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(HANSARD)

Thursday, March 21, 2013

The Honourable NOËL A. KINSELLA
Speaker

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THE SENATE

Thursday, March 21, 2013

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

Prayers.

[*Translation*]

SENATORS' STATEMENTS

L'ORDRE DE LA PLÉIADE

CONGRATULATIONS TO THE HONOURABLE SENATOR PIERRE-HUGUES BOISVENU AND THE HONOURABLE SENATOR JACQUES DEMERS

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, I am pleased to speak today to mark an event that took place yesterday at the National Assembly of Quebec.

Every year, the Assemblée parlementaire de la Francophonie recognizes illustrious individuals who have distinguished themselves in their service to the ideals of the assembly and the Francophonie by awarding them the Ordre de la Pléiade, Order of the Francophonie and of the dialogue of cultures.

Yesterday, our colleagues, the Honourable Senator Pierre-Hugues Boisvenu and the Honourable Senator Jacques Demers, were awarded this honorary order by the Chancellor of the order of the Francophonie and of the dialogue of cultures.

Honourable senators, I have an enormous amount of respect for the institution of the Senate. On both sides of this chamber, there are individuals with a great deal to offer. They have impressive backgrounds and outstanding qualities.

The fact that two of our colleagues have been recognized for their unquestionable contribution to the advancement of our society definitely deserves to be acknowledged here in this chamber.

Through his personal story and his determination to promote the rights of victims of crime in Canada, there is no doubt that the Honourable Pierre-Hugues Boisvenu exemplifies the words of the French psychoanalyst Françoise Dolto, who said:

> In every trial there is a treasure. The key is finding it.

Senator Boisvenu did more than just find that treasure. He invested it and shared the profit in order to help society as a whole.

As for the Honourable Senator Jacques Demers, he has touched the hearts of many Quebecers and Canadians. He is an example of resilience and perseverance. He made a place for himself in the sun despite functional limitations with regard to reading and writing — limitations that he overcame through determination and courage. To now be awarded the Ordre de la Pléiade, Order of the Francophonie and of the dialogue of cultures, therefore has very special meaning for Senator Demers. He has been a great role model for many people for many years.

Honourable senators, I offer my dear colleagues my sincere congratulations on the honour they received yesterday and thank them for their commitment, warmth and great kindness.

I would like to reiterate my most heartfelt congratulations on this well-deserved honour. Be proud of it. I thank you for all that you do here. You are great men, and your honour reflects well on all members of this chamber and our institution.

[*English*]

FESTIVAL OF NOWRUZ

Hon. Mobina S. B. Jaffer: Honourable senators, *Nowruz Mubarak* to all of you. Today is a very special day for many religious and cultural communities, particularly Shia Muslim communities. Today, March 21, marks the celebration of the Festival of Nowruz, which means "the new day" in Persian. The festival marks the beginning of a new year, the first day of spring.

The Festival of Nowruz dates back 3,000 years when astrologers of King Jamshid, the mythical Iranian king, determined that March 21 marks the vernal equinox, when day and night are exactly equal. Following this discovery, he declared March 21 to be Nowruz, the first day of the Iranian calendar.

Nowruz was initially observed by the Persians but is now celebrated in various geographical regions, including Central and South Asia, North America and Europe. In many countries, Nowruz is a national holiday.

On Nowruz, families and friends gather to greet each other, exchange gifts and share a festive meal. Adherents of many faiths, including Muslims, Zoroastrians and Baha'is, attend their place of worship to offer prayers and gratitude and celebrate with their communities. They often enjoy delicacies, including sweets, dried fruit, nuts and grains, which symbolize blessings of abundance and prosperity. Homes are also cleaned and decorated and new clothes are worn, signifying the cleansing of one's mind, body and spirit. Every community celebrates the beginning of the spring season in their own unique ways.

The extraordinary feature of Nowruz is its symbolic meaning: When winter ends, spring ushers in new life. It is time for physical and spiritual revival, and a time to renew our commitment to deeply rooted Canadian values of peace and brotherhood.

Celebrating the new year offers an important opportunity to reflect on last year's successes and challenges and to remember those who are less fortunate and vulnerable. Let us hope in the new year there will be a better world of humanity — a world of peace, hope and security.

Honourable senators, on this auspicious and joyous festival, please join me in wishing Canadians who celebrate Nowruz a very happy *Nowruz Mubarak*.

WORLD DOWN SYNDROME DAY

Hon. Tobias C. Enverga, Jr.: Honourable senators, I rise today to inform you that today is really close to my heart. Today, March 21, is World Down Syndrome Day. The United Nations General Assembly declared this by resolution in 2011 and has officially observed it since 2012. It is celebrated in cities across Canada through a number of events. The date stands as a symbol for the extra twenty-first chromosome that 95 per cent of people with Down syndrome have.

• (1340)

Honourable senators, World Down Syndrome Day is about raising awareness. It is about highlighting and sharing information on Down syndrome with educators, medical practitioners, law enforcement officials and the general public. It is about debunking myths and replacing them with facts that will make the lives of people with Down syndrome better and longer, facts that will enrich the lives of all members of society through understanding.

Honourable senators, the fact is that one in 900 people is born with Down syndrome regardless of the mother's age, race or nationality or the social or economic status of the family. The fact is that 30 per cent to 40 per cent of people with Down syndrome have heart defects that can often be corrected with surgery. The fact is that people with Down syndrome are as diverse as the rest of the population in terms of their hopes, aspirations and abilities. The fact is that a child with Down syndrome is not a burden to his or her family but a gift, as is any other child, to their parents, their families and their communities.

Honourable senators, I have been fortunate to serve on the Special Education Advisory Committee of the Toronto Catholic District School Board where I advise the board on educational policies for children with special needs. I will continue the national dialogue on this matter through my Senate committee work.

Honourable senators, raising awareness is key, and it is more than just talking about an issue. Raising awareness saves lives, generates procedures in law enforcement and allows for inclusion of people with challenges in our society. Awareness allows for debate on allocating more resources to further medical research and to improve educational opportunities for people with Down syndrome. It allows for people with abilities to contribute in a meaningful way to our society and to our economy.

My own daughter, Rocel Enverga, is proof of this. Rocel is a loving and caring daughter, the special gift that keeps on giving to me, to our family and to the whole community. I know that I am not the only member of the house who can personally attest to this fact.

Thank you, honourable senators.

Hon. Jim Munson: Honourable senators, today, on World Down Syndrome Day, I am on the same team as Senator Enverga. As he said, today is World Down Syndrome Day, a day for us to reflect upon and raise awareness of the vital role that people with Down syndrome play in our lives and communities.

Down syndrome is a natural occurrence. It has always existed and is universal across racial, gender and socio-economic lines. One in 800 Canadian children is born with Down syndrome. You need not go very far back in time to see how drastically different life once was for people with Down syndrome. Not so long ago, they were separated, kept hidden from society, work, sport and art and even simple social outings. These basic aspects of life were reserved for others, not for them.

Fortunately for us, there have always been individuals in our society who not only believe in equality and inclusiveness but also have the fortitude to act on their beliefs. Today there are groups and organizations across the country that have formed on the basis of these beliefs. Their missions are to ensure inclusion and opportunities for everyone.

Under its slogan "See the Ability!," the Canadian Down Syndrome Society is celebrating today by highlighting heroes, people with Down syndrome who are living exceptional lives. They are athletes, volunteers, students and social advocates, and through their activities and achievements they show us the abilities and contributions of all people with Down syndrome.

The society is also marking this important day with a remarkable and timely initiative. It has released a position statement on value-neutral language. Language is indeed powerful, with the potential to include people in our society or to exclude them.

The statement from the Canadian Down Syndrome Society reads:

> The Canadian Down Syndrome Society promotes the use of value-neutral language that respects the unique strengths, skills, and talents of persons with Down syndrome. By using language that is respectful and informed, we can help build communities in which all people are valued, participating citizens.

Of course, as honourable senators know, I have been a supporter of Special Olympics Canada for many years now. The organization provides sports training and competition for people with intellectual disabilities. More than 34,000 children, youth and adults are registered in programs that run every day of the week. They are supported by an extraordinary network of more than 16,400 volunteers. Special Olympics Canada is also proud to celebrate and be part of this international day to recognize people with Down syndrome.

Honourable senators, I invite you to join the Canadian Down Syndrome Society, Special Olympics Canada and countless other groups, organizations and individuals worldwide, including Michael Trinque, who works in my office and has Down syndrome, and in memory of my late son, in commemorating World Down Syndrome Day.

HIS HOLINESS POPE FRANCIS I

Hon. Norman E. Doyle: Honourable senators, over the last few days I had the honour and distinct privilege to represent the Senate of Canada as part of the Governor General's delegation that travelled to Rome for the installation of the new Pope, His Holiness Pope Francis I.

To say that the event was extremely moving would indeed be an understatement. Leaders, both church and civil, from virtually every corner of the world were present to be part of that great moment.

At about 7 a.m. on Tuesday, the day of the mass of inauguration, over 200,000 people, including our Canadian delegation, were beginning our trek into St. Peter's Square for the 9:30 a.m. service and homily that the Pope would deliver. The homily at the inauguration mass of any Pope is often looked upon by the world's 1.2 billion Catholics as the road map for the future papal ministry. However, Christians generally also view it as an opportunity to understand more fully the role of the church as a spiritual vehicle giving voice to the expectations of the people. In my opinion, this particular homily by Pope Francis did that very well. It did not disappoint. In speaking of the church as a protector, for instance, he said:

> The vocation of being a "protector," however, is not just something involving us Christians alone; it also has a prior dimension which is simply human, involving everyone. It means protecting all creation, the beauty of the created world, as the Book of Genesis tells us and as Saint Francis of Assisi showed us. It means respecting each of God's creatures and respecting the environment in which we live. It means protecting people, showing loving concern for each and every person, especially children, the elderly, those in need, who are often the last we think about. It means caring for one another in our families...

He went on to say:

> Please, I would like to ask all those who have positions of responsibility in economic, political and social life, and all men and women of goodwill: let us be "protectors" of creation, protectors of God's plan inscribed in nature, protectors of one another and of the environment.

The environment, the poor, the needy, the marginalized and the weakest seem to be very important to this Pope. He is the first Pope from overseas and thereby one who emphasizes the universal nature of the church. One gets the impression up close that he is a modest man, not given to lavish personal adornment or living in luxury. He is a Pope who is first and foremost a pastor, who has a deep and abiding concern for those in need.

Having been fortunate enough to be present at these ceremonies, I found it also quite easy to see beneath the genteel exterior a person of unshakeable faith, one who will indeed make it a cornerstone of his papacy to bring the church back to first principles.

• (1350)

Honourable senators, I would again like to thank you and the Governor General for allowing me the rare opportunity and privilege to attend the installation of Pope Francis I. I am sure we all wish him well as he takes up his duties as the spiritual head of the world's 1.2 billion Catholics.

Hon. Senators: Hear, hear!

PRINCE EDWARD ISLAND

ENERGY SECURITY

Hon. Catherine S. Callbeck: Honourable senators, I rise today on an issue of vital importance to the people of Prince Edward Island. For a number of years now, the provincial government has been requesting support from the federal government to add a new electrical cable between Prince Edward Island and New Brunswick.

In 2005, the governments of Canada and Prince Edward Island jointly announced a project to upgrade this electricity transmission system. A new cable would have been placed inside the Confederation Bridge utility corridor specifically designed and built for this purpose. However, in 2006 the partnership fund that would have financed this project was cancelled by the new government.

Other than wind power, virtually all of Prince Edward Island's electricity requirements are acquired from New Brunswick Power. Electricity is currently transmitted through two underwater cables installed in 1977, and they are nearing end of their 40-year life expectancy. A recent leak in one of the cables, which required that it be taken out of service until repairs were made, was a stark reminder that they do have an infinite life and will eventually require replacement.

At the same time, the growth in electricity demand is rising in Prince Edward Island. It is forecast that an additional cable will be required by 2017, even with the two existing cables.

As well, another cable would provide the capacity for the province to export wind power when it was not needed to meet local demand.

This new cable is a vital infrastructure requirement that creates a great deal of uncertainty for the people of my province. Even the Honourable Gail Shea, the federal minister with responsibility for the province, recognizes this is something that needs to be done soon.

Honourable senators, I have raised this issue several times in this house. Again I am calling on the federal government to do the right thing and help bring Prince Edward Islanders the energy security they need and deserve.

THE LATE EDWARD WILLIAM "BILLY" DOWNEY

Hon. Wilfred P. Moore: Honourable senators, I rise today to pay tribute to Edward William "Billy" Downey, native of Halifax, who departed this life on Friday, March 8, 2013. He was the son of the late George Alexander Downey and Leotra Tomlinson Downey. An avid sportsman, Billy was a talented baseball player, boxer and hockey player and a groundbreaking, proud Black businessman.

In his younger years, Billy was the manager of the Vaughan Furriers, a Maritime championship junior baseball team of superb Black and White athletes. He was not only the manager but also the visionary who saw no colour as he put together his team, to which he gave his personal treasure. The team built a strong following and regularly drew upwards of 4,000 fans to the games played on the Halifax Commons. The story of Billy and his team is contained in Frank Mitchell's book, *The Boys of '62*.

Billy is perhaps best known for his love of music and the entertainment business. In the mid-1960s Billy, with one of his brothers, Graham, opened the Arrows Club, first in a house on Creighton Street and then moved to Agricola Street. In 1969, Billy moved his Arrows Club to new, larger premises on Brunswick Street. Billy's cabaret rivalled those in Montreal and New York and all places in between. He brought in such entertainers as Ike & Tina Turner, Sam & Dave and Lotsa Poppa, to name a few. His was the place to be. Persons of all stations in society, the great and the near great, of all colour and political stripes made their way to Billy's club and his warm hospitality. Upon closing the Arrows Club years later, Billy opened a new establishment in 1987, on Gottingen Street, called the Open Circle, where he continued his promotion and staging of local and visiting entertainers.

In the late 1960s, one of the entertainers Billy brought to the Arrows Club was Miriam Makeba, the Grammy Award winning folk singer who was married to Stokely Carmichael, then the leader of the Black Panthers. Stokley told Billy that Miriam would not perform unless the Black patrons sat on one side of the Arrows Club and the Whites on the other. Billy's response was that Miriam could not perform in his club under such a condition. In Billy's heart, music had no boundaries. Stokely got that message, and Merriam performed to the delight of all, including Stokely, who sat in the mixed audience. Billy Downey did so much to single-handedly defuse the racial tension that then existed in Halifax.

Last month, Billy Downey received the Queen Elizabeth II Diamond Jubilee Medal in recognition of his unique entrepreneurship and community activism. It was a proud moment for him and his family. I thank my colleague Senator Cowan for nominating Billy for this most deserved award.

Last Saturday, more than 500 people gathered at Emmanuel Baptist Church in Upper Hammonds Plains to celebrate Billy's life. He was predeceased by his wife, Carol. We extend our heartfelt sympathy to Billy's children, his sisters and brothers. He was a unique and well-motivated man. I am proud to have had him as a friend.

[*Translation*]

ROUTINE PROCEEDINGS

ABORIGINAL AFFAIRS AND NORTHERN DEVELOPMENT

2010-11 TSAWWASSEN FIRST NATION ANNUAL IMPLEMENTATION REPORT TABLED

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, I have the honour to table, in both official languages, the Tsawwassen First Nation Final Agreement Implementation Report for 2010-11.

[*English*]

ABORIGINAL HEALING FOUNDATION—2012 ANNUAL REPORT AND AUDITOR'S REPORT TABLED

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, I have the honour to table, in both official languages, the 2012 Annual Report of the Aboriginal Healing Foundation, together with the auditor's report for the fiscal year ended March 31, 2012.

BILL TO ASSENT TO ALTERATIONS IN THE LAW TOUCHING THE SUCCESSION TO THE THRONE

TWENTY-SECOND REPORT OF LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE PRESENTED

Hon. Bob Runciman, Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, March 21, 2013

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

TWENTY-SECOND REPORT

Your committee, to which was referred Bill C-53, An Act to assent to alterations in the law touching the Succession to the Throne, has, in obedience to the order of reference of Thursday, March 7, 2013, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

BOB RUNCIMAN
Chair

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

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

[*Translation*]

THE ESTIMATES, 2012-13

SUPPLEMENTARY ESTIMATES (C)—EIGHTEENTH REPORT OF NATIONAL FINANCE COMMITTEE TABLED

Hon. Joseph A. Day: Honourable senators, I have the honour to table, in both official languages, the eighteenth report of the Standing Senate Committee on National Finance on the expenditures set out in the Supplementary Estimates (C) for the fiscal year ending March 31, 2013.

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

[*English*]

STUDY ON USER FEE PROPOSAL

AGRICULTURE AND AGRI-FOOD—TENTH REPORT OF AGRICULTURE AND FORESTRY COMMITTEE TABLED

Hon. Percy Mockler: Honourable senators, I have the honour to table, in both official languages, the tenth report of the Standing Senate Committee on Agriculture and Forestry, which deals with the Canadian Food Inspection Agency's user fee proposal for importer licensing for non-federally registered sector products.

I propose that this report be included in the Orders of the Day for the next sitting of the Senate.

An Hon. Senator: On division.

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

[*Translation*]

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

NINTH REPORT OF NATIONAL SECURITY AND DEFENCE COMMITTEE TABLED

Hon. Roméo Antonius Dallaire: Honourable senators, I have the honour to table, in both official languages, the ninth report of the Standing Senate Committee on National Security and Defence on a study of the New Veterans Charter.

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

• (1400)

[*English*]

APPROPRIATION BILL NO. 5, 2012-13

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-58, An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2013.

(Bill read first time.)

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

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

[*Translation*]

APPROPRIATION BILL NO. 1, 2013-14

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-59, An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2014.

(Bill read first time.)

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

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

[*English*]

CRIMINAL CODE

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-55, An Act to amend the Criminal Code.

(Bill read first time.)

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

[*Translation*]

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 5-5, I move that this bill be placed on the Orders of the Day for second reading later this day.

The Hon. Speaker: Honorable senators, is leave granted?

Hon. Senators: Agreed.

(On motion of Senator Carignan, notwithstanding rule 5-5, bill placed on the Orders of the Day for second reading later this day.)

[*English*]

CANADIAN HUMAN RIGHTS ACT CRIMINAL CODE

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-279, An Act to amend the Canadian Human Rights Act and the Criminal Code (gender identity).

(Bill read first time.)

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

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

FINANCIAL ADMINISTRATION ACT

BILL TO AMEND—FIRST READING

Hon. Wilfred P. Moore introduced Bill S-217, An Act to amend the Financial Administration Act (borrowing of money).

(Bill read first time.)

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

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

FISHERIES AND OCEANS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY OF LOBSTER FISHERY IN ATLANTIC CANADA AND QUEBEC

Hon. Fabian Manning: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

> That, notwithstanding the order of the Senate adopted on March 8, 2012, the date for the final report of the Standing Senate Committee on Fisheries and Oceans in relation to its study on the lobster fishery in Atlantic Canada and Quebec be extended from March 31, 2013 to May 31, 2013.

QUESTION PERIOD

PUBLIC SAFETY

ROYAL CANADIAN MOUNTED POLICE— REQUEST FOR DOCUMENTS

Hon. Colin Kenny: Honourable senators, I have a question for the Leader of the Government in the Senate concerning some basic facts that seem to be difficult to obtain.

The first area where we are having difficulty obtaining information is with regard to the budget for the Royal Canadian Mounted Police for fiscal years 2002-03 through to 2012-13; second, the number of regular members recruited each year from fiscal year 2002-03 to 2012-13; and third, RCMP attrition figures for each year from 2002-03 to 2012-13.

I did give notice of this question. I do not expect an answer today, but I would be grateful if we could receive an answer shortly, before we get too engaged in Bill C-42.

Hon. Marjory LeBreton (Leader of the Government): I thank the honourable senator and very much appreciate his giving advance notice of the question. He is quite right that there is a lot of detail, and I have already referred the question to the Minister of Public Safety for a detailed response.

VETERANS AFFAIRS

VETERANS INDEPENDENCE PROGRAM

Hon. Elizabeth Hubley: Honourable senators, my question is for the Leader of the Government in the Senate. I would like to follow up on a question asked by Senator Callbeck last May 2 and on the delayed answer she received to that question on December 14.

Senator Callbeck asked a very specific question about the Veterans Independence Program and the inequity that exists in eligibility criteria for surviving spouses.

• (1410)

I, too, am concerned about this inequity and have heard from many veterans' widows on Prince Edward Island that they have been denied access to services that they need and should be eligible for.

As the Veterans Ombudsman, Guy Parent, pointed out in a press release on March 6, this is not a new issue. In fact, he has also raised it with the government on several occasions, but so far nothing has come of his efforts.

The problem seems to stem from a loophole in the eligibility criteria that makes it impossible for some spouses to qualify for certain services, even though they meet the essential financial and/or disability standards. The delayed answer to Senator Callbeck's question explained the nature of this loophole very clearly. According to the Minister of Veterans Affairs, certain individuals will not be eligible for all services because, once determined as eligible for the Veterans Independence Program as a primary caregiver, an individual cannot be considered eligible as a survivor.

I would like to know why this loophole still exists. In its response to Senator Callbeck, the government identified this loophole as the cause of this inequity but did not explain why it has not fixed the problem. A veteran's surviving spouse should not be denied a service based on an administrative or bureaucratic rule that she would otherwise qualify for in principle.

I would again ask, why is this unfair rule not being addressed? Could the leader also inform the Senate when we might expect the change to be made?

Hon. Marjory LeBreton (Leader of the Government): As honourable senators know, over 38,000 widows of Canadian veterans have benefited from the Veterans Independence Program since our government made them eligible in 2008. I well remember the written response and the acknowledgment in that written response about the discrepancy that the honourable senator refers to. I will take that portion of the question as notice and see if, when we send it back, they have had a chance to address that specific item.

[*Translation*]

CANADIAN HERITAGE

LIBRARY AND ARCHIVES CANADA— CODE OF CONDUCT

Hon. Claudette Tardif (Deputy Leader of the Opposition): Honourable senators, my question is about the Library and Archives Canada code of conduct, which has been the subject of some controversy for the past several days. Among the controversial elements of the new code of conduct are passages that identify activities such as speaking to a class of students or attending a conference as being high-risk.

The code also appears to prohibit employees from participating in such public activities if the theme of the discussion is related to their work or the mandate of Library and Archives Canada or if the organizers of the activity collaborate or could at some point have dealings with Library and Archives Canada.

Can the Leader of the Government in the Senate explain to us why these activities have suddenly been identified as being high-risk and why the code of conduct appears to prohibit Library and Archives Canada employees from interacting on their own time with groups working in that sector or other sectors?

[*English*]

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, the fact is that librarians and archivists are still able to speak at conferences and other events. There has not been a change in policy.

With regard to the code of conduct, this is a process that dates back to 2004 under the previous government. At the time, it was spearheaded by the Clerk of the Privy Council. Reg Alcock, who was the President of the Treasury Board, made reference to Bill C-11 because this was the policy practised by the previous government and which has been in place since 2004. I quote Reg Alcock from October 14, 2004 when speaking to Bill C-11, the Public Servants Disclosure Protection Bill:

> The bill requires the Treasury Board to establish a code of conduct for the entire federal public service.

This is a policy that has been in place now for nine years, and there has been no change in that policy. Archivists and librarians are free to continue to participate at conferences and other events.

Senator Tardif: Honourable senators, the code states that public servants' duty of loyalty to the government, and I quote, "derives from the essential mission of the public service to help the duly elected government, under law, to serve the public interest and implement government policies...."

Why would Library and Archives Canada adopt a code of conduct that would limit staff members from speaking in public and with other professionals from their area of expertise, but that also stresses employees' duty of loyalty to the dutifully elected government? Why would that be?

Senator LeBreton: The government is the government, no matter who it is. As was the case in 2004, it was another party that was in government and this is a policy that was established then. This policy has not changed. On the Treasury Board website, the quote is:

> ... all federal public sector employees are required to adhere to the Code as a term and condition of employment.

With regard to the archivists and librarians, the policy has not changed. They are free to continue to participate as they have in the past in events and, of course, at school events.

Senator Tardif: According to Richard Provencher, Library and Archives Canada Senior Communication Adviser, the code was written in response to the April 2012 Values and Ethics Code for the Public Sector, which called for federal departments to establish their own codes of conduct. Library and Archives Canada based their code of conduct on what other federal organizations were doing.

Does the government support the fact that speaking in classrooms and speaking to teachers and in other areas is a high-risk activity? Is that the public sector code that is being supported in federal organizations?

Senator LeBreton: I think I have already answered that. There is no change in policy. Archivists and librarians are absolutely free to speak to school organizations and at other such events.

Senator Tardif: Why is it, then, honourable senators, that this code was written in April 2012, based on the values and ethics code for the public sector and that the government is pushing in other federal organizations? Why is that? Those dates do not correspond.

Senator LeBreton: If the honourable senator has questions with regard to Library and Archives Canada, I would encourage her to invite Mr. Caron, the head of Library and Archives Canada, to address this issue before a committee of the Senate.

Individuals are in charge of their own departments. There is a standard Treasury Board guideline, which I have already put on the record, and there is nothing more I can add to that.

Senator Tardif: Honourable senators, I understand that Library and Archives Canada have put forward this code of conduct, but they have based it on what is going on in other federal organizations.

My question is: Does the government support this code of conduct and how the behaviour of employees should be regulated? Is this something that the government accepts in other federal organizations?

Senator LeBreton: Again, honourable senators, this is a practice that has been followed, as I pointed out, and I can only repeat what is on the Treasury Board website:

> ... all federal public sector employees are required to adhere to the Code as a term and condition of employment.

PUBLIC SAFETY

ABORIGINAL JUSTICE STRATEGY

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

According to the Correctional Investigator's recent report, *Spirit Matters*, Aboriginal offenders account for 22 per cent of Canada's incarcerated population, while they make up 2 per cent of the Canadian population. The situation of Aboriginal female offenders is even more concerning. Aboriginal women account for 32 per cent of all federally incarcerated women, representing an increase of 86 per cent over the last decade.

More than 20 years ago, the Corrections and Conditional Release Act came into force. The act, to borrow the Correctional Investigator's description, contains provisions to enhance Aboriginal community involvement in corrections and to address chronic overrepresentation of Aboriginal people in federal corrections.

• (1420)

I ask the leader: What will the government do in reaction to the investigator's report as to the situation that exists for Aboriginal people in prison?

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, the government is well aware of the report and has invested in programs through various departments to assist inmates, especially women, who find themselves incarcerated. There is a long list of programs that I would be happy to provide by written response.

Senator Jaffer: I have a supplementary question. The Correctional Investigator's report also found substantial funding discrepancies between section 81 healing lodges operated by Aboriginal communities and Correctional Service of Canada facilities. The Correctional Investigator estimates that Aboriginal communities are getting about 60 cents on the dollar to operate their healing lodges compared to those operated by the Correctional Service of Canada. There are 68 beds in four Aboriginal community healing lodges across Canada. These faith facilities can only accommodate 2 per cent of the federally sentenced Aboriginal offenders. What will the government do to negotiate permanent, realistic and at-parity funding levels for existing and future Aboriginal community healing lodges and to significantly increase the number of bed spaces available in those healing lodges?

Senator LeBreton: Honourable senators, with regard to Aboriginals in prison, of course, like any segment of the population, any decision with respect to the guilt or innocence of an individual is made by the justice system. Through the justice system, decisions are made with regard to their incarceration based on the evidence before the courts.

The government has provided significant resources, honourable senators, to the Aboriginal Justice Strategy, which enables Aboriginal communities to have increased involvement in the local administration of justice. We provide funding through the Aboriginal Courtwork Program, which ensures fair and equitable treatment for Aboriginals charged with offences. We have taken a balanced approach, which includes prevention, such as investing in the Northern and Aboriginal Crime Prevention Fund, the Youth Gang Prevention Fund, the National Anti-Drug Strategy and the National Crime Prevention Strategy.

With regard to the specific question about healing lodges, I do not have information in order to respond, so I will take the question as notice.

PARLIAMENT BUILDINGS

PUBLIC TOURS OF PRECINCTS OF PARLIAMENT

Hon. Wilfred P. Moore: Honourable senators, my question is for the Leader of the Government in the Senate. I was told today that the public was denied access to the tours of our Parliament Buildings. I do not know if she would know that, and I would like have an answer as to why.

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, the parliamentary precinct does not fall within the purview of my jurisdiction as Leader of the Government in the Senate. I was not aware of the situation, and I do not think my capacity as Leader of the Government in the Senate qualifies me to respond.

Senator Moore: I have a supplementary question. I understand that the Sergeant-at-Arms in the other place, and perhaps in this place, made that ruling. International visitors here this morning wanted to tour our buildings and could not. I would think something like that, whereby the people are denied access to their own buildings, would be known. I do not know if anyone on the leader's side wanted to bring guests through today, but maybe she could inquire about the situation and advise the chamber.

Senator LeBreton: Again, honourable senators, this is not an area that would fall under my responsibility. I would imagine this falls under the Speakers of both chambers. If there was a security concern on Parliament Hill, obviously this would be something that the Sergeants-at-Arms and the Speakers would be aware of. I am not aware of it. I normally do not have guests.

Honourable senators, if there was a decision by the parliamentary precinct and the police authorities to take specific action with regard to Parliament Hill, it does not fall within the area of my responsibility or the government's responsibility. However, I would suggest that the senator seek a response through the proper authorities in the Senate and House of Commons.

Senator Moore: Perhaps the Senate precinct ultimately falls under the auspices of the Standing Committee on Internal Economy, Budgets and Administration. Maybe the chair of that committee could respond.

Hon. David Tkachuk: I cannot answer the question, but I will find out if there was increased precinct security.

Senator Moore: Will the honourable senator find out and let us know?

Senator Tkachuk: Yes.

Senator Moore: If it was something to do with security of the precinct, was there a threat that we did not know about? I would like to know why. Could the Chair of the Internal Economy Committee find out the specific reason why the public was denied access to these buildings?

Senator Tkachuk: I am not aware of any security threat of any kind, but I will try to find an answer to the question.

[*Translation*]

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, pursuant to rule 4-13(3), I would like to inform the Senate that when we proceed to Government Business, the Senate will address the items in the following order: Bill C-27 and Motion No. 63, followed by the other items in the order in which they stand on the Order Paper.

FIRST NATIONS FINANCIAL TRANSPARENCY BILL

ALLOTMENT OF TIME—MOTION ADOPTED

Hon. Claude Carignan (Deputy Leader of the Government), pursuant to notice of March 20, 2013, moved:

> That, pursuant to rule 7-2, not more than a further six hours of debate be allocated for consideration at third reading stage of Bill C-27, An Act to enhance the financial accountability and transparency of First Nations.

He said: Honourable senators, this is a time allocation motion. As I explained yesterday, we believe it is important to allocate a maximum of six hours to debate this bill. It is important that the bill be enacted before March 31, 2013, so that it can be applied immediately in the next fiscal year to the financial statements of the reserves covered by the bill. That is why we are asking to proceed with this time allocation motion.

I urge all honourable senators to help demonstrate the effectiveness of the Senate and ensure compliance with this legislation as soon as possible.

[*English*]

Hon. Claudette Tardif (Deputy Leader of the Opposition): Honourable senators, I rise to speak to the guillotine motion to close debate on Bill C-27, An Act to enhance the financial accountability and transparency of First Nations. This is a bill that will have serious and wide-ranging implications for Canada's indigenous people and the institutions through which they organize and govern themselves.

Some senators in this chamber support this bill. Other senators are opposed to it. There is strong disagreement.

• (1430)

Honourable senators, is that not the whole reason we are here: to discuss, to debate points of disagreement and to try and make Canada's laws better through our deliberations?

Debate is a good thing. I would like to see more of it on Bill C-27 before we move so quickly to close debate. The government is now seeking to end discussion on this bill — in one day. This bill has been before us at third reading for hardly 48 hours. Senator Patterson moved third reading of Bill C-27 on Tuesday. I hardly think we have heard a fulsome debate on this important bill since that time.

The Deputy Leader of the Government was correct when he rose and stated that he and I had failed to agree to a satisfactory number of days or hours in which to complete third reading of Bill C-27. I could not consent to a time limit.

Honourable senators should know that no reason was given for the urgency in passing this bill immediately.

On March 19 Senator Patterson stated:

> My understanding is that the bill, even though passed, will not be proclaimed, nor will it become effective, until fiscal year 2014.

That means April 1, 2014, over one year from now.

Senator Patterson stated that it was important "to allow bands to adjust to the new regime."

I do not dispute the honourable senator's point. However, I hardly think that a few more days of debate in Parliament before this bill becomes law — as we know it will since the government will use its majority to ensure passage — will inhibit bands from adjusting their affairs and practices in time for April 1, 2014. It is, frankly, a preposterous proposition.

I would contrast the situation with Bill C-27 to the situation with Bill C-55. In relation to Bill C-55, which we have received today, there is a tangible reason for the urgency in passing the bill without delay. This bill amends the Criminal Code to provide safeguards relative to the authority to intercept private communications because, on February 11, the Supreme Court found that the current relevant provisions in the act were unconstitutional. The court gave Parliament until April 13 to make the provisions constitutionally compliant. For these reasons, our caucus accorded its unanimous consent for the bill to be read a second time today. There is no such urgency with Bill C-27. For the government to use its force to compel the Senate to end debate on this bill for no tangible reason is highly inappropriate.

On the matter of the bill itself, transparency and proactive disclosure are important goals for all governments, including First Nations governments, and these are goals that I support. However, the Conservative government has a duty to work with First Nations on improving mutual accountability, not just to impose their own notions of what will work.

As Senator Dyck has so eloquently stated on numerous occasions, First Nations are willing partners on issues of governance, but this government must stop treating them as adversaries.

Bill C-27 does nothing to streamline the existing overwhelming reporting burden, especially for small First Nations with limited administrative capacity. Aboriginal Affairs and Northern Development alone receives over 60,000 reports from First Nations annually. Now the government is imposing additional reporting duties, while at the same time cutting the resources First Nations have to comply with these requirements.

As we heard from Senator Dyck, the government's approach to this matter violates the constitutional duty that the Crown has to consult with First Nations before changing laws or policies that affect First Nations people, institutions and rights.

Now the government is using its majority in this chamber to force the closure of debate and ultimately the passage of unconstitutional public policy.

Through these actions a tone is being set. Through these actions a statement is being made about the government's attitude towards its relationship with Canada's First Nations people. When there should be trust, there is distrust. Where there should be a spirit of cooperation, there is an adversarial environment. This is not leadership.

Honourable senators, I will be voting against this time allocation motion and I encourage senators on both sides to do the same.

Hon. Lillian Eva Dyck: I thank the Honourable Senator Tardif for her very good speech.

Honourable senators, I still consider myself a relatively new senator. It is almost eight years that I have been here in the chamber. This motion to limit debate is one of the things that always surprises me, because in any democratic society we should be debating. To me, this motion is totally ludicrous. In our role as senators, we are here to debate bills and improve them, not to shut them down. This motion is fundamentally anti-democratic.

With respect to Bill C-27, which honourable senators heard me speak on yesterday, it is ill-conceived, illogical, unnecessary, and is being imposed on First Nations without their input and without their consent. By limiting debate, we are even rubbing more salt into that wound because we are not allowing senators on both sides to get up and say what they really think about the bill. It is a very bad move.

Yesterday I informed the chamber of the heightened concern about the new funding agreements going across the country. I talked about Burnt Church First Nation and how they feel that the funding agreement is like a gun to their head; they have no choice. When they hear that in this chamber another bill will be imposed upon them, it will not make them feel very good. In fact, even late yesterday afternoon there was a press release from the National Chief of the Assembly of First Nations, Shawn Atleo. As Postmedia News reported:

> The government's "unilateral legislative initiatives" have "consistently failed" and have left First Nations without adequate say in major policy decisions.
>
> Those sour feelings boiled over last year — and have continued — after the Harper government's 2012 budget resulted in two omnibus bills that many First Nations

> opposed, helping to spur the indigenous grassroots Idle No More movement and leading to hunger strikes and protests on the Parliament Hill.

At the January 11 meeting between Stephen Harper and First Nation leaders, there was a promise of a follow-up meeting between Harper and Atleo. At the time, the Prime Minister's office said it would occur in the coming weeks. Here we are, two and a half months later, no follow-up meeting with the Prime Minister and at a critical juncture, at an historic moment in time, with the first bill concerning First Nations about be to passed after all this unrest since December. Instead of pushing ahead to impose another unwanted bill on First Nations by limiting debate, we should be allowing a free, open and democratic debate on it.

Ironically, today is the International Day for the Elimination of Racial Discrimination. We heard from the Treaty 6 Confederacy that they have put in an urgent appeal to the United Nations Committee on the Elimination of Racial Discrimination to deal with the onslaught of bills being forced upon First Nations. Today I have asked my colleagues to read sections of that appeal into the record to document how frustrated First Nations are across Canada. They are so frustrated they have gotten nowhere with this government that they have to go to the UN for help and they are waiting for a letter from the UN to say to Canada, "Shape up and do something to help these people."

Now my colleagues will take sections and read it into the record.

• (1440)

Hon. Mobina S. B. Jaffer: This is entitled: *Submission to the 82nd Session of the UN Committee on the Elimination of Racial Discrimination with Regard to Canada's Failure to Comply with the UN Human Rights Conventions and General Recommendation No. 23 of the Committee on the Elimination of Racial Discrimination*. The submission was made on February 11 to March 1, 2013, in Geneva, by the people of Ermineskin Cree Nation, Onion Lake Cree Nation, Samson Cree Nation, Montana Cree Nation, Coal Lake Dene, Saddle Lake Cree Nation, Alexander Cree Nation, Kehewin Cree Nation, Lubicon Cree Nation, Little Pine Cree Nation, Piapot Cree Nation, Witcheken Cree Nation, Sweetgrass Cree Nation, James Smith, Saultaux, Sakimay, Muskoday, Serpent River Cree Nation, Starblanket Cree Nation and the Thunderchild Cree Nation.

The nations:

> ... believe in our Creation and it is the spiritual relationship that determines how we recognize and practice our inherent and Treaty rights on our lands. The relationship we have with our Creator, through the connection with our lands, is keeping with our Laws and practicing our inherent rights with our respective Treaty and traditional territories.
>
> The Nations maintain that we have always been sovereign nations and have always practiced our inherent rights in our territories given to us by our Creator. The Nations also assert that we have occupied our lands and territory in ways consistent with our traditional Cree... and Ojibwe... legal orders, laws, belief systems, governance structure(s) and these acts are found in and consistent with our languages.
>
> The Nations govern ourselves in accordance with our Laws that are distinct and separate from the state of Canada. Canada was created through an act of the British Parliament. We negotiated and made Treaties with the British Crown to allow for settlers to enter our territories. These were peace and friendship treaties and a subject of the UN Study on Treaties, Agreements and other Constructive Agreements undertaken by the late Miguel Alfonso-Martinez. Canada, as a successor state, inherited the obligations to implement the Treaties in good faith to uphold the honour of the Crown. However, the state of Canada has breached the treaties by unilaterally imposing on us, through its legal system, using policies, programs and legislation, including the "Indian Act." The "Indian Act" is federal legislation that restricts and limits the way in which Indigenous Nations included in this submission use our territories and access the resources of our territories. The Indian Act governs all aspects of our lives, from birth to death, in the designated "reserved" or "reserve" lands. However, these recognized "reserved lands" are only one small part of the larger traditional territories of the Nations that fall under lands within our respective Treaty territories.
>
> The Idle No More Indigenous movement began in early November in response to a suite of legislation introduced by Canada that directly affected Indigenous Peoples in the northern half of Turtle Island (now called Canada), including the Nations in this application....
>
> The Indigenous Nations file this Request for Early Warning Measures and Urgent Procedures... to bring to the attention of the United Nations Committee on the Elimination of Racial Discrimination (CERD) the ongoing and systemic series of actions that violate fundamental human rights of the Nations, and Canada's complete disregard of the Recommendations of the CERD, which upholds the Convention on the Elimination of All Forms of Racial Discrimination and the International Covenant on Civil and Political Rights.
>
> The activities taking place in Canada have escalated into severe forms of racism and hatred being directed toward members of the Nations and other citizens of Indigenous ancestry within Canada. The action Canada is engaging in includes a complete denial of the Nations Indigenous rights, especially the right to self-determination. The denial of our rights is evident in the suite of legislation introduced by the Conservative government in Canada to usurp, disregard and deny the Nations existing sovereignty to our territories. We exercised our sovereignty by our original occupation in our territories, practice our own forms of government consistent with our own legal orders and laws that are found in our culture, traditions and languages....
>
> Canada has introduced a suite of legislation that directly violates the Nations inherent Creator given rights, our human rights and our right to exercise and practice our self-determination within our respective traditional and treaty territories. The legislation was introduced in Canada's

> Parliament in 2012, and each bill is making its way through the parliamentary process to become law. Some bills are still making their way through the House of Commons and Senate before they become law. In total, there are 10 Bills that violate the inherent rights of nations, treaty promises made between the British Crown, which Canada is the successor state of and the Nations; and the right of self-determination of the Nations submitting this Request. Two of these bills (C-38 and Bill C-45) have already become law in Canada even though the Chiefs of Nations in this Request vehemently oppose the legislation....
>
> The immediate bills that initiated the Idle No More Indigenous movement were Omnibus Bills C-38 and C-45, which despite widely held opposition and protest are now law in Canada. Omnibus Bills are Budget Bills that encompass multiple pieces of legislation, are hundreds of pages long and do not go through the regular course of parliamentary process to allow for more debate or consultation on contentious legislation set to be amended, repealed or enacted. An Omnibus Bill is best understood as:
>
> > [A]n omnibus bill seeks to amend, repeal or enact several Acts, and it is characterized by the fact that it has a number of related but separate paths. An omnibus bill has "one basic principle or purpose which ties together all the proposed enactments and thereby renders the Bill intelligible for parliamentary purposes". One of the reasons cited for introducing an omnibus bill is to bring together in a single bill all legislative amendments resulting from policy decisions to facilitate parliamentary debate.
> >
> > The use of omnibus bills is unique to Canada. The British Parliament does enact this kind of bill, but its legislative practice is different, specifically in that there is much tighter control over the length of debate.

During 2012, the Canadian government introduced two controversial Omnibus Bills that directly violate the Nations inherent Indigenous rights, including our human rights, those rights recognized by the treaty relationship and further denigrates the our right to self-determination. The process in which these Bills were enacted violates the Treaty terms and disregards the Treaty relationship that the Nations understood... and goes against the Nations right to self-determination. Canada has gone ahead and enacted bills without informing, including and engaging in meaningful consultations as they are required to do, as outlined in the Supreme Court jurisprudence on the Duty to Consult.

Hon. Joan Fraser: Honourable senators, before I continue reading the submission to the UN committee, let me just add my voice to those who say that it is absolutely preposterous to argue that there is any justification whatsoever for ramming this bill through more than a year before it will come into effect.

I read now from the submission to the UN committee:

> On April 26, 2012, the Canadian government introduced Bill C-38 into the House of Commons for First Reading and on June 29, 2012, the Bill received Royal Assent without going through proper consultations with affected parties or groups, including the Nations who submit this Request. Within this controversial Bill were changes made to over 70 federal laws. There was also limited or no debate on the legislation that affected the Nations. The Bills that directly affect the Nations and other Indigenous people in Canada, within this Omnibus Bill, include, but are not limited to:
>
> a. "*Enactment of the Canadian Environmental Assessment Act*, 2012"
>
> b. "*First Nations Land Management Act*" (repeal of s. 41)...
>
> c. "*First Nations Oil and Gas and Moneys Management Act*"
>
> d. "*First Nations Commercial and Industrial Development Act*"
>
> e. "*Fisheries Act*"

Despite opposition by Indigenous nations, various parties and concerned civil society groups, this bill is now law within the state of Canada. The law limits and restricts the ability for the Nations to exercise our inherent Indigenous rights to self-determination on our lands. The government's intention is to allow quicker access to our resources without any oversight. As a colonial country, Canada needs to access our territories to drive its economy and keep it at the height that the state presently enjoys. The state's enjoyment is at the cost to our environment and our Peoples.

On October 18, 2012, the Canadian government introduced Bill C-45 into the House of Commons for first reading and on December 14, 2012, the Bill received Royal Assent. The Chiefs were not made aware of the changes in the laws that directly affect them until the Minister of Indian Affairs sent a mass mail out to the Chiefs on the 22nd of October 2012. This was a full four days after the legislation was introduced. There was no consultation with the Indigenous Nations prior to the introduction despite the fact that the Conservative government stated to various news media that consultation did indeed take place. Is this the way for the state of Canada to uphold the honour of the Crown? Further, failing to consult the Indigenous Nations who are directly impacted by these Bills is in contravention of a basic principle of democracy that is the participation of the people directly affected by government action to have a voice in such action.

• (1450)

When the Chiefs attempted to make a statement before the Committee studying the bill, they were denied. There was a procedural difficulty as stated by the Committee clerk. The representatives were in the room but not allowed to address our concerns despite the government telling the Canadian public that the Chiefs had an opportunity to speak. This is also incorrect.

Bill C-45 passed into law without going through proper consultations with affected parties and groups, including the Indigenous Nations who submit this Request. Within this Omnibus Bill were changes to over 50 federal laws including

the "*Indian Act*" which directly affects our rights to our lands and territories. These amendments were made without input, debate and consultation from the Nations. The sections of the *Indian Act* that were amended deal with Indian lands and changes how our reserved lands are dealt with; specifically how lands are 'designated' and 'surrendered'.

When Treaties were made we understood that we would share the land with newcomers. The colonial narrative continues today through continued introduction of legislation to control what we do on our own lands. For example, in current Senate Debate regarding the Idle No More movement in relation to C-45, the Hon Senator Dennis Glen Patterson states:

> I have been observing with concern the Idle No More movement, in particular protests — some of which involve *unlawful obstruction and blockades — over the impacts of Bill C-45 as perceived by some Aboriginal leader and misinformed media reports*.Amongst the more *inflammatory claims made by the Idle No More movement is that Bill C-45 has ensured an easier path to the selling off of First Nation lands*.
>
> In the December 12 edition of the *Yukon News*, Assembly of First Nations Regional Chief Mike Smith stated:
>
> We are the people of this land, and what we have to say to the governments of Canada and the Yukon is this land is not for sale.
>
> Further to that, according to a December 14 CBC report, protesters in P.E.I. stated that Bill C-45 proposes significant changes to land management on reserves that make it easier for the federal government to control reserved land.

The statement made by the Senator demonstrates misunderstanding promoted by the state of Canada about our lands. The actions of the state of Canada violate our right to self-determination and enjoy our inherent Indigenous rights, and those derived through Treaty on our own lands.

Some Hon. Senators: Hear, hear.

Hon. Jim Munson: Honourable senators, I will continue with the submission to the eighty-second session of the UN Committee on the Elimination of Racial Discrimination. I am continuing to read from the submission from the 20 First Nations we are talking about.

I also join the chorus in denouncing this piece of legislation.

I will read from the transcript:

> The *First Nations Financial Transparency Act* is the most recent Bill in Parliament and is in the final stages to becoming law. Currently, the Bill is being debated with the Standing Senate Committee on Aboriginal Affairs. The Bill was in the Standing Committee of the House of Commons, our traditional Chiefs were not able to have input into the process. There was so much public outcry against the Bill and calls for major amendments and a consultation process that the Government imposed closure on the Bill. This cut off the democratic process.

It never seems to end.

> The imposition of closure shut off the Opposition Parties within Parliament from proposing amendments. The Chiefs outside of Parliament were cut off from the parliamentary system. The Chiefs wanted to see major changes and a new process put in place to get our free, prior and informed consent as is our right as Treaty Peoples. Closure within the Parliamentary system of Canada is a heavy hand of the government to stop debate and discussions. It was arbitrary and swift.

The purpose of this Bill as stated by Canada is meant to increase First Nations transparency by forcing leadership on the Nations to publicly disclose our finances. These financial records will be posted on a government of Canada website. It will interfere with our ability to do business and violate the privacy rights of citizens. Despite the comments by the Government, this Bill is meant to have access to all monies that the Nations made from our own sources.

In addition, there is a myth about the legislation that is fueling racism against our Nations. Our Indigenous Nations already have multiple reporting measures we must meet before our monies are distributed by the government of Canada. This legislation perpetuates the myth that First Nations are corrupt and incapable of maintaining our own affairs. It further erodes our sovereignty status and our ability to assert our own principles of self-determination as the legislation undermines our traditional forms of government. In current Senate debate on this Bill the Hon Senator Dennis Glen Patterson makes the following statements regarding First Nations leaders and governments:

> "[T]hey (leaders — our emphasis) work to keep this information hidden, if not from all members, from those who oppose them. As reported by some witnesses before the committee considering this bill in the other place, intimidation has occurred in some communities when a member asked for access to this basic financial information."

The statement made by Senator Patterson implies that all First Nations governments utilize corrupt tactics and assumes that First Nations leaders need legislation to keep them accountable to our members, further eroding our ability to develop our own governments through our inherent Indigenous rights. The statements further perpetuate the colonial narrative that First Nation leaders and governments are corrupt, incapable of maintaining our affairs and it belittles our ability to implement our own governance structure through practicing self-determination.

Hon. Elizabeth Hubley: Honourable senators, I wish to continue with the debate.

First of all, however, I would like to say as a previous member of the Aboriginal Committee how disappointing it is to be speaking against a bill that I feel is again a top-down approach to dealing with another nation, nation to nation, where we should be dealing with a bottom-up approach. It grieves me to think that we still have not learned the lessons of our past.

Regarding Bill C-428, the "Indian Act amendment and replacement act, the submission says:''

> On June 4, 2012 the Canadian government introduced Bill C-428 into the House of Commons for First Reading and it is making its way through Parliament to become law. This is a private member's Bill that seeks to make significant and sweeping changes to the *Indian Act*. To date, there has not been any meaningful consultation to discuss these drastic changes that would impact the Nations. The unique features of private member's Bills are best understood as:
>
> > [T]he purpose or intent of a private bill is to confer special powers or benefits upon one or more persons or body of persons; or to exclude one or more persons or body of persons from the general application of the law.
> >
> > [A] private bill relates directly to the affairs of an individual or group of individuals, including a corporation, named in the bill; the bill seeks something which cannot be obtained by means of the general law and is founded on a petition from an individual or group of individuals.
>
> The Bill aims to make substantive changes and seeks to replace the *Indian Act*, yet no consultation has been initiated with First Nations by the Canadian government. The manner the Conservative government introduced this Bill giving a false impression. The media stories said that it was legislation desired by the Nations, and indeed various members of the Conservative government have stated to various news media that the Nations were consulted on this Bill. This statement by the Conservative government is not only incorrect, but furthers the colonial narrative that First Nations are irresponsible and incapable of making decisions in our own best interests and therefore substantive legislative amendments are required as thereby introduced by the Conservative government of Canada. The actions taken by the Conservative government by imposing this Bill denies the Nations our inherent Creator given rights, our human rights and the ability to exercise our self-determination within our respective territories.

• (1500)

Turning to Bill S-2, the "family homes on reserve and matrimonial interests or rights act, the submission continues":

> This Bill was introduced in the Senate on September 28, 2011 and recently went through second reading in the House of Commons on November 22, 2012. It has been tabled and referred to the Standing House Committee on the Status of Women. The Conservative MP that introduced the Bill into the House for debate suggested the Bill would ''provide individuals living on reserves the similar matrimonial real property rights and protections as other Canadians living off reserve.'' However, there was inadequate consultation that meets the legal standard required with First Nations, especially the Nations. Furthermore, the Bill undermines the relationship the Nations understood to be in place as found in our Treaties. The Bill attempts to erode our inherent rights and those recognized in Treaty by subsuming our own laws under Canada thus denying our ability to practice self-determination. The problems with this Bill imposed on First Nations, especially the Nations, is best understood by the following comments made during this debate by one Member of Parliament who stated:
>
> > I will insist on the fact that imposing provincial laws on first nations without their consent is problematic ethically and practically, and it also disregards their inherent rights and their sovereignty. However, that is nothing new. In fact, in the past year and a half, the Conservatives have imposed measures unilaterally, especially in aboriginal affairs.
> >
> > I am an expert in this area and, as the critic; I often talk about such matters. In this case, the Conservatives are just trying to prove that they have brought forward measures — albeit in a hasty, uninspired and rather disorganized manner — simply to take some credit and to say that they have dealt with the matter head-on.
>
> The conflicting perspectives in House debate on this Bill demonstrate the Conservative government's agenda in pushing through legislation that severely impedes on the Nations sovereignty; especially, our ability to exercise our own laws and jurisdiction by practicing self-determination. Further, it perpetuates the colonial narrative that First Nations are incapable or deciding for ourselves what is best for our citizens and Nations. The colonial legislative agenda suppresses the Nations ability to develop our own governance initiatives based on our own cultural and spiritual laws that guide our Nation's governments.

Hon. Terry M. Mercer: Honourable senators, I am saddened to take part in this afternoon's debate. I am further saddened — I am sure you are, and you should be ashamed yourselves — to read into the record further parts of the submission to the eighty-second session of the United Nations Committee on the Elimination of Racial Discrimination with regard to Canada's failure to comply with UN human rights conventions and General Recommendation No. 23 of the Committee on the Elimination of Racial Discrimination. It is sad that this is what it has come to, folks — that our First Nations people again have to appeal to the United Nations.

Let me go on:

> Bill S-6 *''First Nations Elections Act''*
>
> This Senate Bill was introduced on December 6, 2011 and was introduced in first reading in the House on May 4, 2012. This Bill attempts to make changes to the elections of leadership of First Nations that will enable the Minister of

Aboriginal Affairs and Northern Development to have more control over First Nations government's by imposing an election process emanating from colonial origins.

That ought to make you proud over there.

The Conservative Senator that sponsored this Bill made the following statements in debate regarding the Bill:

[P]rovide First Nations with the right tools and frameworks for modern government.

The benefits it will bring about are too good to ignore. Bill S-6 will discourage questionable election practices and encourage practices that are reliable, consistent, effective and less open to abuse.

The First Nations elections act is legislation coming from the Government of Canada....

The Senate debate on this Bill perpetuates the colonial agenda and narrative that First Nations forms of traditional government, based on our values, culture and spiritual beliefs are inadequate and backwards and that our Nations are best served by legislation introduced by the Conservative government to 'modernize' the Nations government processes. However, the Bill undermines the Nations jurisdiction, sovereignty and ability to practice self-determination in our territories that originate from our Creator given inherent rights and our human rights.

Bill S-8 *"Safe Drinking Water for First Nations Act"*

This Senate Bill was introduced on February 29, 2012 and is currently in second reading in the House being debated as of November 26, 2012. This Bill attempts to introduce Canadian government regulations related to water on the Nations lands which the government says will address concerns of water quality. However, the Bill undermines the Nations own inherent government laws and jurisdiction within our territories. A First Nation leader who spoke during one of the debates discusses the concerns of lack of consultation on the Bill and stated "Bill S-8, [C]ontinues a pattern of unilaterally imposed legislation and does not meet the standards of joint development and clear recognition of First Nation jurisdiction". Regarding lack of consultation in developing the Bill, one MP made the following statements about the concerns this Bill raises:

There is no recognition in this legislation that the first nations themselves may already have a regime for safe drinking water or may choose to go down the path, with assistance from the federal government, of implementing our own regime.

There are also problems with the non-derogation clause, which one could shoot cannon through, a huge exemption. Clause 7 also provides a potential conflict with section 35 of the Constitution, where it would allow federal regulations under Bill S-8 to prevail over first nation laws.

The lack of consultation on this Bill is another concern the Nations have and how the imposed legislation disregards the treaty relationship, our inherent Indigenous rights, our human rights and our ability to practice self-determination. There is another large problem with the legislation. The government of Canada could force our Nations into arrangements with private companies to provide water in our territories for our members. The legislation is going to impose big obligations on the Nations without any funding to support the imposed criteria as set out in the bill. Essentially, the government of Canada is setting our nations for failure. The legislation undermines our rights to water — when we made treaties with the Crown — we did not give up or surrender our rights to water.

• (1510)

Hon. Grant Mitchell: Honourable senators, Bill S-212, the First Nations Self-Government Recognition Bill —

...was introduced on November 1, 2012 and is currently in First Reading. The Bill had been introduced a number of times in the past twenty years. It has undergone amendments and is now called Bill S-212. The Bill attempts to provide a legislative process for First Nations to become self-governing in designating similar authorities to the provincial powers. Since this Bill was introduced, there has not been any consultation with First Nations on the impacts it has on the Nations governments and our inherent human and indigenous rights and those rights recognized by the Treaty relationship.

Imposing legislation on First Nations not only disregards our forms of traditional government that are based on our values, culture and spirituality, and implies such forms are backwards needing of improvement, but also perpetuates the colonial narrative about First Nations that our culture is stuck in the past requiring Canadian intervention.

Hon. Wilfred P. Moore: Honourable senators, it is so discouraging when our own people have to go outside of Canada to try to seek justice. Our first families literally have to go outside of Canada to seek justice against their own — I will not say government — but their own counter-nation.

I will start with "Section B, "The Nations Response to Imposed Legislation":

The Idle No More Indigenous movement which started in early November through local teach-ins began in response to bring attention to the suite of legislation that has been referred to as First Nation termination legislation. Each Bill is at various stages in the parliamentary process making our way to becoming law. Despite attempts to stop the progress of these Bills through peaceful demonstrations (rally's, public round dancing, letter writing campaign's etc.) our demands have fallen on deaf ears of the Canadian government. Through this legislative process, Canada is attempting to silence us. The government is denying our ability to raise issues related to treaties that govern our relationship. The process of silencing and erasing of the Treaty relationship undermines the state of Canada within

> the international community. The state needs the treaties to give them the legitimacy to any interests in our territories. Canada, as a treaty successor state, is obligated to uphold the Treaties made with the Crown. Canada is directly connected to the colonial narrative that the Nations are not sovereign entities and our Nations require legislation imposed by Canada to govern our affairs as such narrative justifies the continued dispossession of our Nations' lands, resources and the denial of our inherent rights including our human rights, and those rights recognized by the Treaty relationships.
>
> The denial of our nationhood is evident through Canada's refusal to include us in discussions related to the way in which this legislation became introduced as it was done without our input. The national political organizations which are non-profit corporations created under Canadian legislation did not make treaties. These organizations did not make Treaties with the Crown. These organizations do not have standing to be consulted on behalf of the Nations who made Treaties with the Crown.

I would ask honourable senators to pay attention here, please.

Some Hon. Senators: Order.

Hon. Gerald J. Comeau (The Hon. the Acting Speaker): There is a little bit of disturbance.

Senator Moore: Thank you, Your Honour.

> In numerous letters to the Prime Minister, we have raised concerns about the impact the legislation has on our Nations and we were denied the opportunity to be included in the democratic process. Under Article 18 of the United Nations Declarations on the Rights of Indigenous Peoples ("UNDRIP") the Nations are entitled to:
>
> > [T]he right to participate in decision-making in matters which would affect our rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision making institutions.
>
> The refusal to include us in the process violates our inherent rights; our right recognized through treaty making, and further denies our ability to practice self-determination. For example, Chiefs of the Nations represented in this Request received a letter from the Minister of Aboriginal Affairs and Development Canada ("AANDC") on October 22, 2012 stating amendments would be made to the Indian Act contained within Bill C-45. The Chiefs of the Nations did not ask for these changes and further were not consulted in any way that meets the international standard of free, prior and informed consent as outlined in Article 19 of the United Nations Declaration on the Rights of Indigenous Peoples ("UNDRIP").
>
> As a result of this, we were forced to write written submissions to Committee in order to have our concerns addressed and even then, this act fell on deaf ears as the legislation passed into law on December 14, 2012.
>
> Opposition to Bill C-38, C-45 and the remaining suite of legislation is found in letters, press releases, Resolutions we sent to the Prime Minister and when our requests were not heard to stop the Bills the Chiefs of the Nations were forced to make a physical demonstration on Parliament Hill on December 4, 2012. Chiefs of the Nations have made every effort to oppose the suite of legislation imposed upon us through mechanisms made available to us. We continue to be denied input into decisions made by Canada that undermine the Nations tribal governments' which continue to oppress our people through these colonial legislative agendas.

[*Translation*]

Hon. Roméo Antonius Dallaire: Honourable senators, I would like to steer the debate in a different direction. Instead of looking at the issue from a technical perspective, why not look at it from a moral and ethical perspective? I think that this bill shows not only a lack of sensitivity, but also a fundamental lack of recognition for people who have every right to expect to be respected in accordance with their own social values and therefore as full members of Canadian society.

I would like to read an excerpt from the Canadian Multiculturalism Act about Aboriginal people. I want to share what we say to the people who immigrate to our country, what we ask of them and what we offer them, and I ask that we keep in mind that we are the ones who are immigrants here, since the Aboriginal peoples were here long before us. We came and we have evolved with these peoples over the decades and centuries. I would like to flip this around and ask you this: what do we do with the people who are immigrating now and how do we respond to these newcomers compared to what we do with Aboriginal people?

I would like to read the following:

> The *Canadian Multiculturalism Act* provides a legal framework to guide federal responsibilities [our responsibilities] and activities in regard to multiculturalism in Canada.

Here are the basic principles of the act. First, the act:

> Reaffirms multiculturalism as a fundamental characteristic of Canadian society.

We integrate. They are part of us and we are part of a whole.

Second, the act:

> Encourages federal institutions to uphold longstanding values of respect, fairness and equality of opportunity with respect to members of diverse groups.

Third, the act:

> Helps protect the rights of all Canadians, foster the full participation of all members of society, celebrate Canada's diverse heritage, and recognize the vast contributions of all

> Canadians regardless of their ethnic, cultural, religious and linguistic background.

And lastly, the act:

> Encourages federal institutions to carry out their activities in a manner that is sensitive and responsive to the multicultural reality of Canada.

• (1520)

It is a far-reaching law that is designed to ensure that those who come to Canada are warmly welcomed here. It also ensures that they not only respect the fundamental values of our country, but that they also respect who we are so that we can work together and they can grow as part of our country.

Bill C-27 is being imposed on us in a draconian and less than democratic fashion. It is fine for us to talk and have discussions here, but if we are not able to take that debate further because we are the minority, because our viewpoint differs from that of the government, and if we are not able to have an in-depth debate on a topic as important as the other human beings who live in this country and who have every right to be treated with respect and recognition, why are we here?

We may as well not bother, which is what many would prefer, and leave everything in the hands of the cabinet. We do not even need legislators. All we need is the executive and, sometimes, the judiciary, in a pinch. It is like saying, "Everyone else can go home." Maybe they are right; maybe we are wasting money.

Canadians can tell by this bill and the way it is being handled that we are not being paid to do our job right now. Instead, we are being paid to allow an autocratic, overbearing, unyielding power to impose its will and its vision on the future of nations that were here long before us and that have every right to be respected.

I will be voting against this bill not because it is technically flawed, but because I believe that it is fundamentally opposed to the values, ethics and morals that we stand for. These are people who have given their lives in service to the Canadian Armed Forces and the Canadian people and who have been ready to die to help us. Now it seems that we are not ready to recognize them and to give them a fair chance in institutions like this one in the context of a debate that should be reviewing the content of such an ill-conceived bill imposed so autocratically.

Do not talk to me about democracy when the government in power behaves so autocratically.

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Acting Speaker: Will all those in favour of the motion please say "Yea"?

Some Hon. Senators: Yea.

Hon. Fernand Robichaud: Would the Honourable the Acting Speaker please read the motion that we are voting on aloud?

The Hon. the Acting Speaker: It is moved by the Honourable Senator Carignan, seconded by the Honourable Senator Nancy Ruth:

> That, pursuant to rule 7-2, not more than a further six hours of debate be allocated for consideration at third reading of Bill C-27, An Act to enhance the financial accountability and transparency of First Nations.

I have already asked the question about senators in favour and I will now ask the following question: will all those opposed to the motion please say "Nay"?

Some Hon. Senators: Nay.

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

And two honourable senators having risen:

The Hon. the Acting Speaker: Honourable senators, the bells will ring for 30 minutes. The vote will take place at 3:55 p.m.

Call in the senators.

(Vote)

• (1550)

[*English*]

Motion agreed to on the following division:

YEAS
THE HONOURABLE SENATORS

Batters	McInnis
Bellemare	McIntyre
Beyak	Meredith
Boisvenu	Mockler
Braley	Nancy Ruth
Brown	Neufeld
Buth	Ngo
Carignan	Ogilvie
Champagne	Oh
Dagenais	Patterson
Demers	Plett
Doyle	Poirier
Duffy	Raine
Eaton	Rivard
Enverga	Runciman
Gerstein	Seidman
Greene	Seth
Housakos	Smith (*Saurel*)
Johnson	Stewart Olsen
Lang	Tkachuk
LeBreton	Unger

MacDonald
Maltais
Manning
Marshall
Martin
Verner
Wallace
Wells
White—51

NAYS
THE HONOURABLE SENATORS

Baker
Callbeck
Charette-Poulin
Cowan
Dallaire
Dyck
Eggleton
Fraser
Harb
Hervieux-Payette
Hubley
Jaffer
Joyal
McCoy
Mercer
Mitchell
Moore
Munson
Ringuette
Robichaud
Tardif
Zimmer-22

ABSTENTIONS
THE HONOURABLE SENATORS

Nil

• (1600)

CRIMINAL CODE

BILL TO AMEND—SECOND READING

Hon. Denise Batters moved second reading of Bill C-55, An Act to amend the Criminal Code.

She said: Honourable senators, I am honoured to rise today for the first time as a senator in this chamber. I have lived and worked in Saskatchewan my whole life, and I am proud to represent the people of Saskatchewan in this hallowed place.

I welcome the opportunity today to speak to Bill C-55, the Response to the Supreme Court of Canada Decision in *R. v. Tse* Bill. This is an important piece of legislation. It concerns section 184.4 of the Criminal Code. This gives the authority to intercept private communications, to wiretap, without judicial authorization in cases of imminent harm. Section 184.4 is critical from a law enforcement perspective. It is used by the police in situations like bomb threats and kidnappings.

Honourable senators, the legislative context in which we find ourselves requires that we move quickly. The Supreme Court of Canada's decision in *R. v. Tse* declared that section 184.4 of the Criminal Code was constitutionally invalid. The court suspended its declaration of invalidity until April 13, 2013. If Bill C-55 does not pass through Parliament before then, the police will no longer be able to rely on section 184.4 in situations involving an immediate risk of imminent harm. I will expand on the possible consequences of this later in my remarks, but obviously those consequences are potentially very serious.

At its core, honourable senators, the bill before you represents the government's execution of the roadmap provided by the Supreme Court of Canada in *R. v. Tse*. Before speaking more specifically about the content of Bill C-55, let me say a few words about how section 184.4 relates to other wiretap provisions included in the Criminal Code.

The interception power in section 184.4, which does not require court authorization and is only used in exceptional circumstances, is different than the emergency interception power contained in section 188 of the Criminal Code. Under section 188, a specially designated peace officer can obtain the authorization of a designated judge to intercept private communications for a maximum of 36 hours. This would occur in situations where a conventional wiretap authorization cannot be obtained with reasonable diligence within the time constraints at hand. Unlike section 184.4, which does not require a judicial authorization, section 188 involves an abbreviated process for a judicial authorization.

On the other hand, for the police to rely on section 184.4 of the Criminal Code, the time frame within which the wiretap is needed must be so short that even the expedited process provided for by section 188 is not feasible. Put another way, honourable senators, while both section 188 and section 184.4 contemplate wiretapping in emergency situations, section 184.4 is available in a far more limited class of emergencies.

The existence of section 188 itself underlines the necessity of using section 184.4 only where it is absolutely essential. In the *R. v. Tse* decision, the Supreme Court of Canada noted that section 188, along with other wiretaps authorized by the Criminal Code, ensures that the availability of the authority under section 184.4 is inherently time-limited. Before using section 184.4, police must first assess the ability to use other provisions. When section 184.4 is used, police must move to use other wiretap provisions as soon as possible.

Let me now turn to the amendments proposed in Bill C-55. The overarching goal of the bill is to add accountability and privacy-related safeguards to section 184.4 of the Criminal Code. Bill C-55 accomplishes this goal by doing four things. First, it would require after-the-fact notification to those people whose private communications have been intercepted in exigent circumstances under section 184.4. Second, it would require annual reports on the use of section 184.4 powers. Third, it would limit the application of section 184.4 to the list of offences in section 183 of the Criminal Code. Fourth, it would narrow the availability of section 184.4 wiretaps to police officers.

The addition of these safeguards would ensure that the essential power for police to respond in a crisis under section 184.4 continues to be available. I will frame my discussion of these four components around the Supreme Court's decision in *R. v. Tse*.

The Supreme Court of Canada held in *R. v. Tse* that after-the-fact notification, or a comparable safeguard, was the one change to the law necessary for section 184.4 of the Criminal Code to be consistent with the Canadian Charter of Rights and Freedoms.

The notice provision provided for in Bill C-55 is similar to existing wiretap notification requirements in the Criminal Code. It sets out that a person who is the object of an interception under

section 184.4 must be notified of that fact within 90 days of the interception occurring. The 90-day deadline is subject to extensions granted by a judge. The notification scheme created by Bill C-55 follows the guidance of the Supreme Court of Canada in *R. v. Tse*.

The second modification proposed in Bill C-55 would subject the use of section 184.4 to a public reporting requirement. Although the Supreme Court of Canada held that reporting was not constitutionally required, the court did endorse the concept of reporting as good public policy. This concept was also endorsed by some of the lower courts that have weighed in on the constitutionality of section 184.4 of the Criminal Code.

The amendments proposed in Bill C-55 would extend, with necessary modifications, the reporting requirements that presently exist for other wiretapping provisions in the Criminal Code to section 184.4 wiretaps. The addition of such a requirement for annual reporting would enhance the transparency and public understanding of the provision.

The third amendment would limit the availability of section 184.4 to cases where it is immediately necessary to prevent the commission of an offence as defined in section 183 of the Criminal Code. The definition of "offence" in section 183 covers a relatively broad scope of criminal activity but is designed to be limited to more serious offences. In contrast, the current language in section 184.4 refers only to the prevention of unlawful acts, which can be interpreted more broadly.

• (1610)

Narrowing the application of section 184.4 of the Criminal Code to "offences" was viewed as constitutionally necessary by some lower courts in British Columbia and Quebec. While this view was not endorsed by the Supreme Court of Canada, the government believes, nevertheless, that limiting the application of section 184.4 is a worthwhile endeavour. In addition to narrowing the availability of section 184.4 wiretaps to a list of specific offences, this amendment would also harmonize section 184.4 with other wiretap provisions that are similarly restricted to section 183 listed offences.

Honourable senators, it is important to note that in the deliberations on Bill C-55 by the House of Commons Standing Committee on Justice and Human Rights, the Criminal Lawyers' Association, the British Columbia Civil Liberties Association and the Canadian Bar Association all advised the committee that they supported this amendment.

Finally, Bill C-55 would also limit the availability of the provision to police officers. Currently, section 184.4 is available to peace officers, a term with a rather broad definition in section 2 of the Criminal Code.

In *R. v. Tse*, the Supreme Court of Canada indicated it did not consider, based on the evidentiary record before it, that it could pronounce on this aspect of section 184.4; however, the decision did suggest that the government might wish to consider narrowing the provision, since the availability of section 184.4 to the broad category of peace officers could make section 184.4 constitutionally vulnerable in the future.

For this reason, Bill C-55 proposes limiting the availability of section 184.4 to police officers. This is defined in section 183 as "any officer, constable or other person employed for the preservation and maintenance of the public peace."

This definition is used elsewhere in the Criminal Code and in other statutes. It has been interpreted as including all federally and provincially designated police authorities as well as enforcement officers who have a duty that involves the "preservation and maintenance of the public peace." This would include, for example, military police, who are first responders on military bases, but would not include those who are not appointed pursuant to a statute. It would exclude privately employed security officials such as mall security or office building security guards.

This sums up the safeguards the government is proposing to add to section 184.4 of the Criminal Code. They comply with the Supreme Court's decision in *R. v. Tse*. Plus, they strike an appropriate balance between the need for the police to act quickly and decisively in cases of imminent harm and the need for privacy and accountability.

Honourable senators, I would like to emphasize that in addition to the safeguards that would be added to section 184.4 by Bill C-55, all of the existing limitations on the use of section 184.4 would be maintained. The Supreme Court of Canada acknowledged in *R. v. Tse* that the existing restrictions on the use of section 184.4 limit it to genuine emergency situations. The police can rely on section 184.4 only where the situation is too urgent to obtain a wiretap authorization, the interception is immediately necessary to prevent harm to any person or to property, and the originator or recipient of the communication is the perpetrator of the harm or the victim or intended victim of the harm.

I will conclude my remarks today by urging honourable senators to study this bill and pass it as soon as possible. As I mentioned earlier, section 184.4 of the Criminal Code will be constitutionally invalid after April 13, 2013, if the changes in this bill are not enacted by that date. If these changes do not happen, law enforcement will lose the ability to rely on section 184.4 for wiretapping without a judicial authorization when there is a risk of imminent harm.

From a law enforcement perspective, section 184.4 is of critical importance. In *R. v. Tse*, for example, the police used the provision to intercept telephone communications in order to investigate three related kidnappings. Similarly, in Ontario the police resorted to section 184.4 of the Criminal Code in the aftermath of a gang-related shooting in order to determine the whereabouts of a suspect and prevent him from committing any further violent acts. In another case in British Columbia, section 184.4 was used to prevent a murder after, in the course of a homicide investigation, the police learned of an impending hit. The police knew the identity of the would-be perpetrator but did not know the identity of the target. In light of the time pressure and the unique investigative context, section 184.4 of the Criminal Code was the only investigative tool that could be expediently used to prevent the murder.

As honourable senators can imagine, section 184.4 can be used in many such situations. It can be used in crises, such as a chemical weapon threat or threats of gang violence. Depriving

police of this investigative tool could hinder the ability of the police to respond to critical situations involving threats of imminent harm. As we definitely do not want that to occur, I encourage honourable senators to move quickly to pass Bill C-55.

Hon. Joan Fraser: Honourable senators, let me begin by congratulating Senator Batters on her very clear and well-delivered explanation of this bill. It is indeed a necessary bill. We all have to agree that there are times when the police desperately and very quickly need to be able to use a wiretap without getting a warrant. As the Supreme Court said in the *Tse* case, extreme measures in extreme circumstances, and this bill responds to the *Tse* judgment that Senator Batters discussed. Therefore, we do have to act.

My problems have to do as much with the process as with any particular element of this bill. It is now nearly a year since the Supreme Court of Canada told us we needed to fix this element of the law. That was on April 13 last year. Now we find ourselves in the Senate with four sitting days, including this one, to dispose of a very serious amendment to the Criminal Code. I do not think that is acceptable.

It worked out that way because initially the government was sort of going to wrap this particular necessary change into the infamous Bill C-30, I think it was, on electronic communications. I cannot imagine why they did that, because it was obvious from the start that Bill C-30 would have a very rough passage. It would have been so easy to move expeditiously a year ago to do what they are doing now with this bill. Instead, they sat around until finally that bill was withdrawn on February 11, 2013, and this bill was presented in its stead.

The House of Commons did its best to study the bill fairly expeditiously. Since February 11, honourable senators, we have had two break weeks. Now we have received the bill, and we have four days to spend examining it. If we find anything in this bill that should be fixed, that is too bad. As we all know, if the Senate amends a bill, it has to go back to the House of Commons, and the House of Commons will be away on Easter break and will not be back until after the drop-dead Supreme Court deadline of April 13 this year.

Senator Mercer: Poor management.

• (1620)

Senator Fraser: Very poor management. That is why the Legal and Constitutional Affairs Committee, on order from the Senate, had begun a pre-study of the bill. Now that the bill is before the Senate, the committee will move into regular consideration of it, although on an expedited basis. I congratulate the Chair of the Legal Committee, Senator Runciman, on his ability to juggle the various necessary elements to get this done.

Honourable senators, we have to look carefully at this bill. Even on the most necessary bill, the devil can be in the details. We are dealing with the Criminal Code of Canada and fundamental human rights on this bill. In case anyone doubts that Senate committee work matters, allow me to turn myself into an imitation of Senator Baker for a minute and remind honourable senators that in the *R. v. Tse* decision, the Supreme Court quoted the work done by the Senate Legal Committee when section 184.4 was passed in 1993. What honourable senators do matters and, as Senator Baker so often reminds the house, it is taken into account by the courts.

The work began this morning in committee at the pre-study stage, but it was a serious beginning with an appearance by the Minister of Justice and his officials. Of course, it was interesting work and there were some very instructive moments, but there was one moment that I found a little bit entertaining.

One element of the bill that has caused some questions for me is the fact that under the bill, a police officer can extend the original wiretap without a warrant by going before a judge and the extension can be for as long as three years. That strikes me as quite a long period of time. Honourable senators can understand that in complicated questions or cases, and organized crime would be a classic example, a wiretap may need to extend beyond the original 90 days, but a three-year extension struck me as being perhaps potentially generous.

I asked the minister, "Why three years? Why not one year?" The minister looked me in the face and said that he has faith in the judgment of our judges and so should I. Coming from the minister who regularly presents us with bills calling for mandatory minimums so that we do not have to trust the judgment and discretion of the judges, I found that vastly entertaining.

Many questions remain. For example, when the annual reports are prepared on the number of wiretaps, I believe that 10 elements are supposed to be covered, including how many, which ones led to charges, which ones might lead to charges, which ones have been renewed, and how many people were involved, et cetera. We may be told, but the law does not say we have to be told, how many of these wiretaps would turn out to be not successful, not leading to charges or to further investigations of offences that are uncovered. That kind of information is very pertinent and I do not know why it is not in the bill. I would like to see it in the bill.

The committee will hear again from officials and I hope they will be able to assuage my concerns on this and some other points. In the meantime, the Senate is stuck and we have only four days to consider the bill. This is not the way Parliament is supposed to operate. Yes, it is a necessary bill, but four days is an embarrassing amount of time to allocate to its study.

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

(Motion agreed to and bill read second time.)

REFERRED TO COMMITTEE

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

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

CORRECTIONS AND CONDITIONAL RELEASE ACT

BILL TO AMEND—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator White, seconded by the Honourable Senator McInnis, for the second reading of Bill C-350, An Act to amend the Corrections and Conditional Release Act (accountability of offenders).

Hon. George Baker: Honourable senators, I understand that both sides wish to have this bill sent to committee, so there is no need for me to address the contents of Bill C-350. However, I note that Senator White gave an excellent speech when he moved second reading of the bill. Far be it from me to disagree with Senator White's opinions concerning incarcerated people and why they are there. He is the former Assistant Commissioner of the RCMP and Chief of Police of the Ottawa Police Service, and he led the Regional Police Service in Durham, Ontario. It is amazing how much Senator White has accomplished in the field in such a short period of time.

The importance of sending Bill C-350 to the Senate committee is highlighted by the fact that a section of it may be referred to the courts, which is of concern to certain people. Honourable senators, allow me to explain.

Senator White clearly explained the purpose of the bill. He said that the purpose was to make sure that if prisoners who seek civil remedies against the Crown, no matter what it is for, are awarded damages in any way, then those damages would not go into the pocket of the prisoner directly but would go, first, to satisfy any outstanding child support and, second, to spousal support.

• (1630)

Honourable senators, it states in the bill in clause 2 that:

> ... by the payment of, in the order of priority set out below,
>
> (*a*) any amount owing by the offender as a result of an order for maintenance, alimony or family financial support made by a court of competent jurisdiction;

No one would disagree with that. Then, the second amount:

> (*b*) any amount owing by the offender as a result of a restitution order made under section 738 or 739 of the *Criminal Code*;

Section 738 is where one does damage to property in the commission of an offence. Section 739 is where the offender may have received a loan or may have sold property as a result of the offence for which now compensation would be in order.

The next priority of spending would be:

> (*c*) any victim surcharge imposed under section 737 of the *Criminal Code*...

That is the $50 or $100 that is now being increased, in a bill that has been introduced, to $200 or 30 per cent if it is a monetary award.

The bill then states:

> (*d*) any other amount owing by the offender as a result of a judgment awarded by a court of competent jurisdiction.

The amount over and above that would go to the offender. In other words, there is a lineup of priorities.

Honourable senators, there is an exception to all of those payments about which Senator White did not go into any detail. In other words, one does not have to make child support and one does not have to give family support or spousal support. I can understand perhaps why this was put in here by the other place. They said that if there is an amount of money to be paid to an offender as a result of the Residential Schools Settlement Agreement, then that will not be touched for purposes of this bill.

The Legal Committee, if this bill goes to that committee, should call for evidence from the organization that suggested this amendment, because that organization came before the House of Commons committee in the last hour of the committee hearings. The amendment was proposed and it was accepted by the committee. As I read it, it was an NDP amendment to the bill when it was introduced.

Again, honourable senators, it is important that the Senate do due diligence on this. I might say in conclusion that in the last three weeks there have been several judgments from various courts which referenced committees of the Senate.

The Supreme Court of Canada, 2013, Carswell Ontario, 733, a case called Sun Indalex Finance, LLC, three weeks ago, at paragraph 81:

> A report of the Standing Senate Committee on Banking, Trade and Commerce gave the following reasons for this choice:

The decision goes through the recent report of the Standing Senate Committee on Banking, Trade and Commerce and then, two paragraphs later, the Supreme Court of Canada states:

> I would therefore allow the main appeals without costs in this Court....

Honourable senators, that was just three weeks ago.

Here is one from three weeks ago from the Nova Scotia Provincial Court, 2013, Carswell, Nova Scotia, 111, at paragraph 47. It states as follows:

> Nothing in the evidence suggests that information is being improperly retained or utilized. The Senate report from June 2010 states, at page 47, as follows....

That was just three weeks ago.

Here is another one from three weeks ago. For senators who sit on committees, the committee reports that we make and the

transcripts of the proceedings are sometimes referenced a long time after they are done. Here is one from the Ontario Court of Appeal, the highest court in the province of Ontario, and at paragraph 41 it states:

> In addition, a copy of the report of the Special Senate Committee on Illegal Drugs, *Cannabis*, the Nolin report, was filed on consent.

Honourable senators, it goes on. Of course, there are some people who disagree with a committee report. Therefore, the Senate committee report and the transcript of evidence gets a good going over from time to time in our courts.

In the Quebec court, there is a judge who did not like it, at EYB2011198927, and the judge states at paragraph 178:

> With respect —

When they say "with respect" it means they are going to say something in disagreement.

> With respect, the court disagrees with some of the statements made by the Senate committee. For instance...

Then it goes on with a whole list of things that they disagree with that the Senate committee referenced and the recommendations made.

Just five months ago, there was a judgment of the Supreme Court of Nova Scotia. They devoted an entire section to a recent Senate committee report of the Standing Senate Committee on Human Rights. When introducing the Senate committee report, they stated at paragraph 9:

> Canada signed the convention on May 28, 1990, ratified it on December 13, 1991. It came into force in Canada on January 12, 1992. The convention was incorporated....

I will not read it all, but it goes into the history, and then it states:

> The convention has not been incorporated into our domestic law. It has not been implemented by Parliament, but some, such as the Standing Senate Committee on Human Rights, in its interim report, November 2005, called *Who's in Charge Here? Effective Implementation of Canada's International Obligations with Respect to the Rights of the Child*, chair, the Honourable Raynell Andreychuk, have noted a certain....

Then it goes on to quote the Supreme Court of Canada and so on, and it agrees with the decision of the Senate committee, but it formed the basis of the decision that was in a family court setting called *John v. John*, 2012, Carswell, Nova Scotia 672, in which the court had to decide whether or not to allow 8-year-old and 10-year-old children to testify when a custody battle was ongoing between the parents.

Honourable senators, this Senate committee report is used time and time again — and this is a recent report of senators in this place — to justify, and the judge concludes by saying, "Yes, we will appoint someone to make sure that the wishes of the child shall be respected."

Honourable senators, you never see a committee report from the House of Commons referenced in our courts at all. You just do not see them, and that is telling.

Here is another one from six months ago. It keeps referencing a senator who changed the law in relation to how CSIS does investigations. The senator just sat during a committee hearing and asked CSIS, who was appearing before the committee, "When do you do interviews with people who are under investigation? Was it true you interviewed them in their workplace?"

The CSIS official said, "Yes, we go to their workplace."

• (1640)

The senator made the comment, which is getting repeated over and over again:

> It seems to me that for many people, — and not only for people belonging to certain minority communities but also for many people — the mere arrival at their place of work of a CSIS agent would be a disruptive element. You have to stop doing your work, find a private place to talk and explain to your boss why you are finding a private place to talk. It would have a daunting effect on many, many people, and quite possibly affect the atmosphere of their workplace.

CSIS concluded that they had better change the way they interview, so they changed their rules. They no longer go to someone's workplace, and that is what this judgment talks about.

The judgment talks about the memorandum that was sent, signed by W.J. Hooper, Deputy Director of Operations, referring to the appearance before the Senate committee, "and stating that while unannounced workplace visits were a legitimate investigative strategy they raised potential controversy. Accordingly, CSIS employees should..." and it goes on to quote the fact that a senator, in questioning an official, actually changed the rules as far as investigations are concerned.

Senator Mercer: Which senator was that?

Senator Baker: It was Senator Fraser.

Some Hon. Senators: Hear, hear.

Senator Baker: In closing, let me say I found a recent discussion out behind the Senate chamber interesting. Senator White and Senator Dagenais were there and they were talking about enforcement on the Hill. There was reference to why certain things were happening on the Hill. From time to time, with the habit that I have of reading case law, I read about a lot of things that happen on the Hill that end up in court.

This was from February 5, 2013. It is a judgment of the Ontario Review Board. I do not know if very many people know what a review board is, but we have an expert here in the Senate, Senator Paul McIntyre, who was the chair of a provincial review board for longer than anyone that I know of in history — over 20 years. He is only a young man. Only former judges can occupy these

positions. Imagine sitting for 23 years between two psychiatrists and having to make judgments on people who were incarcerated.

This decision of the review board reads as follows. This was from February 5, last month. I will not give the names, but here is what happened. It says in paragraph 4:

> Summary: On the morning of June 14, 2012, at approximately 11:45, Constable McKinnon, of the Parliament Hill RCMP detachment, attended the Senate site of Centre Block in response to a complaint. The complainant, Constable Mark Ho, of the Senate Security Unit, reported being in contact with a male demanding to speak to God, the Prime Minister of Canada. Shortly thereafter, Constable McKinnon arrived on the scene where he observed Constable Mark Ho speaking with the subject. The male was wearing light-coloured dress shirt and pants with black dress shoes. He was balding and had a grey beard. In conversation with the male — he was identified as such-and-such — he claimed that he had been sent to Parliament Hill by God and was to deliver a message to the Prime Minister. He was encouraged to write a letter to the Prime Minister. However, he refused, stating that his message from God needed to be delivered in person.
>
> All attempts to reason with him were unsuccessful. Despite numerous attempts by multiple members, he positioned himself on the sidewalk directly in front of the west side of the Senate front entrance. His positioning and behaviour became a concern. He impeded employees in the public area and, in light of this and his unwillingness to depart the area willingly, he was arrested.

The judgment goes on to find that he did have a criminal record, but he was here. I suppose he believed that the Prime Minister was God and the Senate was heaven. At least he got it half right, but I will not say which half.

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

Some Hon. Senators: Question.

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

(Motion agreed to and bill read second time.)

REFERRED TO COMMITTEE

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

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

CRIMINAL CODE

BILL TO AMEND—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Runciman, seconded by the Honourable Senator Braley, for the second reading of Bill C-217, An Act to amend the Criminal Code (mischief relating to war memorials).

Hon. Roméo Antonius Dallaire: Honourable senators, I rise today to speak to Bill C-217, An Act to amend the Criminal Code in connection with mischief relating to war memorials. The bill is brief and thus my remarks shall be brief as well. At least I will attempt that.

I am a veteran, having served with the Canadian Forces for 37 years.

My dad was a veteran of World War II, with six years overseas, and served for 28 years.

My father-in-law served for 21 years, commanded a regiment in World War II and, of course, was a veteran.

My son has served overseas in Sierra Leone and Haiti, and he is still serving. He is a veteran.

In addition to the family, I maintain strong connections with the military, including being an honorary colonel of the Sixth Field Artillery Regiment, in Levis, and also an honourary life member of the Royal Canadian Artillery Association.

I served on the advisory board committee for the restoration of the Vimy Ridge monument, having raised, with others, the requirement for its restoration after so many years and received the final approval to do so, at the cost of $32 million.

Honourable senators can appreciate that I have a rather deep personal commitment to war memorials.

When my son returned from Haiti and we were at the garrison in Quebec City where they were off-loading from the planes, he was standing with me in uniform. A journalist came to me and said, "Your son is also in the army." Before I could respond my son said, "I am fourth-generation army on my mother's side, and I am third-generation army on my father's side. We are a family that lacks imagination."

As for the Vimy Memorial, a few years back — nearly a decade — there were significant complaints presented by Canada to Commonwealth War Graves Commission, which participates in taking care of our memorials overseas, because of the abuses by the French young people on the Vimy Memorial.

• (1650)

The Vimy Memorial is situated overlooking a vast plain, and it is quite an extraordinary site in the spring, summer and early fall, where you have a beautiful vista and sunset. Therefore, it became the favourite spot for young couples to engage in amorous activity.

The memorial became quite an embarrassment in the local population. The local constabulary then assisted in bringing certain control to bear on the nocturnal visitors to the memorial. They did not throw them in jail, and they did not write a law, but they applied the normal laws of the nation in regard to particular sites that are so identified.

Today, we are on the one-hundred-and-fifteenth anniversary of the formation of the Yukon Field Force. Composed of 203 officers and men, the field force was sent to the Yukon in

1898 as a symbol of Canadian sovereignty and as support for the civil power in maintaining law and order in the territory during the Klondike gold rush.

Almost every day — and I use that example — we can mark some milestone or achievement of our military history, which is precisely why we place such high value on our country's war memorials. In fact, as parliamentarians we all share an important connection to Canadian war memorials. Just step from this very chamber and in the Peace Tower of the Parliament Buildings one can find the Memorial Chamber that houses the Books of Remembrance. These books bear the names of all Canadian soldiers, sailors, and airmen and airwomen who paid the ultimate price to protect the peace and freedom of Canadians.

Every single day, at 11 o'clock, in the silence of the Memorial Chamber the pages of these books are turned. Each day brings a new reminder of men and women who gave up their lives for this country. Each day brings us, as senators, another chance to humble ourselves, surrounded by these symbols of the bravery of the Canadian Armed Forces and those who have served in them.

Bill C-217 amends the Criminal Code by adding specific penalties for committing mischief in relation to a war memorial, a cenotaph or other structures honouring or remembering those who served in the Canadian Armed Forces or died as a result of war, conflict or peacekeeping. We have the Peacekeeping Monument not far from here, also. This bill creates mandatory minimum sentences, with a fine of not less than $1,000 for a first offence, imprisonment for not less than 14 days with a criminal dossier, imprisonment for not less than 14 days for a second offence, and imprisonment for not less than 30 days for each subsequent offence. I am trying to imagine such an individual existing in this country and many others.

Members in both chambers, from both sides of the aisle, have cited shameful, upsetting and all-too-frequent examples of mischief and vandalism against war memorials in Canada. I live in Quebec City and have not as yet heard of any of the extraordinary memorials there being desecrated, but it does happen.

Those are all examples — and I do not have them, nor are they reflected in any of the documentation. However, as articulated both in the other place and by the sponsor, there are these examples.

I suppose I must believe that the intention behind this bill must be correct and right, but I question whether the measures proposed are not like chasing a gnat with a sledgehammer. Are we into overkill in attempting to resolve a social problem?

[*Translation*]

Like most anti-crime measures proposed by the Conservatives, this bill focuses on punishment, rather than prevention, and it misses out on an important opportunity to promote understanding rather than simply imposing punitive measures. My goodness, life must be simple when everything is black and white and you think you have all the answers.

Given that a large number of acts of vandalism against war memorials are committed by young people, perhaps we should instead be encouraging them to perform community service for veterans groups, for instance, to right their wrongs. Perhaps we could educate and edify them, perhaps instill a sense of respect for the values of our country. This might help prevent them from engaging any further in the kind of behaviour that got them arrested in the first place.

I think it would be much more useful to educate them, to encourage them to talk with veterans who are still alive and perhaps ask them why they wanted to serve and get them talking about those who made the ultimate sacrifice. Besides, many of those whose memories are being honoured by these monuments are family members of those youth. It was not 80-year-old men who were sent overseas. It was young people who, all too often, were only 16 or 17 years old, not 18.

Most of these cases of vandalism against war memorials involve young people around that age. I think education would be much more useful than incarceration. This would help change their attitude and, who knows, perhaps they could become mentors or the future guardians of these sites.

We should not lose sight of the fact that mandatory minimum sentences may result in these young people being charged with the general offence of mischief. If prosecutors steer clear of mandatory minimum sentences, then the problem related to this particular behaviour remains. Thus, this does not prevent or help eliminate the problem. The fear of going to jail and coercion are used as a means of challenging these young people not to engage in such behaviour again.

This type of behaviour and these acts of vandalism are a problem related to the civil standard. We should be dealing with this problem by instilling a sense of respect in young people.

At present, section 430 of the Criminal Code defines mischief and establishes the sentences. The Criminal Code does not provide for a mandatory minimum sentence for mischief, and it does not specifically mention commemorative monuments, which is certainly not surprising. Having said that, it does contain provisions on mischief relating to cultural and religious property which, according to some interpretations, could include war memorials, for which we have a great deal of respect because they mark the sacrifice of human life.

Furthermore, this bill will not really better protect other commemorative monuments and could lead to inconsistent sentencing. What do we do if someone is arrested in South Africa for trying to defile headstones in a small cemetery for soldiers who fought in the Boer War? What tools does the Commonwealth War Graves Commission use when people deface these monuments? We do not know. Yet, we are talking about Canadian soldiers, our own, who have been laid to rest in those places as well as here in Canada.

However, we are not trying to influence this institution and, with this bill, we have not even tried to contact it in order to see what it does and how it deals with these situations.

• (1700)

They have far more historical war monuments than we have here, mainly because more battles have been fought there.

Mandatory minimum sentences have been proven to be ineffective in the past. We have debated this topic at length, so I will not delve into it any further. Even if here it is a question of light sentences, I am still opposed, out of principle, to imposing mandatory minimum sentences and stripping judges of the responsibility of using their judgment. That is what they are paid to do. To discourage this kind of behaviour from the start, we need to focus our efforts on educating youth so that they recognize the courageous sacrifices that have been made and the significance of monuments and commemorative sites.

[*English*]

We should encourage schools to invite grandparents who are World War veterans, veterans of previous wars or conflicts or even peacekeeping, and parents who are veterans of Afghanistan and other missions we have served in over the last two decades since the end of the Cold War — peacekeeping veterans — and have them share their experiences with students. Instilling an appreciation among youth of the value of war memorials would have, in my opinion, a far more profound impact on preventing such vandalism from happening again. Educating, education, investing in education — give Veterans Affairs the funds to be able to participate in the education process of this country, if not in the schools then in the community structures, the NGOs that are in many cases inculcating a lot of the values and ethical references we have in this country and that we live with.

In committee, I would suggest that it is important to analyze what measures our allies have in place, at least to get a feel with regard to preventing and punishing this sort of mischief. My research has shown that only the United States has similar federal legislation and that only two individuals have ever been convicted under that law, which was passed in 2003.

France and Great Britain, replete with monuments, do not have such laws that specifically criminalize mischief relating to war memorials. We are not talking about slapping the wrists; we are talking about giving them a criminal record. Understanding how our allies deal with such vandalism could prove insightful for our own legislation. Furthermore, we should assess what resources Canada has to protect and, if necessary, repair Canadian memorials in other countries. It took us nearly 20 years to get the Vimy Ridge Memorial revamped, and we were finally thoughtful enough that we bought enough of the marble out of Croatia so that 50 or 60 years from now we will have the marble available to redo it again when nature will have abused it. In the vaults underneath the memorial are huge rooms where we have put that material.

However, we do not have such a policy outright. The Minister of Veterans Affairs has been putting some money into introducing new memorials, and there has been an effort with the War of 1812, but we do not have a national policy in regard to ensuring that these things are not falling into decrepitude. In fact, if we are letting them fall into decrepitude, why should people be so overwhelmed by the monument when it is falling apart, is full of God knows what, is abandoned or giving the impression of being so?

So many of our memorials are in territories that fall well beyond the reach of this criminal law, if it is passed. We must focus on what can be done by our government to ensure the sanctity of these monuments, I agree. I would also suggest, if I may, that we hear from youth and veterans groups to assess the bill's effectiveness and the impact that they feel it will have in preventing such actions from happening.

The bill brings forth an interesting debate, I believe, and one that I encourage honourable senators on the Legal Committee to flesh out fully and critically. I do not like it. I really do not like it. However, we will see the decisions in committee and what might come out of it, and that is far more progressive than using a sledgehammer to crush an ant.

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

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

UNIVERSITIES AND POST-SECONDARY INSTITUTIONS

INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Cowan, calling the attention of the Senate to the many contributions of Canadian universities and other post-secondary institutions, as well as research institutes, to Canadian innovation and research, and in particular, to those activities they undertake in partnership with the private and not-for-profit sectors, with financial support from domestic and international sources, for the benefit of Canadians and others the world over.

Hon. Catherine S. Callbeck: Honourable senators, it is in the name of Senator Dawson, but I would like to speak today and have it adjourned in the senator's name.

Honourable senators, it gives me pleasure to participate in Senator Cowan's inquiry into research and innovation that is taking place in universities and institutions all across our country. In particular, I am pleased to talk about my home province of Prince Edward Island and the exciting role that it is playing.

Prince Edward Island is certainly making a name for itself in research and innovation. Its aerospace industry now has unique parts flying around the world. Its marine harvests are being transformed into exceptional products for both animal and human health. The Culinary Institute of Canada, with its research arm Canada's Smartest Kitchen, is widely recognized as the premier culinary school in the country; and a fantastic little drop

of dehydrated honey devised by Island Abbey Foods and the PEI biotech centre is now circling the earth in the International Space Station with astronaut Chris Hadfield.

This is only a handful of the many projects under way by skilled researchers and our top-notch facilities, which have brought about real innovation and commercial success for Island businesses. While small in scale, Prince Edward Island is turning its size to competitive advantage. It is fostering innovation and nimble partnerships between private entrepreneurs, researchers and funders in both commercial and university settings. The close proximity to one another of these key academic institutions and research centres is also playing a critical role in helping drive this success.

Island research has embraced the cluster model that attracts and builds relationships between participants. Three examples of successful clusters are the PEI bioscience cluster, the agri-food cluster and the aerospace cluster.

• (1710)

The University of Prince Edward Island also plays a huge role in the advancement of research in this province. It sees a current total of $54 million per year in active research awards. About 36 percent of this comes from federal and provincial governments and industry grants, with the remaining 64 percent from contracts.

As well, UPEI researchers have received more than $40 million in ACOA Atlantic Innovation Fund awards since the program began in 2009. This research and funding has allowed the creation of spin-off businesses. ScreenScape Networks, with its 32 employees, is an online marketing service that creates digital advertising displays on TV sets located in public places. Nautilus Biosciences Canada, with six full-time employees, is a biotechnology company focused on the discovery and development of marine-derived natural products with applications in human and animal health and wellness. Discovery Garden employs 15 full-time people and five part-time, and creates software systems that preserve, organize and allow for the sharing of digital files between universities, municipalities and research organizations across North America.

Prince Edward Island is also proud to have the Atlantic Veterinary College at UPEI, which is one of the best institutions of veterinary medicine in North America. The veterinary school is making major contributions to research on a multitude of levels. One tiny example is the work being done by Dr. Greg Keefe, a professor of dairy health management. His research on Johne's disease is honing in on a solution to one of the worst diseases affecting the dairy industry world-wide.

Our university is also occupying the world stage with its Centre of Excellence in Aquatic Epidemiology. This centre conducts strategic research for food-producing industries and affiliated organizations across the country. These can be anything from a national partnership with dairy producers in a large mastitis research project to working locally with salmon farmers on disease control.

At the vet college's Atlantic Centre for Comparative BioMedical Research, veterinarians work to detect and control diseases in animals and prevent the transmission of animal diseases to humans. They ensure the safety of our food supply and our ecosystems, and research ways to cure and prevent diseases of people. It is in this latter area that scientists at the Atlantic Veterinary College are truly making a difference.

This centre brings together world-class researchers from various locations and disciplines to do research on diseases that are important to human health. Recently funded examples include diabetes research where Dr. Catherine Chan is working to understand the biochemical mechanisms that protect a special mouse breed from the negative effects of fat on insulin-secreting cells. This work will lead to improved knowledge for diseases such as diabetes.

The centre is also looking at Alzheimer's disease. Dr. Michael Mayne and Dr. Tarek Saleh were recently awarded a $240,000 grant to study the disease. They are at the forefront of their area of research and were chosen to receive the grant from a very competitive and record number of applicants.

As well, we have UPEI's Marine Natural Products Group. This is led by Dr. Russell Kerr who came from Florida Atlantic University with his entire 14-person lab. It has attracted more than $6 million in research funding. It is Dr. Kerr who established Nautilus Biosciences Canada, about which I spoke earlier. His group provides a commercial vehicle for taking marine natural products to the health and nutrition markets.

We also have the National Research Council's $13.5-million-dollar state-of-the-art biosciences facility on the UPEI campus. The NRC complex provides laboratory and technical facilities for more than 10 bioscience companies that are developing natural health products from land and marine sources.

Another one of our outstanding research and development centres is BioFood Tech. Established in 1987 as the PEI Food Technology Centre, BioFood Tech is a confidential, contract research, processing and analytical services company. This group of innovative researchers helps clients take an idea and figure out all the bio-processing technologies that will be necessary to get it to market. It has completed more than 1,000 innovation projects over the last 25 years.

Among those is the "Honibe" developed by Island Abbey Foods, which won the world's top Food Innovation Award in 2010. This non-sticky cube of dehydrated honey is in grocery stores and retailers around the world, and truly is in outer space as we speak, with Canadian astronaut Chris Hadfield.

It is BioFood Tech that also helped Beamish Orchard owner Mike Beamish bring his apple butter to commercial scale production.

PEI Juice Works Ltd. is another of its success stories. It produces unique wild blueberry juices at its plant in Alberton, Prince Edward Island. The juices are made using an ancient European process that was originally crafted by a Mennonite family in Eastern Europe and passed down from family to family more than 100 years ago. This unique process delivers a 100 per cent pure wild blueberry juice product with 93.4 per cent of its natural nutrients retained.

We are also very fortunate to have Holland College in our province. This internationally recognized diploma and certificate granting institution is an integral academic partner in promoting economic growth and development in the province. Its hands-on, industry-driven curriculum is provided on 11 campuses throughout the province.

Graduates of its BioScience Technology Program are prepared for careers as highly skilled biotechnicians. This program was named by *Maclean's* magazine as one of 2011's "Red Hot Postgraduate Programs" in Canada.

I now turn to Canada's Smartest Kitchen. This is the research and development arm of Holland College's Culinary Institute of Canada. It develops marketable, value-added food products. Allan Williams is the research and development chef at the smart kitchen where they do fascinating things like masking the flavour of Omega 3 that has been extracted from fish, so that you cannot taste it when it is added to orange juice as a health benefit.

Their work is intriguing and all rather complicated. Like Allan says, "It is not just about taking the salt out of something, in order to lower sodium, but to do it in a way that doesn't alter the taste or the essential goodness of the product."

Another important element in research and development in our province is Three Oaks Innovations. Three Oaks is affiliated with UPEI and is the conduit between research laboratories and private industry. A recent example of its work saw UPEI sign an agreement to license medical research technologies to CNS CRO, a subsidiary of the biotechnology company Neurodyn Inc.

The agreement includes innovative technologies to be used in drug development and drug-testing for stroke, epilepsy and schizophrenia. These are technologies that will make a real difference for people whose lives are affected by these conditions.

Three Oaks also had another exciting happening recently when its nutraceutical product called UPI 100 was licensed and started in safety and toxicology testing, which is the step prior to human clinical studies.

UPI 100 will be used for extending the time frame for administrating medication to help combat stroke. In other words, it expands the window and gives a stroke victim a great deal more time to get to the hospital where treatment can be initiated.

One of the last things I want to mention is the thriving aerospace sector. This is a huge success story. It was non-existent 22 years ago, and now our aerospace cluster had developed into the fourth largest industry on the Island. It currently has 10 companies employing almost 1,000 people.

Since the demise of the Summerside Air Force Base in 1991, we have developed an aerospace industry on the Island that is worth nearly $400 million in annual sales and has become the province's second largest exporter.

I am pleased, honorable senators, to share these examples of the many accomplishments in innovation and research that have taken place in my home province.

Many Canadians are aware of the contributions of universities and institutions in Canada's larger centres, but places such as Prince Edward Island are demonstrating an outstanding commitment to collaboration and economic development that will continue to define our country's future.

(On motion of Senator Tardif, for Senator Dawson, debate adjourned).

• (1720)

HUMAN RIGHTS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Mobina S. B. Jaffer, pursuant to notice of March 7, 2013, moved:

> That the Standing Senate Committee on Human Rights have the power to sit on Monday, March 25, 2013 at 4 p.m., even though the Senate may then be sitting, and that rule 12-18(1) be suspended in relation thereto.

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

Hon. Senators: Agreed.

(Motion agreed to.)

NATIONAL SECURITY AND DEFENCE

COMMITTEE AUTHORIZED TO STUDY THE STATE OF OPERATIONAL READINESS OF CANADIAN FORCES BASES

Hon. Roméo Antonius Dallaire, pursuant to notice of March 19, 2013, moved:

> That the Standing Senate Committee on National Security and Defence be authorized to examine and report on the state of operational readiness of Canadian Forces bases and their importance to the defence of Canada and Canadian interests, and more specifically on the capacity of their infrastructure, personnel, and equipment; and
>
> That the Committee present its final report to the Senate no later than December 31, 2014 and that the Committee retain, until March 31, 2015, all powers necessary to publicize its findings.

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

Hon. Senators: Agreed.

(Motion agreed to.)

ADJOURNMENT

MOTION ADOPTED

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

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 5-5(g), I move:

> That when the Senate adjourns today, it do stand adjourned until Monday, March 25, 2013, at six p.m.; and
>
> That rule 3-3(1) be suspended in relation thereto.

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

Hon. Senators: Agreed.

(Motion agreed to.)

(The Senate adjourned until Monday, March 25, 2013, at 6:00 p.m.)

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