have some issues with the bill, and they are fundamental to the effectiveness and inclusive aspects of our political system and the way we organize our political parties and the respect we must have for members of our political parties. They are the bedrock of Canada's democracy.

Proposed section 49.5(2) of Bill C-586 calls for a mere 20 per cent of a party's House of Commons members to initiate the process of removal of a sitting leader. If the 20 per cent level is reached, then another vote would immediately be held on the question of whether that leader would be removed from that leadership position. It's important to remember that the party leader may in fact be the Prime Minister. There is no restriction in the bill that says how many times this could happen.

Member of the House of Commons Michael Chong is the author of this bill. His appearance at the Rules Committee was instructive. Senator Doyle asked a question about a challenge to the leader:

Is it done only once, or does it go on and on?

Mr. Chong replied:

. . . it is possible that a caucus would revisit these reviews a number of times in a single Parliament . . .

Just let that sink in for a moment, colleagues. Political parties need stability, governments need stability, and financial markets need stability.

My colleague Senator Plett and others have articulated very well the circumstance in our current Parliament's environment with many thousands voting for a party leader and, in the case of the Conservative Party, paying a membership fee for that right. For a self-selected portion of the caucus to overturn this critical, grassroots membership decision is an affront to democracy and an affront to the broad support system that modern parties have developed, members cherish and we celebrate.

In the case of Mr. Trudeau's leadership, the will of over 80,000 people could be dismissed, as Senator Cowan said, by the simple majority of a small caucus of 36 — 19 people is all it would take.

For the Conservative Party of Canada and the current sitting Prime Minister, all it would take to destabilize the government would be one-fifth of the Conservative members of the House of

Commons, a mere 32 people. In the current strong, stable, majority government, in politics, when only 20 per cent of your colleagues don't like what you're doing, it's what I would call a good day.

Colleagues, we ask very few things from our parties' membership. Two of the key things we do ask for are to donate money and to help pick a leader. With the provisions in this bill, we are essentially removing the right of selecting a leader and we are left simply with asking them to give money. That is the epitome of hubris and disrespect.

Our role as senators is to hear the voices of those who may be oppressed. I've said the provisions of this bill are better addressed by political parties. That was recognized and understood by Mr. Chong, the author of the bill, when he tried to have the provisions added, without success, to the agendas at the last three Conservative Party of Canada policy conferences in Montreal, Winnipeg and most recently in 2013 in Calgary. Each time, the grassroots membership and conference leaders deemed it unsuitable for the agenda. In effect, they didn't want their rights tampered with.

Any clever person, when confronted with an obstacle, finds what engineers might call a "workaround." Mr. Chong's workaround in this instance was to bring it to Parliament as a private member's bill, divide the caucus, promise people increased power and then bully the Senate to bend to his wishes. As he said upon questioning from my honourable colleague Senator Jaffer at the Rules Committee two weeks ago, the Senate should do its job and rubber-stamp this bill.

Others who appeared at the Rules Committee also had interesting comments. If I may, colleagues, and for those who were not at Rules Committee, or those who have not read the transcript for our various meetings on the topic, here are some selected quotes from MP Stéphane Dion:

. . . Bill C-586 is not a good bill. . . .

It will not improve Canadian democracy. . . .

I am particularly averse to the odious notion of a member being expelled from caucus by a secret ballot rather than by a show of hands.

As correct as these statements are, his most concise is the following:

My personal view is that using tacit convention rather than a formal rule is a better way to go when expelling a leader, which is a momentous decision if there is one.

Former House of Commons Speaker Peter Milliken, a supporter of the bill, gave a curious solution to the flaws of Bill C-586. He said:

I'd prefer something different, but it's a start.

He goes on to say:

After the next election, I'm quite sure whoever is elected will want to make changes to this to perhaps make it function better or be more reasonable in its approach

Not exactly a ringing endorsement.

• (1350)

Colleagues, the job of the Senate is to make this right the first time and not to recognize obvious problems, rubber-stamp it as requested by the house sponsor and hope some future Parliament corrects the obligation that we have ignored. Senator Fraser posed a question to Mr. Chong when he appeared at the Rules Committee. The question was simple:

The bulk of this bill has to do with party caucuses, and one of my fundamental difficulties is the question of why the law should be telling party caucuses how they should or should not organize their affairs. As you know, different parties have different constitutions and traditions, and here we're faced with a bill that would say, "We don't care what your party constitution is, what your various traditions are, or what your membership thinks. This is the way it's going to be."

This was Mr. Chong's response:

. . . in my 11 years as an elected member of the lower chamber . . . a lot of ad hoc, arbitrary and chaotic decisions take place in respect of party caucuses

If you want to avoid chaotic circumstances, then this bill is the last thing that you would want.

It's a good time to consider, colleagues, what makes party leaders leave their positions. We have heard examples of Kathy Dunderdale of my province of Newfoundland and Labrador, and Alison Redford of Alberta. Neither left as a result of a confidence vote of caucus. In fact, both received overwhelming majority mandates from their electorate and then resigned from their respective posts because they saw the writing on the wall and were pressured out of office.

I asked the Library of Parliament to research the question: What has leadership review been caused by in the past? The response: resignation from failing health, party defeat at general election, failure to win a seat in the general election, party merger, and internal pressure from the party or parliamentary caucuses. Our system is not broken, colleagues. It's not in chaos. It works just fine.

The arguments for this legislation are weak. Let's look at the provision in this legislation that defines caucus as "a group composed solely of members of the House of Commons who are members of the same recognized party."

If passed, this will be the only instance in Canadian legislation where the term "caucus" is defined. Why is that? This is because caucus is a party term and not a legislative term.

Let's look at the other countries that have been used as support for this legislation. According to the Library of Parliament, in the United Kingdom the term "caucus" does not appear. It is absent from the glossary on the U.K. Parliament website that lists key terms. It was not found in *Erskine May Parliamentary Practice, 24th Edition*. A search through pertinent U.K. legislation produced no results. Yet the author of Bill C-586 continues to invoke the Westminster model as a basis for this legislation.

Colleagues, let's look at Australia. The term "caucus" is not used or defined in the Australian *House of Representatives Standing Orders*, nor in the *Standing Orders and other orders of the Senate*. A definition of caucus could not be found in Australian legislation or courts. Their parliamentary glossary does define it as "the meeting of the parliamentary members of a political party" and "the members of a Parliament belonging to a particular political party"

Colleagues, let's not forget that while the common nomenclature in Canada is MPs and senators, we are all members of Parliament, separated as senators and members of the House of Commons.

Finally, in New Zealand, no formal definition used in legislation or the courts could be found, and on the New Zealand Parliament's website, "caucus" is defined as "A collective term for all members from the same political party."

These three countries don't define "caucus" in legislation, but Bill C-586 attempts to, and then sells it as a model of the other three. Further, as Bill C-586 does define it, it is at odds with the accepted inclusive definitions found in the glossaries of our sister Westminster countries.

The term "caucus" in Canada is clearly defined as a party term, and this is shown with absolute clarity that resides in this chamber. The Conservative Party defines it as members of the House of Commons and senators that belong to our party. The Liberal Party currently defines it as members of the House of Commons only.

At the committee that studied this bill and where Mr. Chong was a witness, in answer to a question from Senator Martin, he said that party caucuses are issues of Parliament. Neither I nor our Library of Parliament could find support for this assertion.

The term "caucus" is not currently defined in any Canadian federal statute. However, a definition of "caucus" is found in the glossary of parliamentary procedure, which defines it as "a group composed of all Members [of the House of Commons] and Senators of a given party."

Similarly, in the publication *House of Commons Procedure and Practice*, a parliamentary caucus is described as the aggregated collectivity of members of the house belonging to the same political party, along with our counterparts in the Senate.

Finally, no definition of caucus by Canadian courts could be found. A long-standing legal position has been adopted by the courts, in which political parties are viewed as private entities or

private associations of individuals coming together for a common purpose in pursuing political office and articulating political positioning.

In Mr. Chong's presentation to Conservative senators, he was asked why he would have it included in legislation as that definition of "caucus" would specifically exclude senators. His response was shocking and lacked any sense of what a unified and successful team is. He said that you can still attend the Wednesday meeting.

Some Hon. Senators: Oh, oh!

Senator Wells: Well, how magnanimous.

Colleagues, I think we can put this element of the legislation to bed. The definition of caucus is not supported by the U.K., New Zealand or Australian legislatures and it's exactly the opposite of the definition that already exists in Canadian reference documents generated by the House of Commons.

Honourable senators, the system proposed in Bill C-586 does not take into account the views of the members of the party. Party leadership and policies could be entirely determined by a section of parliamentary caucus. It specifically excludes many long-standing members and builders of the parties. As I look around the chamber, I see experienced and respected political organizers, policy experts, fundraisers, candidates and loyal soldiers — all critical elements of grassroots politics.

Further, this legislation will result in periods of considerable and possibly frequent political instability. It would clearly create factions and divisions within a caucus, where single-issue rumps can usurp the will of the majority by threatening to destabilize the leader. It can further create caucus rivalries that can divide along linguistic, regional or rural-urban lines. These divisions don't make for a united caucus, party, loyal opposition or government.

Under this legislation a situation could arise in which voters elect a party to form government and its leader would therefore become Prime Minister, only to have a section of the caucus of that party switch who is Prime Minister, with no procedural recourse or consultation with the voters. We cannot help create a law that makes this a real possibility. In fact, colleagues, it is the sole intent of the law to do this.

Colleagues, if this bill passes in its current form, my province of Newfoundland and Labrador will not have a voice in the expulsion of the leader of my party, nor a choice of an interim leader, as Newfoundland and Labrador has no Conservative member in the House of Commons.

Equally, a large province like Alberta would have no voice in any discussion regarding a Liberal leader and barely a whisper on an NDP one. In fact, with so few Liberal members of the House of Commons from Manitoba west, a clear imbalance exists that is divided on regional grounds, something that our country has fought long and hard under numerous governments to overcome. Further, the inclusion of territorial voices is significantly diminished as only one federal party is represented in each of these jurisdictions.

[Senator Wells]

It seems the intent of this bill is to empower members of the House of Commons. Empowering is a noble cause, but there is always another side to that equation. For one to gain power, another has to lose it. It is clear that the grassroots members of political parties, the ones who are the foundation of a democratic system, come out on the short end. My province and other provinces lose out as well. Our three territories are pushed to the back of the line.

Colleagues, supporters of this legislation have put forth a number of reasons that this bill should become law: that the author has worked long and hard on this bill; that our Parliament is in chaos; that it is the job of the Senate to see to the will of the house; that it is voluntary legislation; that the Senate's reputation will undergo further damage during these difficult times; that it has nothing to do with the Senate; that the author is a maverick; that attaching amendments will kill it; and that it is late in the session and we should do our job and pass this bill.

Colleagues, we have had this bill among many private members' bills and government legislation on our docket for less than four months. It languished in the other place for 11 months. We have not been dragging our heels or ragging the puck. We have done our job, and we have done it expeditiously and with great care.

The Hon. the Speaker *pro tempore*: Senator Wells, would you like more time?

Senator Wells: May I have another five minutes, colleagues?

Hon. Senators: Agreed.

Senator Wells: Thank you, colleagues. It will be two minutes.

Gallery suggestions to the contrary are insulting and incorrect. Honourable colleagues, if we pass this bill as is, let's do it because it's a good bill. Let's do it because it builds on the foundation of our democracy, because it corrects an injustice, and because it is right for Canada.

Honourable colleagues, Bill C-586 does none of these.

• (1400)

MOTION IN AMENDMENT

Hon. David M. Wells: It is for these reasons and others that I move the following amendment:

That Bill C-586 be now not read a third time, but that it be amended in clause 4, on page 2, by adding, after line 33, the following:

"**49.21** Section 49.2 does not apply to the leader of a party."

Thank you, honourable colleagues.

Hon. Pierrette Ringuette: Would the honourable member take a few questions from me?

Senator Wells: Yes, senator.

Senator Ringuette: I'm not very familiar with the Tory party policy, but do you have a policy and rules in regard to leadership review?

Senator Wells: Thank you, Senator Ringuette, for your question. It's common and typical and general practice that after an election the party would decide on a leadership review.

Senator Ringuette: Well, is it within party rules that you only have a review after an election?

Senator Wells: It's a normal practice, senator.

Senator Ringuette: In other words, you have no rules in regard to leadership review.

Senator Mockler: No, no, we do; we just said.

Senator Ringuette: That's what I'm asking.

Senator Wells: Yes, it is our common practice.

Senator Ringuette: Is it a practice or a rule?

Senator Wells: You can have rules that are common practice.

Senator Ringuette: As far as I can see in the last 10 years, your party has had no leadership review.

My other question is in regard to the vote on third reading on this bill in the House of Commons. Could you tell us how Conservative MPs voted on this particular bill?

Senator Wells: Yes. In fact I was in the chamber when they voted on that bill at third reading. From my memory and from various documents I've read where it has been referenced — and I'm very glad you brought that up — they voted 260 to 17 to empower themselves. That empowerment would be at the expense of grassroots.

Senator Ringuette: I guess that says it all, honourable senator.

Hon. Anne C. Cools: Honourable senators, I am very curious about Senator Wells' positions and also his explanations.

Senator Wells, there is no doubt that political parties are private societies.

Senator Tkachuk: What?

Senator Cools: Private societies or private clubs, and they are not liable for much, but they are private clubs; that is what they are. It is well known that within those private clubs, the parliamentary wing of the party — which is what we used to call it before — is called the caucus. You say that Britain, Australia and another country do not really have the legal term "caucus."

My question to you is about, in 1922, when Liberal Prime Minister Lloyd George, then the Prime Minister in a coalition government with the conservatives, fell by the Conservative caucus vote to withdraw their support for Lloyd George's coalition government. This produced Lloyd George's resignation minutes, and within two hours or so a new Prime Minister, Bonar Law, was sworn in at Buckingham Palace. Do you not think caucuses in the United Kingdom are very powerful?

Senator Mockler: Question!

Senator Cools: Honourable senators, my next question is: Do you think that at this stage and development in our community that political parties can continue to operate as secret societies and that their caucuses can be based on secrecy where they persecute — caucus members —

Senator Mockler: That's a speech. Question!

Senator Cools: — for the sole reason of controlling them?

The Hon. the Speaker *pro tempore*: Honourable Senator Cools —

Senator Cools: Do you think that such actions are viable in today's community of diversity and transparency?

The Hon. the Speaker *pro tempore*: Senator, you are running out of time.

Senator Wells, you have 30 seconds.

Senator Cools: Then give him more time; it is an important issue.

Senator Wells: I don't think I'll need that long, Your Honour.

I don't accept the premise of the question as truth, so I don't have an answer about the secret-secret society within a secret society.

The Hon. the Speaker *pro tempore*: We're out of time.

Senator Cordy on debate.

Hon. Jane Cordy: I will speak very briefly on Bill C-586 and the amendment that has been presented.

I would like to thank Michael Chong for the work that he has done in bringing forward Bill C-586. The bill's intent is to give power to the elected members of Parliament and to reduce the control of party leaders. Its goal is to empower all members of Parliament and that certainly is a step in the right direction.

This legislation is opt-in for an MP caucus. It has flexibility. It will, however, provide a template for a caucus and it should allow for a healthy discussion among caucus members.

Honourable senators, this bill is but a small step, but it is a move in the right direction. As Bob Rae stated when he appeared before the Rules Committee:

My own view is that the bill does not go far enough. I would like to have seen more said about the election of committee chairs, the way in which committees function in the house, as well as ensuring a greater independence for members with respect to voting on bills, and what should be a matter of confidence and what should not be.

Having said that, I'm a big believer that you take what's there.

When Mr. Chong appeared before the Rules Committee, he said:

. . . the reform act concerns only the House of Commons. It concerns how the caucuses of the House of Commons are to be governed and how members are to be elected to the House of Commons.

Honourable senators, we know that members of the House of Commons who are most directly affected by the legislation voted in favour of the reform act by a vote of 260 to 17. That is 95 per cent of the MPs. By the way, I'm not suggesting that we vote in favour of the bill because the house voted in favour of the bill. I'm simply giving you this information. I will agree with Senator Wells that it is not the job of the Senate to necessarily follow the will of the house.

Honourable senators, I've received hundreds of emails from Canadians who want the Senate to pass this bill. Just yesterday I received an email from Mike McNeil, which was addressed to all Nova Scotia senators. He stated:

As a resident of the province of Nova Scotia and a proud Canadian citizen, I am writing to request that you direct your sincere efforts to move forward the third reading of The Reform Act and further to vote in favour of its passage into law.

Honourable senators, Canadians want change on Parliament Hill, in the House of Commons and in the Senate. This is a small step and it may not be perfect, but I will be supporting it.

The Hon. the Speaker *pro tempore*: Senator Jaffer on debate?

Hon. Mobina S. B. Jaffer: Honourable senators, I rise today to speak on Bill C-586, a reform bill. We are all aware there's thirst for reform by Canadians.

Senator Martin: On a point of order —

Senator Jaffer: I want to speak on the amendment.

Senator Martin: On the amendment, thank you.

• (1410)

Senator Jaffer: I thank Mr. Chong for his vision and persistence. The time is right now. Bill C-586 was introduced in the House of Commons on April 2014 and received by the Senate in late February 2015.

The bill would amend the Canada Elections Act so that the chief agent for every party must indicate the names of individuals authorized by the party to endorse prospective candidates. It will also establish processes for caucuses composed of members of the House of Commons to expel and readmit members, to elect and remove a caucus chair, to require leadership reviews and to elect an interim leader. The measures would apply to caucuses that move to adopt this bill.

I listened to Senator Wells very carefully, and honourable senators, what Senator Wells says is compelling. I also listened to my deputy leader, Senator Fraser, when she spoke as the critic of this bill. I commend Senator Fraser for her remarks. She was incisive and an exceptional critic on this bill. Honourable senators, I also listened carefully to our colleague Senator Runciman, who spoke with great passion on this bill. His intervention was succinct on why we should support this bill.

Honourable senators, I am a member of the Rules Committee. As a result, I also had the privilege to hear my former leader Bob Rae speak, as well as Stéphane Dion and former Speaker Milliken.

Mr. Rae said the following:

I think what Mr. Chong is trying to do is a step in the right direction. When you come right down to it, it's a pretty modest step, but it begins to get the debate going in a more focused way about how to ensure that we continue to distinguish between Parliament and the executive. It's an attempt to define, if you like, the role of the party leader in a way that somewhat limits the power of the executive or the power of the leader, but does so in a way that is quite respectful of political realities of the time.

I will not go on quoting Mr. Rae except to say that Mr. Rae went further and said that he would like the bill to be more expansive and to give more rights to party members. Speaker Milliken also spoke about how he supports the bill.

My former leader Mr. Dion was not as much in favour of this bill. He set out six reasons why one should vote against this bill. I will set out the six reasons he set out:

First, Bill C-586 is proposing rules that are questionable. I am particularly averse to the odious notion of a member being expelled from caucus by a secret ballot rather than by a show of hands. . . .

Second, it would be a mistake for Canada to become the only democracy to impose by law a set of identical internal democratic rules on all parties and recognized parliamentary caucuses. . . .

Third, with thresholds as low as 20 per cent for calling a prime minister into question and 50 per cent plus one for his or her removal, a prime minister could be blocked from taking necessary decisions if they are unpopular with some members of the caucus. . . .

Fourth, why should Canada become the only democracy to impose, by law, this incongruous rule, a rule whereby a leader elected by its party membership could be expelled by only one half of the caucus? . . .

Fifth, under Bill 586, a leader could be expelled by a caucus that comprises very few representatives, or none, from a given region. That is the case with the current Liberal caucus, with only four elected MPs from the four Western provinces and the three Northern territories, and the Conservative caucus with only five Quebec MPs. Does it make sense to hand over the power to remove a leader to only half the members of such regionally unbalanced caucuses? I do not think so.

Sixth, it is true that Canadian parliamentary democracy is in bad shape, but I and others, including my party, have proposed more effective means to address this problem

Mr. Dion continues:

Now, let me move on to my second position. Regardless of how bad the bill is, the Senate must not block it. In its 2014 opinion, the Supreme Court provided a good description of the Senate's role as the chamber of sober second thought. The court wrote that the Senate must be "a complementary legislative body, rather than perennial rival to the House of Commons in the legislative process." That is why the convention, which honourable senators have followed since Confederation, has been that the Senate proposes amendments from time to time, amendments that the House of Commons often accepts, and which play a useful role. However, the Senate very rarely, outside of exceptional circumstances, rejects bills passed by the House of Commons.

Honourable senators, Mr. Dion went on to say that even though he has many issues with this bill, he feels that we should not hold on to this bill and we should pass it. I'm a great fan of what Mr. Dion says, and for the reasons that he has set out — even though there are real problems with this bill — I support this bill. I urge you: Let us vote on this bill today.

Senator Mockler: Question.

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

Hon. David P. Smith: I don't have a question, but I will speak.

The Hon. the Speaker *pro tempore*: I think Senator Batters is next. You can speak afterwards.

Senator D. Smith: That's fine. I'm not arguing.

The Hon. the Speaker *pro tempore*: Senator Smith on debate.

Senator D. Smith: I will be supporting this bill. I'm not suggesting that it is perfect, but it is a bill passed by the house on how they structure and organize themselves. First of all, what are some of the problems they are trying to address?

I have sat in the House of Commons. One of the things that strike me as a negative about it is that everything is done by whips all the time and you are playing the role of a robot. I think when individual members are able to get their positions out more clearly more often and say what is really on their mind, that's a good thing.

One of the things that I'm quite influenced by on this is that — of all places — the oldest Parliament, the mother of Parliament, the United Kingdom, has ways to do that. They have three different categories of legislation, and one of them is if it's a budget or something like that and they're going down and there's an election, then the three-line whip is out. In other instances, however, you don't have to, and the government isn't defeated if they don't get through something that wasn't put in that category.

I think that is desirable. That gives MPs an opportunity to play a more meaningful role and to speak out and say what they think. When you're in a country that believes in freedom and freedom of speech, and you have been elected to represent people, you should be able to say what you think. I think that it is regrettable when, for whatever reasons, the way our Parliaments have been structured, the whips are at everything, and you are restricted from being yourself.

Senator Day: No offence.

Senator D. Smith: I think the more instances where you can be, it is desirable. I honestly think one of the inspiring things is to look at the oldest Parliament in the Commonwealth by far, because the United Kingdom has done that.

First of all, this is how they are structuring their house, and we're going to tell them, "Oh, no, you guys are wrong."

Senator Cordy: Like Bill Casey.

Senator D. Smith: Okay, Bill Casey. I could go on about this, but I think I made my point. I'm not suggesting it is perfect, but I think it is progress in opening up Parliament more and allowing people to say what they really, truly think, and sort of minimizing the number of instances where everybody's whipped on things. I can understand that where it is determining if a government stands or falls, but not routinely.

I think this is progress. It is up to them to decide how their house is going to operate. If they were to pass something telling us how to operate, what would the reaction be? Think about that.

That's why I support it.

Hon. Jim Munson: I have a question. Would the honourable senator accept a question?

Senator D. Smith: With joy.

Senator Mockler: Not from a robot.

Senator Munson: As a nice, independent Senate Liberal whip, have you been allowed to speak?

Senator D. Smith: Yes. I am not complaining about our situation.

• (1420)

Senator Ogilvie: It is always the other bunch.

Senator D. Smith: When Justin Trudeau took a certain action —

Some Hon. Senators: Who?

Senator D. Smith: You know what I'm talking about. There were different reactions to it, but when it happened I was reminded of those immortal words of Martin Luther King Jr., "Free at last, free at last, thank God almighty we are free at last."

Hon. Scott Tannas: On debate on the amendment. I've already spoken to the bill itself. I thought Senator Wells spoke very eloquently. There were just a couple of things that led up to the amendment and include the amendment that troubled me that I thought were worthy of comment.

Senator Wells mentioned that we ask party members to donate and to pick a leader. In our case, in the Conservative Party, I expect that the gap between the picking of the leader will be maybe 15 years — maybe longer.

We ask them to donate every year, but he forgot to mention that every four years or so we ask them to nominate candidates and to send those candidates to the polls and ultimately to the caucuses here in Parliament.

I want to remind everybody that members of Parliament don't fall out of the sky. They come through a party process that involves the grassroots party members and sends them here and, in our case, with a much newer mandate as to what is on their minds than what happened a decade ago.

To say that members of Parliament somehow are completely dislocated from the grassroots party is absolute hogwash, and anybody who has been involved in party politics at the constituency level or been a member of Parliament knows that fact.

Number two is that I agree. I think the template that has been put forward has some flaws. I'm not crazy about the 20 per cent, for the reasons that we have all talked about here. I can see the

genius of the 20 per cent in the sense that that's a reasonable number of malcontents or people who are unhappy to trigger a vote. But the idea that those malcontents would be able to do this in a way that would be disruptive over and over again forgets the other thing that is part of this bill, and that is that caucus can vote to eject members. I suspect they would move quickly to eject malcontents who were there to destabilize.

Finally, one of the things that I thought was interesting is that we've had a number of people who have given us their opinions about why we ought to pass this bill. Senator Wells mentioned Stéphane Dion. He mentioned a number of great quotes from Stéphane Dion's testimony except for one, which was that in his learned view — we all quoted his quotes, so we must like him — he recommended that we pass this bill.

Senator D. Smith: That's true.

Senator Tannas: With that, I want to say that I will not support this amendment and that I intend to vote for the bill, obviously. Thank you.

Senator Ringuette: On debate on the amendment. I was listening very carefully to Senator Tannas in regard to his comments on this amendment, and I wholeheartedly agree.

You have to understand that if a group of 20 per cent asks for a vote, there is the 80 per cent that will decide. It is a sheer number, and afterwards that 80 per cent can expel any one of the 20 per cent that triggered that situation.

I've been in politics for 28 years in the provincial legislature, the House of Commons and now here, and I am grateful that I have distanced myself from politics. I find that Senator Wells' amendment completely destroys the intent to further democracy, at least it's a baby step in that regard.

His amendment, saying that it does not apply to the leader of a party, is a complete destruction of the intent of the bill. It's the wrong signal. When I asked Senator Wells how his party caucus in the other place voted, they voted overwhelmingly in support of the bill.

That being said, the Parliament of Canada Act says that each house has the exclusive privilege to run its own affairs. That has been a principle that we've adhered to for as long as I can remember. This is one of these issues. The House of Commons overwhelmingly, all parties, has supported this piece of legislation. Who are we to say that they cannot operate how they wish to operate in the other place?

If we want to have such legislation, I believe I would kind of welcome it and that would be our fate to decide. They have decided what they want and how they want to operate.

Senator Wells, with this amendment that you have put forward — I wasn't born yesterday — I certainly realize that the main issue is to, first of all, remove the essential element of the bill, which is the leadership of the party. The second thing is that

if you, on that side or some on this side, decide to support this amendment, you are automatically killing this bill because the other side is no longer in session.

This is not a mere gesture. The vote on this amendment will either support or kill the bill. Because if you vote in favour of this amendment — which I don't agree with, never mind the wording, but the process — you are effectively killing this bill. I'm not so naive as to think that Senator Wells is not intelligent enough politically to know that will be the effect of what he wants to do in regard to this bill.

Therefore, I will not support this amendment. I feel no moral authority to do so. I will wholeheartedly support Mr. Chong's bill.

Hon. Donald Neil Plett: Would you accept a question?

Senator Ringuette: Yes.

Senator Plett: Senator Ringuette, I have two questions. First, Senator Ringuette, what type of a leadership selection process do you support? Do you support a delegated selection process where members of the House of Commons and other fairly important people in a party control all the delegates? Or do you support supporters of the Liberal Party selecting a leader, as in your case, or members of the Conservative Party selecting a leader, as in our case? What type of a leadership selection process to you support?

• (1430)

Senator Ringuette: As far as I can see, the bill in front of us has nothing to do with a leadership selection process. It's about leadership review. It's not only 20 MPs that would reject a leader; it has to be the majority, but 20 can trigger the process. So automatically, it would trigger a leadership review from the base, from the grassroots.

I just asked the question to Senator Wells. It seems that in the last 10 years there has been no process whatsoever within your party on a regular basis to have a leadership review, whether or not there's an election.

Essentially, Senator Plett, the bill in front of us is not a leadership election process; it's a questioning of the leadership.

Senator Plett: Certainly, as I expected, you didn't get anywhere close to answering my question, and you accuse the Conservative Party of not having a process. Of course we have a process. After every election, if we don't form government, if we lose the election, we have a leadership review, and that leadership review is by the membership of the party, not by MPs. So we have that process in place.

I believe, and you can correct me if I'm wrong, that your party — I guess not your party, but the party that kicked you out of their party — has a process where if they don't form a majority government, they have a leadership review. I'm not sure. That, of course, isn't my question.

I will try a second question since you didn't answer the first one. You mentioned that 20 per cent can start this leadership review process. It wouldn't be disruptive, I think is what you said, because the 80 per cent will make the decision. Of course, that isn't true. It could be another 30 per cent that make the decision. It wouldn't necessarily be the 80, because 20 plus 30 will be the 50 per cent they need to turf the leader, so it could be another 30 per cent. But then you said, "Well, the 80 per cent could kick the people out of caucus."

Let me ask you another question and see if you can answer this one. I certainly hope and expect and have every reason to believe that we'll form a majority government, but let's say we don't. Let's say we form a minority government of one or two or three, and 20 per cent of the caucus decide that wasn't good enough, so now they need a leadership review on our leader, who will still be the Prime Minister, and they lose that.

Senator Cordy: I don't think so.

Senator Plett: What happens if the 80 per cent kick those three out when we only have a two-seat cushion on a minority? That's not going to be disruptive to the government?

Senator Ringuette: Do I need five minutes more to answer the question?

The Hon. the Speaker *pro tempore*: It's up to you. You have six minutes left.

Senator Ringuette: First of all, Senator Plett, I did answer your first question. I answered the first question in regard to the bill that we have in front of us.

In regard to your second question, if you want to talk about a democracy, when only about 52 per cent of the population exercises their right to vote on election day and we have a Prime Minister in a bill further curtailing the ability and the information to enhance voter turnout and we have a government that has, yes, the majority in the House of Commons, senator, that is only 30 per cent of 52 per cent of the voter turnout.

Therefore, coming back to the 20 per cent required to trigger this process within the bill, I think it's absolutely adequate. Furthermore, I agree that whatever happens in regard to the operation in the House of Commons between MPs, which has been voted to almost 90 per cent, I think that's a democratic vote that we have to respect.

POINT OF ORDER

Hon. Anne C. Cools: I rise on a point of order. Colleagues, Your Honour, this amendment cannot be voted on because it is defective and it is flawed, particularly in the numeration. Senator Wells' amendment states:

That Bill C-586 be not now read a third time, but that it be amended in clause 4, on page 2, by adding, after line 33, the following:

"49.21 Section 49.2 does not apply to the leader of a party."

If you cast your eyes to section 49.2, you can see there's no room for a 49.21. This is flawed. It is defective. It is a drafting problem. We cannot vote on it at this time.

Your Honour, if you could please rule.

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

Hon. David M. Wells: I don't at this moment, Your Honour, but if I could have some time to check on that, I can get back to the chamber.

Senator Cools: Point of order. The bill is still defective. We cannot continue debate on the amendment. It is flawed. The debate has to be interrupted to deal with the fact that the numeration of the amendment before us is flawed or defective.

Shall I read it again?

Hon. Senators: No.

Senator Cools: In any event, it is out of order.

The Hon. the Speaker *pro tempore*: Senator, thank you. We are seeing what should be done, so patience, please.

[*Translation*]

Senator Maltais: Thank you very much—

The Hon. the Speaker *pro tempore*: No, we cannot continue the debate until the problem has been resolved.

Senator Maltais: Okay.

[*English*]

Hon. Joseph A. Day: On the point of order, I'm not entirely in agreement with Senator Cools because the amendment is quite clear. If you look at the amendment — never mind the debate that's been going on — it merely says that with this amendment, the leader of the party cannot be removed by a 20 per cent vote from caucus. That's all that this amendment says. That's not out of order. There's a process for removing people from caucus, but it doesn't apply to the leader of the party. That's what the amendment says.

The Hon. the Speaker *pro tempore*: Senator Cools is worried about the numeration, not the wording. The numeration is not exact.

Hon. James S. Cowan (Leader of the Opposition): I really hesitate to jump into this debate, but we have 49.1, 49.2 and then we have 49.3. As I understand it, Senator Wells proposes to insert between 49.2 and 49.3 another section, which rather than 49.21 might be 49.2.1. Would that reflect what you're trying to do, senator?

[Senator Cools]

Senator Wells: That is correct, Senator Cowan. I just went through the bill and my motion, so if I could seek leave to correct the typo?

The Hon. the Speaker *pro tempore*: Do I have leave, honourable senators?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

Senator Cools: Not quite yet. Somebody here has to officially and formally identify the exact typo. The table has to take notice of this and something has to be done. You don't just say, "Give me a minute and I'll correct it."

The Hon. the Speaker *pro tempore*: We've had advice from the Clerk. I'm going to suspend for a couple of minutes because we're getting an opinion from our legal team.

Hon. Senators: Agreed.

The Hon. the Speaker *pro tempore*: We will have a five-minute bell to recall senators.

(The sitting of the Senate was suspended.)

• (1500)

(The sitting of the Senate was resumed.)

The Hon. the Speaker *pro tempore*: I thank Senator Cools for her intervention.

Honourable senators, I have reviewed the text of the motion in amendment of the Honourable Senator Wells and would like to address the point of order raised by the Honourable Senator Cools.

While it may not appear intuitive, the number "49.21" that appears in the text of the amendment is, in fact, correct.

This amendment proposes to enact a new section in clause 4 of the bill, between section 49.2 and 49.3 of the Parliament of Canada Act, which the bill seeks to amend. This amendment does not seek to create a subsection of 49.2.

The enumeration used in federal legislative drafting standards in such a case is to use the number of the preceding section and add a "1" to the end. The standard was followed.

Therefore, Senator Cools' point of order is not founded.

Debate on the amendment may proceed.

[*Translation*]

Hon. Ghislain Maltais: Honourable senators, we have been debating this bill for some time and there is a term that I have not heard very often, and that is "party member." What is a political

party? It is a group of people who unite under the same banner to lobby, get representatives elected to a parliament and elect a leader.

In every democratic society, the party membership forms the basis of democracy. It is wrong to suggest that a political party is a private club. To do so would be to completely overlook the work that party members do in every riding at election time, to overlook the work party members do when it comes time to develop a platform. The party membership appoints delegates at conventions, works for the political party, and helps develop a political agenda. The leader chosen by the party members must fight for their ideas in the provinces and across the country. The leader who is elected is the Prime Minister. He is first given his mandate as the leader of the party by the party membership, not by MPs or a caucus. We need to respect the foundation of every political party.

I would be remiss if I failed to mention that, although it may be frustrating to some people, the term “party member” is at the very foundation of democracy. Once again, we need to take that into account in this bill, and Senator Wells’ amendment clarifies that function.

There is another factor that must be taken into account and that is a full democracy. Those who have worked in a parliament, those who have had to face leadership crises, know full well how it works, and party members are not consulted nearly as much as they should be. If we wanted to give this bill a meaningful purpose, we should have put more focus on the role of the membership within a party. That is what we should have done.

The other factor, Your Honour, is that some senators were pointing fingers earlier. “If you vote for this amendment, you’re going to kill the bill,” we were told. For three days now, we have been passing amendments. I do not agree. I will vote freely and according to my conscience, for I will not let anyone in the other place or this place tell me how to vote.

Hon. Percy Mockler: Senator Maltais, I asked Senator Plett a question this week, and my question was this: If this bill passes, what mechanism do we have in place to permit a riding that is not represented by a sitting MP or the membership of the various parties to be heard, in light of what you have heard in today’s debate?

Senator Maltais: Your Honour, all parties should have a constitution. There are some that don’t have a constitution. My party has a constitution. This is why riding associations are important, because they represent the party members and give them a voice, either through their leader or through their candidate. That is where grassroots representation is especially important.

Senator Plett knows very well what I’m talking about, for he himself was the president of a party, elected by the grassroots members, and the grassroots members sent delegates to the convention who voted for or against Senator Plett. Many more people voted for him than against him, because he served as president for a very long time. The party members were happy with his work, and that is how party members can productively participate in the democracy of their country.

[English]

Senator Mockler: Madam Speaker, on the amendment to the bill as proposed by my colleague Senator Wells, I participated in 1986 in the modernization of our Constitution, the Elections Act in the Province of New Brunswick. It was quite a debate and for the same reasons that I see in this debate today, because the objective of any political party is democracy.

There were a few questions asked of Senator Wells about the mechanism that the Conservative Party of Canada has in place when the time comes to permit our members, regardless of whether we have orphan ridings or members sitting as cabinet ministers and/or MPs, and I would like to add to what Senator Wells said in response to a few questions.

According to the articles of our constitution — and I want to share this with you — in addition to Senator Wells, I would like to apprise the house on the constitution of the Conservative Party of Canada, one of the most modern constitutions in the history of Canada.

Some Hon. Senators: Hear, hear.

Senator Mockler: It says in article 10.8, and I will share this with you, independent Liberal members.

In section 10.8 it says:

In the event of any of the following, National Council shall implement the leadership selection process at the earliest convenient date thereafter:

10.8.1 the death or retirement of the Leader;

10.8.2 the Leader indicates an intention to resign by submitting notice in writing to the President of National Council;

10.8.3 more than fifty per cent (50%) of the votes cast at a national convention as provided for in Article 10.6 are in favour of engaging the leadership selection process.

That’s what I call real democracy.

• (1510)

Some Hon. Senators: Hear, hear.

Senator Mockler: I will give you my experience when I came into politics.

In 1982, the riding that I asked to represent, the people voted for our party, and I was the first since Confederation to be elected with a majority. But every single time we kept, in that little riding of Madawaska South — and I will add that my colleague Senator Ringuette remembers that riding very well.

Senator Ringuette: I remember the election very well.

Senator Mockler: It was the election of 1987; 58 to 0 for Mr. McKenna.

That said, I came to politics by telling the people that I wanted to represent that they would always have a say in the process of democracy. My saying on the process of democracy was the following: Regardless if I was on the government or opposition side, we had a mechanism in place where we could bring to the attention of the caucus members — because they don't own the party. They're members of a party who have been elected to represent a certain riding, and they become caucus members.

Senator Stewart Olsen: That's right. One vote.

Senator Mockler: It is one vote. Just like us here.

We're parliamentarians. I will say it this way: Independents are not part of the Liberal caucus, but not being part of the Liberal caucus, they still have a say in the process of democracy. That's important.

An Hon. Senator: And the party.

Senator Mockler: And the party.

I say that it is a step in the right direction, but if we're going to make changes to the democracy of Canada, let us do it together and let us do it right, because I'm not a rubber-stamper.

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

Hon. Senators: Question.

The Hon. the Speaker: It has been moved by the Honourable Senator Wells, seconded by the Honourable Senator Batters:

That Bill C-586 be not now read a third time, but that it be amended in clause 4, on page 2, by adding, after line 33, the following:

“**49.21** Section 49.2 does not apply to the leader of a party.”.

All those in favour of the motion please say “yea.”

Some Hon. Senators: Yea.

The Hon. the Speaker: All those opposed to the motion please say “nay.”

Some Hon. Senators: Nay.

The Hon. the Speaker: Clearly the “yea” side has it.

And two honourable senators having risen:

Hon. Elizabeth (Beth) Marshall: I would like a standing vote at the next sitting of the Senate, on Monday, a deferred vote.

The Hon. the Speaker: Pursuant to rule 9-10(2), the vote stands deferred to 5:30 p.m. on the next sitting day, with the bells to ring at 5:15 p.m.

RAILWAY SAFETY ACT

BILL TO AMEND—THIRD READING

Hon. Donald Neil Plett moved third reading of Bill C-627, An Act to amend the Railway Safety Act (safety of persons and property).

He said: Honourable senators, it is a privilege to rise today to speak to another piece of legislation which seeks to improve railway safety in Canada. Bill C-627, An Act to amend the Railway Safety Act, reflects our government's commitment to our country, a model of world-class safety. This legislation proposes amendments to the Railway Safety Act to provide persons and property with greater protection from railway operations.

Member of Parliament for Winnipeg South Centre, Joyce Bateman, appeared at committee explaining the need for this important legislation in conjunction with the government's more comprehensive approach in Bill C-52.

Ms. Bateman acknowledged the Minister of Transport's leadership on improving rail safety in light of the tragedy at Lac-Mégantic. However, she noted a gap in existing legislation, stating at committee:

I have found another gap that I would like to fill in the interests of rail safety. Indeed, the current legislation does not allow the minister or rail-crossing inspectors to close a rail crossing when it presents a risk for pedestrians, cyclists, persons in wheelchairs or in vehicles.

In explaining how she came to propose her bill, Ms. Bateman told the committee about an incident in her riding where a woman in a wheelchair became stuck at a grade crossing. Fortunately, she was rescued in time.

As a result of this experience, the member is proposing changes to the Railway Safety Act through Bill C-627, which is focused on protecting people and property from railway accidents such as those that occur on railway tracks and at grade crossings.

Bill C-627 proposes amendments to provide express language to emphasize that certain authorities are also expected to be exercised to protect the safety of persons and property.

Specifically, the bill amends the Railway Safety Act by providing the minister with express authority to disregard objections received to proposed railway work if the work is in the public interest.

It also expands the authority of railway safety inspectors to restrict a railway's operations when their operations pose a threat to safety to include when the threat impacts the safety of persons or property.

The bill creates a new ministerial order that will allow the minister to require a company to take necessary corrective measures if railway operations pose a significant threat to persons, property or the environment. A ministerial order issued in response to a significant safety threat would remain in effect while under review by the Transportation Appeal Tribunal of Canada.

Bill C-627 complements the government's bill, Bill C-52, An Act to amend the Canada Transportation Act and the Railway Safety Act, as both align with the objectives of the Railway Safety Act. However, Senator Eggleton, while supportive of this legislation, raised some concerns about redundancy with both bills moving forward. Colleagues, allow me to quickly explain the differences between the two pieces of legislation.

In Bill C-52, new powers are given to the railway safety inspector to serve notice or notice and order to the person or company whose railway operations are affected by a threat. However, in Bill C-52, the language indicates that a threat is limited to a threat to railway operations.

In Bill C-627, the safety inspector is able to serve notice or notice and order if the railway operations are affected by the threat to railway operations or a threat to the safety of persons or property.

Also in Bill C-52, it is indicated that the minister may use an order requiring a company, road authority or municipality to take corrective measures, follow any procedure or stop any activity where the minister considers it necessary in the interests of safe railway operations.

Bill C-627 gives the minister an additional new power to order corrective measures in the case of a significant threat to the safety of persons, property or the environment. And, in fact, this specific provision recognizing a threat to the environment rectifies some of the concerns we heard from witnesses who testified on Bill C-52.

I urge honourable colleagues to give the minister and rail safety inspectors the powers they require to make Canada's rail system the safest in the world. I encourage you all to vote in favour of Bill C-627, an important element in our government's overall strategy to improve rail safety.

• (1520)

Hon. Joan Fraser (Deputy Leader of the Opposition): As colleagues know, Senator Eggleton is our critic on this bill, but he had to be out of the chamber just at this moment. Rather than hold up proceedings, he has authorized me to say that he has studied this bill. He has checked it against other legislation and finds that it is not in conflict with any other legislation. I think he said, "It will do no harm. How much good it will do, who knows?" But he saw no reason to oppose this bill.

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

Hon. Senators: Question.

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

Hon. Senators: Agreed.

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

CANADIAN COMMISSION ON MENTAL HEALTH AND JUSTICE BILL

NINETEENTH REPORT OF SOCIAL AFFAIRS, SCIENCE
AND TECHNOLOGY COMMITTEE—DEBATE
CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Frum, seconded by the Honourable Senator Dagenais, for the adoption of the nineteenth report of the Standing Senate Committee on Social Affairs, Science and Technology (Bill S-208, An Act to establish the Canadian Commission on Mental Health and Justice, with a recommendation), presented in the Senate on April 1, 2015.

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

CANADIAN HUMAN RIGHTS ACT CRIMINAL CODE

BILL TO AMEND—TWENTY-FOURTH REPORT
OF LEGAL AND CONSTITUTIONAL AFFAIRS
COMMITTEE—MOTION IN AMENDMENT—
DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Runciman, seconded by the Honourable Senator Batters, for the adoption of the twenty-fourth report of the Standing Senate Committee on Legal and Constitutional Affairs (Bill C-279, An Act to amend the Canadian Human Rights Act and the Criminal Code (gender identity), with amendments), presented in the Senate on February 26, 2015;

And on the motion in amendment of the Honourable Senator Mitchell, seconded by the Honourable Senator Dyck, that the twenty-fourth Report of the Standing Senate Committee on Legal and Constitutional Affairs be not now adopted, but that it be amended by deleting amendment No. 3.

Hon. Grant Mitchell: On a point of order on No. 1, I'm just wondering, Your Honour, just as a last-ditch effort, because we're all in the mood for voting, whether there's some way I could call the question on the report on Bill C-279 right now.

Some Hon. Senators: No.

Senator Mitchell: Can I just say “question”? Please could you give me a vote?

The Hon. the Speaker: If senators are not ready for the question, we can’t call the question.

Hon. Yonah Martin (Deputy Leader of the Government): If I may, it is adjourned, so I will adjourn for the balance of my time. I’m not prepared to speak today.

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

Some Hon. Senators: No.

Senator Cordy: Shame.

Senator Mitchell: I’m trying.

(On motion of Senator Martin, debate adjourned.)

ENDING THE CAPTIVITY OF WHALES AND DOLPHINS BILL

BILL TO AMEND—SECOND READING—
DEBATE ADJOURNED

Hon. Wilfred P. Moore moved second reading of Bill S-230, An Act to amend the Criminal Code and other Acts (ending the captivity of whales and dolphins).

He said: Honourable senators, I rise today to speak to a bill that I’m very proud to have tabled last week, Bill S-230, the ending the captivity of whales and dolphins act. The purpose of this bill is to phase out the keeping of whales, dolphins and porpoises in captivity in Canada.

The Hon. the Speaker: Order. Honourable senators, please.

Senator Moore: The purpose of this bill is to phase out the keeping of whales, dolphins and porpoises in captivity in Canada. I will explain exactly how this will work as a matter of law. However, I want to say at the outset that the practice of keeping these incredible creatures confined in swimming pools is unjustifiably cruel, and obviously so. I hope all parliamentarians, candidates and parties will support the ending the captivity of whales and dolphins act. This is not a political issue for a partisan faction to own. It is an ethical issue that should engage the conscience of every Canadian. Colleagues, and I say this equally to Conservative senators, Senate Liberals and independent senators alike, when it comes to phasing out whales and dolphins in captivity, we should come together and do the right thing.

Many Canadians are coming together on this issue already. It really touches a nerve. Since the bill’s announcement last week, my office has received an incredible outpouring of public support for this bill. Bill S-230 has also received the endorsements

of Phil Demers, formerly the head trainer at Marineland; Dr. Marc Bekoff of the Jane Goodall Institute; Gabriela Cowperthwaite, the director of the CNN-distributed documentary *Blackfish*; the Canadian Federation of Humane Societies; the British Columbia Society for the Prevention of Cruelty to Animals; Elizabeth May of the Green Party; three ex-trainers from SeaWorld in the United States and Zoocheck Canada. I will share some encouraging words from a few of these supporters later in my remarks.

Today I am particularly hopeful that this bill will have the support of the Leader of the Government in the Senate. As some of you may recall, I asked the leader about this issue back in October as part of our public Question Period, when I said:

Would this government support amending our animal cruelty provisions to phase out and eventually ban keeping whales and dolphins in captivity in Canada?

The response from the Leader of the Government in the Senate to me was:

Senator, if you think this situation needs to be corrected, you always have the option of introducing a Senate private member’s bill to take corrective action. The Senate could then examine it, as it does all other bills.

Honourable senators, I am pleased to say that I have now done my homework and I’m exercising that option, so I would ask the Leader of the Government in the Senate and his Conservative government to commit to supporting the ending the captivity of whales and dolphins act now or when I reintroduce it in the fall. I will be seeking that same commitment from every Canadian political party. As I said, this is an ethical issue. Canada needs to get on the right side of history.

Whales, dolphins and porpoises, which together are known as cetaceans, are highly intelligent, emotional and social mammals that range over vast distances in the oceans. In the wild, many species of whales and dolphins live in large family groups or pods, which can grow to over 100 members. Distinct populations communicate using complex vocalizations that resemble languages. Orcas have been known to roam 150 kilometres in a day, reach speeds of 45 kilometres per hour and dive to depths greater than 200 metres.

Keeping cetaceans in captivity requires holding them in conditions that are socially isolating, stressful and physically restrictive. Orcas experience dorsal fin collapse, significantly reduced life spans and stress-induced aggression. Dr. Lori Marino, a leading cetacean scientist at the Emory University in Atlanta, Georgia, even believes that captive cetaceans have attempted suicide by beating their heads against walls and leaping from their tanks. If anyone questions the suffering of captive cetaceans, I would invite them to watch *Blackfish*. It is a heartbreaking film. It is available on Netflix, and I hope to present a screening for parliamentarians in the fall.

Two Canadian facilities currently hold whales, dolphins and porpoises in captivity. Marineland in Niagara Falls, Ontario, a privately owned theme park, holds in captivity one orca,

five bottlenose dolphins and approximately 40 beluga whales. Phil Demers, the former Marineland trainer with whom we consulted on this bill, told us that the number of belugas is actually closer to 60. Of course, Marineland doesn't need to disclose that information because its whales are private property. However, Mr. Demers told us since that the United States generally won't allow the import of whales caught in the wild, Marineland purchases wild-caught whales from Russia, breeds them in Canada and provides them to American aquariums. Honourable senators, I think we can all agree that this is not something Canadians should be proud about.

The Vancouver Aquarium, a public facility, holds in captivity a Pacific white-sided dolphin, two harbour porpoises, a false killer whale and two beluga whales, with six additional whales on loan to U.S. aquariums, including SeaWorld. Not too long ago, that number of beluga whales was seven. However, in February, one beluga died a violent death in SeaWorld from a broken jaw. Also of note, the Vancouver Aquarium has a captive breeding program for belugas and is planning to expand its whale and dolphin tanks beginning this year.

How would this bill affect the status quo? Bill S-230 will phase out the keeping of whales, dolphins and porpoises in captivity by prohibiting captive breeding, imports, exports and live captures in Canada. Bill S-230 allows for the rescue and rehabilitation of injured cetaceans, which could be used in research if they cannot be returned to the wild. That is a very important point, since the Vancouver Aquarium typically alludes to rescues and research to justify its entire operation. This bill does not interfere with that small and defensible part of the Vancouver Aquarium's activities, which must not be conflated with their activities in general.

• (1530)

As to currently captive cetaceans, Bill S-230 allows the owners to retain those individuals but not to breed them. To put it bluntly, the bill shuts down Canada's whale farms. I am also happy to say that this bill builds on a recent Ontario law which phases out keeping orcas in captivity in that province. I would like to congratulate the Honourable Yasir Naqvi and the Ontario government on taking that forward step.

Ontario's legislation brings me to an important point. Legally, captive whales, dolphins and porpoises are private property falling under provincial jurisdiction. However, animals are a special kind of private property. In addition to the general prohibition on cruelty against animals, the federal Criminal Code also contains several specific prohibitions, for example, fighting or baiting animals or birds. This bill would add to these specific criminal prohibitions by banning the keeping of cetaceans in captivity, as well as captive breeding. In addition, performances and entertainment by currently captive cetaceans would require a licence from a province's Lieutenant Governor in Council.

Bill S-230 makes other important changes. The capture of wild cetaceans currently requires a licence from Canada's Minister of Fisheries and Oceans. By amending the Fisheries Act, this bill would prohibit live captures except for injured animals in need of assistance. In addition, the export and captive breeding of cetaceans is currently unregulated in Canada. This bill would prohibit imports and exports, including of cetaceans' reproductive

materials, by amending the Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act. These are important changes.

I was surprised to learn that Canada is behind other jurisdictions on this issue. Chile and Costa Rica have banned the keeping of whales and dolphins in captivity, and India has done so for the purposes of public entertainment. The United Kingdom has implemented restrictions so stringent that no cetacean is currently held in captivity, and Italy has banned the swim-with-the-dolphins programs and attractions. New Zealand requires ministerial proof for holding cetaceans, and many countries have banned live imports, including Cyprus, Hungary and Mexico.

Honourable senators, I want to share with this chamber some words from supporters that I mentioned earlier. Phil Demers, the former head trainer from Marineland, says the following:

As a former Marine Mammal Trainer, I believe the bill to ban cetacean captivity and breeding in Canada is imperative and long-overdue. I have witnessed the psychological and emotional consequences captivity imposes on these magnificent beings, and those who care for them. No living being should be forced to endure what I've witnessed, and it's my hope that this bill will finally put an end to these cruel practices.

Gabriela Cowperthwaite, director of the CNN-distributed documentary *Blackfish* that I mentioned earlier has the following to say:

I made *Blackfish* because I wanted to understand why a trainer came to be killed by a killer whale. I did not come from animal activism and had even taken my kids to SeaWorld. I simply had a question. I soon learned the heartbreaking story of orcas in captivity. All whales and dolphins suffer in marine parks, and seeing these incredible creatures reduced to performing tricks has no social, educational, or conservational value. It is time for us to evolve. I hope Canadians get behind Senator Moore's bill and end this practice.

Dr. Marc Bekoff, who sits on the ethics committee of the Jane Goodall Institute, has the following to say:

Science has clearly established that whales and dolphins suffer deep and enduring psychological and physical harms in captivity. The practice is ethically indefensible, and Senator Moore's proposed ban would be a timely and important change in Canadian law. These highly intelligent, emotional, and social species deserve to live free in the wild, where they belong.

Marineland and the Vancouver Aquarium have attacked this proposal. I hope they will both have the opportunity to make their cases at committee. However, I do not predict that their arguments will be persuasive. Marineland's response to this bill was particularly surreal, calling Bill S-230 "a bicoastal job creation and tourism bill at the expense of Ontario" that will rob "the average people of Ontario from a fair opportunity to see our marine mammals."

Honourable senators, it is the height of human ignorance to say that it is unfair that whales and dolphins only live in oceans. To my knowledge, no philosopher or religious leader has ever proposed a moral right to inland dolphin access. The reason, presumably, is that it is ridiculous.

As far as the tourism argument goes, I can guarantee this chamber that in the genesis of this bill there was not one mention of creating tourism in any other part of the country. There is no desire to see Marineland's full operations shut down. There is no desire to see any jobs lost. What is intended by this bill is to end the captivity of cetaceans because it is time to do so.

The Mayor of Niagara Falls, where Marineland is located, looks for Marineland to evolve. I quote what he has to say:

You know, 53 years ago we weren't recycling, we weren't wearing seat belts, we weren't worried about drinking and driving or performing marine mammals. In 53 years, a lot has changed. Society's perspective has changed.

Marineland needs a graduated opportunity to re-invent itself.

A spokesperson for the Vancouver Aquarium said that aquariums have scientific importance and that captive cetaceans help us to better understand those in the wild. The spokesperson cited the example of a young false killer whale rescued last July and how it provides researchers with an unparalleled opportunity to learn more about the species, including vocal communications.

First of all, I would note that Bill S-230 allows the rescue and rehabilitation of cetaceans, such as that individual, which can be used in research. In fact, the Pacific white-sided dolphins, which they are fond of citing as the subject of research, were also rescued. This bill will not interfere with rescues and research on rescued animals. That argument is a diversion.

What this bill will end is the Vancouver Aquarium's beluga captive breeding program. Dr. Jane Goodall had this to say about their practice:

... the current permission of Vancouver Aquarium cetacean breeding programs on-site, and at SeaWorld with belugas on loan, is no longer defensible by science. This is demonstrated by the high mortality rates evident in these breeding programs and by the ongoing use of these animals in interactive shows as entertainment. . . .

The phasing out of such cetacean programs is the natural progression of human-kind's evolving view of our non-human animal kin. . . .

Honourable senators, whether we should keep whales, dolphins and porpoises in captivity is an ethical question. I do not think it is a difficult one to answer. The bottom line is, whales and dolphins do not belong in swimming pools; they belong in the seas. This is a moral issue, and the time has come to extend

empathy beyond the human species. As the great Mahatma Gandhi said, "The greatness of a nation and its moral progress can be judged by the way its animals are treated."

Honourable senators, colleagues, our chamber can lead the way on this issue. With my whole heart, I ask you to please support Bill S-230, and regardless of your politics, please do what you can to bring others on board. Together, it is the right thing to do.

(On motion of Senator Andreychuk, for Senator Johnson, debate adjourned.)

INCOME TAX ACT

BILL TO AMEND—THIRD READING—MOTIONS IN AMENDMENT, MOTION IN SUBAMENDMENT AND MOTION—VOTE FURTHER DEFERRED

On the Order:

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

And on the motion in amendment of the Honourable Senator Bellemare, seconded by the Honourable Senator Black, that the bill be not now read a third time but that it be amended in clause 1, on page 5,

(a) by replacing line 34 with the following:

“poration;” and

(b) by adding after line 43 the following:

“(c) labour organizations whose labour relations activities are not within the legislative authority of Parliament;

(d) labour trusts in which no labour organization whose labour relations activities are within the legislative authority of Parliament has any legal, beneficial or financial interest; and

(e) labour trusts that are not established or maintained in whole or in part for the benefit of a labour organization whose labour relations activities are within the legislative authority of Parliament, its members or the persons it represents.”

And on the subamendment of the Honourable Senator Cowan, seconded by the Honourable Senator Ringuette, that the motion in amendment be not now adopted but that it be amended as follows:

(a) by deleting the word “and” at the end of paragraph (a) of the amendment;

(b) by adding the following new paragraph (b) to the amendment:

“(b) by replacing line 36 with the following:

‘of which are limited to the’; and”;

(c) by changing the designation of current paragraph (b) to paragraph (c).

And on the motion of the Honourable Senator Ringuette, seconded by the Honourable Senator Eggleton, P.C., that the subamendment be not now adopted but that pursuant to rule 12-8(1), it, together with the amendment, be referred to Committee of the Whole for consideration and report, and that the Senate resolve itself into Committee of the Whole, immediately following Question Period on the second sitting day following the adoption of this motion.

On the motion in amendment of the Honourable Senator Moore, seconded by the Honourable Senator Dawson, that the motion of the Honourable Senator Ringuette be not now adopted but that it be amended by replacing the word “second” with the word “first”.

Hon. Elizabeth (Beth) Marshall: Honourable senators, regarding the deferred vote this evening at 5:30 p.m., regarding the motion of the Honourable Senator Ringuette, in accordance with rule 9-10(4), I’d like to defer that vote to 5:30 p.m. on Monday, June 22.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

• (1540)

HUMAN RIGHTS

COMMITTEE AUTHORIZED TO MEET DURING ADJOURNMENT OF THE SENATE AND TO EXTEND DATE OF FINAL REPORT ON STUDY OF HOW THE MANDATES AND PRACTICES OF THE UNHCR AND UNICEF HAVE EVOLVED TO MEET THE NEEDS OF DISPLACED CHILDREN IN MODERN CONFLICT SITUATIONS AND DEPOSIT REPORT WITH CLERK DURING ADJOURNMENT OF THE SENATE

Hon. Mobina S. B. Jaffer, pursuant to notice of June 16, 2015, moved:

That, notwithstanding the orders of the Senate adopted on Tuesday, May 6, 2014, and Thursday, December 11, 2014, the date for the final report of the Standing Senate Committee on Human Rights in relation to its examination of how the mandates and practices of the UNHCR and UNICEF have evolved to meet the needs of

displaced children in modern conflict situations, with particular attention to the current crisis in Syria, be extended from June 30, 2015 to December 31, 2015; and

That, pursuant to rule 12-18(2)(b)(i), the Standing Senate Committee on Human Rights be authorized to sit between Monday, June 22, 2015 and Friday, September 4, 2015, inclusive, even though the Senate may then be adjourned for a period exceeding one week; and

That the Standing Senate Committee on Human Rights be permitted, between June 22, 2015 and September 4, 2015 and notwithstanding usual practices, to deposit with the Clerk of the Senate a report, if the Senate is not then sitting, and that the report be deemed to have been tabled in the Chamber.

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

Hon. Senators: Agreed.

(Motion agreed to.)

FOREIGN AFFAIRS AND INTERNATIONAL TRADE

COMMITTEE AUTHORIZED TO DEPOSIT REPORT ON STUDY OF SECURITY CONDITIONS AND ECONOMIC DEVELOPMENTS IN THE ASIA-PACIFIC REGION WITH CLERK DURING ADJOURNMENT OF THE SENATE

Hon. A. Raynell Andreychuk, pursuant to notice of June 16, 2015, moved:

That the Standing Senate Committee on Foreign Affairs and International Trade be permitted, notwithstanding usual practices, to deposit with the Clerk of the Senate a report relating to its study of the Security conditions and economic developments in the Asia-Pacific region between June 22, 2015 and September 4, 2015, if the Senate is not then sitting, and that the report be deemed to have been tabled in the Chamber.

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

Hon. Anne C. Cools: Can I ask a question? In the instance if we are being dissolved, how could this be in effect?

Senator Andreychuk: It would be in effect up to any dissolution.

Senator Cools: Up to. Okay, I understand. Thank you. I understand your intention.

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

Hon. Senators: Agreed.

(Motion agreed to.)

NATIONAL SECURITY AND DEFENCE

COMMITTEE AUTHORIZED TO DEPOSIT REPORT ON STUDY OF SECURITY THREATS WITH CLERK DURING ADJOURNMENT OF THE SENATE

Hon. Daniel Lang, pursuant to notice of June 16, 2015, moved:

That the Standing Senate Committee on National Security and Defence be permitted, notwithstanding the usual practices, to deposit with the Clerk of the Senate a report relating to its study on security threats facing Canada, from June 22, 2015 to August 31, 2015, if the Senate is not then sitting; and that the report be deemed to have been tabled in the Chamber.

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

Hon. Senators: Agreed.

(Motion agreed to.)

COMMITTEE AUTHORIZED TO MEET DURING ADJOURNMENT OF THE SENATE

Hon. Daniel Lang, pursuant to notice of June 16, 2015, moved:

That, pursuant to rule 12-18(2)(b)(i), the Standing Senate Committee on National Security and Defence be authorized to sit from Monday, June 22, 2015 to Friday, July 31, 2015, inclusive, even though the Senate may then be adjourned for a period exceeding one week.

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

Hon. Senators: Agreed.

(Motion agreed to.)

HUMAN RIGHTS

COMMITTEE AUTHORIZED TO DEPOSIT REPORT ON STUDY OF INTERNATIONAL AND NATIONAL HUMAN RIGHTS OBLIGATIONS WITH CLERK DURING ADJOURNMENT OF THE SENATE

Hon. Mobina S. B. Jaffer, pursuant to notice of June 18, 2015, moved:

That the Standing Senate Committee on Human Rights be permitted, notwithstanding usual practices, to deposit with the Clerk of the Senate a report relating to its study to monitor issues relating to human rights and, inter alia, to review the machinery of government dealing with Canada's international and national human rights obligations between June 22, 2015 and September 4, 2015, if the Senate is not then sitting, and that the report be deemed to have been tabled in the Chamber.

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

Hon. Senators: Agreed.

(Motion agreed to.)

ENHANCEMENT OF CIVILIAN REVIEW AND OVERSIGHT IN THE ROYAL CANADIAN MOUNTED POLICE BILL

BILL TO AMEND—SECOND READING— DEBATE SUSPENDED

Hon. Grant Mitchell moved second reading of Bill S-232, An Act to amend the Royal Canadian Mounted Police Act (Civilian Review and Oversight Council for the Royal Canadian Mounted Police and the Royal Canadian Mounted Police Ombudsperson) and to make consequential amendments to other Acts.

He said: Mr. Speaker and colleagues, this bill is Bill S-232 and it's entitled An Act to amend the Royal Canadian Mounted Police Act (Civilian Review and Oversight Council for the Royal Canadian Mounted Police and Royal Canadian Mounted Police Ombudsperson) and to make consequential amendments to other acts. The short title is Enhancement of Civilian Review and Oversight in the Royal Canadian Mounted Police Bill.

I did not develop this bill alone and I want to thank my staff very much and, in particular, I would also thank the staff of the parliamentary counsel's office. They have done yeoman's service and unbelievable work to get this done in what is the most hectic period of time for their work.

This piece of legislation is the culmination of what would now amount to almost four years or three and a half years of work. In December 2011, when the new commissioner, Commissioner Paulson, was called before the Defence Committee, I asked him several questions about sexual harassment and harassment in the RCMP because there had been much information about that coming out in the press. All of a sudden I received a great number of calls from people who had been severely injured in the RCMP, many of them extremely severely, due to sexual harassment and harassment.

I pursued that issue for a number of months, as we do in the Senate with issues that capture our attention. Eventually I ran out of options in trying to get a study, so I moved a motion in the Senate requesting that the Senate ask the committee to do a study of sexual harassment.

I moved that motion in spite of not believing for one minute that it would be accepted, since it was an opposition motion about something that the chair of the committee disagreed with, but in what could only be described as miraculous and what should be described as giving a great deal of credit to the government side, the government side came to the opposition side, my side, and said, "We would like to support that motion. We would like to have a study of sexual harassment done by the Defence Committee," and that was passed.

As a result, and under the leadership of a great chair, Senator Lang, and a great deputy chair, Senator Roméo Dallaire — now retired, sadly — the committee produced a consensus report entitled *Conduct Becoming: Why the Royal Canadian Mounted Police Must Transform its Culture*. This report addressed in specific terms the need to change the RCMP at a cultural level. This kind of behaviour isn't in every corner of the RCMP by any means, but was clearly of consequence and significance, and certainly somewhat widespread — that's been acknowledged both by the minister and by the commissioner.

In this report, the committee dealt with ways to fundamentally restructure change and improve the culture of the RCMP so it could be a safe place within its structure for women, in particular, but men also, to work without fearing and suffering the consequences of harassment.

That report was well-received and to some extent has had an impact on the RCMP, and there seems to have been some initiative that arose out of that. But there was also more to be done and in those days I joined with the member of Parliament, the Honourable Judy Sgro, and we produced a further report after meeting with the injured and their families across the country. We did a series of roundtables to get that side of the story out and addressed. We produced a report in December 2014 entitled *Shattered Dreams: Addressing Harassment and Systemic Discontent within the RCMP*.

• (1550)

This report came also with a number of recommendations, including, for example, the need to establish a binding problem-resolution grievance process that exists outside the independence of the chain of command; establishing a national psychologically healthy workplace strategy with sufficient resources to deal with post-traumatic stress disorder and operational stress injuries; to develop resource-sharing arrangements among the Canadian Forces and other policing organizations for operational stress injury prevention — I could go on.

What's encouraging is that the Veterans Affairs Committee has now begun to address these issues largely in the context of the military but also, and explicitly, with respect to veterans of the RCMP. There is probably a need to address the issues of operational stress injury and post-traumatic stress injuries with other first responders, because it's becoming more evident, for example, that firefighters and paramedics are beginning to realize that they, too, suffer from operational stress injuries.

I want to congratulate the Veterans Affairs Committee that has done work on the vets, the military and the RCMP sides, and has made a commitment to further that work with respect to the RCMP. That's to be encouraged and to be welcomed.

It's out of that kind of context that this piece of legislation came. One of the recommendations that MP Sgro and I made in our report was that there be established formal civilian oversight of the RCMP, which, apart from doing federal policing, does a great deal of municipal policing. I'm looking at Senator Tkachuk

and there's a good deal of it done by the RCMP in his province. They are a remarkable force, made up of remarkable people who have served this country in remarkable ways over many decades.

However, there is this blight that needs to be addressed. We found out, with the concerns of the military, and they've re-emerged, but in the revolutionizing, if I could say, of the military following the Somalia catharsis, the military found a great deal of use and effectiveness in establishing outside, not military but public membership-driven review bodies that helped them make a transformation that now needs to be recalibrated, yes, but certainly helped them make a transformation.

What I did for this bill was to look at police commissions for major police forces across the country. In my city of Edmonton, where I live, it's clear that there has been a successful police commission; in Calgary, as well. Most major police forces across the country have independent review public oversight commissions that assist the police chief and the police force, first, in limiting the pressure that could come from politicians, which is something we want to limit when it comes to policing, while at the same time providing objective oversight.

I want to draw the distinction here between "oversight" and "review." These are terms that are often used interchangeably and they shouldn't be. "Oversight" is more proactive, more managerial, not quite day-to-day but more a board of directors kind of assistance for, in this case, a police force. "Review" is after the fact, looking at complaints, identifying problems once they've occurred and trying to recommend fixes for the future. This is an oversight body that I am talking about. That's the first thing that's in this legislation.

The second thing would be the review function, which would be done by a Royal Canadian Mounted Police ombudsman.

I will describe what this bill would accomplish and what it would do once it's passed by this house and then by the House of Commons. It would, I believe, make a huge difference to how the RCMP could function, how it could begin to change its culture more rapidly than it's been able to do to this point, and how it could function, I would argue, even better than it already does and function under a structure that has become very traditional — if I can use "traditional" in modern police forces — which has become very widespread in the management of police forces.

The first part of the act will establish a council known as the civilian review and oversight council for the RCMP, not to be confused with the Civilian Review Complaints Commission which already exists and which does after-the-fact reviews and perhaps some proactive policy or issue reviews.

The council will consist of a chairperson, a vice-chair person and not more than 11 other members to be appointed by the Governor-in-Council. The objects of the council would be to review and oversee, in an independent manner, the operations of the force in order to enhance its effectiveness and efficiency, and provide an essential balance between public accountability and police independence.

Selection for the council would first need to be pre-approved by the committees of the Senate and the House of Commons that approve matters with respect to the RCMP — so our Defence Committee and their counterpart.

Selection must also consider regional representation.

The powers of the council would include reviewing draft budgets and other financial reports and statements of the force; monitoring the allocation and expenditure of funds by the force; reviewing the planning, development and implementation of the strategic priorities and plans of the force; reviewing programs and initiatives of the force and their implementation by the force — “the force,” of course, being the RCMP — reviewing existing and proposed amendments to policies, procedures, guidelines or practices of the force; overseeing any internal audit of the force; and conducting studies of any matter relating to the operations of the force.

The council must provide reports to the minister, including recommendations, and a report to Parliament at least once per year under the provisions of this bill.

The council would have access to any information in possession of the force with the exception of attorney-client privilege or items of national security designation. That’s the review and oversight council or commission for the RCMP.

The second feature of this bill is an ombudsperson. The Governor-in-Council would appoint the ombudsperson after the approval of the House of Commons and the Senate — the respective committees that I mentioned earlier. The ombudsperson would employ employees and services necessary to fulfill his or her function. The mandate of this position would be to, first, act as a neutral and objective mediator, intervenor, investigator and reporter on matters related to the force to ensure that individuals are treated in a fair and equitable manner; second, contribute to substantial and long-lasting improvements in the welfare of members and civilian employees of the force; third, identify and review emerging and systemic issues relating to the force that affect members, former members or former civilian

employees of the force either individually or as a group; fourth, assist members, former members, civilian employees or former employees of the force in accessing existing channels of assistance and redress within the force; and, fifth, facilitate access of members, former members, civilian employees or former civilian employees of the force to programs and services by providing them with information and referrals.

There are limits to what the ombudsperson would be able to investigate, for example, decisions by a province. His or her powers could be delegated. The ombudsperson would be independent of rank and level within the force and would report directly to and would be accountable to the minister.

Complaints to the ombudsperson can be made by current and/or former members and civilian employees, those applying to become either and persons acting on behalf of an individual. The ombudsperson can begin a complaint of their own initiative. If they do not investigate a complaint, a rationale must be provided to the complainant.

A complainant must first lodge their complaint with the applicable complaint mechanism available under existing legislation. If an investigation is launched, the ombudsperson must inform the commissioner, the provincial minister, the federal minister, et cetera. Complaints must be completed within public service standard time limits.

The ombudsperson can hold hearings during an investigation. The ombudsperson may obtain any document or information that is relevant to the investigation. The ombudsperson may summon and examine any person they like after investigation —

(Debate suspended.)

The Hon. the Speaker: Honourable senators, pursuant to rule 3-4, it being now 4 p.m., I declare the Senate continued until Monday, June 22, 2015, at 2 p.m., the Senate so decreeing.

(The Senate adjourned until Monday, June 22, 2015, at 2 p.m.)

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