SENATE SÉNAT

CANADA

DEBATES OF THE SENATE

1st SESSION • 41st PARLIAMENT • VOLUME 148 • NUMBER 149

OFFICIAL REPORT
(HANSARD)

Tuesday, March 26, 2013

THE HONOURABLE PIERRE CLAUDE NOLIN
ACTING SPEAKER

CONTENTS

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

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

Published by the Senate
Available on the Internet: http://www.parl.gc.ca

THE SENATE

Tuesday, March 26, 2013

The Senate met at 2 p.m., the Honourable Pierre Claude Nolin, Acting Speaker, in the chair.

Prayers.

VISITORS IN THE GALLERY

The Hon. the Acting Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of His Excellency Enkhbold Zandaakhuu, Chairman of the State Great Hural of Mongolia.

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

Hon. Senators: Hear, hear!

The Hon. the Acting Speaker: Honourable senators, I also wish to draw your attention to the presence in the gallery of participants in the Parliamentary Officers' Study Program.

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

Hon. Senators: Hear, hear!

[*Translation*]

SENATORS' STATEMENTS

LA SÛRETÉ DU QUÉBEC

Hon. Jean-Guy Dagenais: Honourable senators, I have been a member of this chamber for a year now, a year already.

Today, I want to mark an historic event that rocked Quebec and Canada as a whole 50 years ago, and that is the arrest of child murderer Léopold Dion, which was in the news again this past weekend. I especially want to talk to you about a great Canadian institution for which I worked for 39 years, namely the Sûreté du Québec. During that same period, half a century ago, that major police force was undergoing a transformation, starting with a change in the colour of its uniforms and vehicles.

This police force was created on February 1, 1870, when it was called the QPP, the Quebec Provincial Police. At the time, it was managed by Judge Pierre-Antoine Doucet, who was given the title of commissioner, and the headquarters were set up at the headquarters of the Quebec City municipal police force, which was dissolved.

Since its creation, 23 police chiefs have headed up this large police force, which today has 5,400 officers to serve the people of Quebec in 10 districts. For the past few years, it has also served as the municipal police force in a number of cities in the province, including Drummondville, Saint-Hyacinthe, Shawinigan and Roberval, to name a few.

Among those 23 police chiefs was Alexandre Chauveau, who headed the force for nine years. I should point out that Alexandre Chauveau was initially an independent Conservative member of the Legislative Assembly of Quebec for the riding of Rimouski. He was named to the bench of the Court of the Sessions of the Peace in 1880 before becoming chief of police in 1882.

The Quebec Provincial Police had always been headed up by a judge. It was not until 1902 that a career police officer, like me, was allowed to head up the police force. That year, Augustin McCarthy was appointed, and he held the position for a record 30 years.

Under McCarthy, the Quebec Provincial Police incorporated the liquor enforcement police, put in place the traffic police and, in 1925, established the motorcycle patrols.

One of the important changes that impacted the Sûreté du Québec in the mid-1960s was the creation of the Quebec provincial police association. Just a few years later, in February 1968, 45 years ago, the police of this major organization signed the first collective agreement after their association was recognized by the then Premier, Daniel Johnson. This major change led to significant improvements in the working conditions of police.

Another major change occurred in June 1968, when the name of the Quebec Provincial Police was changed to the Sûreté du Québec, as we know it today. In 1975, the force hired its first female police officer.

[*English*]

Today, I want to salute the men and women of the Sûreté du Québec, who day after day devote themselves to ensuring the security of the population, one of the most important issues for our government. I am so proud to have served in this police force.

[*Translation*]

I will always be proud to say that I was a member of the Sûreté du Québec.

[*English*]

TARTAN DAY

Hon. Elizabeth Hubley: Honourable senators, I am pleased to rise today to recognize Tartan Day. This day, which is marked on April 6 across our country, is a special day for all Scots and for me as well. I am of Scottish decent and welcome the opportunity to celebrate this day and honour the many roles that Scots have played in our country's history, politics, medicine, justice,

education, sports, science and business, to name a few. They have presented to the world a vibrant culture of language, music, dance and cuisine.

In 1992, I had the honour and privilege to stand in the Legislative Assembly of Prince Edward Island and second the motion of the honourable member from 4th Kings, Mr. Stanley Bruce declaring April 6 as Tartan Day in our province.

• (1410)

The concept of Tartan Day began in Nova Scotia in 1986 and was officially proclaimed in the Nova Scotia legislature on April 6, 1987. Since then, every provincial assembly, including the federal House of Commons, has proclaimed April 6 as Tartan Day. On March 9, 2011, the House of Commons declared the Maple Leaf Tartan, designed by well-known Canadian David Weiser, the official tartan of Canada.

The name Tartan Day was chosen to promote Scottish heritage by the most visible means — the wearing of Scottish attire, especially in places where the kilt is not ordinarily worn. Scots wear their tartans with pride, as symbols of who they are. On Tartan Day, celebrations are held across the country with pipe bands, Highland dancing and other Scottish-themed events.

Today, there are about 5 million people of Scottish decent in Canada, which makes up approximately 15 per cent of our total population. The Scottish have contributed to many facets of our society, thus it is very fitting that we take the time to honour and celebrate them. I look forward to celebrating Tartan Day on Prince Edward Island with many fellow Scots, and I hope that others will also have an opportunity to join in Tartan Day celebrations.

VISITORS IN THE GALLERY

The Hon. the Acting Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of two distinguished visitors who are the guests of the Honourable Senator Seth: Dr. Shanthi Johnson and Dr. Arun Seth.

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

Hon. Senators: Hear, hear!

SHASTRI INDO-CANADIAN INSTITUTE

Hon. Asha Seth: Honourable senators, today I would like to speak about an organization that means a lot to me: the Shastri Indo-Canadian Institute. For over 40 years, the Shastri Institute has served as a primary link between Canadian and Indian universities by promoting research, dialogue and exchange.

Dr. Shanthi Johnson, the institute's new president, joins us today in the gallery. We all know.

The Shastri Institute's dedication to excellence, innovation, knowledge and capacity-building has made this institute a very valuable organization. From small beginnings, the institute has grown to include 90 member institutions throughout Canada and India, all of which are premier universities of international repute.

Today, 51 institutional members in India and 41 in Canada form part of this network, and I hope this number continues to grow. No matter the academic field, this not-for-profit organization provides guidance by sharing ideas, distributing books and periodicals, fostering exchanges, stimulating discussions and promoting academic collaboration.

I know that as a government we are eager to expand relations with our Indian partners, and education is a key area where we must focus. Our Canadian institutions and economies have much to learn from this dynamic cultural and academic exchange. Indian and Canadian students not only share their ideas but also are major contributors to our local economies.

Nelson Mandela said, "Education is the most powerful weapon which you can use to change the world." With honourable senators' support, the institute will be able to continue its vision of creating a compassionate, progressive, sustainable civil society in Canada and in India, — a society that is interconnected and empowered by mutual trust and respect.

Please join Dr. Johnson and me in room 256-S at 5:30 this afternoon to learn more about this great institution. Let us remember the words of Mahatma Gandhi: "Live as if you were to die tomorrow. Learn as if you were to live forever."

[*Translation*]

LES JEUNES MANITOBAINS DES COMMUNAUTÉS ASSOCIÉES

Hon. Maria Chaput: Honourable senators, on Friday, March 8, I had the privilege of speaking to about a hundred students from French schools in the Franco-Manitoban School Division or FMSD, who were gathered at École Roméo-Dallaire in Winnipeg, Manitoba. They are members of a group called Jeunes Manitobains des communautés associées.

These young Manitobans, who come from and represent 13 different high schools in the FMSD, were participating in an activity to build their francophone identity and their commitment to their community.

The group has a number of objectives, including promoting the French language and culture and helping to make students aware of the Francophonie in Manitoba, in Canada and throughout the world.

Students are selected to participate based on a number of criteria, including a personal commitment to promoting the diversity of cultural expression and the heritage of the many cultures, ethnic backgrounds and identities of Franco-Manitoban youth.

Participants sign a letter of commitment in which they agree to volunteer for a minimum of six hours a month, and they have to pay $100 to help cover the costs associated with the group's activities and projects. What a wonderful commitment.

I would like to congratulate the FMSD, particularly the cultural services officer, Stéphane Tétreault, on this extraordinary initiative.

Through their efforts, committed students are helping to build the francophone identity in our schools, thereby ensuring the cultural vitality of young Franco-Manitobans and the future of French in a province that is primarily anglophone.

INTERNATIONAL EPILEPSY DAY

Hon. Jacques Demers: Honourable senators, I rise today to mark Purple Day or International Epilepsy Day. I am wearing purple in honour of the occasion.

Last fall, I had the privilege of presenting a Queen Elizabeth II Diamond Jubilee Medal to the mother of a very special little girl named Elizabeth, who suffers from a rare and severe form of epilepsy. Elizabeth has to take a number of medications every day and has learning difficulties related to her illness.

Elizabeth will have to receive specialized care all her life. Her mother, Chantal, has devoted her life to her daughter, and for that she has my admiration. It is hard enough to care for a healthy child, but caring for a child with a serious illness is a full-time job.

[*English*]

More than 300,000 Canadians are living with epilepsy as we speak, and we can offer no cure for this illness to this day. For more than half of the people living with epilepsy, medication is the only way to control their seizures, while only a small percentage of those suffering from this disease can surgically remove the part of their brain causing the seizures. When I met Elizabeth's mother to award her the Diamond Jubilee medal, I made one promise to her. I would like to thank Senator Mercer for giving me the opportunity to be able to talk about this wonderful young lady, Elizabeth.

I rise before honourable senators today to ensure that we do not leave those 300,000 Canadians suffering from epilepsy in the dark.

[*Translation*]

We must provide more funding and resources for epilepsy research and awareness and, as senators, we should advocate for this cause.

[*English*]

I am a father of four children and eight grandchildren, and we are so fortunate to have children and grandchildren, in my case, who are healthy. When we have occasions like that — with disease or children who are sick, — it is difficult to understand how hard it is for those people. Again, I wish to thank the Honourable Senator Mercer for doing as Senator Munson did with autism. Taking care of the kids and thinking about them is very special.

RADICALIZATION

Hon. Mobina S. B. Jaffer: Honourable senators, I rise to address the issue of radicalization in Canadian society. The gravity of this issue has recently been confirmed with the terrorist attacks on an Algerian gas plant that took the lives of over 80 people. This tragedy and the alleged involvement of Canadians in perpetrating it should remind us of the importance of understanding the roots of terrorism. This way we can create proactive strategies to prevent our youth from choosing the path of violence.

• (1420)

Today, I want to address three questions. First, what is radicalization? The Royal Canadian Mounted Police defines radicalization as "the process by which individuals — usually young people — move from moderate, mainstream belief towards extreme views."

It is important to note that not all radicals are terrorists. Some of history's most important figures — such as Martin Luther King, Jr. or Nelson Mandela — were considered radicals in their time. However, we should be concerned whenever people use violence to achieve their goals.

Second, who becomes radicalized into violence? Recently, the Canadian Security Intelligence Service released a study of radicalization. The main conclusion was that there was no profile for individuals at risk. It is largely an idiosyncratic process. One common misperception is that radicalization results from poverty, marginalization or the failure of immigrants to integrate into Canadian culture. However, evidence shows that domestic extremists tend to be born and raised in Canada, have post-secondary education and come from a variety of socio-economic backgrounds.

Third, where does radicalization take place? There is no clear answer to this question. Parents may influence the radicalization of children, and wives may influence their husbands and vice versa. The Internet may also play a major role. Terrorist groups often will often use social media for propaganda and recruitment. Another common location for radicalization is in prison. Studies show that prisoners are particularly vulnerable to being converted into extreme ideologies, but we must remember that radicalization is a social process that can happen wherever humans interact.

Honourable senators, I ask you to join me in committing to do more to prevent the radicalization of our Canadian youth into violence. Although the recent attacks in Algeria are particularly troubling, terrorism is also a serious threat within our own borders. This was demonstrated by the criminal convictions of members of the so-called Toronto 18. In that case, luckily, a tragedy was prevented by our police and intelligence services. However, we cannot rely solely on our public safety authorities to protect us. We must take a community-based approach to counter radicalization. This strategy should emphasize and identify youth at risk through social programs and fostering greater engagement of our communities in the democratic process.

Honourable senators, we in the Senate need to be involved to stop violence in our communities.

[*Translation*]

MIKAEL KINGSBURY

CONGRATULATIONS ON WINNING FREESTYLE SKIING WORLD CHAMPIONSHIPS CRYSTAL GLOBE

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, I am pleased to rise today to commend the achievements of a young athlete from the region I represent, freestyle skier Mikael Kingsbury.

At the Freestyle World Ski Championships held in Voss, Norway, on March 6, Mikael earned the title of world champion in individual moguls.

This athlete from Deux-Montagnes had already won six gold medals in seven events this season in the individual category of the Skiing World Cup. He finished first overall, becoming the World Cup champion for the second year in a row, and achieved his dream this year of being the overall world champion. This makes Mikael the man to beat at the 2014 Sochi Winter Olympics.

This 20-year-old's perseverance, determination and discipline are to be commended, for they are what allowed him to climb the ranks and rise to the top of international freestyle skiing. I have been watching this talented young athlete from my region for several years now, and I am impressed by the speed at which he has become a force to be reckoned with in his discipline. Mikael is becoming an excellent role model for many young Canadians.

Last year, for the first time, Mikael won the prestigious Crystal Globe, the top prize awarded each year to the World Cup moguls champion. I talked about that amazing achievement right here in this chamber and mentioned that his goal was to qualify for the 2014 Winter Olympic Games. He has definitely done so. Mikael is now the world champion and the winner of two Crystal Globes.

I had the huge pleasure of presenting him with the Queen Elizabeth II Diamond Jubilee Medal during one of his visits to his hometown of Deux-Montagnes on January 3, 2013, in honour of his many past and future achievements.

Mikael was able to translate his outstanding talents into success because he received unfailing support throughout his journey. I want to also acknowledge his parents, Robert and Julie, who have always guided him and encouraged his passion for freestyle skiing. Parental support plays an important role in helping young people excel and achieve ambitious goals such as representing their country and winning at the Olympic Games.

Congratulations, Mikael. We support you and are proud of you.

[*English*]

ROUTINE PROCEEDINGS

CRIMINAL CODE

BILL TO AMEND—TWENTY-THIRD 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:

Tuesday, March 26, 2013

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

TWENTY-THIRD REPORT

Your committee, to which was referred Bill C-55, An Act to amend the Criminal Code, has, in obedience to the order of reference of Thursday, March 21, 2013, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

BOB RUNCIMAN
Chair

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

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 5-5(b), I move that the bill be read the third time later this day.

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

Hon. Senators: Agreed.

(On motion of Senator Carignan, bill placed on the Orders of the Day for third reading later this day.)

[*Translation*]

THE ESTIMATES, 2013-14

MAIN ESTIMATES—NINETEENTH REPORT OF FINANCE COMMITTEE TABLED

Hon. Joseph A. Day: Honourable senators, I have the honour to table, in both official languages, the nineteenth report of the Standing Senate Committee on National Finance, on the 2013-2014 Main Estimates.

The Hon. the Acting Speaker: When shall this report be taken into consideration?

Senator Day: Honourable senators, with leave of the Senate and notwithstanding rule 5-5(b), I move that this bill be placed on the Orders of the Day for consideration later this day.

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

Hon. Senators: Agreed.

(On motion of Senator Day, notwithstanding rule 5-5(b), report placed on the Orders of the Day for consideration later this day.)

STUDY ON PRESCRIPTION PHARMACEUTICALS

TWENTIETH REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE TABLED

Hon. Kelvin Kenneth Ogilvie: Honourable senators, I have the honour to table, in both official languages, the twentieth report of the Standing Senate Committee on Social Affairs, Science and Technology, entitled: *Prescription Pharmaceuticals in Canada: Post-Approval Monitoring of Safety and Effectiveness*.

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

• (1430)

[*English*]

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

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

> That the Standing Senate Committee on Energy, the Environment and Natural Resources have the power to sit at 6 p.m. on Tuesday, March 26, 2013, even though the Senate may be sitting; and that rule 12-18(1) be suspended in relation thereto.

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

[*Translation*]

Hon. Claudette Tardif (Deputy Leader of the Opposition): What is the rush, honourable senators? Is a minister appearing tonight? Why have the committee sit tonight, even though the Senate is sitting?

[*English*]

Senator Neufeld: Honourable senators, we have arranged a meeting and have been experiencing difficulty getting a time to meet with Transport Canada, not a minister, to discuss this important issue as it relates to movement of hydrocarbons by pipeline, rail or marine. Right after that meeting, we are scheduled to leave for Sarnia and Hamilton.

I had discussed this with the deputy chair of the committee, Senator Mitchell, and he agreed that it would be wise if we could do that tonight. I would appreciate it if we could.

Senator Tardif: I thank the honourable senator for the explanation.

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

Hon. Senators: Agreed.

(Motion agreed to.)

[*Translation*]

QUESTION PERIOD

HUMAN RESOURCES AND SKILLS DEVELOPMENT

BUDGET 2013—SKILLS TRAINING PROGRAMS

Hon. Céline Hervieux-Payette: Honourable senators, I have a question for the Leader of the Government in the Senate. The government tabled its budget with the goal of getting Canadians to work by making changes to training requirements.

Besides the RCMP training program, for which there is a college in Ottawa, can the Leader of the Government in the Senate tell us what other training programs are constitutionally under federal jurisdiction?

[*English*]

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, I thank the senator for the question. As I explained yesterday, the Minister of Finance and the government have made the commitment to work with the provinces, territories and industry through the job grants program and other programs to connect skilled workers with available jobs. It is as simple as that.

[*Translation*]

Senator Hervieux-Payette: The Leader of the Government in the Senate has not answered my question, but I will follow up with a supplementary question so that we might come to an agreement.

Let us consider the money in the various budgets that has been allocated for training and the workforce. This training is provided in high schools and colleges, including here in Ottawa at Algonquin College and in Montreal at the École de technologie supérieure. These are very high-quality institutions that train workers who are highly sought after in the private sector.

The government is requiring provincial participation, but it has not mentioned any additional funding or said whether existing

budgets will be indexed. Instead, the government is cutting budgets and asking the provinces and employers to contribute.

As far as I know, much of the cost of skills training programs is paid by employers. In Quebec, for example, the equivalent of 1% of payroll must be spent on training.

The government is calling for a much better match between workers' skills and labour market needs, yet it is cutting overall budgets and asking others to contribute. Still, the government wants us to believe that it is serious.

How are we going to enable a father in Quebec, in the Gaspé for example, to go work out West, buy a $500,000 house and pay for his children, for his family, to change schools? How much money has been set aside in the budget to help families move where the jobs are?

[*English*]

Senator LeBreton: We are not forcing families to do any such thing, honourable senators.

The senator mentioned Algonquin College. I hasten to point out that there was a major construction project at Algonquin College paid for through the stimulus fund of the government and the provincial government and, as a result, there is a huge facility at Algonquin College now completely dedicated to the construction trades. It is a beautiful building on Woodroffe Avenue. I would encourage honourable senators to go and have a look at it. That was all done in cooperation with the province and the city with regard to stimulus.

With respect to the question the senator asked, there are, as we all know, too many jobs in Canada that are left unfilled. Employers cannot find workers with the right skills. Last fall, there were nearly 250,000 unfilled jobs in Canada. The Certified General Accountants Association of Canada stated:

> In creating the Job Grant fund, the federal government has shown leadership in addressing the growing skills gap. We encourage provinces to support it. All should benefit — employers, workers and governments

The Canadian Chamber of Commerce has stated:

> The measures announced in today's budget are a significant step forward in the federal government's attack on Canada's skills challenge.

Honourable senators, as the Minister of Finance said and as I reported here yesterday in answer to a similar question, obviously there will be consultations with the provinces. Industry is very excited by this program, and it is hoped that the provinces where those industries are located will see the opportunity and participate fully in the program.

Senator Hervieux-Payette: Honourable senators, the leader did not answer the part of my question where I stated that since 2007, the actual budget for training is 10 per cent less. How much more money has the government put into the budget to ensure that the provinces are doing training? Instead of increasing the amount of money, the government is reducing it. The government speaks one language, but it does something different in terms of the budget.

Senator LeBreton: Honourable senators, I will put it on the record for the senator.

When it comes to young Canadians especially — this is obviously an area where there is need — the Economic Action Plan 2013, last Thursday's budget, will support more internships and promote high-demand education. We are providing support for 5,000 paid internships for recent graduates, $70 million over three years. We are renewing support for Pathways to Education, which helps at-risk students. We are providing $18 million over two years to the Canadian Youth Business Foundation to provide mentorship, advice and start-up financing for young entrepreneurs. We will support the use of apprenticeships, and we are promoting education in high—demand fields like the skilled trades, sciences, technology, engineering and mathematics.

• (1440)

This builds on our support since 2006 with regard to youth. We made a permanent increase to the Canada Summer Jobs program, 36,000 youth jobs per year. We are investing over $330 million per year through the Youth Employment Strategy to help youth get skills and work experience. The Youth Awareness program complements the government's Youth Employment Strategy, and I mentioned yesterday a particular figure for Prince Edward Island under Skills Link. That is all with regard to youth employment, and of course, through other programs announced in the budget, we have not reduced expenditures in this area; we have increased them.

INTERNATIONAL COOPERATION

CANADIAN INTERNATIONAL DEVELOPMENT AGENCY—FOREIGN AID

Hon. Mobina S. B. Jaffer: As honourable senators know, Minister Flaherty announced last Thursday that the Canadian International Development Agency will be integrated into the Department of Foreign Affairs and International Trade. This decision represents an important opportunity to critically evaluate Canada's policy on development.

In a December 2012 interview, Minister Fantino said that Canada's investments through our international development agency should "promote Canadian values, Canadian business, the Canadian economy, benefits for Canada." Professor Roland Paris has said that "creating conditions for sustainable, market-driven growth in developing societies seems to be the single best remedy for poverty."

However, aid partnerships with the private sector should be about helping people in countries in desperate need, not about increasing Canadian profits. Neither Canada's international credibility nor the billions of people living in poverty are well served if Canada's development policy is geared first toward advancing Canadian commercial interests.

My question to the Leader of the Government in the Senate is this: Will our development spending prioritize the reduction of poverty or the promotion of Canadian commercial interests?

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, we have made Canada's aid more effective and will continue to do so. We are enshrining in law the important roles and responsibilities of the minister for international development and humanitarian assistance. This change will enhance coordination of international assistance with broader Canadian values and objectives and will put development on an equal footing with trade and diplomacy.

As was pointed out by several officials I saw over the weekend, much of the Canadian aid is now going into countries where Canada is also putting in significant development dollars. Canada's international assistance budget will be maintained. The new department of foreign affairs, trade and development will maintain the mandate of poverty alleviation and humanitarian support. The Honourable Lloyd Axworthy was quoted in *The Globe and Mail* a couple of days ago saying, "I compliment the government on taking this step."

Honourable senators, going forward, things will happen within Canada's countries of focus. In the past, we have given over 2 million people access to education, vaccinated more than 9 million against polio and fed over 18 million people. We have untied 100 per cent of food aid, and our food security strategy is getting results. For example, in Ethiopia, we have helped about 7.8 million people with food and assistance, and we have also invested significantly in the Global Fund to Fight AIDS, Tuberculosis and Malaria.

Senator Jaffer: Professor Paris pointed out in his commentary that development assistance requires long-term commitments to projects and countries. Many Canadian governments, including the current government, have reinvented Canada's long-term development priorities every few years. This is an urgent political problem.

For example, in 2009, the government announced it would concentrate spending on 20 countries of focus. Five of the six countries whose bilateral budgets have been reduced by the government are among those 20 countries named in 2009.

Security problems and accountability issues, according to media reports, make certain countries "less attractive for direct support." Canada's development policy should not be about identifying attractive countries or advancing flavor-of-the-month policy priorities. Development does not happen over the course of one or two election cycles; sometimes it takes decades.

Can the Leader of the Government in the Senate address how the government plans to ensure greater stability and consistency in Canada's aid policy?

Senator LeBreton: Honourable senators, I think the record speaks for itself. The government absolutely has taken a more focused approach to aid — with great results. Again, I emphasize with regard to CIDA that this change will enhance coordination of international assistance with broader Canadian values and objectives and will put development on an equal footing with trade and diplomacy. As was pointed out, we are also working to develop many of the countries we are aiding so that they are in a better position to move forward. This move will simply better coordinate within the Department of Foreign Affairs the very significant efforts Canada is making on the humanitarian aid front.

Senator Jaffer: Honourable senators, I have another question for the Leader of the Government in the Senate: Is the Government of Canada still committed to the eradication of poverty, or will commercial interests come first?

Senator LeBreton: Honourable senators, as I pointed out, the government has a very balanced approach. We absolutely have a stellar record — and I put some of it on the record — of supporting those countries toward eradicating poverty. Our maternity and child health programs have been second to none. We have expended a great deal of effort and money in the eradication of polio. Our work dealing with the AIDS epidemic is also an effort that the government will continue to promote and support, including the eradication of poverty.

HUMAN RESOURCES AND SKILLS DEVELOPMENT

PARENTAL LEAVE—HEALTH BENEFITS

Hon. Jim Munson: Honourable senators, my question is for the Leader of the Government in the Senate.

In December the Senate passed Bill C-44, commonly known as the Helping Families in Need Act. This act, among other things, enables individuals receiving Employment Insurance and parental benefits to access sickness benefits if they fall ill. Previously, to access these sickness benefits claimants had to be "otherwise available for work."

That bill was put introduced in favour of a ruling regarding Natalya Rougas a Toronto mother who was diagnosed with breast cancer while on maternity leave in 2010. At that time, an EI umpire, a Federal Court judge who reviews decisions made by the Employment Insurance Board of Referees, ruled that the government was misinterpreting the spirit of the law and ought to interpret the rules more liberally or amend the legislation. We had this debate here, and last year the government did the latter when it introduced Bill C-44.

While we were considering that legislation here in December, a Stratford-area mother, Jane Kittmer, was also diagnosed with breast cancer during maternity leave. The argument was that her case was nearly identical before an EI umpire. After a two-and-a-half-year battle for sickness benefits, Jane finally received a ruling in her favour. However, yesterday we learned that the Conservative government is fighting her claim. Why would the government treat two similar cases so differently? How is this fair to Jane Kittmer and her family?

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, this case is before the courts, as the honourable senator stated. The matter deals with legislation of the former government, which we have since changed, and obviously we are exploring ways of resolving this. As the honourable senator mentioned, we passed the Helping Families

in Need Act to provide parents who fall ill while on parental leave with access to EI sickness benefits; and as I just mentioned, the government is exploring ways to resolve this. However, the situation she finds herself in is actually under legislation that was not passed by this government but by the previous government.

Senator Munson: That hardly makes it fair.

• (1450)

She said, "I was shocked. I didn't understand why the government was doing this. I was hurt."

The mother of two has beaten her cancer, but the effects of chemotherapy leave her unable to return to work. There seems to be a double standard here.

The bill came into force on Sunday. There is no reason I can see why the government would be appealing the ruling. I cannot understand. Why would the government appeal this ruling? It is almost in the same time frame and it is remarkably similar to that of Ms. Rougas, which prompted the introduction of this bill.

According to yesterday's *Toronto Star* report about this story, when asked about the matter, Human Resources Minister Diane Finley's office said only that the government is helping families "balance work and family responsibilities" and "offering new support measures to Canadian families at times when they need it most."

Why can the government not offer an explanation as to why Jane Kittmer is being subjected to different standards than have been applied to others, and what does it say to other Canadians facing similar circumstances?

Senator LeBreton: I actually did explain, honourable senators. This particular matter deals with legislation of the former government that we have since changed. She has fallen under the former legislation.

I have also explained that we passed the Helping Families in Need Act to provide parents who fall ill while on parental leave with access to EI sickness benefits. That is part of the new act.

I also said we are exploring ways to resolve this particular case.

Senator Munson: Honourable senators, the leader's government had a choice. They could decide not to appeal. Why would the government do this to this poor woman?

Senator LeBreton: I will just repeat what I said, honourable senators, and what the minister in the other place said. This actually fell under old legislation. We brought in new legislation. We are working now to try to resolve this particular case.

[*Translation*]

SCIENCE AND TECHNOLOGY

RESEARCH AND DEVELOPMENT

Hon. Claudette Tardif (Deputy Leader of the Opposition): Honourable senators, my question is for the Leader of the Government in the Senate. As far as research and development are concerned, last week's budget focuses on applied and commercial research. This is a disturbing trend. Everyone agrees that it is essential that we invest in research and science, but applied research must not overshadow basic research. Without basic research, there would be no applied research that is driven by commercial needs and interests. Basic research is the first step in building commercial products. There are countless examples. The government has a responsibility to strike a balance and invest in all levels of the innovation cycle. Why is the government abandoning basic research?

[*English*]

Hon. Marjory LeBreton (Leader of the Government): We are doing no such thing, honourable senators. I actually wonder whether all senators on the other side read the budget.

Our government is strongly committed to supporting science, technology and innovation in Canada. Since 2006, we have provided billions in new funding for initiatives to support science, technology and the growth of innovative firms.

New measures in Economic Action Plan 2013, the budget of last Thursday, build on this strong foundation. It will help create jobs, building on the new approach to promoting business innovation launched in last year's budget. Budget 2013 also proposes measures to strengthen Canada's advanced research capacity, including $37 million annually to support research partnerships with industry through the federal research granting councils; $225 million to the Canada Foundation for Innovation for advanced research infrastructure; and $13 million for the Mitacs Globalink program to attract top students to Canada. Obviously, by the third-party endorsements from many in the scientific community, these measures have been very well received.

Senator Tardif: Honourable senators, the Canadian Association of University Teachers has charted the flow of federal research dollars through the granting councils. It finds that after factoring for inflation, base-level funding for research has actually decreased by 7.5 per cent since 2007. While the funding pool is diminished, a larger share of it is targeted funding that may be linked to a particular commercial sector or political goal. This worrisome trend is weakening the country's scientific capability in the long term. For all the emphasis put on skills and training, the government seems to have forgotten that basic research is the training ground for a scientifically skilled workforce.

Will the government commit to provide adequate support for basic scientific research?

Senator LeBreton: Honourable senators, I just read into the record the significant amount of money that the government has committed to, so it is actually not true that the government does not fully support research in science and technology.

Hon. James S. Cowan (Leader of the Opposition): Honourable senators, the question here is one of balance. One can argue about whether there has been, in fact, a lessening of funding overall for research, but the fact of the matter is, to use the leader's phrase, there is distortion here between applied research, directed research and pure research. That is the issue that my colleague Senator Tardif is trying to address.

I would like the leader to respond to that portion, where there has been a refocusing of whatever research dollars are being made available by the government into and increasingly towards directed research at the expense of pure research. What does the leader have to say about that?

Senator LeBreton: Honourable senators, what I have to say about that is that this government follows a completely different approach than the previous government. Our focus is on science, technology and innovation. Our focus is on jobs, the economy and the future prosperity of the country. Everything we do as a government in terms of science and technology, whether we commit research dollars for medical research or whether we put them into innovation funds, all of it is to advance this country. That is including what we are doing in education to attract students from around the world, to not only educate them here but hopefully to encourage them to stay here. Everything we do, since the beginning when we formed government, is to promote Canada and to create more jobs, more innovation and a stronger business and resource sector.

I understand that other governments had another way of doing things, but this is the way this government is doing it.

[*Translation*]

Hon. Maria Chaput: Honourable senators, what percentage of the government's research funding is being invested in research and university research centres across Canada? How does this compare to previous investments in Canadian university research centres?

[*English*]

Senator LeBreton: Honourable senators, in all the budgets, significant monies have been allocated to research in universities, and we would not have a person such as Lloyd Axworthy complimenting the government if we were not. I remember a couple of years ago, when we participated in some other funding for universities, that he was extremely fulsome in his praise, just as he is with this budget. I doubt very much Lloyd Axworthy would be complimenting the government on the good work of this budget if we were not making significant contributions to science and technology and research.

Senator Tardif: Honourable senators, in 2007 the government released a national science and technology strategy, the goal of which was to build up our science and technology assets and expertise. What we have seen instead of a coherent national strategy is a piecemeal approach focused on commercialization. To move away from investing in basic research to put more resources into the end of the innovation cycle is very short-sighted. What happened to the strategy? Is it still a priority?

Senator LeBreton: The honourable senator seems to forget that this government, I think it was in 2007, launched Canada's science and technology strategy. I would suggest honourable senators look back to the beginning of that program. I will take the question as notice, because I will look back. I believe it was either in 2007 or 2008 when we launched this strategy, and I will be very happy to provide the honourable senator with all the funds that have been allocated to the various research institutions, universities and other innovative groups since that strategy was launched.

• (1500)

Hon. Jane Cordy: Honourable senators, I am quite interested in the response to Senator Munson's questions because the Standing Senate Committee on Social Affairs, Science and Technology spent a lot of time on this bill. A person could actually receive sick benefits and not be taken off of their maternity benefits. To hear that the government is appealing this particular case that Senator Munson raised is appalling. The leader is saying that it is because they happened to get pregnant and ill under other legislation, and this legislation has changed.

Could the government not find a bit of compassion to not appeal this?

Senator LeBreton: Honourable Senator Tkachuk has it right. We are trying to resolve a situation for a person that falls under legislation from the previous government. We have brought in new legislation. This matter is before the courts. As was pointed out in the other place, we are working to resolve this particular case. It is one of those incidents where the new legislation that we passed has just come into effect, and the government is working to resolve this case.

Senator Cordy: If you were not appealing the decision, then the case would be resolved. The government has chosen to appeal the decision. That is why it is not resolved. I am not sure why the government is appealing it.

Senator LeBreton: I am not a lawyer, thank goodness. As I just pointed out to the honourable senator, it is a matter before the courts. I am not certain how far I can discuss this, as it is before the courts. It is a case that fell within the jurisdiction of previous legislation. We brought in new legislation, the Helping Families in Need Act, to provide parents who fall ill while on parental leave with access to EI sickness benefits. That is what our new bill does. What happened to this individual was under legislation from a previous government, and, as I pointed out, the government is working to resolve this particularly unique case.

Senator Cordy: Honourable senators, the decision in this legislation came about because of a decision of the umpire. Unfortunately, the new EI legislation that the government brought in has done away with umpires. In the past, people could actually appeal to a board, and if their decision was not favourable they could appeal further. We have a first level appeal. However, if that is gone, there is no more umpire.

However, it was because of a decision by the umpire that this legislation was actually brought into being. The decision of the umpire was that the original lady — and I have forgotten her name — should be entitled to EI benefits and sick benefits. The legislation came to be, which is a positive thing. Certainly those of us on this side voted in favour of that legislation.

However, here we have another case that is very similar, and this government has shown no compassion by appealing what will be the law of the land and what has been deemed by an umpire to be helpful to the individuals involved.

Senator LeBreton: Honourable senators, we have made many changes to the EI system to strengthen it and make it more available to people who need assistance while, at the same time, connecting people with jobs that are available.

I can only say what I have said about five times now: The government is working to resolve this matter.

[*Translation*]

ANSWERS TO ORDER PAPER QUESTIONS TABLED

FINANCE—EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

Hon. Claude Carignan (Deputy Leader of the Government) tabled the answer to Question No. 37 on the Order Paper by Senator Downe.

VETERANS AFFAIRS—STAFFING

Hon. Claude Carignan (Deputy Leader of the Government) tabled the answer to Question No. 51 on the Order Paper by Senator Downe.

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: the nineteenth report of the Standing Senate Committee on National Finance, the seventeenth report of the Standing Senate Committee on National Finance, Bill C-58, Bill C-59 and the other items as they appear on the Order Paper.

[*English*]

THE ESTIMATES, 2013-14

MAIN ESTIMATES—NINETEENTH REPORT OF NATIONAL FINANCE COMMITTEE ADOPTED

The Senate proceeded to consideration of the nineteenth report (interim) of the Standing Senate Committee on National Finance (2013-2014 Main Estimates) tabled earlier this day.

Hon. Joseph A. Day: Honourable senators, yesterday I referred to this report as being forthcoming. Our committee worked on the report this morning, and I am now very pleased to be able to present it to you for consideration.

You should be able to find on your desk, somewhere in the paper that is there, the report entitled *First Interim Report on the 2013-14 Main Estimates*, our nineteenth report. That, honourable senators, is the report that forms the basis for consideration of the supply bill, Bill C-59, which we will be dealing with at third reading in due course this afternoon.

It is logically important that honourable senators have an opportunity to know what is in and what is behind the schedules that appear in that supply bill. This is an interim supply bill that, in most cases, takes the government from April 1 through to the end of June. In some instances, as I pointed out yesterday, it provides for more interim funding because those particular departments need more money at the front end. However, if it were a straight line, it would be three months of interim supply for every department. That gives us a chance to look at the Main Estimates in more detail and then to report back to you in late June as to what we found.

This is our first look at this particular matter, so I want to refer honourable senators to some of the items that appear in our report and highlight them. The entire report is there for you to take a look at. Have in mind that this is under the new format for the estimates. The estimates look the same from the outside but are quite different inside. Just when we started to get comfortable, after a few years, with the estimates as they have appeared, it was decided to change those estimates. Honourable senators will recall that the estimates are divided into voted and statutory appropriations. The former is what is in Bill C-59. In the past, the estimates have been quite detailed, a different breakdown of the statutory items that had been approved in other pieces of legislation, but now all we have is one line, "statutory total amount." If you want the details with respect to statutory appropriations, which normally we like to know because the government's projected expenditures are made up of two parts, the statutory and the voted estimates, you go to Treasury Board. Treasury Board's website will list all of those for you. I do not propose, at this time, to talk about the statutory items but, rather, to talk briefly about what is in this particular report dealing with voted items, as those are the ones you will be asked to vote on fairly soon. It is important, therefore, that we have some understanding of what is in there.

• (1510)

Going forward, we will see the Main Estimates and the supplementary estimates in which federal budget expenditures were announced. In various budgets the government announces projects and money that will be committed to do certain things. It is not always reflected immediately. It could be a year or two down the line. In the past we have asked, "Where did this come from? It is in the omnibus bill. Where did this come from?" Treasury Board, at the request of parliamentarians, will now indicate which budget initiated this particular proposed expenditure. We will have to approve it but at least we will know where it came from.

I remind honourable senators as well that this particular report and the Main Estimates began to be prepared before Christmas, back in the fall and leading forward. The documents were made available to us about two or three weeks ago, before the budget was out. The budget is sacred and confidential so there is nothing in this particular document that is reflective of the most recent budget. What is reflected is previous budget matters that are now at the stage where the government wishes to go forward with them, plus it is not a zero-base accounting process. Many

departments will look at what they spent last year and then move that forward and say, "This is what we anticipate spending this year, so please approve that."

Certainly with respect to salaries, unless they are told to reduce salaries, the department will ask for roughly the same plus the cost-of-living escalator for another year. They are already up there in their departments because a big part of departmental expenditures relate to salaries and benefits.

Honourable senators, one item I mentioned yesterday was the $200 million or $300 million to satisfy the Department of National Defence problem, where they had been deducting a Veterans Affairs disability allowance from the pension that the retired member would get when he or she retires from the government and from the Armed Forces. A court case that will not be appealed, by announcement of the minister, has resulted in that very significant amount of hundreds of millions of dollars for back deductions that should not have taken place. There will be lump sums going to those injured personnel where there was a deduction in their allowances. That will be returned to them.

In addition to that, there is a go forward. I mentioned that yesterday. There will be a go forward every year from here on. There will be an additional amount that will be in the near future, probably next year it will be part of personnel expenses, but it is still taken out here and shown as an item. It amounts to $71 million in expenditures for Veterans Affairs in relation to the implementation of that court case. That gives an indication of the impact of that court case as it moves forward.

Honourable senators, we discussed the federal debt in committee. We were referred to the Department of Finance's report that comes out annually called the "*Debt Management Report*." I have made note of that in here. The *Debt Management Report* shows the accumulated debt, which is each year's deficit. They are all accumulated and it creates an obligation. We have been fortunate with low interest rates, which means this number that the government must set aside to meet the interest on the accumulated debt is an interestingly small number compared to what it has been in the past.

The accumulated federal debt, estimated as of the end of next week, the end of this fiscal year, with an estimated budgetary deficit for the fiscal year ending next week of $25 billion, will now be over $600 billion. Honourable senators can compare that to where it was in 2006, which is a significant year. The accumulated debt then was $460 billion that we had to carry. It is now over $600 billion and we are going into another fiscal year that will have probably upwards of $20 billion more to add to that.

Some Hon. Senators: Shame.

Senator Day: Those are important figures that honourable senators will want to keep in mind.

There are significant amounts of money in Aboriginal Affairs each year. We have to get this expenditure under control because it continues to go up rapidly. In the Department of Aboriginal Affairs the amount is approximately $8 billion each year. That $8 billion, in difficult economic times, is a lot of money. That amount is made up of a number of different items, of course, but there is an increase of $224 million in additional funding over last fiscal year to continue the implementation of the Indian Residential Schools Settlement Agreement. That was divided into two parts. First, there was the common experience. That is, anyone who went to a residential school received an amount of money if they applied and proved they had gone to the school. There is then the second part, which is a much more troublesome aspect that has to be dealt with through a tribunal and assessment of the situation, where someone is claiming that he or she was sexually abused during a time at the school.

From the common experience point of view, the deadline has passed for people to apply. That was September 2012. As of December, just a couple of months ago, Aboriginal Affairs received 106,000 applications, with no question. All you have to do is prove you went to the school. The total liability is now $1.62 billion. That is for that aspect; we cannot tell what the liability will be for the other aspect. There will not be quite as many applicants, but the figure is high. To my recollection, it is about 75 per cent of those who went to the school who are at least claiming that they were abused verbally, sexually or in some way harassed and are looking for assistance.

Honourable senators, I know my time is running down, but I am trying to give you some of the highlights. Public Works and Government Services is projecting a gross budgetary expenditure of $5.9 billion. All of Public Works and Government Services is $5.9 billion. Compare that to the $8 billion that I just talked about for Aboriginal Affairs and that puts it into perspective.

There is an increase in the budget of $256 million for the renovation of the Parliament Buildings. The cost keeps going up here; $54 million to acquire a complex in Gatineau called Les Terrasses de la Chaudiere. The government has been paying $12 million a year in rent for this property and they are now purchasing the property for $54 million to acquire the complex. In four years, it will pay for itself. The payback is just over four years.

Honourable senators, there is a $32-million expenditure that senators from the East will be aware of, which is to support the implementation of a consolidation of pay services for a pay services branch in the Miramichi in New Brunswick. Obviously, with the new technology, there will be fewer people working there, but $32 million is going into that project.

From the RCMP's point of view, there are a number of changes because new contracts for services have now been entered into, which has taken some time. We had a very interesting discussion. The general rule is that the community or province hiring the RCMP services has a signed contract to pay 70 per cent of the cost while 30 per cent is paid by the federal government.

• (1520)

Their projections with respect to the numbers of women in uniform in the RCMP are to reach 30 per cent by 2025. That seems somewhat less than ambitious when the current figure is around 20 per cent. I know that 2025 is coming up in 12 years, but one would think that, with the intake they have on an annual basis, they might be able to increase that somewhat.

Honourable senators, might I have five more minutes?

The Hon. the Acting Speaker: Is it agreed?

Hon. Senators: Agreed.

Senator Day: Thank you, honourable senators.

I will talk about the important area of Transport Canada where the projected expenditures are $1.5 billion. This is a reduction of 27 per cent from last year's estimates. The officials explained that operating expenditures were down due to cuts announced in Budget 2012. The net reductions of $560.3 million include a decrease in contributions to the Gateways and Border Crossings Funds, one of the projects where there was a significant projection of funding.

An interesting figure of $113 million is for the acquisition of land so that the Detroit River International Crossing project can go ahead. My recollection of that is that the federal government is buying land on the U.S. side of the river so they can get the bridge built because there was a lot of reluctance there.

At Infrastructure Canada, the Gas Tax Fund continues for another year or so. There had been announcements that this would be permanent, but we are still doing it on a year-to-year basis. It is $2 billion. I was not aware that $25 million of that goes to Aboriginal Affairs for Aboriginal communities, with the remaining $1.974 billion going to Infrastructure Canada.

The Department of National Defence is the final one I will touch on today, honourable senators. DND is estimating expenditures of $17.9 billion, which is a decrease in net authority of $1.8 billion or a 9 per cent reduction. It is largely due to decreases in operating costs of $1.25 billion, which can be attributed mainly to the strategic review.

DND seemed to handle its strategic review a bit differently. Two reviews were imposed by the government: One was a deficit reduction review and the other was a strategic review. We found that a department will say, "We have saved *x* million dollars." They then apply in supplementary estimates to apply that amount to a new project. The government approves it, but Treasury Board allows it to be spent, which it is doing. A new expenditure is being created to use up what was supposed to be saved. That is why we see the overall projection of expenditure staying the same, while the government announces that they have saved *x* million dollars. It was saved and then used again. The Department of National Defence will not receive permission to use it again; so it is different from that point of view.

I refer honourable senators to page 19 of the report to make a correction as we misspoke slightly. The fourth paragraph on page 19 states: The officials said that their department did not present a request for funds for the Defence Strategy in the main estimates because, while the government had planned for 20 years of funding, some parts of the investment plan have to be approved from year to year by Parliament.

> The officials said that their department did not present a request for funds for the Defence Strategy in the main estimates because, while the government had planned for 20 years of funding, some parts of the investment plan have to be approved from year to year by Parliament.

Strike out the next words "some parts of the investment plan" and insert "expenditures" in their place.

Departments do all the planning for a good number of years out, but we wanted to ensure that honourable senators understand that expenditures have to be approved each year by Parliament. That is the change. Parliament does not approve the 20-year program or part of that. I hope honourable senators have not been misled and have that change. That was the only other change to facilitate an understanding of the report.

The report is reflective of the preliminary work that the committee has done. On behalf of the deputy chair and all committee members, I thank the representatives of the Library of Parliament for the fine work they have done on short notice in preparing, translating and amending this report.

I commend the report to honourable senators for their reading and approval.

Hon. Larry W. Smith: Honourable senators, I thank the chair for an outstanding job. People have said that Senator Day is one of the few people who understand the process of the Main Estimates.

I draw the attention of honourable senators to the bottom of page 2, in terms of understanding the document. I am not trying to be condescending because understanding the budget is a complex issue. Sub-notes 1 and 2 should provide a clear understanding in terms of the reading of this document.

It was mentioned by Senator Day that Treasury Board has streamlined the process. The idea of streamlining the process was to make it more effective in its presentation and easier to understand. Of course, today it is important that Bill C-58 and Bill C-59 pass third reading.

Other than that, the document is straightforward. When we talk about the public debt of $582 billion, it is important to keep this in perspective: Public debt charges, and this is on page 6, as a percentage of revenues have been decreasing in recent years falling from 37.6 per cent in 1990-91 to 12.7 per cent in 2011-12. When honourable senators hear the big numbers, it is important to understand how they fall into the line of percentage of revenue versus public debt.

An excellent job was done by the chair, committee members and the steering committee.

Hon. Wilfred P. Moore: Honourable senators, Senator Smith made me think of something. He talked about the public debt charges decreasing in recent years, falling from 37.6 per cent in 1990-91 to 12.7 per cent in 2011-12.

However, where do interest rates figure in that? What will happen if the rates go up?

• (1530)

Senator L. Smith: Thank you very much for the question. If I cannot answer properly, hopefully Senator Day will assist me.

I would assume it would be because of lower interest rates; there has been a positive impact on that percentage. The threat that always exists is when interest rates increase with debt, such as with a mortgage. If a simple $300,000 mortgage at 3 points suddenly goes up to 6 points, it is more than just going up 3 points; it is a doubling.

This is one of the problems that the U.S. had when they gave special deals to people who could not afford to have a $300,000 debt even at 3 points if they were earning $10,000 or $15,000 of income. These things happen. It is a case of interest rates and adjustments.

Senator Moore: What happens if they do go up during this fiscal year and we have increased public debt charges?

Senator L. Smith: In having listened to Mark Carney before the Banking Committee when I was fortunate enough to sit on it, I can only suggest that there is a strong suggestion that, because of the state of fragility of the world economy, interest rates will probably be at the lower end for the next 18 to 24 months before there would be a move. There is some suggestion that increasing the interest rates in the United States will push the stock market up as the states become stronger economically.

There is always a threat with the movement and volatility of rates, but it looks like rates will be steady for the next 18 to 24 months. That is what the Governor of the Bank of Canada says.

Hon. Lillian Eva Dyck: Honourable senators, I have two technical questions. I thank the honourable senator for this report. It is very well laid out.

As I was reading through it, I noticed under Aboriginal Affairs and Northern Development Canada that the increase is 2.3 per cent whereas the increase in the budget works out to be 7 per cent under the RCMP. Is the increase of 2.3 per cent in AANDC part of the decision from way back in 1996 to limit increases in Aboriginal Affairs to 2 per cent, or is that something separate?

Senator L. Smith: I must plead ignorance because I was not involved in the Senate in those days. I would maybe ask our chair if he had any prior knowledge to be able to assist us in answering the question. Alternatively, I could ask Senator Buth if she had anything to add.

I apologize. We could follow up and try to get an answer, if that would be all right.

Senator Dyck: Thank you.

Second, it states in the report that the RCMP has about 30,000 employees, but it does not have a specific number for Aboriginal Affairs. Could the honourable senator point me to the source where I could find out how many employees are in Aboriginal Affairs and Northern Development Canada? I suspect it is probably 10,000 or 30,000 as well. I do not suppose any witness was asked that question. Also, how many are Aboriginal?

Senator L. Smith: We would probably have to go back and find out the exact number of employees and get back to the honourable senator.

We have the gender split numbers for the RCMP, for example. Twenty-one per cent of the employees of the RCMP are women at this time, and I think there is an objective to push that number to about 30 per cent within the next five to seven years. Perhaps it is twelve years.

Senator Dyck: I would ask my honourable friend if he could also please find out how many staff within Aboriginal Affairs and Northern Development Canada are Aboriginal.

Senator L. Smith: Thank you.

The Hon. the Acting Speaker: Are there any further questions?

Are honourable senators ready for the question?

Hon. Senators: Question.

The Hon. the Acting Speaker: It was moved by the Honourable Senator Day, seconded by the Honourable Senator Moore, that this report be adopted.

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

Hon. Senators: Agreed.

(Motion agreed to and report adopted.)

APPROPRIATION BILL NO. 5, 2012-13

THIRD READING

Hon. Larry W. Smith moved third reading of 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.

He said: Honourable senators, I do not have anything else to say other than that we proceed.

Hon. Joseph A. Day: Honourable senators, I do not have a lot to add to those comments. However, I do have two or three points that have been brought to my attention as well as a question that was outstanding earlier that I would like to clarify so that honourable senators will understand what is in this bill.

First, we discussed yesterday the high commission in the U.K., in London. I pointed out to honourable senators that the property that had been purchased was next to Canada House and Trafalgar Square, and that was $71 million. That is my recollection. It is the intention of the government to sell the residence and the high commission on Grosvenor Square, which is also in London, in the Mayfair area.

I extrapolated from that incorrectly — and I apologize if I have misled anyone — that it would mean that the new building purchased would become the residence. That is not necessarily the case. We do not know where the new residence will be, and we do not know if there will be residences for some of the employees in this new building. However, we do know that Canada House is a very large building that can accommodate all the meetings that we have had thus far. Therefore, a lot of the chancery and work that

goes on by the high commission in London will be going on in Canada House and in this new building we have acquired next to it.

I do not know what will happen in relation to the balance. However, I went back to the questions and answers from our committee meetings. The following question was asked:

> I am aware that the residence is also at Grosvenor Square as well as the meeting rooms. I was wondering what was happening with respect to the residence, but so far it remains.

That is what we asked, and the witness said, "For the moment it remains; that is right."

We later asked the same question, and Mr. Patel, a representative of the Department of Foreign Affairs and International Trade, said:

> ... we are applying Workplace 2.0 standards —

— that must be a government term —

> — so there is a 20 per cent savings there. As you know, Macdonald House includes staff quarters as well as an official residence.

That is the one on Grosvenor Square.

> In keeping with the Budget 2012 —

— last year's budget —

> — commitment for official residence right-sizing, we will be moving to a smaller residence. That will result in cost savings as well, for both capital as well as operating. The staff quarters will be right-sized also; there will be smaller staff quarters, and there will be capital and operating savings from that again.

Then we asked:

> To clarify, you are talking about the residence and downsizing. Will that be a rental accommodation, or do we anticipate as part of the overall package another capital acquisition for residence?

This will be a third building. Ms. Renetta Siemens, another representative, replied:

> Based on Treasury Board policy and direction, given the high price of the London marketplace, the assessment is that it is better to purchase in London as opposed to rent. Therefore, our presumption is that we would purchase. Again, the monies for that purchase would be coming from the sale of Macdonald House.

• (1540)

That is the most up-to-date information we have with respect to that matter. It is a little bit different from what I mentioned yesterday, honourable senators, so I wanted to clarify that.

There was another question with respect to government advertising that I thought I could help clarify. I had already finished speaking, so I did not have a chance to reply to that question at the time. Honourable senators should know that in our report there is a discussion with respect to government advertising — and this is the report on Supplementary Estimates (C), not the report that is before you now — which can be found on pages 5 and 6.

There are two ways that the government can advertise. First, the departments and agencies can make advertising expenditures through the federal government advertising program, a horizontal item that is set out in the supplementary estimates. Second, they can fund advertising expenditures through their own operating budget. The Treasury Board officials then suggested that the committee consult — and this may be of help to those who were interested in this — the *Annual Report on Government of Canada Advertising Activities* published by the Department of Public Works and Government Services to obtain further details about federal advertising expenditures.

The report shows that the federal government spent $86.9 million on advertising in the year 2006-07, $84.1 million in 2007-08, and — this is a good one — in 2008-09 it was $136 million.

Senator Mitchell: What is that as a cost per vote?

Senator Day: Honourable senators, I have added up the monthly and yearly Government of Canada expenditures. Keep in mind there are departmental expenditures for advertising in addition, but for the period from 2002-03 to 2006-07, four years, the government spent $271.6 million on advertising. For the period 2006 to 2010-11, the government spent $470 million on advertising.

Senator Mitchell: What are they trying to sell?

Senator Day: Honourable senators, I hope that will help clarify that point.

The final point I want to clarify from yesterday's discussion is that we talked about the emergency fund that CIDA and Foreign Affairs wished to set up. They were asking for $60 million and to be able to access it without going through the normal checks, which is one of those red flag areas. We were told by the Canadian International Development Agency that they would like to increase that to $100 million. On an annual basis we approve that, and if they spend anything out of it, to top it up again we approve what has been sent and bring it back up to the $60 million as it now exists. I had anticipated that when we looked at the Main Estimates for this year we would find it there. However, I spoke to CIDA following my discussion in this chamber yesterday and was advised that they did not have an opportunity to get their paperwork together in time, so we should anticipate seeing that sometime in this fiscal year in one of the supplementary estimates.

Honourable senators, we are now debating third reading of Bill C-58, which is supported by our report on the Supplementary Estimates (C); it is for $1.545 billion, and that is to conclude this fiscal year that is just about to end. There were some government expenditures and government activity that had to be covered off,

and that is what this is, honourable senators. I commend our report and the work that our committee has done in bringing this information to you.

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

Hon. Senators: Question.

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

Some Hon. Senators: Agreed.

Some Hon. Senators: On division.

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

APPROPRIATION BILL NO. 1, 2013-14

THIRD READING

Hon. Larry W. Smith moved third reading of 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.

He said: After the discussion we just had, I have no further comments and would defer to our chair if, with your permission, he has comments to make.

Hon. Joseph A. Day: Honourable senators, Bill C-59 is interim supply; I mentioned that when we were dealing with the interim report. This bill is asking for this government — this is the executive, asking Parliament, which controls all appropriations, you and me — to approve expenditures on an interim basis for the coming fiscal year starting April 1 in the amount of $26,392,186,039.19.

There are two schedules attached to this bill, Schedules 1 and 2, and those appear as an addendum to the estimates. Your committee has studied the estimates, and we have looked at the schedules that were in the estimates. We had these to look at, and you have just heard our report. We find the schedules in this bill that we have just received are the same as the schedules in the estimates. There are no differences. On one occasion we found some differences because we do verify that, and it is quite important that we do so because that shows we are doing our job.

I pointed out yesterday that most of this interim supply is for three months. It is for three— twelfths of the year to the end of June, and then we will do main supply at that time. However, there are a number of different subsets to the schedule. I will not go through all of them, but I did take a look at some of the subsets so that Honourable senators would know what is happening here. Schedule 1.2, for example, is for nine months. Different departments get more interim funding. Why is that? It is probably because their expenses are not straight line. As I mentioned earlier, if they have more upfront expenses, they will get more money in the interim.

Let us look at Schedule 1.1, which asks for a significant amount of money at the front end. It is Natural Resources and Treasury Board. Treasury Board is asking for its money up front for one in particular. It is their vote 5, which is contingency.

• (1550)

This is another one of those pots of money that is available without the normal checks, and we have to keep an eye on this. There are two we talked about today. We in finance are very conscious that it is important for us to keep a close eye on those funds that do not go through the normal process.

On contingency vote 5, we are giving eleven twelfths of the funds up front. That is just an example of these. I will not analyze each of them.

There is also a schedule 2, and the schedule 2, honourable senators, as I have pointed out in previous estimates, is for approvals that are given for two years. All the other departments, except those that come under schedule 2, are for one year only, but schedule 2 includes Canada Revenue Agency, Environment Canada, Parks Canada and Public Safety and Emergency Preparedness. Those departments get approval for two years. Sometimes you will see them spending money in the next year and you will not recall having approved that. You did a year and a half earlier. This is a little tricky one that is important to be aware of. It is only those departments, so far, that have been authorized by the government and, therefore, authorized by us when we approve these to allow a two-year appropriation. For most others, there is some carry forward, but they have to come back to us, reprofile and ask for the funds again.

That is our job — to approve funding and then ensure that the funds are spent in the manner requested. If a department wants to take money from vote 1 operations and put it into vote 5 capital, they have to come back to Parliament, to us, in the form of a supplementary estimate. We take it to committee and ask questions: Why are you doing this? How did you happen to have the money left over from one to the other? Those are the kinds of questions we ask in order to do the job that is expected of us as senators in the chamber of sober second thought.

Thanks you, honourable senators.

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

Some Hon. Senators: Question!

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

Some Hon. Senators: Agreed.

Some Hon. Senators: On division.

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

CORRUPTION OF FOREIGN PUBLIC OFFICIALS ACT

BILL TO AMEND—THIRD READING

Hon. Janis G. Johnson moved third reading of Bill S-14, An Act to amend the Corruption of Foreign Public Officials Act.

She said: Honourable senators, I am pleased to rise today to begin debate on Bill S-14, the fighting foreign corruption act. The Standing Senate Committee on Foreign Affairs and International Trade has had the opportunity to examine both the content and context of the amendments to the existing act. A strong overall consensus has been reached by members on both sides that these amendments are not only necessary but long overdue.

Concerns regarding two particular amendments were raised by outside stakeholders and were duly addressed by officials from the Department of Foreign Affairs and International Trade's Criminal, Security and Diplomatic Law Division. Our government is aware of the realities on the ground in the lesser developed countries and would not enact amendments that would criminally prosecute Canadians who are put in life or death situations by corrupt foreign officials. On the contrary, this legislation is designed to tighten up current laws and close loopholes in order to prevent Canadian individuals and businesses from engaging in acts that constitute outright bribery and corruption with the intention of securing business deals.

Honourable senators, Canada has long played a prominent role on the international stage in combatting corruption. Our anti-corruption laws stand as a reminder that corruption is not the Canadian way of doing business. Bill S-14 is an expression of the government's commitment to continued vigilance. It signals our commitment to redouble the fight against bribery and corruption, and it sends a message of our expectation that other countries do the same.

Honourable senators, I am proud to report that our government remains committed to combatting foreign corruption, and Bill S-14 reflects what we believe is the will of Canadians and Canadian businesses and stakeholders.

In January 2012, over 30 expert stakeholders in Canadian businesses law firms, academic institutions and non-governmental organizations participated in a consultation organized by the Government of Canada in Ottawa on the issue of corruption and foreign bribery. It provided an opportunity for fulsome discussion on concrete steps that could be taken to improve the enforcement of the CFPOA as well as an opportunity to further encourage Canadian companies to prevent bribery before it happens and to detect it if it occurs. As a direct response to stakeholders' views, the six amendments will help ensure that Canadian companies continue to act in good faith in the pursuit of freer markets and expanded global trade.

Canada is a trading nation, honourable senators, and our economy and future prosperity depend upon expanding our trade ties with the world. As we continue to broaden our international trading relationships across the globe, it is essential that our country uphold its integrity with respect to all our international partners. Canada is determined to pursue its efforts in combatting foreign corruption and supporting a framework conducive to continued vigilance in order to ensure the jobs, growth and economic prosperity that Canadians deserve. We are determined to pursue whatever efforts are necessary to combat foreign corruption. I believe this legislation does just that.

Hon. David P. Smith: Honourable senators, I could give a lengthy speech, but I will not. We on this side support this bill. In 1998, the Liberal government ratified the OECD convention on combatting bribery of foreign public officials in international business transactions, and this bill help to further implement the convention.

We support this measure, and honourable senators who want to know why may read my speech on second reading in Hansard on February 27. To expedite the passage of this bill and to assist in moving matters along in this chamber, I will not speak but simply indicate our support for this bill.

In the spirit of working together, it would be nice if the government side took a similar approach to the adoption of reports from standing committees that have been approved unanimously rather than delay them.

Hon. A. Raynell Andreychuk: Honourable senators, I commend both Senator Johnson and Senator David Smith for their input on this bill. It has been some time in coming to us with the amendments, and I think they did a lot to facilitate its passage in the Senate.

I wish to put on the record that there had been a misunderstanding in our committee between the department officials of Foreign Affairs who came before the committee and some questions that Senator Downe had asked them. They indicated that they had not received the answers at the time we went to vote, but, in fact, in clarification afterwards, they satisfied Senator Downe's concerns, and therefore what I had said I would say here becomes redundant.

The issue related to a suggestion that the OECD members consider requiring tax officials to identify and disclose evidence of bribery to law enforcement agencies.

• (1600)

This recommendation was brought to our attention in a letter from a Canadian citizen with some understanding of the issues. He was concerned that no such provisions are featured in Bill S-14. Unfortunately, he was not available to appear before our committee.

We undertook, however, to look into the issue. We learned that its concerns were simply a general recommendation of the OECD but not an obligation within the OECD Convention for Combating Bribery of Foreign Public Officials in International Business Transactions. As such, the recommendation falls outside the purview of Bill S-14.

We now understand that the Department of Finance is looking at how they can contribute to anti-bribery and corruption efforts. However, implementing the OECD recommendation or some

variation of it would involve fundamental changes to the Income Tax Act. We were further told that it would be enacted under separate legislation should there be a completion of that study and negotiations.

Honourable senators, I simply want to indicate that the other area was to do with facilitation of payments and whether there should be further negotiations and discussions. I think to the satisfaction of the committee there was an understanding that the Department of Foreign Affairs and International Trade will continue to work with Canadian companies to ensure that they understand what ''enforcement'' will mean -and that implementation and enactment will occur only after such consultation.

Again, I am pleased that we are proceeding with this bill, and I thank all members of the committee for their support, understanding and commitment on working and combating bribery.

The Hon. the Acting Speaker: Continuation of the debate?

Senator Carignan: Question.

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

Hon. Senators: Question.

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

Hon. Senators: Agreed.

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

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

THIRD READING

On the Order:

> Resuming debate on the motion of the Honourable Senator LeBreton, P.C., seconded by the Honourable Senator Carignan, for the third reading of Bill C-53, An Act to assent to alterations in the law touching the Succession to the Throne.

Hon. Serge Joyal: Honourable senators, it is a pleasure to have the opportunity to share with you conclusions at the closing of this debate on Bill C-53.

I would like to propose three sets of remarks. The first is related to the background of the changes that Bill C-53 enshrines; that is, the opening of succession to the throne to any child born, whatever the sex of that child. The second set of changes is to open marriage to persons of the Roman Catholic faith. Finally, the third set of changes limits the power of the Queen or the King to give his or her consent to marriages to the sixth line.

The second group of remarks I would like to share essentially relate to the work of the committee. I would like to touch on the importance of the approach that the government has taken in proposing Bill C-53 because it sets a precedent for future changes. It is important for us to understand that constitutional law evolves through sets of precedents. What we are doing today could influence the future in additional changes to the law of succession. As I outlined in my first remarks, we can expect — of course I cannot predict in how many years — that there will be changes in the future.

Finally, I want to address the two questions that were raised by Senator Fraser yesterday in relation to this bill: first, the fact that the Prime Minister sent a letter instead of an order-in-council to Westminster, as was done in 1936-37; and second, the wording of the bill calling upon this Parliament to approve a bill that has been laid before Westminster might raise the question of the amendments brought by the House of Commons at Westminster, therefore changing the letter of the act to which we are assenting.

I will come back to my first set of remarks, which deal with the historical background of those changes. Honourable senators will understand that when we talk about changing laws that have been on the books since 1689 or 1700, it does not happen suddenly. It does not happen by the call of a miracle. One cannot expect at the point in time in the evolution of the world, especially of the constitutional monarchy, the institution under which we live, that important changes happen at the point at which they are proposed to Parliament.

In reviewing the debates in Westminster, I was to a point surprised that those changes I outlined earlier came from a report published in 2003 by the Fabian Society, a socialist group formed at the turn of the century by the likes of Virginia Woolf, Oscar Wilde, Bertrand Russell and George Bernard Shaw, luminaries in those days and today, of course, icons of British culture that everyone likes to quote from at some point in a speech, at the dinner table or in writing because the people who founded that society strongly believe that changes should be gradual instead of revolutionary. Therefore, they applied their minds to propose changes to British society for the last 100 years or so.

What is stunning is that in 2003 the Fabian Society released a book entitled *The Future of the Monarchy*, and all of the changes we are being asked to assent to today were, in fact, taken out of that publication. It is not strange, but ideas when first expressed look to be marginal or too original to really be taken seriously. However, at some point in time, they lead their way into people's minds and are finally accepted as common wisdom. I think the Fabian publication of 2003 is such a thing. It was taken on by the Blair government, a Labour government. It was then endorsed by the David Cameron government, a minority government, but it was shared with the Liberal Democrats. There is now a consensus in British society that those ideas, which 10 years ago looked rather radical — I checked with the BBC to see when the publication was released in 2003. Their headline read — from July 2003 read:—

> Radical changes proposed for monarchy.
>
> ... The proposals are among a series of far-reaching changes recommended by the Fabian Society. However, the left-wing think tank fell short of suggesting the abolition of the Royal Family.

It went on to say:

> A year-long inquiry into the future of the monarchy also suggested the centuries-old ban on a Catholic monarch should be lifted.

Later on:

> ... the principle that sons of sovereigns and their descendants have precedence over daughters in succeeding to the throne should be scrapped.

In other words, those ideals that sounded radical 10 years ago when I listened to the Honourable Leader of the Government were filled with praise of modernizing the "institution."

I personally have a different opinion in qualifying those changes as modernization. I think they are much more profound than modernization. I think they address the very core of the institution of the constitutional monarchy. That is why I think it was wise for this House of Parliament to try to look into its committee work to address those issues.

• (1610)

Of course, there are issues that the committee did not address. I will not say I deplore it, but I will lay them on the table in this chamber because in the future — I cannot qualify how soon it will be — I am sure that we or our successors in the chamber will have to address them. Those are linked to the status of the King or the Queen as head of the Church of the England.

The Fabian report, again, recommended some changes that were not part of Bill 123 tabled at Westminster and that we assented to, but I think that the proposed changes will one day be the subject of discussion in the public and in Parliament. I think that the Fabian reports mention why. A significant number of people see the kind of fate as being something under the Church of England that is not as pervasive in British society as it once was. One can deplore it, but one has to recognize that fact.

Although it is not part of this bill, proposed section 2 of the bill reopens this side issue by allowing a future successor to the throne to marry a Roman Catholic. If one would have said at the time of Henry VIII or Queen Elizabeth I that a successor of the throne would one day be able to marry a Catholic, I think one's head would have been chopped off in the Tower of London because it would be so outrageous. It addressed the very foundations of the monarchy, because the monarchy was closely linked to the Church of England.

I say that with the greatest respect to the Church of England because of the service, importance and influence that the Church of England has had, not only in England but also in Canada and the Commonwealth countries generally. The changes that at that point in time appeared to be radical now seem to be normal or hoped for by the majority of the population.

I want to outline another fact. Since Bill 123 was tabled in the British House of Commons in January, the definition of marriage has changed in Britain.

Honourable senators might not remember that on February 5 Westminster changed the definition of marriage. We are assenting to a definition of marriage that in the course of the debates at Westminster in the House of Commons and in the House of Lords has been changed to be open to recognize marriage between persons of the same sex and the adoption of children under that marriage.

I do not want to stretch it too much because honourable senators will say that I am ludicrous, but one can expect that if one applies proposed section 2 of this bill, one day there could be an ascendant to the throne covered by this new definition of marriage.

I do not know if most honourable senators saw the famous Spielberg film *Lincoln*. Remember when they were in a position to abolish slavery? Then one of the secretaries of state said, "If we abolish slavery, one day they will ask to vote." I do not know if honourable senators remember that. I was sitting in my seat listening to that and thought, "What if he knew that one day the president would be Black?"

With time and evolution of society, things that seem to be outrageous or out of this world just become the norm. Why? Because civilized society always evolves toward the greatest level of freedom and the greatest level of dignity. That is the very core of what we call civilization.

Any society like the British society that was in the 19th century at the vanguard of the political institutions in the concept of human rights is open to that kind of evolution and redefinition of the substance of freedom and human dignity. One day we can expect that there will be changes that we cannot foresee or even think about today because we would give the impression of being totally crazy in the mind. Nevertheless, this is part of the reality that this bill enshrines.

As I said, honourable senators, from the beginning to the end there has been a major change in the substance of this bill, the redefinition of marriage. We have not, as I said earlier, addressed that at the committee stage. It would have been interesting to have that kind of reflection because today we are assenting to that evolution. It is an important element that we keep in mind and put on the record, because one day we might be called to assent to other changes that today, for the time being, do not seem to be thinkable or something we can imagine with a normal mind.

The committee had the benefit of addressing the process. We heard from Professor Andrew Heard from Simon Fraser University.

[*Translation*]

We heard from Professor Benoît Pelletier, a former Quebec Minister of Intergovernmental Affairs. He is an expert on the interpretation of section 44 of the Canadian Constitution, the section at the heart of the referral made by the government of the day to the Supreme Court of Canada. Professor Pelletier is perfectly qualified to answer the question as to whether the provinces should support the changes being proposed by the government.

I direct this in particular to the Honourable Senator Rivest, a veteran of constitutional debates, both in the early 1980s and at the time of the Meech Lake Accord and the Charlottetown

Accord. We asked Professor Pelletier the following very clear question: Should the provinces support this bill?

I would like to be able to read Senators Rivest's comments. That is why I would like the official record, the Debates of the Senate, to clearly reflect his response, because in the future, it might be important to know exactly what happened and how we went about examining Bill C-43.

When he appeared on March 20, 2013, I asked Professor Pelletier the following question:

> **Senator Joyal:** Mr. Pelletier, I would like to go back to the matter of applying section 41. Professor Patrick Taillon, who teaches in the Faculty of Law at the Université de Laval, published an article on February 3, 2013, on the succession bill. In his article he argues that the bill in question, and I quote:
>
> > ...directly relates to the office of the Queen, which are constitutionally protected by the 1982 Constitution.
>
> His entire theory, his entire interpretation in that long article, is based on the fact that section 31 stipulates that any changes to the office of the Queen must, of course, be subject to the unanimity formula. He concluded his article by saying that, accordingly, the provinces should all express their consent to the changes set out in Bill C-53.

I repeat, Mr. Pelletier was Minister of Governmental Affairs in Premier Jean Charest's government. He replied as follows, and I quote:

• (1620)

> With all due respect for Mr. Taillon, who is a great legal expert, I would like to say that I do not agree with him at all.
>
> Section 41 refers to the office. In my opinion, this refers to the power, status and constitutional role of the monarch, but not to the issue of who can succeed the Queen.
>
> ...
>
> Reliable, credible legal experts have made this claim. I am convinced that if the question of whether the provinces have the right of veto on this issue were put to the Supreme Court of Canada, the answer would be no...

[*English*]

It is quite clear, and I share the views of Professor Pelletier, and I think the senators around the table at the committee also share the same view. We posed the same question to Professor Heard from Simon Fraser University, and he concurred. I refer honourable senators to the minutes of the committee meeting.

It is quite clear that this change, or a change to the royal style and title or to the succession to the throne, does not need the consent of the provinces. I want to put that on the record and be very clear. In my opinion, humbly put to you, I think those changes are fundamental, and we might be called again in the future to assent to other changes.

That being said, the committee also reviewed the legitimacy of the process we are now following. Professor Pelletier raised another question, which was also put to us by the second group of witnesses we heard. The representative of the Canadian Royal Heritage Trust advocated that if we are to assent to changes to the royal succession or royal style and title, we should adopt the same act that Westminster is discussing now. In other words, we should adopt word for word the same act.

That is their contention. They claim that the law of succession is part of the Canadian Constitution, even though the schedule of the Canadian Constitution that was added to the Constitution Act in 1982 does not mention any of those acts, and even though the Supreme Court, in many of its decisions, recognized that our Constitution is defined on the same principles as the United Kingdom constitution but not essentially on the very statute that defined the constitution of Great Britain or the United Kingdom.

That contention was put to us, and I think it was well answered by the testimony of Professor Pelletier. I think the Statute of Westminster is pretty clear. The Statute of Westminster is part of our Constitution. What does the Statute of Westminster state? A simple thing: The Parliaments of the Dominion have to assent. We have to assent. It does not say that we have to adopt the same legislation; it says that we have to assent.

How are we assenting? We are assenting in two stages. First, we are assenting to discuss with London and the other realms of the Commonwealth the changes. That is the first way to assent, to participate in the discussion of what the changes will be. It is similar to the situation where one receives a notice for a meeting to define the changes that might be contemplated to an institution. If one participates in that discussion to define those changes, one is assenting, in a way. Once those changes have been discussed and have been agreed to on a consensual basis, the next step comes.

Senator Tardif: Order.

Senator Cowan: Order.

Senator Joyal: I am sorry, Your Honour and honourable senators. As in the other place, some are not interested in this matter. However, we are more interested on this side.

Senator LeBreton: No. It is nothing to do with you, sir.

Senator Joyal: I am happy to recognize that the Honourable Leader of the Government in the Senate has come to participate in this debate at third reading, and I thank her.

The second approach to participating is essentially to assent formally, that is, to say "yes" to the changes, to endorse the changes, in other words, to sign the paper if you want to do so. When the Governor General gives royal sanction to those changes, he will formally express on our behalf the consent to those changes. In my opinion, it is very important that we follow that procedure. Why? We are on an equal footing with the United

Kingdom in terms of defining changes to the Crown. We have, in a way, a power of veto. To put it in the Quebec government terms...

[*Translation*]

...and in the words that my colleague, Senator Rivest, likes to use.

[*English*]

In fact, if we say "no" to the principle of those changes, Her Majesty has been pretty clear that: she will not give royal sanction to those changes. In other words, we are intimately bound with the U.K. and with the 15 other realms to express assent to the definition of the changes and to consent to those changes. That, in my opinion, is a very important element, and that is the way it should be because we are a sovereign country, and we are a sovereign country not in colonial times but as a full, mature country since 1982. We are the overall master of anything that can happen to our head of state. I think it is the proper formula and the proper process to follow, and in that context, I think what we are doing is a full expression of the sovereignty of Canada.

Finally, I would like to address the two points raised yesterday by the Honourable Senator Fraser. Senator Fraser first mentioned that Prime Minister Harper has expressed, through a letter to Westminster, that we are agreeing to the change. Of course, I think it is important that he signal on behalf of the government that a bill will be introduced. However, according to the Statute of Westminster, it would not be sufficient to bring about the changes because, as I expressed to you, the changes have to be endorsed by Parliament. That is what the Statute of Westminster, which is constitutionalized, says. The Prime Minister cannot substitute himself to Parliament. It is quite clear in my mind.

The point raised by Senator Fraser is the following: Should the Prime Minister have instead proposed an order-in-council? My humble opinion is that he should not have. I think it is Parliament that expresses the sovereign will of the people. I understand that in 1936 there was some urgency that there be an expression of credibility, of assenting to the new monarch because the United Kingdom was faced, as was Canada, with a situation of no monarch because the king had abdicated or expressed assent to the changes. In order to avoid a vacuum, there was to be a formal legal document binding the Government of Canada or expressing the views of the Government of Canada, hence the order-in-council.

However, that is not the situation we are in now. Now Parliament is in session; Parliament can debate those issues; and Parliament can express its sovereign will. I think the approach taken by the Prime Minister is the proper approach under the circumstances. It would be totally different if we had been prorogued and had found ourselves in a similar situation to the conditions in which they found themselves in 1936. Humbly submitted, the fact that the Prime Minister chose the approach of sending a letter on behalf of the government is, in my opinion, the proper approach.

The second issue put by Senator Fraser is a little more technical but nevertheless important, and that is the fact that Bill C-53 mentions essentially that we are assenting to the bill laid in Westminster, in other words, the bill being essentially a title. You will understand that Bill C-53 does not reproduce all the sections of the bill of Westminster. It is only the title.

• (1630)

What is the title of a bill that is not adopted? What is the legal force of a bill that has not been adopted? This could be a nice question to put to students at the bar. I will give honourable senators the answer. It is essentially a legislative intention. It is not binding. It is not yet adopted. It is a legislative intention.

[*Translation*]

It is a legislative intention. It is what we are proposing to do.

[*English*]

What are the changes that have been brought at Westminster? That was Senator Fraser's third question. She was arguing that at Westminster, during debate in the House of Commons, they had brought an amendment. She said that they had changed the bill. They did not change the bill; the bill is not yet adopted. They have done something to the legislative intention. As long as it is a legislative intention, one can bring some precision to it. In fact, if one reads the amendments to the bill, they address the consent that the king or the queen should give to the marriage of the six people in line. It says that the effect of a person's failure to comply with the consent of the Queen is that the person and the person's descendants are disqualified.

I will explain that in simple terms. It means that, if the Queen refuses to consent to the marriage of one of those six in line, that person's descendants could not claim to be in the line of succession. However, that person might remarry a person for whom the Queen would have expressed her consent. We know that it happens in modern times. I do not know if many honourable senators have relatives who have divorced in their close or extended family circles. I speak for my province and half of the families in Quebec are divorced and remarried or reunited in some shape or form. Members of the Royal Family, like any human beings, could be in the same situation.

The bill makes the original intention, approved by all of the 16 heads of the Commonwealth countries, more precise. They wanted to ensure that, if that person had married without consent of the Queen, not all of that person's marriages would be disbarred by the Queen. It did not change the original intention.

When we say that we are assenting to a legislative intention, we are, in fact, expressing a consent or an assent — to use the word in the bill — to the original legislative intention that is not changed by that precision.

I want to put it on the record — that Senator Fraser has raised a very useful point. If, in the future, we are called to discuss changes, we will follow the same approach and process as Westminster. I think it would be fair and would avoid any kind of misgivings if the realm, the countries that share the Queen, were informed by the House of Commons or the House of Lords that there has been a slight change just to further define the original intent without changing it, to be sure that there is no misunderstanding. That would have prevented exactly the point

that Senator Fraser raised. It would also just be courteous because we share the institution and want to do it in the same context that Senator Fraser and the Honourable Leader of the Government in the Senate have put it. It is very important that there should be no question about how the process works and how it evolves.

In that context, I have no hesitation in supporting the bill today because, as the Honourable Leader of the Government mentioned yesterday, the House of Lords has been debating amendments at the committee stage. Those amendments were left aside; they were not adopted. They have a rule, contrary to our chamber, whereby, and I quote:

> An issue which has been fully debated and voted on or negatived at a previous stage of a bill may not be reopened by an amendment on third reading.

In other words, there is no opportunity for an amendment that has been defeated at committee stage to be reintroduced at third reading. We can do that, as honourable senators know. We do it regularly in our own proceedings.

The rules in the Lords are much stricter than that. The amendments at third reading can only be:

> . . . to clarify any remaining uncertainties, to improve the drafting and to enable the Government to fulfill undertakings given at earlier stages of the Bill.

It is quite clear that the substance of the original intent cannot be changed at third reading in the Lords, even though they will only vote on April 22. I do not think there is any risk that the substance of the legislative intention to which we are assenting will be substantially changed. If they change it substantially, they will, as I mentioned earlier, be questioning the first assent, which was given at the Commonwealth Heads of Government Meeting that took place in Perth, Australia, in 2011. There, all of the governments, including our government under Prime Minister Harper, assented to the principle of those changes.

I have no hesitation in saying that we are in a position to vote today without finding ourselves in a position where the bill will be changed between now and the adoption and the Royal Assent that Her Majesty will give only when all of the rest of the realm has endorsed the changes. In other words, Her Majesty is pretty clear on the very principle that I expressed earlier, that it is only if everyone assents that Her Majesty will act upon the bill at Westminster.

I thank you, honourable senators. I think that it is important for us to understand this. Again, I deplore that in the other place they did not spend two minutes on this. It is unfortunate because the Minister of Justice, from whom we heard in committee, made a very good presentation. I am sure that the members in the other place, whatever their side, would have benefited from learning about how our institution works and what our responsibilities in that system are to have it work properly for, as I said, the benefit of all Canadians.

[*Translation*]

The Hon. the Acting Speaker: Will the Honourable Senator Joyal accept questions?

Senator Joyal: Yes, if I have any time left.

Hon. Jean-Claude Rivest: Honourable senators, I would first like to commend the Honourable Senator Joyal on his excellent speech. I would like to ask a question that was raised in the Standing Senate Committee on Legal and Constitutional Affairs with regard to discrimination. We would never think to impose a religious criterion when considering candidates for public office in Canada because it would be contrary to the Canadian Charter of Rights and Freedoms. The Queen is Canada's head of state, and we have religious requirements that must be upheld.

By passing this bill, would we not be condoning a form of discrimination within the meaning of the Canadian Charter of Rights and Freedoms?

Senator Joyal: The Honourable Senator Rivest asks an excellent question, one that has already been the subject of a decision by the Supreme Court of Ontario in a case involving a person named Donahue, which is clearly why this case is referred to as the Donahue case. The learned judge in this case had to decide whether the law touching the succession to the Throne violated the equality provisions of the Charter.

This case raised a well-known principle in constitutional law, and that is this: one part of the Constitution cannot abrogate another part. In other words, although the Constitution contains a provision that, in principle, could be seen as a violation of the Charter, we already knew that this constitutional provision existed when the Charter was adopted in 1982.

• (1640)

The law of succession included strict provisions regarding Catholicism and the Royal Family. If a member of the Royal Family simply attended a mass, he or she would be automatically excluded from the line of succession. History shows that Her Majesty Queen Elizabeth II has gone into Catholic churches, since she has Catholic subjects, but she has never attended a mass. She has, however, attended vespers, which are not a form of religious expression associated with fundamental Catholic beliefs. I believe that the Queen did what she had to do under the circumstances. To answer your question more specifically, when the Charter was passed, we were fully aware that there were already provisions in the Constitution recognized in particular by the preamble, which clearly states that our Constitution is similar in principle to that of the United Kingdom, and that, as a result, the Charter cannot be invoked to abrogate any principles that were already included in the Constitution.

The Supreme Court has ruled on this issue a number of times, in particular in a case that Senator Nolin is very familiar with, the well-known case of New Brunswick Broadcasting, which called into question the privileges of the Legislative Assembly of New Brunswick regarding the broadcasting of proceedings. This was why the right to freedom of expression was invoked in response to the Legislative Assembly's privilege to refuse to televise the proceedings, since that privilege existed before the Charter and therefore continued to exist even under the Charter. In my opinion, there is no chance that a case that tried to reopen the debate that took place in the Donahue case would be successful.

The Hon. the Acting Speaker: Continuing debate?

Some Hon. Senators: Question!

The Hon. the Acting Speaker: The Honourable Senator LeBreton moved, seconded by the Honourable Senator Carignan, that this bill be read the third time. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

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

[*English*]

CRIMINAL CODE

BILL TO AMEND—THIRD READING—DEBATE SUSPENDED

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

Hon. Joan Fraser: Honourable senators, as I said in my speech at second reading on this bill, it is an important bill, one that we have no option but to adopt because we are confronted with a deadline set for us nearly a year ago now by the Supreme Court of Canada. If we had received this bill earlier, we could have done a more thorough job of studying it, but I must say, given the very tight time constraints, the committee has worked hard to examine this proposed legislation and to understand its implications. I would congratulate all committee members, starting with the chair, for that work.

I remind honourable senators that this bill is made necessary because the Supreme Court invalidated, for constitutional reasons, the provision of the Criminal Code that allows, in urgent, exigent circumstances, police to make wiretaps or otherwise intercept private communications without first obtaining a warrant. It can apply to a number of different kinds of communication but normally we have just referred to warrantless wiretaps, so please understand that it is not just wiretaps we are talking about.

Our work has demonstrated that this bill does have flaws. I stress that they are not fatal flaws, but they are flaws and I do hope that in the future further iterations will address them. Essentially, the Supreme Court said that it is okay to do warrantless wiretaps in urgent, exigent circumstances because they may be necessary to prevent imminent harm — physical harm, harm to property. We are talking about things like kidnappings, bombings, possibly imminent murders. By "imminent" I mean almost immediate. The idea is to use wiretaps to prevent those harms, those offences, from occurring. In that sense, it is a rather unusual provision of the code in that it is preventative and forward oriented rather than aimed at penalizing offences that have already occurred.

As honourable senators know, the Criminal Code also provides for wiretaps with warrants. That is quite interesting because, as the Supreme Court found, the existing provisions actually provide more protections for Canadian citizens — the provisions with warrants — than the provisions for warrantless wiretaps now provide. Most notably, the present provision in the Criminal Code refers to police doing a warrantless wiretap, but it is silent on whether they ever have to notify the people whose communications were intercepted. That means there is no safeguard; they do not have to inform the people whose communications were intercepted and they do not have to tell the legislatures, Parliament or the provincial legislatures that this work has been done.

Clearly, the police will be doing these warrantless wiretaps for what they conceive to be good and urgent reasons, but that does not mean there is not a need to have subsequent oversight mechanisms. It was because of the failure to notify the object of the interceptions — the person — that the Supreme Court ruled that this provision was constitutionally invalid under section 8 of the Charter on reasonable search and seizure. Therefore, the law has to be fixed, and that is what the bill now before us does.

Bill C-55 also addresses, at least in part, other concerns that were flagged by the Supreme Court, — not ruled on, but raised for future consideration. What does it do? Let me walk through the bill in order.

• (1650)

The first thing worth noting that the bill tackles is the question of who gets to do a warrantless wiretap. Under the existing law, that person can be a peace officer. "Peace officer" is a broad category that can include mayors, reeves and bailiffs — folk that one does not necessarily want to have the right to do a warrantless wiretap on one's communications.

The bill changes that wording to "police officer," which sounds pretty good because, after all, it is the police that we would wish to have this power. However, the definition seems to open up fresh loopholes. The bill says that a police officer means "any officer, constable or other person employed for the preservation and maintenance of the public peace." Of course, that is the phrase that caught our attention, as Senator Baker reminded us in committee that even dog catchers have as part of their official mandate the preservation of the public peace.

In committee, we asked who they were talking about. "Are you talking about border services agents?" The answer from the minister and officials was, no. "Are you talking about mall guards and private security services?" The answer was, no. We pressed on this point and eventually were told clearly that the drafters had military police in mind with this extra bit of definition of "police officer." Military police have the power of police on bases. One can imagine military police facing the possibility of terrorist acts on a base, so they might well need this power. The drafters had been concerned that, unless there was some language in the bill to accommodate them, they would not get that power under the new version of the legislation.

Honourable senators may or may not think that as drafted it is sufficiently narrow to encompass military police but not bailiffs. I would not be surprised if that ended up before the courts at some time. The clear, formally stated intention of this bill is to apply to police officers within what we normally would consider the meaning of those words, as well as military police.

Still moving through the bill in the order in which it is written, honourable senators, there is the question of reports to Parliament and the public, and there are several difficulties. The

reports that are required to be made once a year by the Minister of Public Safety and Emergency Preparedness and by the provincial attorneys general are designed to be enormously detailed, right down to the duration of each warrantless wiretap and the total duration of all wiretaps related to the offence that the police officer in question was trying to prevent.

One element is not in the long list of criteria for those reports: the number of interceptions that have no outcome — those that do not produce information about an offence, whether the specific offence that the officer had in mind or another offence that the police stumble upon thanks to this wiretap.

Obviously, some wiretaps will go down a blind alley, not necessarily fishing expeditions, and will not have the desired result. It would be helpful for honourable senators in considering the impact of this legislation to know what proportion of these truly intrusive methods helped the police in their work. However, it is not on the list of information to be recorded, because it is not on the list for wiretaps that are conducted with warrants and basically the new provisions for warrantless wiretaps pretty well mirror the provisions that already exist for wiretaps with warrants.

Another difficulty is that the provinces are required only to make these reports available to the public in some way. Even the Library of Parliament has had terrible difficulty finding the reports for wiretaps that the provinces may have made. Perhaps we might have been a little more rigorous in the language used.

A further difficulty is that these reports are to be annual. The criteria refer repeatedly to interceptions that occurred or proceedings that were launched — charges laid — in the previous year. However, as we all know, police work and the court system in general rarely complete anything in the space of a single year, especially if the case is important; and it is likely to be very important if it was sufficiently urgent for a warrantless wiretap to be used in the first place. There will be considerable difficulty in some cases ensuring that these annual reports convey what has happened, and they should be updated as the years go by.

Separate from the question of reports to the public is the matter that was at the heart of the Supreme Court decision: notification of the object of the interception. The bill says that the minister shall give notice in writing to any person who was the object of the interception within 90 days after the day on which it occurred. However, one can go to court and ask a judge to allow an extension of the period of time when one does not have to notify the object of the interception. In some cases, obviously, one will want a much longer time before notifying people. Terrorist rings sometimes spend way more than 90 days plotting what they are up to.

I find it a bit alarming that a judge can give an extension of up to three years where they do not have to notify anyone and then can renew it for another three years. As I mentioned in my speech at second reading, the minister, when he appeared before committee at pre-study, said that we should trust the discretion of judges. I find it difficult to quarrel with that principle. It is a principle that our side has been upholding for some years in this place, not always with great success.

More problematic is the exact meaning of the phrase "any person who was the object of the interception." There seems to be considerable confusion about what that means. I will tell honourable senators what we heard.

The minister said that the police are required to notify everyone, not just the accused. In retrospect, I am not quite sure what he meant by "everyone," but I will continue with what some other people thought.

A representative of the Privacy Commissioner was very pleased with this bill, in particular with the requirement to notify individuals who are party to the intercepted communications.

I repeat: "party." That means not just the actual target — the person the police are trying to get the goods on — but whosever communications may have been intercepted, it seems to me.

• (1700)

Maybe I am not correct about what the Privacy Commissioner's people said, but here is what the Canadian Civil Liberties Association said in their written submission to the committee. The witness was a learned lawyer. I quote from the CCLA's brief:

> The CCLA understands that Bill C-55 would require that notice be given to all persons whose private communications are intercepted pursuant to a wiretap, even if they are third parties. All such persons would be the "object" of a wiretap within the language of the proposed s. 196.1(1).

I do not know about all honourable senators, but I was moving along with the assumption that there would be fairly broad notification requirements, and it seemed to me that such was appropriate because a wiretap launched without judicial authorization — without a warrant — should, it seems to me, be subject to a greater degree of *post facto* oversight than things that have been happening with judicial authorization.

However, then we heard from a senior representative of the Canadian Association of Chiefs of Police, Mr. Lemcke from Vancouver. He said that they " would notify only the people who were the actual targets of the investigation." This narrows right back down again the number of people who would be told that the police had been listening to their private communications. It would only be the target — not even the target's family or other contacts.

Royally confused, I then asked the Department of Justice Canada, "Well, who is the object of the interception?" The answer was quintessentially Canadian. The answer was that "it varies from jurisdiction to jurisdiction. Some people have very broad notification requirements and some places have very narrow notification requirements." That was as precise as we were going to get.

Honourable senators, I do actually think that as time goes by we may find ourselves needing to become considerably more precise about who has the right to be notified that their private communications have been tapped without authorization.

The final element that we raised in committee that we had questions about was the fact that there is a coming-into-force

clause in this bill. The core part of it — the bit the Supreme Court said we have to do by April 13, 2013 — comes into force immediately because the deadline is upon us. However, the requirement for reports to Parliament and to the public is delayed for six months. We asked why, and the answer was "that the folks who have to do the reporting asked for it because it will be quite complicated to set up." Possibly it is.

However, one of the other things we learned in the course of these committee hearings — and Senator White and Senator Dagenais can certainly confirm this from their own experiences — is that the actual use of warrantless wiretaps is fortunately very rare in this country. There is no particular reason to believe it will become any more common. I cannot see that there will be a massive volume of material for people suddenly to have to digest and put into reportable form excessively quickly. I just do not see that there was a need for the delay in this coming-into-force requirement. However, there it is.

As with all the other things I have suggested, it is not a fatal flaw. I think it is a flaw. The other things that we believe are flaws that I have brought to honourable senators' attention can be addressed as we go forward. However, this bill, which we passed on division in committee, will pass and needs to pass because one does not play around with a Supreme Court of Canada deadline.

The Hon. the Acting Speaker: Continuing debate?

Hon. George Baker: Honourable senators, I will be brief. I am looking at the time.

I want to point out to honourable senators that this is another example of the vital role of the Senate. There was a reason the Supreme Court of Canada decided that there should be more accountability for private telephone conversations than what was put in the Criminal Code. I can recall when it was put in; I was a member of the other place. The Supreme Court of Canada drew entirely their reasons as to the legislative intention under the heading from the Senate — not from the House of Commons, but from the committees of the Senate.

As I pointed out before, this happens over and over again. Those people who say, "What is the role of the Senate?" should look to the Supreme Court of Canada. They should look to the judgments in our superior courts, provincial courts and in the quasi-judicial tribunals throughout this country, and they will see what the role of the Senate is.

It is kind of a boring role, though, is it not, — having constantly to deal with legislation? However, it is a vital function, as the Supreme Court of Canada pointed out in this particular case, which caused this bill to be passed. Honourable senators, passing the bill allows private conversations via telephone, cell phone and computer, whether in your home, in your bedroom or in your car, to be intercepted without a judge's approval by a police officer who has reasonable grounds to believe... To believe what? To believe that "the interception is immediately necessary "to prevent an offence that would cause serious harm to any person or to property."

As the police officers in the Senate here would attest to, that can be elasticized. Senator White and Senator Dagenais were looking at me across the table. Every time I raised the question of the accountability of the police, I could see one of them waving at me like this. If we knew the interceptions that they made, or that Senator Larry Campbell has made in his career... I am not saying they made interceptions that were not judicially authorized, but they know there is such a thing in a warrant as a "basket clause." If the British Columbia Civil Liberties Association knew the numbers of interceptions done by the basket clause, they would be a basket case. That is the normal progression of police investigations.

The alternative title of this bill is the Response to the Supreme Court of Canada Decision in *R v. Tse* Act. The habit of the Department of Justice Canada to affix an "alternative title," as they call it, to bills is misleading. When one reads the judgment of *R v. Tse*, it has nothing to do with the purpose of this legislation. Imagine immediately wishing their car without any warrant. The minister described it as being well in the case.

The mover of the motion, who has done a tremendous job with this bill on behalf of the Government of Canada — and she is sitting two chairs behind me — points out that a case involving a kidnapping would be illustrative. That example was used over and over. In this subtitle, I suppose some people would call it a kidnapping, but the person who was kidnapped is now in jail, serving a long sentence.

• (1710)

The person who was allegedly kidnapped was someone who had been charged with importing over $100 million worth of illegal drugs into Canada in the case of one controlled substance and further in the case of others and was out on bail wearing a control bracelet. I do not know how the bracelet came into it if he became missing. However, the point is that the police in Vancouver were saying, "Look, this is a trick. This is a ploy. He is just trying to escape jurisdiction and this is some sort of a plan."

During the course of the investigation, a suitcase with $400,000 went missing. It got very complicated. However, this particular case was not the typical case of kidnapping, say, a child that forced the police to institute these provisions of the Criminal Code.

Honourable senators, I support everything that has been said by my colleague. However, the police are concerned that with this bill they are once again being asked to do something that is impossible, and that is to tell us the number of people who have had their phones tapped and who were not charged; in other words, the number of innocent people who had their phones tapped during a police operation.

A sworn information to obtain a wiretap under section 186 of the Criminal Code contains perhaps two or three objects. However, when reading the evidence, one can see there are maybe 50 telephone numbers associated with the object of the tap that are in turn tapped. The police have to do that. Those telephone calls could be between children in someone's residence, but they are tapped. The questions become who should be notified that their telephone was tapped, their computer was tapped, or whatever else was tapped? How many people were then convicted, because those things stretch on for years and years and years?

I see that His Honour is rising, so I will end my comments.

(Debate suspended.)

BUSINESS OF THE SENATE

The Hon. the Acting Speaker: Honourable senators, it being 5:15 p.m., pursuant to rule 9-6, I must interrupt the proceedings — and we will come back to debate on Bill C-55 — for the bells to ring for the deferred vote on the motion for third reading of Bill C-27, which is to be held at 5:30 p.m.

Call in the senators.

• (1730)

FIRST NATIONS FINANCIAL TRANSPARENCY BILL

THIRD READING

The Hon. the Acting Speaker: Honourable senators, it was moved by the Honourable Senator Patterson, seconded by the Honourable Senator Wallace:

> That Bill C-27, An Act to enhance the financial accountability and transparency of First Nations, be read the third time.

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

YEAS
THE HONOURABLE SENATORS

Andreychuk	Batters
Bellemare	Beyak
Black	Boisvenu
Braley	Buth
Carignan	Champagne
Comeau	Dagenais
Demers	Doyle
Duffy	Enverga
Fortin–Duplessis	Frum
Greene	Housakos
Johnson	Lang
LeBreton	MacDonald
Maltais	Manning
Marshall	Martin
McInnis	McIntyre
Meredith	Nancy Ruth
Neufeld	Ngo
Ogilvie	Oh
Patterson	Plett
Poirier	Raine
Rivard	Runciman
Seidman	Seth
Smith *(Saurel)*	Stewart Olsen
Tkachuk	Unger
Verner	Wallace
Wallin	Wells
White—53	

NAYS
THE HONOURABLE SENATORS

Baker	Callbeck
Campbell	Chaput
Cordy	Cowan
Day	De Bané
Downe	Dyck
Eggleton	Fraser
Furey	Harb
Hervieux-Payette	Hubley
Jaffer	Joyal
Lovelace Nicholas	Massicotte
Mercer	Mitchell
Moore	Munson
Ringuette	Rivest
Robichaud	Smith *(Cobourg)*
Tardif	Watt—30

ABSTENTIONS
THE HONOURABLE SENATORS

Nil

CRIMINAL CODE

BILL TO AMEND—THIRD READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Batters, seconded by the Honourable Senator Beyak, for the third reading of Bill C-55, An Act to amend the Criminal Code.

The Hon. the Acting Speaker: Honourable senators, we are resuming debate on Bill C-55. Senator Baker has six minutes remaining of his time.

Hon. George Baker: Honourable senators, I will not take the full six minutes, because I know we want to move on with business.

Some Hon. Senators: Oh, oh!

Senator Baker: Having said that, honourable senators, I wish to congratulate Senator Batters for her handling of this legislation on behalf of the Government of Canada and Senator Runciman, as well, for his excellent conduct of our meetings. The Senate has done its job.

As I mentioned, it was because of the Senate, not the House of Commons, that the Supreme Court of Canada referenced four transcripts of a Senate committee in arriving at their judgment in this court case now that we have legislation to correct a constitutional problem in the Criminal Code.

Honourable senators, now that we have had our meetings, one will see in court cases, if one follows them as I do every day, reference to what was said in the committee as far as these arguments are concerned. That, I submit, is a function of Parliament that cannot be performed in the House of Commons. It cannot; it is impossible.

As I pointed out last week, over the past six months, six committees of Senate — six separate committees of the Senate — have been referenced in court judgments of our superior courts. I repeat: the transcript of the proceedings from six committees of the Senate. How many committees of the House of Commons have been referenced? None. No House of Commons committees have been referenced in the past six months.

Honourable senators, some of those references, granted, are dated. Why, even Your Honour was mentioned by the Ontario Court of Appeal just last week when a report referenced as "the Nolin report," because your honour was the chair of the committee, was admitted into evidence in the Court of Appeal.

Your Honour knows what I am about to say. The court of Quebec referenced him and his committee report not in a very friendly way. In fact, they took great objection to his conclusions and arrived at a decision in the Quebec court that he would not appreciate. However, that is the way it goes.

Senator Andreychuk is a former judge of the Superior Court of Saskatchewan. A recent committee report of the Senate involving children and children's rights that she was involved in was referenced as well just six weeks ago and has been referenced many times with the testimony and conclusions of that particular committee.

• (1740)

The two functions of the Senate — namely, the production of committee reports, which are constantly referenced by our courts, of investigations that the Senate has done into various areas, coupled with what we have before us today, which are references from the Senate that form the basis of court judgments in the Supreme Court of Canada in this particular case — together form a function that the House of Commons could never perform because it is a political body. It performs one function: It holds the government accountable to the people of Canada for its actions; accountability, reported by the press. If there is no press, there is not much accountability. It is like a tree that falls in the forest; does it make a noise?

That other function the Senate performs very well. Those two main functions are used by our courts and all our tribunals. Not very many people read them. The newspapers seldom quote judgments that quote the Senate, but it is a necessary function of our law. We must have interpretations of the law. We have to know what the intent of the government was in passing a bill.

Senator Batters provided the intent of the government in her speeches here. There must be an intent that is, at the end of the day, logical sober second thought. Watch Question Period in the House of Commons and tell me that is sober second thought.

That is the legislative function that the Senate performs every day it sits, every day its committees sit and every day it passes legislation. All committee members have done an excellent job on this bill and should be congratulated.

Some Hon. Senators: Question.

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

Hon. Senators: Yes.

The Hon. the Acting Speaker: It was moved by the Honourable Senator Batters, second by the Honourable Senator Beyak, that this bill be read the third time. Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

Some Hon. Senators: On division.

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

FINANCIAL ADMINISTRATION ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

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

He said: Honourable senators, I rise today to speak to Bill S-217, an Act to amend the Financial Administration Act. I am very proud to reintroduce this bill, which was introduced by our friend and former colleague the Honourable Lowell Murray on three previous occasions, only to die on the Order Paper, a fate of many worthy endeavours in this place.

I will keep my comments brief, as Senator Murray has already placed on the record the reasons why this bill should be passed, as well as the events that led to its introduction.

The situation we are facing arose when the opposition in both houses failed to catch this little detail of the 2007 Budget Implementation Act, although, to be fair to all parliamentarians then, it was the first of the omnibus bills that this government is intent on using as a device not only to divide but to slip through certain aspects, such as the one Bill S-217 is attempting to rectify. As Senator Murray put it:

> The authority of Parliament over government borrowings was removed in the course of a budget implementation bill in 2007, an omnibus bill. Does that sound familiar? That legislation was composed of 154 clauses in 14 parts and 134 pages amending 25 other acts of Parliament. Our attention as parliamentarians here in the Senate and over in the House of Commons was on a number of major initiatives in that budget and in the implementation bill. In particular, I seem to recall the Atlantic accord and changes introduced to the equalization formula, among many others. While our attention was focused on these major matters, very quietly, without any of us noticing it here or in the other place, a new section 43.1 was slipped in, added to the

Financial Administration Act under the heading "Power to borrow":

> 43.1 The Governor-in-Council may authorize the Minister to borrow money on behalf of Her Majesty in right of Canada.

There are just twenty words, and with those 20 words a parliamentary prerogative that had existed in this country for more than a century was consigned to the ash can. No one noticed.

In Canada, the power of Parliament to oversee borrowing by government essentially goes to the root of why our Parliament exists. The establishment of parliamentary control over the public purse began the evolution from absolute monarchy to our parliamentary democracy.

In the Middle Ages, borrowing for wars was the chief cause of national debt incurred by a sovereign who could borrow amounts with impunity, at whatever rate was offered. In a speech made in 2012, Professor Michael McConnell of Stanford Law School said that Kings were a notorious credit risk because they did not like to pay it back. Indeed, Charles II borrowed at a rate of 15 to 20 per cent from Dutch lenders, while the private interest rate at the time was 3 per cent.

The Glorious Revolution in 1688 brought an end to this situation with the end of the reign of King James II when he fled to France. There came more firm parliamentary control on taxation, spending and borrowing. These controls are referred to as "the Financial Revolution" and are the basis for our modern financial procedures.

According to the *House of Commons Procedure and Practice* publication, the basic components of parliamentary financial procedure are the Consolidated Revenue Fund, Royal Recommendation, supply, ways and means, public accounts and borrowing authority. Borrowing authority is the authorization required by the government to make up any shortfall between revenues and expenditures.

The provinces also have their own laws establishing borrowing authority. In British Columbia, it requires authority from the legislature to borrow on behalf of cabinet, ministries or agencies, with a limited exception.

Alberta, on the other hand, does not follow that same path. There are limits to the amount that can be borrowed, but money can be raised in any manner the cabinet desires.

In Manitoba, the government may borrow for temporary purposes and for purposes set out in their legislation, but otherwise the legislature must provide authorization.

In Saskatchewan, the authority to borrow comes from the legislature, with certain exceptions

• (1750)

In Ontario, the permission of the legislature must be obtained in order to borrow, with three exceptions regarding loan and securities payments not exceeding 12 months at the time of dissolution, discharging debts and reimbursing the Consolidated Revenue Fund. In Quebec, the government provides the authority for borrowing by the Minister of Finance. In Nova Scotia, the seat of Canada's first responsible government, and in Newfoundland and Labrador, cabinet must first obtain permission from the legislatures in order to borrow money. Certain exceptions exist, but cabinet is bound by law to go to the legislatures to seek permission to borrow on behalf of cabinet, ministries or agencies. New Brunswick allows for certain exceptions for borrowing authority, but, otherwise, authorization must be sought from the legislature. Prince Edward Island legislates that borrowing can be done only with the authority of the legislature unless funds are being used for the operating fund or for payment of securities. In the Yukon, Northwest Territories and Nunavut, there can be no borrowing without the consent of the federal cabinet.

As you can see, honourable senators, the legislatures play a major role in monitoring and approving the borrowing of money by the government. It would only make sense that at the federal level, too, this should be the case. The February-March 2013 issue of *Inside Policy*, the magazine of the Macdonald-Laurier Institute, contained an article on the budget by Scott Clark and Peter DeVries. In it, they argued that the process has become too secretive and that the credibility of the process has been eroded over recent years. One the main culprits for this decline in the process is identified as the omnibus bill masquerading as a budget bill.

Throwing everything into the budget bill is not the proper way of doing business. Indeed, Mr. Clark and Mr. DeVries used stronger words. I quote:

> The use of Budget Omnibus Bills has grown to the point that they seriously undermine the integrity and credibility of the budget process and the authority of Parliament.

The article goes on to question the clarity of the policy goals of government when things are hidden in an omnibus bill. Something as fundamental as parliamentary oversight of the borrowing authority of our government should not be squirreled away in a 400-page bill. Where is the transparency in that?

Honourable senators, we must push today for more oversight in the area of government borrowing. It is a basic principle of our parliamentary system. Monitoring the public purse was the original reason for a parliament to exist. In fact, it was a principle of our parliamentary system before the establishment of universal suffrage gave the right to vote in our democracy.

Honourable senators, you should know that since this change to the Financial Administration Act in 2007 and until March 31, 2012, the federal government has borrowed $1.254 billion without the approval of Parliament. This is not the proper way to run a responsible, transparent and accountable government. Proper parliamentary oversight would provide the opportunity to ask questions about such borrowing, questions such as these: How much? When? What for? How and when do we pay? What is the interest rate on such borrowings? Upon being satisfied with the answers to those questions, Parliament would give its approval for such borrowing. This need for parliamentary oversight and approval must be restored. It does not matter if the government is borrowing $5 or $5 billion, the people have a right to know and to

approve. Therefore, I would ask you to seriously consider the merits of this bill, to support it and to restore our full parliamentary oversight.

Hon. Joseph A. Day: Honourable senators, I would first like to thank Senator Moore for bringing this matter forward again. I think it is deserving.

Hon. Gerald J. Comeau: I want to be absolutely sure. I understand that Senator Moore has moved. Generally speaking, the second speaker's time is reserved for the other side, so I was just wondering whether we could respect that reservation.

The Hon. the Acting Speaker: I understand that Senator Day is to put a question to Senator Moore. That is my reading of the proceedings.

Senator Comeau: I stand corrected.

Senator Day: Thank you, honourable senators. There are two other senators who were very interested in this matter when it was previously debated, and their names should go on record. I wonder whether my honourable colleague could confirm them. He did mention Senator Murray and the other is Senator Banks. I can remember when we first found this out, after the fact, but I wonder whether my colleague could confirm that.

Senator Moore: Yes, honourable senators. It seems to me that Senator Day noticed it first and then brought it to the attention of Senator Banks, my seatmate. Senator Banks then spoke with Senator Murray, and, from there, Senator Murray put together the bill. On three occasions, he tried to bring it in and to get the oversight of Parliament restored. We should be doing that. It is not right the way it is now. I am looking for honourable senators' help on this. Thank you for the question.

Senator Day: Honourable senators, it had been my hope, if no one from the other side was interested in speaking on this, to adjourn it in my name.

(On motion of Senator Carignan, debate adjourned.)

[*Translation*]

BUSINESS OF THE SENATE

The Hon. the Acting Speaker: Honourable senators, it is my duty to inform the Senate that it is now six o'clock. Unless there is agreement between the deputy leaders, I will have to enforce the rules.

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, I move that we not see the clock.

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

Hon. Senators: Yes.

[*English*]

CANADIAN HUMAN RIGHTS ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Finley, seconded by the Honourable Senator Frum, for the second reading of Bill C-304, An Act to amend the Canadian Human Rights Act (protecting freedom).

Hon. Lillian Eva Dyck: Honourable senators, I spoke with Senator Day, and we came to an agreement that I would speak today and that after I was done, the adjournment would remain in Senator Day's name.

Honourable senators, I rise to speak at second reading of Bill C-304, an Act to amend the Canadian Human Rights Act (protecting freedom), and will address my remarks to clause 2, that section 13 of the act be repealed.

I want to thank Senators Munson, Jaffer and Fraser, who have spoken eloquently on the reasons this bill should be defeated. Frankly, it mystifies me why anyone would want to delete section 13 of the Canadian Human Rights Act just so that they could have the right to communicate so-called hurtful messages, when the offshoot of such a change to the Canadian Human Rights Act would be giving permission to extremists, such as white supremacists, to ramp up their hate messages and to be more likely to incite hatred towards specific racial groups in Canadian society, thereby compromising those groups' well-being and safety.

As a visible minority woman of Cree and Chinese descent, I have confronted hatred, outright discrimination and so-called subtle discrimination throughout my life. However, it was nowhere as severe as that faced by my parents. Thankfully, over time, due to the hard work of those who were oppressed and others who pressed for a more tolerant, equitable Canadian society, various measures, such as the Canadian Charter of Rights and Freedoms and the Canadian Human Rights Act, came into being. The purpose of the Canadian Human Rights Act is to promote equality of opportunity unhindered by discriminatory practices based on race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability or conviction for an offence for which a pardon has been granted.

Section 13(1) of the Canadian Human Rights Act makes it a discriminatory practice to communicate repeatedly, via telephone or telecommunications, any matter that would likely expose a person or persons to hatred or contempt because they are identifiable on the basis of a prohibited ground of discrimination.

• (1800)

The proponents of repealing section 13 basically have three arguments, which have now been discounted by recent court decisions and also by scientific studies.

Their first argument for repealing section 13 is that the impact of hate messages on the target is merely one of hurt feelings. However, this is a clear denial of the significant negative impact of repeated hatred. This negative impact would be far worse if section 13 were severed from the Canadian Human Rights Act because that would signal that offensive hate messages are acceptable by mainstream society, and the incidence and intensity of such behaviors would escalate. Section 13(1) uses the words "likely to expose a person or persons to hatred or contempt...."

While the target may well have hurt feelings, hate propaganda creates and reinforces negative stereotypes about the target group that harm the rights of an individual member of the target group to be judged according to his or her own merits rather than be judged as a stereotypical member of a hated group. In other words, people belonging to the hated target group are all seen in a negative and stereotyped fashion.

For example, if we allow the notion that all brown-skinned people are deserving of hatred or contempt to be communicated repeatedly on the Internet, it will harm an individual brown-skinned person's ability to be judged on his or her own merits in schools or in the workplace. Furthermore, such hate propaganda would interfere with their right to live a life free from the fear of being constantly insulted, demeaned, harassed or undermined.

Honourable senators, what I have to say next may surprise you. Recently, neuroscientists have shown that DNA, the epigenetics code within the hippocampus of brains of adults who were emotionally or physically abused as children, is permanently altered. In other words, our genetic makeup can be permanently and biochemically modified by exposure to abusive events. This recent study out of McGill University shows that there is a clear link between a person's social environment and his or her epigenetic code. Since a person's genes can be affected by childhood emotional abuse, then it is not hard to postulate that being exposed to constant hate messaging might also alter one's DNA. In other words, the impact of hate messaging may well cause hurt feelings, and now through neuroscience we know that hurt feelings, in turn, can cause permanent physical changes to the DNA of a person's brain. Such DNA changes have been correlated to adult suicide.

Honourable senators, this recent neuroscience research dispels the myth that hurt feelings are of no consequence. While psychological research has shown that people whose feelings have been hurt seriously can develop emotional scars, neuroscientific studies have found biochemical scars; that is, permanent changes in their brain DNA. In other words, hurtful words can physically affect or hurt your brain.

The second argument that proponents of this bill put forward is that section 13 interferes with their freedom of expression. While the Canadian Charter of Rights and Freedoms states that everyone has the right of freedom of thought, belief, opinion and expression, including the freedom of the press and other media of communications, it also states that the rights and freedoms set out in it are "subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society." In other words, freedom of expression is not an absolute right; it is subject to limits. Surely, the vast majority of Canadians are willing to forgo the unfounded notion of absolute freedom of expression in order to foster equality of opportunity for others who may be targets of hate messages because of race, sexual orientation or other factors.

Honourable senators, it is important to note that those people who claim that their right to freedom of speech or expression is being unfairly limited by section 13 do not seem to realize that the targets of their hate messages have equal right to protection from hate messages. Section 15(1) of the Canadian Charter of Rights and Freedoms states that

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

In other words, people who are the target of hate messages have an equal right to protection from being subjected to hate messages provided to them by section 13 of the Canadian Human Rights Act.

Proponents of the absolute right to freedom of expression also seem to be unaware of the rights of their targets to equality of opportunity. Section 2 of the Canadian Human Rights Act states that the purpose of the act:

> ... is to extend the laws of Canada to give effect... to the principle that all individuals should have an opportunity equal with other individuals to make for themselves the lives that they are able and wish to have and to have their needs accommodated, consistent with their duties and obligations as members of society, without being hindered in or prevented from doing so by discriminatory practices based on race, national or ethnic origin, colour, religion, sex... age or mental or physical disability.

Honourable senators, it is truly ironic that those who argue that the freedom of expression is hindered by section 13 overlook the equally important fact that hate speech hinders the freedom of expression of the targeted groups. This is an important consideration. Hate propaganda limits the freedom of belief, opinion and expression of the targeted group. How can one argue for the right to free speech and simultaneously ignore the fact that the intention of purveyors of hate messages is to take away the freedom of thought, belief, opinion and expression of their target? Hate messages directed to an identifiable group discredits or undermines their credibility. Their voices are not heard to the same extent. They are disadvantaged simply because of who they are.

In the so-called free exchange or free market of ideas, the voices of targets of hatred do not have equal value, nor do they have equal power. One of the main purposes of hate messages is to silence members of a target group.

As I said before, honourable senators, freedom of expression is not an absolute. The notion of equality of opportunity and the

notion of freedom of speech are connected. Those who claim that their rights to freedom of speech are being unfairly limited have no greater right than anyone else's right to live a life free from continual harassment and discrimination, which are the outward manifestations of hatred towards others. Such claims to the supremacy of one's rights over another's have no legitimate foundation. Claiming supremacy of rights to spread hate messages directed to targeted groups is a symptom of bigotry.

Honourable senators, even here in this chamber we do not have absolute freedom of expression. For example, in the Senate rule book under rule 6-13(1):

> All personal, sharp or taxing speeches are unparliamentary and are out of order.

Under section 6-13(2):

> When a Senator is called to order for unparliamentary language, any Senator may demand that the words be taken down in writing by the Clerk.

Finally, under rule 6-13(3):

> A Senator who has used unparliamentary words and who does not explain or retract them or offer an apology acceptable to the Senate shall be disciplined as the Senate may determine.

Clearly, such rules were put in place to prevent inflammatory language from provoking undue emotional reactions which could escalate into physical reactions and near confrontation such as witnessed in the other place last December.

Honourable senators may find it difficult to comprehend the degree to which discrimination disempowers and silences the voices of the target group. In my own case, you may be surprised to hear that here, in this chamber of sober second thought, I have for the first time in my life, not been afraid to say what I think. As a target of contempt and hatred, my freedom of expression was circumscribed. Defending myself invariably resulted in an escalation of unwanted, harassing behaviour and comments. I had to be somewhat careful of what I said, but I never stopped fighting back, even as bystanders stood silent and did nothing. I suspect that they were relieved that it was I, not they, who was the target.

• (1810)

Honourable senators, I am a strong, well-educated woman, yet hateful and contemptuous words delivered to me repeatedly in the workplace took a significant toll on my well-being. Most people who are targets of hate messages do not have the same level of education or the inner strength that I am fortunate to have. Other people may be more vulnerable to the insidious after-effects — the negative impact of hate messages. They have a right to be protected from hate messages. We do not live in a perfect society. The vulnerable groups in our society must be protected from people like Ernst Zundel, who used the web to spew hate messages at his target. It would be a mistake to sever the protection that section 13 of the Canadian Human Rights Act provides to victims of hate messages.

As senators, do we not have a duty to retain legislation that protects the vulnerable from repeated Internet hate messages? Do we not have a duty to protect the rights of the vulnerable to equality of opportunity to make for themselves the lives that they are able to and wish to have and to have their needs accommodated consistent with their duties and obligations as members of Canadian society?

Honourable senators, those who have been charged with violating section 13 have tried to use a violation of their freedom of expression as a defence in the courts, but this course of action has not been successful. In 1990, the Supreme Court of Canada ruled in *Canada (Human Rights Commission) v. Taylor*, specifically John Taylor's right to freedom of expression. In his ruling to preserve section 13, Chief Justice Dickson stated:

> It can thus be concluded that messages of hate propaganda undermine the dignity and self-worth of target group members and, more generally, contribute to disharmonious relations amongst various racial, cultural and religious groups....

Honourable senators, may I have five more minutes?

The Hon. the Acting Speaker: Honourable senators, is it agreed?

Hon. Senators: Agreed.

Senator Dyck: His ruling continued:

> ... as a result eroding the tolerance and open-mindedness that must flourish in a multi-cultural society which is committed to the idea of equality.

In addition, as pointed out by Senator Fraser, the Federal Court ruled a few months ago that the Canadian Human Rights Tribunal should have applied the section 13 provisions in the 2009 *Lemire* decision. The tribunal ruled that the penalties in the act were inconsistent with Charter guarantees of freedom of thought, belief, opinion and expression. However, Federal Court Justice Richard Mosley indicated that the tribunal should have severed the penalty provisions and applied section 13 and its other remedies. He stated:

> The minimal harm caused by section 13 to freedom of expression is far outweighed by the benefit it provides to vulnerable groups and to the promotion of equality.

Furthermore, this ruling was reinforced just a few weeks ago when the Supreme Court of Canada upheld key provisions against hate speech in the Saskatchewan Human Rights Code, but struck down some of the code's wording in a case prompted by flyers handed out by an anti-gay activist, William Whatcott. In his ruling, Justice Marshall Rothstein stated:

> Hate is an effort to marginalize individuals based on their membership in a group. Using expression that exposes the group to hatred, hate speech seeks to delegitimize group members in the eyes of the majority, reducing their social standing and acceptance within society. Hate speech, therefore, rises beyond causing distress to individual group members. It can have societal impact.

He continued:

> Rather than advancing dialogue, hate speech is antithetical to this objective in that it shuts down dialogue by making it difficult or impossible for members of the vulnerable group to respond, thereby stifling discourse.
>
> Speech that has the effect of shutting down public debate cannot dodge prohibition on the basis that it promotes debate.

Judge David Arnot, Chief Commissioner of the Saskatchewan Human Rights Commission, hailed the ruling, saying that it goes to the heart of what it means to be Canadian. He said, "It basically says under no circumstances should hate speech be tolerated."

The court struck down the part of the legislation that includes speech that "ridicules, belittles or otherwise affronts the dignity of any person or class of persons on the basis of a prohibited ground." It found these words are not rationally connected to the objective of protecting people from hate speech. However, the court left in place the ban on speech that exposes or tends to expose persons or groups to hatred.

Honourable senators, the third argument that supporters of Bill C-304 use is that section 13 is not really necessary because section 319 of the Criminal Code of Canada provides all the necessary legal protection that Canadians need against hate speech. However, according to the Canadian Bar Association, section 13 has a different purpose: It provides remedies to target groups for the harm that hate messages create. It fosters greater respect for target groups, and it changes behavior. Section 13 applies to conduct that falls short of criminal behavior but nevertheless poses harm to vulnerable groups. In other words, section 13 serves as a preventive law and is meant to stop someone whose conduct is likely to incite hatred. Section 13 protects members of the targeted group from hate messaging.

Surely it is a wiser measure overall to retain section 13 as a measure to stop someone from escalating their conduct to the point that it does incite hatred toward the target. Section 13 not only protects the target group but also everyone else from the civil disturbances that hatred incites. Furthermore, it stops hate-mongers before their conduct becomes criminal, thus saving them from a criminal record, jail time or other penalties.

Honourable senators, the effect of the Canadian Human Rights Act as a whole and section 13 as deterrents to discriminatory behaviour is an important consideration. The magnitude of deterrence is unknown and perhaps not even immeasurable. However, given the intensity of the speeches of the opponents of the Canadian Human Rights Act and section 13 in particular, one can surmise that it is probably quite significant. It appears that the protection afforded to vulnerable groups who are the targets of hate messages is not only legitimate but also essential and necessary.

The Hon. the Acting Speaker: Unfortunately, the honourable senator's time has expired.

(On motion of Senator Day, debate adjourned.)

(The Senate adjourned until Wednesday, March 27, 2013, at 1:30 p.m.)

CONTENTS

Tuesday, March 26, 2013

Published by the Senate

Available on the Internet: http://www.parl.gc.ca