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OFFICIAL REPORT
(HANSARD)

Tuesday, June 18, 2013

The Honourable NOËL A. KINSELLA
Speaker

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

Debates Services: D'Arcy McPherson, National Press Building, Room 906, Tel. 613-995-5756
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THE SENATE

Tuesday, June 18, 2013

The Senate met at 2 p.m., the Speaker in the chair.

Prayers.

SENATORS' STATEMENTS

WAR OF 1812

INVOLVEMENT OF ABORIGINAL PEOPLES

Hon. Sandra Lovelace Nicholas: Honourable senators, the commemoration of the War of 1812 inspired me to make a statement and create awareness of the involvement of First Nations people during this two-year war on First Nations lands.

The Americans mistakenly thought this war would be an easy battle. They were wrong. The British, led by Major-General Isaac Brock, had a strong force of 10,000 First Nations allies, most notably the military strength of Chief Tecumseh. Tecumseh was a Shawnee chief who regarded the Americans as enemies because the "Long Knives" had killed his father and seized land belonging to the Shawnee. He travelled across vast lands to recruit and unite First Nations and form alliances to stop the encroachment on the land by the Americans. He envisioned a First Nations territory where they could continue their traditional way of life without interference. For them, the war was a struggle for freedom and independence.

Tecumseh and Major-General Brock met August 13, 1812, and developed mutual respect for each other, but each also saw an opportunity to draw upon the other's strength to meet their individual goals. Tecumseh saw how Brock could influence the British to grant him his vision for a First Nation territory; Brock saw the warrior strength and numbers that Tecumseh had to offer.

There was a short window of time when Tecumseh saw the possibility of achieving his goal, a United First Nations stretching from Michigan to the Gulf of Mexico. The dream and the hope came to an end when Major-General Brock was killed in the Battle of Queenston Heights in October, but First Nation warriors continued to help the British hold off the Americans.

A more serious loss came in October 1813, when Tecumseh was killed in the Battle of the Thames. Without the great allies Brock and Tecumseh, there was a collapse in the relationship of the two groups. Brock's promise of the land was not honoured.

The war had no apparent winner but clearly and unfortunately proved to be devastating for First Nations people. The war ended with the Treaty of Ghent, which restored the original possession of land to both the Americans and the British, making the two-year war seemingly a waste of human life, money and time. Shamefully, there was no involvement in the treaty by the First Nations, and they were quickly dropped as allies of the British and forced onto reserves. Further insult to First Nations was that they were ordered by the British Indian Department not to attack American troops or settlements encroaching on their territory.

What First Nations did end up with was betrayal and despair, which has continued for 200 years. As a result of past and current policies caused by paternalism, racism, inequality, denial of our lands and resources, rejection of our self-determination and sovereignty requests, we experience poverty, inadequate housing, high unemployment, and high rates of incarceration and suicide. First Nations have nothing to celebrate or commemorate!

GIMLI GLIDER

THIRTIETH ANNIVERSARY OF EMERGENCY LANDING OF AIRCRAFT

Hon. Janis G. Johnson: Honourable senators, I wish to take this opportunity to recognize the thirtieth anniversary of the Gimli Glider. Bravo. Does everyone remember the Gimli Glider?

Some Hon. Senators: Hear, hear!

Senator Johnson: It involved an incident that demonstrated to the world the skill and dynamism of Canada's airline pilots.

On July 23, 1983, Air Canada Flight 143, en route from Montreal to Edmonton via Ottawa, was forced to make an emergency landing at the industrial park airport in Gimli, Manitoba, a former air force and NATO base.

Due to a major miscalculation in fuel quantities, confusing the recently replaced imperial and metric systems, the plane was insufficiently fuelled by the pound instead of the kilogram. Flying over Red Lake, Ontario, at 41,000 feet, the Boeing 767's left engine cut out and shortly after its right. With both of the plane's engines inoperable at 35,000 feet, the power to the cockpit's electronic instrumentation panel also went blank.

A situation never before encountered by commercial pilots, they were forced to think quickly. An emergency landing in Winnipeg was proposed, but even that was too far due to the lack of fuel and altitude that would not allow the flight to reach that destination.

By the grace of God, a former air force pilot who had served at RCAF Station Gimli in the past, First Officer Maurice Quintal proposed landing at the old base. Unknown to the pilots, it was now partially a converted racetrack, but that made it even better to land. As they prepared for the landing, the plane's landing gear locked into position via gravity drop, and thus the nose wheel failed to lock into position. Guess what? Good fortune graced Flight 143 again. Captain Bob Pearson, an experienced glider, calculated the plane's positioning in an effective way and was able to actually glide a 767 to a safe landing.

I was swimming in the lake. It was unbelievable. You could see the plane but could not hear anything. It was a miracle. It came to a halt a few feet from the hangar where hundreds of people were

celebrating a high school graduation. As the engines were silent, no one knew that the flight had landed or that the plane was sitting outside their door, so there was no panic. Everything was as calm as the lake on this historic day, and 69 souls were saved by this brilliant work by these pilots.

We salute Captain Pearson and First Officer Quintal, as well as the crew of Air Canada Flight 143, for this incredible bravery on the thirtieth anniversary of the Gimli Glider. Please come to the Gimli Film Festival and watch the film all about it.

SEXUAL VIOLENCE AGAINST WOMEN

Hon. Mobina S. B. Jaffer: Honourable senators, on Monday, June 10, our government presented a draft resolution at the United Nations on sexual violence against women. This resolution was adopted by the United Nations Human Rights Council on Friday, June 14.

This text ignores the importance of sexual and reproductive health rights for survivors of rape, even though it is recognized that education and health services play a fundamental role in responding to the sexual violence that women and girls face worldwide.

The text fails to mention critical health services that must be made available to survivors of sexual violence, including emergency contraception, safe abortion, post- exposure treatment for HIV and screening and testing for sexually transmitted infections.

Alex Neve, Secretary General of Amnesty International, urged Canada to reintroduce stronger language on sexual and reproductive health in the text.

• (1410)

Alex Neve explained:

> From women in the Democratic Republic of the Congo to First Nations, Métis, and Inuit women and girls in Canada — all rape survivors have the right to life, physical security, equality and the right to health. For these rights to be realized, women and girls must have access to comprehensive sexual and reproductive health services, and they need champions in government to stand up for these rights.

Honourable senators, I have been proud of the leadership Canada has shown on women's rights in the past. The recent step backwards is unacceptable. I respectfully ask our government to reassess this text in the future to ensure that we are standing up for women's rights and ensuring the full and necessary protection for victims of sexual violence around the world.

Women's rights are what Canadians value the most.

KOREAN WAR VETERANS

Hon. Yonah Martin: Honourable senators, I rise today, during this special Year of the Korean War Veteran, to recognize our veterans of the Korean War on the eve of the Royal Assent of Bill S-213, the Korean War veterans day act, which unanimously passed at every stage of the legislative process in both houses.

This weekend, a special Korea Weekend will bring together hundreds of veterans from across Canada. This has been a dream of mine, three years in the making, and I am so honoured to share the Korea Weekend with all of those who will travel to Ottawa to participate. Since 2009, we have worked closely with Veterans Affairs Canada, the Canadian War Museum, Historica Dominion, the Canada Korea Society, the Embassy of the Republic of Korea, and the Ministries of Patriots and Veterans Affairs to make this dream come true.

This weekend's program will begin with an opening gala hosted by the Canada Korea Society on Friday, June 21 at the Canadian War Museum. The veterans will get a sneak preview of the special sixtieth anniversary Korean War exhibit that evening, and the exhibit will be open to the public in the coming months.

For more than a decade, the Korean government has expressed its appreciation by hosting numerous revisit programs for veterans or bereaved family members to visit Korea and to see the difference that their actions and sacrifices have made. I have seen firsthand the tears and joy of the veterans when they see the fruits of their effort.

Two veterans, Andrew Barber and Ron Kirk, visited Korea in 2010 and were so touched by the heroes' welcome they received and so amazed at what Korea had become that, on the long flight home, they dreamt up a very special idea. During a conversation later in 2010, Andy told me about their wish to thank Korea and to honour them with a special program to invite Korean veterans to Canada in a gesture of friendship and thanks for Korea's hospitality.

As soon as I heard their idea, I, too, was inspired. What a wonderful idea from two selfless men who continue to devote their lives to serving others. The KVA 26 ROK Memorial Project, a year in the making, was created. The committee raised funds and prepared a special program to allow three Korean veterans to visit Canada. In fact, they arrived today in Toronto, greeted by Andy and Ron, the President of KVA Unit 26, and their dedicated committee.

Honourable senators, I hope that you, too, are inspired by this story and all of our veterans of the Korean War, and that you will celebrate, on July 27 Korean War Veterans Day, in this Year of the Korean War Veteran, by attending the commemorative ceremony in your respective regions. If time permits, join us on Friday at the gala opening to welcome all of the veterans to Ottawa.

Lest we forget. Nous nous souviendrons d'eux.

MANDATORY REPORTING STANDARDS FOR EXTRACTIVE COMPANIES

Hon. Donald H. Oliver: Honourable senators, I rise today to call your attention to Prime Minister Harper's leadership in increasing business integrity in Canada.

On June 12, the Prime Minister announced that the Government of Canada will establish new mandatory reporting standards for Canadian extractive companies. These new

regulations will help enhance transparency in the payments they make to governments. The reporting regime is also expected to enhance investment certainty and help to reinforce the integrity of Canadian extractive companies.

This initiative is in keeping with the United Kingdom's priority of transparency put forward at the G8 summit, which began yesterday. One of British Prime Minister Cameron's priorities this week is setting an international standard for mineral extraction. Honourable senators, given the June 12 announcement, Canada will be in a position to play a key role in these discussions.

Upon learning of this news, I could not help but consider the importance of business integrity in today's day and age. In general, I believe that Canada's businesses attempt to provide consumers with high-quality goods at fair prices, compensate employees adequately, respect tax and other lax laws, and ensure that shareholders receive adequate returns on their investments. In some cases, their actions are guided by moral imperatives. In other cases, they are motivated by legislated obligations.

Recent revelations about SNC-Lavalin and other Canadian companies have prompted me to question why voluntary actions might be inadequate. Perhaps more legislated requirements are needed to compel businesses to do the right thing. I recognize, however, that it is not possible to legislate integrity, morality or good behaviour.

Ten years ago, the Standing Senate Committee on Banking, Trade and Commerce delved into this issue and published a report on safeguards to restore investor confidence. A decade later, I wonder to what extent businesses can be counted upon to do the right thing if there is no legal obligation to do so. What can we, as a nation, do to take a leadership role in providing businesses with an incentive to act properly?

The mandatory disclosure of payments to governments by extractive companies provides an interesting and timely case study. Over the coming months, the government will consult closely with provincial and territorial counterparts, First Nations and Aboriginal groups, industry and civil society organizations on how to establish the most effective disclosure regime for extractive companies.

To date, it appears that there are two reporting options. First, companies can report through a country's voluntary implementation of the Extractive Industries Transparency Initiative, EITI. Second, it can be done through provisions like those included in the Cardin-Lugar Amendment of the Dodd-Frank Act in the U.S.

A diverse range of domestic and international groups have argued that Canada must take action soon. Honourable senators, Canada is answering that call to action. I believe that Canada is on a path to restoring its position as a global leader. It must continue to work with other nations to establish the norm for good behaviour as the world evolves and challenges arise.

ROUTINE PROCEEDINGS

STUDY ON HARASSMENT IN THE ROYAL CANADIAN MOUNTED POLICE

FOURTEENTH REPORT OF NATIONAL SECURITY AND DEFENCE COMMITTEE TABLED

Hon. Daniel Lang: Honourable senators, I have the honour to table, in both official languages, the fourteenth report of the Standing Senate Committee on National Security and Defence entitled: *Conduct Becoming: Why the Royal Canadian Mounted Police must Transform its Culture*.

With leave of the Senate and notwithstanding rule 5-5(f), I move that the report be placed on the Orders of the Day for consideration later this day.

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

Hon. Senators: Agreed.

(On motion of Senator Lang, report placed on the Orders of the Day for consideration later this day.)

[*Translation*]

ECONOMIC ACTION PLAN 2013 BILL, NO. 1

TWENTY-THIRD REPORT OF NATIONAL FINANCE COMMITTEE PRESENTED

Hon. Joseph A. Day, Chair of the Standing Senate Committee on National Finance, presented the following report:

Tuesday, June 18, 2013

The Standing Senate Committee on National Finance has the honour to present its

TWENTY-THIRD REPORT

Your committee, to which was referred Bill C-60, An Act to implement certain provisions of the budget tabled in Parliament on March 21, 2013 and other measures, has, in obedience to its order of reference of June 13, 2013, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

JOSEPH A. DAY
Chair

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

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

• (1420)

[*English*]

STUDY ON SOCIAL INCLUSION AND COHESION

TWENTY-SIXTH REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE TABLED

Hon. Art Eggleton: Honourable senators, I have the honour to table, in both official languages, the twenty-sixth report of the Standing Senate Committee on Social Affairs, Science and Technology entitled: *In From the Margins, Part II: Reducing Barriers to Social Inclusion and Social Cohesion.*

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

[*Translation*]

WITNESS PROTECTION PROGRAM ACT

BILL TO AMEND—TWENTY-NINTH REPORT OF LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE PRESENTED

Hon. Joan Fraser, Deputy Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Tuesday, June 18, 2013

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

TWENTY-NINTH REPORT

Your committee, to which was referred Bill C-51, An Act to amend the Witness Protection Program Act and to make a consequential amendment to another Act, has, in obedience to the order of reference of Tuesday, June 11, 2013, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

JOAN FRASER
Deputy Chair

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

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

[*English*]

QUESTION PERIOD

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

SENATE MOTIVATIONAL SPEAKERS EVENT

Hon. James S. Cowan (Leader of the Opposition): Honourable senators, my question today is for my friend, the incoming chair of our Standing Committee on Internal Economy, Budgets and Administration. I suspect he may have been surprised by all of this, as was I, but I want to ask him for his comments.

Shortly before 2 p.m. this afternoon, I received an email from a reporter in my hometown of Halifax inquiring about a seminar that is to be held tomorrow afternoon, sponsored by Senate administration, on which there are to be two motivational speakers, someone by the name of Barry McLoughlin and a Marc-André Morel. According to the news report that was subsequently sent to me, the purpose is to talk to senators, their staff and Senate employees about the enduring value of the Senate and to help bring a little perspective to the current situation.

The news report goes on to talk about how it tells recipients of this email — and I have not seen the actual email — that the "Senate values you and the work you do — come find out why."

My question to the chair of this committee is the following: Was this approved by our Standing Committee on Internal Economy, Budgets and Administration? Can he tell us why it was that these particular motivational speakers were chosen to appear, how much they are being paid and why he would choose to schedule this seminar in the middle of what we expect will be a Senate session?

Hon. Gerald J. Comeau: Honourable senators, one of the advantages of being the new chair of a committee is that you have plausible deniability, and in my case it is completely plausible because I had no clue that this decision had been made.

I am in the process of looking at this matter. I understand that such an initiative has not been approved by either the steering committee or the Internal Economy Committee. I will look into it further. Generally speaking, such expenses are in fact approved by the Internal Economy Committee.

Having said that, if both the staff of the Senate and our office staff feel they would like to know more about the great work that the Senate does — and I do agree that great work is done in the

Senate — we would be more than pleased to provide in-house services, in-house staff, to give them a hand. We do have a great story to tell about some of the great work that has been done by our committees. I will not start listing them, but we have a great story to tell our staff. We are more than pleased to do it.

At the present time, unless the Internal Economy Committee does provide us with a different way of doing things, we would like to do it within service.

Senator Cowan: I am sure all honourable senators share the view of Senator Comeau that there is much good work being done by individual senators and by the Senate collectively. Certainly, with the current controversy swirling around the Senate, our support staff and those who work and serve the Senate deserve support, encouragement and any help we can give them to enable them to continue to do the great job they are doing. I am sure all of us do that.

I take from the honourable senator's response that this session will not go forward tomorrow afternoon and that the Internal Economy Committee will look at how it could have made it this far without either the steering committee or the committee as a whole knowing anything about it. Perhaps he will take an opportunity to report back to the Senate when he has that information.

Senator Comeau: Honourable senators, I will look into the issue.

As to whether no one was aware, my understanding is that the item had been discussed by the steering committee, of which I was not a member at the time, but no approval had been made for the expenditure of the money. We will see how it came about and whether there was approval from somewhere else. If the proper procedures were not followed, we will make sure that they will be followed in the future.

Again, I agree with Senator Cowan that we do value our staff and the great work they do on our behalf. Quite a number of us would not look quite as good as we do were it not for the staff we have on the Hill. I want to extend my appreciation to them for everything they do for us.

Senator Cowan: Honourable senators, just so we are clear, certainly the Senate will sit, as we expect, tomorrow afternoon, and the staff that is needed to support us and the work of the chamber will be focused on that and not having a conflicting invitation to attend a seminar. Am I correct in that?

Senator Comeau: You have got it; exactly.

Hon. George J. Furey: Is it also the understanding of the Honourable Senator Comeau that while the concept or idea of motivational sessions for staff, some who are disturbed by much of the news that has been ongoing for the last couple of months, was discussed in steering, is it also his understanding that there was no discussion whatsoever of hiring external speakers?

Senator Comeau: Honourable senators, that is completely my understanding. In fact, I believe we have people right here on the floor of the Senate who are great motivational people. I think we should use and value the people we have right here in the Senate. I hesitate to name names, but I think Senator Furey would be a great candidate for such work. I am quite sure he would volunteer, as would quite a number of senators on both sides. That is my understanding.

Hon. Jim Munson: Honourable senators, I was going to ask a question, but I am satisfied with those answers. Thanks very much.

PRIME MINISTER'S OFFICE

ROLE OF EMPLOYEES

Hon. Jane Cordy: Honourable senators, my question is for the Leader of the Government in the Senate. Yesterday, I was disappointed but not surprised when I learned that a staff member in Prime Minister Harper's office had leaked to the media information about an opposition member in the House of Commons under the cover of anonymity. I am sure we have all heard about the article in the *Barrie Advance* newspaper that "outed" the Prime Minister's staffer Erica Meekes. I know that staffers in the Prime Minister's office are supposed to work on behalf of all Canadians and I am sure the leader would agree.

However, do you believe it is appropriate for a staffer in the Prime Minister's Office, one who is being paid out of the budget of the Privy Council, to be gathering and distributing information with the sole purpose of attempting to discredit the leader of another political party? Frankly, I do not consider this partisan exercise to be of public service in nature. Perhaps the honourable senator can enlighten me on the matter?

• (1430)

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, what planet do we all live on here? Whether it is the office of the Leader of the Official Opposition in the House of Commons, the Leader of the Opposition in the Senate, the Leader of the Government in the Senate, the Prime Minister or a minister of the crown, we all have duties to perform that relate to our work as members of the government, in my case, or as members of the opposition, in your case; and we have people who work for us on our political files. I do not see anything unusual about that.

Certainly, someone on the public payroll working for your leader spends a lot of his time spinning out stories — some true, some not true — on this side politically. Unfortunately, that is the nature of the business we are in.

Senator Cordy: Honourable senators, I guess I have been around a long time and I cannot help but draw a parallel between this most recent situation of somebody from the Prime Minister's Office trying to discredit the leader of the Liberal Party and the situation involving one of the leader's staffers in 2007. For those senators who were not here at the time, I will recount the details.

Mr. Jeffrey Kroeker was employed as the leader's senior legislative adviser and it was revealed that he had inappropriately obtained information about parliamentarians and divulged it to the media in an attempt to embarrass the Senate — both senators

individually and the institution of the Senate. The Senate deemed this matter serious and referred it to the Standing Committee on Internal Economy, Budgets and Administration for further study. Mr. Kroeker had released personal credit card information, including credit card numbers, which were shown on television networks. Honourable senators and the leader will recall that the committee found his actions to be "inappropriate and unethical."

I would assume that, following such findings in respect of one of your staffers, you would be sensitive to this type of issue and would recognize that the same ethical standard should apply to staff members in the Prime Minister's Office, who should always do what is appropriate and ethical and not, as the Internal Economy Committee said in 2007, what is inappropriate and unethical.

Senator LeBreton: Honourable senators, with regard to that case in 2007, of course I am on the record and I defended the member of my staff. I accepted the decisions of the Internal Economy Committee with respect to the travel of a particular senator.

I know that in this town anybody who dares to question Justin Trudeau can automatically have a whole host of people running around trying to make excuses. The fact of the matter is that Justin Trudeau is a political leader of the third party in the other place and he has taxpayer-funded staff calling right now, I am sure, all of these charities.

The fact is that Justin Trudeau used public funds to pay his salary while at the same time going around the country charging a fee to speak to charities. The one I am most offended by is the fee that he charged the Canadian Mental Health Association. I, personally, give $200 a month in support of mental health and I was very upset when I realized that my donations were being used to pay Justin Trudeau $20,000. He is a public figure who did these things, but somehow or other political staff on all sides cannot question this because this is the great Justin Trudeau? Well, I am sorry, but we will continue to question it.

Senator Cordy: He is great and he is a great leader, so thank you for that.

Honourable senators, Mr. Trudeau had a public-speaking business before he entered politics. He did not use public money to travel to these speaking engagements for which he was paid. We know that there are over 65 Conservative MPs who have supplementary benefits, so I hope that, if you feel that strongly about it, then perhaps your government will propose legislation to make things more open and transparent, as our great leader has done with Liberal MPs and senators posting their expenses online starting this fall.

Talking about openness, I was surprised again to read about the Grace Foundation in New Brunswick, which apparently wants their money back. It is their right to ask for the money back. I was just surprised that they waited almost a year to ask for the money back. After Mr. Trudeau had given his speech, he received a letter thanking him very much for the wonderful job he had done.

However, the Grace Foundation has on its board a woman by the name of Judith Baxter, who has been appointed twice to four-year terms on the board of the Canadian Museum of Civilization. We also know that her husband is on the executive of the Fundy Royal Conservative Riding Association and that the family has donated money to the party since 2009.

I ask again: Will the government bring forward legislation for Conservative MPs and senators to make their expenses more open and transparent by putting them online, as the Liberal Party has committed to doing?

Senator LeBreton: First, honourable senators, what did Justin Trudeau really say? He basically said something that we senators already do, thanks to when we got the majority in the Senate: post our expenses online. He said that it is voluntary, but I notice it does not mention the living accommodations while in the National Capital Region.

Many members of Parliament and senators have their own businesses and some have property or rental property. These things are reported to the respective ethics commissions.

The honourable senator says that Justin Trudeau did not use public resources. Well, Justin Trudeau was a Member of Parliament and was paid by taxpayers' dollars. Furthermore, he was the critic for youth and was charging schools $10,000 to $20,000 to hear him speak. I have spoken a gazillion times, and it never occurred to me to expect to be paid. That is our job as politicians.

Some Hon. Senators: Hear, hear.

Hon. Jim Munson: Honourable senators, I have a supplementary question for the leader with regard to this wire service story. I guess I will ask this question as opposed to the other one.

Since Prime Minister Harper side-stepped a question on Tuesday as to whether it was appropriate for his taxpayer-funded office to distribute documents to the media about paid speeches that Mr. Trudeau made before he was elected to Parliament, a very brave Ontario newspaper revealed that the Prime Minister's Office supplied it with documents purporting to show that three organizations that contracted Mr. Trudeau to speak at events in 2006 and 2007 ended up losing some money.

The courageous *Barrie Advance* said that the PMO instructed the newspaper to attribute the information, which included invoices and emails from Georgian College and a Chatham-Kent business group, to a "source," rather than saying it came from the PMO.

The story talks about taxpayer-funded offices and money being used from the PMO. Is this the kind of thing that the PMO should be doing?

Senator LeBreton: This question is from Jim Munson, who worked in the prime minister's office; but of course under Mr. Chretien, they did not do anything ever that was political, including shoveling taxpayers' dollars out the back door with the sponsorship scandal; and I did see the questions to the Prime Minister.

• (1440)

The Prime Minister is in Northern Ireland at the wrap-up of the G8, and our public broadcaster, so concerned about their new little star, asks a question — not about the trade talks; not about the serious situation in Syria; not about the dynamics of the G8, which ended up with a positive communiqué on Syria — oh no; Terry Milewski had to ask the Prime Minister about someone insulting their shiny little pony, Justin Trudeau.

To make matters worse, Daniele Hamamdjian from CTV had the same opportunity to ask a meaningful question about the G8, the situation in Syria or the status of the trade talks — oh no; she had to ask the Prime Minister about Senator Duffy and Nigel Wright. She said to the Prime Minister that he said he had been clear on this but that she, Daniele Hamamdjian, thought that he has been unclear.

These are the kinds of questions we get from our so-called national media travelling to a world event where world leaders are present.

Hon. Joan Fraser: Honourable senators, my question is directed to the leader. The CBC has some of the finest journalists in the world. I, like everyone else, do not always like the news they bring, but they are big; they can afford to ride out some storms.

The *Barrie Advance* is a very small paper. Not long ago there was a small paper in Manitoba, as I recall, where a journalist had the temerity to criticize the regime now in power. He was fired for this temerity because it was made plain to his employers that they would suffer a loss of advertising revenue.

Can the leader undertake that her government will instruct all of its representatives to never again make any such threat against any of these brave, small, vulnerable media who take their duty to the public seriously?

Senator LeBreton: The honourable senator says that the CBC is a large organization. It is a large organization, thanks to the $1 billion it gets from Canadian taxpayers.

That is not the case in the incident the senator referred to.

Of course, Senator Fraser was the editor of the *Montreal Gazette* and was always extremely tough on Conservatives. I used to write her lots of letters, which she never answered, by the way. When she was appointed to the Senate she ended up next door to me, and I said, "Now, finally, can you answer my letters?"

In any event, the incident that the honourable senator cites is not how it happened at all.

ABORIGINAL AFFAIRS AND NORTHERN DEVELOPMENT

JOB CREATION

Hon. Sandra Lovelace Nicholas: Honourable senators, my question is directed to the Leader of the Government in the Senate. The honourable senator indicated last night that the government has created 1 million jobs since 2009. I am sure she is aware that First Nations people are one of the most disadvantaged groups in this very prosperous country.

Could the leader tell me the percentage of jobs that have gone to First Nations people and how many communities have benefited?

Hon. Marjory LeBreton (Leader of the Government): I thank Senator Lovelace Nicholas. Finally, a question with some merit.

The unemployment rate in First Nations communities, including that of the youth there, is very high. First Nations are a young and growing population. That is why the government is investing so much time, energy and resources in education and training for young Aboriginals.

Minister Valcourt made an announcement in Saskatchewan a couple of days ago that was very well received. The government is expending much effort in skills training and education for our young Aboriginal people so that they can participate fully in and benefit, as can any other Canadian, from our strong economy.

Senator Lovelace Nicholas: I travel to other First Nations communities in my province of New Brunswick, and I still see people not working, most people on social assistance and no job creation programs. The 1 million jobs do not seem to be helping my people in New Brunswick.

Senator LeBreton: As indicated in the announcement made by Minister Valcourt in Saskatchewan, we are providing skills training and resources in order that young people can get off the welfare rolls and get meaningful employment.

Senator Lovelace Nicholas: Thank you very much, but that is in Saskatchewan.

In fact, this morning, the Canadian Human Rights Commission published yet another report that finds that Aboriginal peoples continue to experience conditions of persistent disadvantage, including a greater likelihood of suffering violent crimes and physical, emotional or sexual abuse.

The commission also found that Aboriginal people have a lower median income and are more likely to be incarcerated while less likely to be granted parole.

Why does the government keep turning a blind eye to the problems faced by Aboriginal people?

Senator LeBreton: I answered that question a couple of days ago.

The government has not turned a blind eye. The government is working extremely hard with First Nations leaders. In Budget 2013 there are many measures to improve the economic opportunities and living conditions of First Nations, such as investments to continue addressing land claims, making significant investments in First Nations infrastructure and expanding the First Nations Land Management Regime.

As I mentioned a moment ago, while we have made significant progress, obviously a great deal of work needs to be done. Our government and Minister Valcourt will continue to build on the progress we have made over the years to ensure that our First Nations, Metis and Inuit are full participants in building a stronger country for them and for all Canadians.

FOREIGN AFFAIRS

UNITED NATIONS RESOLUTION ON SEXUAL VIOLENCE AGAINST WOMEN

Hon. Mobina S. B. Jaffer: Honourable senators, my question is also for the Leader of the Government in the Senate. Canada has historically been a champion of women's rights. Since 1994 Canada has led the negotiation of resolutions on violence against women in the United Nations Human Rights Council. However, last week our government took a major step backwards on women's rights.

On Monday, June 10, our government presented a draft resolution at the United Nations on sexual violence against women. The United Nations adopted this resolution on Friday, June 14. The text ignores the importance of sexual and reproductive health rights for survivors of rape, even though it is recognized that education and health services play a fundamental role in responding to the sexual violence that women and girls face worldwide.

The text fails to mention critical health services that must be made available to survivors of sexual violence, including emergency contraception, safe abortions, post-exposure treatment for HIV and screening and testing for sexually transmitted infections.

Why were these critical components left out of this draft resolution, and what does this say about our government's support and funding priorities for sexual and reproductive rights both at home and abroad?

Hon. Marjory LeBreton (Leader of the Government): First, Canada has taken and will continue to take a strong leadership role in resolutions with regard to sexual violence against women and women's health and well-being writ large.

We are a world leader in the protection and promotion of the rights of women and girls, and we continue to focus, as I have said before, on concrete measures aimed at improving the lives of women and girls around the world. This is something this government has done. Rather than have people sitting around in advocacy groups or having kind of a broad approach to a lot of issues, we focus in on the needs and have made a real difference in the lives of women and girls.

• (1450)

Senator Jaffer: Madam Leader, my question was: what have you done to make available to survivors of sexual violence things like emergency contraception, safe abortion, post-exposure treatment for HIV, and screening and testing for sexually transmitted infections. These are victims of rape.

Senator LeBreton: I think I have actually answered that question before in terms of sexually transmitted diseases. Of course, the honourable senator is familiar with the Muskoka Initiative with the Prime Minister with regard to women and girls, and also with regard to efforts towards young mothers and expectant mothers.

I will dig out my previous answers to you, Senator Jaffer, and resend them to you.

Senator Jaffer: I have often complimented the government on its Muskoka Initiative, and I have worked in the villages in Africa and seen first-hand what great work the government has done when it comes to maternal health, but this is a different issue. This is an issue of rape — when women are raped, either in Canada or in conflict. My question to the leader was nothing to do with maternal health.

My question to you is this: Why were the critical components left out of this draft resolution, and what does this say about our government's support and funding priorities?

This has nothing to do with maternal rights. It has to do with the sexual and reproductive rights of a woman who has been raped.

Senator LeBreton: Again, we as a government have taken many steps to reduce violence against women, not only at home but also abroad. There are many initiatives the government has taken with regard to women and children who are violated.

I will take the honourable senator's question as notice.

[*Translation*]

NATIONAL REVENUE

INTERNATIONAL TAX EVASION

Hon. Céline Hervieux-Payette: Honourable senators, my question is for the Leader of the Government in the Senate.

This morning, in order to fight tax evasion, the G8 took a stand on shell corporations and offshore investments by declaring that:

> ...tax collectors and law enforcers should be able to obtain this information easily.

To that end, G8 countries, including Canada, added:

> Countries should change rules that let companies shift their profits across borders to avoid taxes...

My question is simple. When will your government sit down with the provinces and territories to discuss implementing framework legislation in conjunction with the other G8 countries in order to combat tax fraud?

[*English*]

Hon. Marjory LeBreton (Leader of the Government): I thank the honourable senator. Of course, the announcement came out of the G8. Obviously, you would not expect me to have all the details and the timetable that the government has worked out around this initiative.

I will take your question as notice.

[*Translation*]

DELAYED ANSWER TO ORAL QUESTION

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, have the honour to table the answer to the oral question asked by the Honourable Senator Cordy on June 6, 2013, concerning Baddeck ferry services.

TRANSPORT

COMMERCIAL VESSEL CLASSIFICATION AND REGULATIONS—BADDECK FERRY SERVICES

(Response to question raised by Hon. Jane Cordy on June 6, 2013)

Transport Canada's role is to ensure that marine operations are safe.

Minister Lebel's officials have been working with the Baddeck Lions Club in the past months to ensure that the service being offered by the Club between Baddeck and Kidston Island can continue in the 2013 summer season and beyond.

There are certain training and operational requirements that the Baddeck Lions Club must meet to ensure the safety of the operation.

Transport Canada has approved operating conditions for the 2013 season in collaboration with the Baddeck Lions Club.

[*English*]

ORDERS OF THE DAY

YALE FIRST NATION FINAL AGREEMENT BILL

THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Tannas, seconded by the Honourable Senator McInnis, for the third reading of Bill C-62, An Act to give effect to the Yale First Nation Final Agreement and to make consequential amendments to other Acts.

Hon. Lillian Eva Dyck: Honourable senators, I rise today to speak to Bill C-62, An Act to give effect to the Yale First Nation Final Agreement and to make consequential amendments to other Acts. The Standing Senate Committee on Aboriginal Peoples dealt with this bill last week, and our first panel of witnesses were from Aboriginal Affairs and Northern Development Canada: Mr. Greg Rickford, Parliamentary Secretary, and Mr. Jim Barkwell.

One thing that became very clear from their testimony was that this agreement has been in the works for 19 years. In fact, the BC Treaty Commission process has only been in effect for just a little over 20 years, so they engaged in the process very early on.

When asked what the main barriers were, they made it clear that it was difficulties in mediating the interests of the different First Nations within B.C. who felt they had overlapping interests within the Yale treaty.

As honourable senators may have noticed from the title, the Yale treaty is an act to give effect to the final agreement. The Yale First Nation Final Agreement was ratified by the Yale First Nation itself in March 2011 and by the British Columbia Legislative Assembly on June 2, 2011. It appeared here in the other place just a few months ago.

The Yale First Nation is located in British Columbia and consists of 16 reserves located along the Fraser Canyon just north of Hope, British Columbia. It is a small community with a registered membership of 159 people, 67 of whom live on-reserve with the remainder off-reserve.

The Yale First Nation — and Chief Hope appeared later — describes itself as an independent First Nation — independent from the Stó:lo Nation and also from the Nlaka'pamux Nation, but they considered themselves not part of the Stó:lo Nation.

The final agreement will provide the Yale First Nation with fee simple ownership of about 2,000 hectares of land, 90 per cent of which comes from provincial Crown land. I found it interesting that the land will be fee simple as opposed to ownership by the whole band, which is the norm within the Prairie numbered treaties. However, apparently within the B.C. treaty process, it is part of the process that any land transferred then becomes fee simple land instead of community-owned land.

In addition, the agreement provides $10.7 million of capital transfer, less outstanding negotiation loans, and $2.2 million in economic development funding. Of this capital transfer, apparently a very large percentage will go towards the negotiation of the treaty. I guess that is quite common. One of the criticisms of the B.C. treaty process is the fact that, when the capital payment comes to the First Nation that is negotiating a treaty, 50 per cent or more of a capital transfer is eaten up by the fees that they have to pay to lawyers, court challenges and so on to get their final agreement.

In addition to these monies, they will get $700,000 in ongoing annual funding to provide for programs and services, such as education, health care and public works, and $600,000 in ongoing funding to support governance activities.

The agreement will really create for the Yale First Nation a treaty that gives them self-governing abilities. In addition to having their own laws, such as in education and child protection, they will also have to interact with provincial and federal laws in areas such as health, peace and safety, and traffic.

It is a major advance for the Yale First Nation. They will have the ability to be self-governing and to develop economically, and they will have fee simple, which some argue is an advantage and others say is a disadvantage. Therefore, there are many good things to say about the final agreement.

However, they say they are not part of the Stó:lo Nation, but the Stó:lo Nation says they are. The sticky point is that there are overlapping claims. Again, as part of the B.C. treaty process, this is actually a common occurrence.

In the second third of our meeting, we heard from Chief Norman Hope, the Chief of the Yale First Nation. He made it very clear when he said, "We are not Stó:lo." He wanted to make that absolutely clear. However, when we heard in the third part of our meeting from Chief Joe Hall, the Grand Chief of the Stó:lo Nation, his position was that the Yale First Nation is part of the Stó:lo Nation.

• (1500)

He was very much concerned about overlapping claims, particularly the Five Mile Fishery, which would be a prime site for salmon fishing and would help support not only the feeding of the families, but would perhaps also allow for economic development.

Chief Joe Hall said that the Yale First Nation Final Agreement was a serious violation of Stó:lo rights, and so he was opposed to it because he wanted a shared territory agreement.

Apparently the Yale First Nation and the Stó:lo First Nation have not been able to resolve their dispute and this has been ongoing for many years. It is putting parliamentarians in kind of a bad situation, where it looks like we are supposed to adjudicate on which First Nation should get the territory that is covered in the Yale First Nation. This is not a comfortable position to be in. In fact, at first sight, looking at it, it is almost like a no-win situation for us. If we support Bill C-62, it is a win for the Yale First Nation but it could be seen as a loss for the Stó:lo Nation. However, if we do not support Bill C-62, it could be seen as a win for the Stó:lo and a big loss for the Yale. It is not the kind of position one wants to be in.

However, having said that, we must realize — and it was actually mentioned in the report that our own committee did about a year ago — this dispute should have been resolved before the final agreement came to Parliament Hill. This should have been resolved before we got to actually see the witnesses and take a position on the bill.

How should this have been done? There is one possibility. There could have been a binding agreement between the Stó:lo First Nation and the Yale First Nation. Unfortunately, this has proved not to be a viable option for the Stó:lo. They have said that the position taken by Yale First Nation — the bottom line — is not acceptable to them, so they were not willing to go that route.

However, there are other options. It seemed unusual to me in that the final Yale agreement does not actually come into effect until April 1, 2015. The Yale First Nation Final Agreement can be amended to accommodate the rights of other Aboriginal peoples, such as the Stó:lo. Section 2.12 of the final agreement stipulates that the provisions of the final agreement can be altered, replaced or renegotiated where a court finds that the final agreement adversely affects the rights of other Aboriginal people or where treaty negotiations have commenced with other Aboriginal people that adversely affect Yale First Nation rights, as outlined in the final agreement.

In other words, if the Stó:lo First Nation were to go to court saying that this agreement should not go forward because they have a claim to shared territory, and if the court decision is in their favour, then the Yale final agreement could actually be amended. That would take their concerns, ratified by a court, into consideration. Then the Yale First Nation Final Agreement would be amended accordingly. That is an available option.

The bottom line of all of this information is that Bill C-62 will create the Yale First Nation treaty as of April 1, 2015, a little less than two years from now. While contentious, outstanding claims remain unresolved — most particularly right now, we are aware of the Stó:lo Nation — and while this is an odd situation, it is not totally hopeless. The Stó:lo Nation has options to have their concerns and rights addressed, even though this bill is passed.

Interestingly, when I looked at this more closely, I realized that this situation is not unique. It is actually an integral part of the B.C. treaty process. As I mentioned before, in June 2012 our committee released a report on the B.C. Treaty Commission process, and we noted that there should be better processes to resolve overlapping land claims when it comes to claims with respect to lands and resources. That is exactly what has happened in the Yale First Nation Final Agreement. That is exactly what is happening with this bill.

Honourable senators, we also noted that the costs of entering into treaty-making in B.C. are enormously high and that a large part of their capital transfer may be eaten away just by simply trying to get an agreement going. That is what will happen to the Yale First Nation.

I did recall — and this is the beauty of being in the Senate for eight years — that our committee saw, within the last five years, two other self-governing acts come to our committee, and that was for the Tsawwassen First Nation, which was implemented in 2009; and the Maa-nulth First Nation. That was preceded years ago by the Nisga'a First Nation. For both the Tsawwassen and the Maa-nulth, when they appeared before the committee we did not hear any dissenting views from competing First Nations, so I thought it was interesting that we did with Yale. I went back and looked at the information that I still had in my office with regard to the Tsawwassen and the Maa-nulth. In the information with respect to the Tsawwassen, which I think is near or maybe part of Vancouver, it talks about court challenges. That act was passed. We did not hear any dissenting views. Nonetheless, there were court challenges filed by a number of First Nations. Semiahmoo First Nation filed a petition for judicial review, and they were asking for consultation with them. The Sencot'en Alliance filed a similar petition. The Cowichan tribes filed a similar petition in 2007. Apparently, the Cowichan and Tsawwassen agreed on a process for resolving their overlapping claims by the time the agreement would actually come into effect.

It is not unique to the Yale First Nation, and that made me feel better about the whole process.

Similarly, when I looked at the information we had when the Maa-nulth First Nations Final Agreement came before us, again there is another section on court challenges. In fact, court challenges were brought forward. One was dismissed, saying there was not sufficient evidence to justify it. Apparently, there were other statements of claim. I am not sure of the final outcome of those because at that point in time we had passed the agreement.

Honourable senators, the bottom line is that what is happening in the Yale First Nation is part of this process going on in B.C. It has taken 150 years to finally get around to creating the treaty. Meanwhile, we have small First Nations who have moved around a bit, depending on what is happening to the terrain, whether there are floods and so on. The Yale are situated here, the other Stó:lo are somewhere else and now they are fighting over the territory. Someone has to resolve it. The B.C. treaty process is not resolving it. It needs to be improved. I do not think we, as parliamentarians, can do that for them. It is not the best way to proceed, but it is the way the process was set out.

In conclusion, we can see that the B.C. treaty process is flawed. As we stated in our June 2012 report, a formal dispute resolution as part of the B.C. treaty process should be resourced and in place before the final agreement is signed. Here, we are getting agreements when there are still outstanding claims.

We have competing First Nations. With respect to Bill C-62 before us today, if we vote "no," no one benefits and we go right back to the table. Apparently we might even delay implementation of the bill. If we vote "yes," Yale definitely will benefit and the Stó:lo will not lose, as I first thought. The Stó:lo may still benefit because they still have the two options. They can still enter a binding agreement if they are able to reach an agreement with the Yale First Nation, and they can still take their challenges to a court and, if the court upholds their position, then the final agreement can still be amended.

• (1510)

After having said all that and looked at the past history, I have decided that the bill is worth supporting.

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

Hon. Senators: Question.

The Hon. the Speaker: It was moved by the Honourable Senator Tannas, seconded by the Honourable Senator McInnes, that Bill C-62, An Act to give effect to the Yale First Nation Final Agreement and to make consequential amendments to other Acts, be read the third time.

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

Hon. Senators: Agreed.

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

INCOME TAX ACT
EXCISE TAX ACT
FEDERAL-PROVINCIAL FISCAL ARRANGEMENTS ACT
FIRST NATIONS GOODS AND SERVICES TAX ACT

BILL TO AMEND—THIRD READING—
DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Black, seconded by the Honourable Senator Bellemare, for the third reading of Bill C-48, An Act to amend the Income Tax Act, the Excise Tax Act, the Federal-Provincial Fiscal Arrangements Act, the First Nations Goods and Services Tax Act and related legislation.

Hon. Wilfred P. Moore: Honourable senators, it is my pleasure to speak today at third reading to Bill C-48, An Act to amend the Income Tax Act, the Excise Tax Act, the Federal-Provincial Fiscal Arrangements Act, the First Nations Goods and Services Tax Act and related legislation.

I would like to commend the Standing Senate Committee on Banking, Trade and Commerce for its study on this massive, 955-page bill, and Senator Black for his work as sponsor.

I would like to reflect briefly on what we have learned at our hearings.

As we all know, Canada's tax system is based on self-assessment. It is important that those who wish to comply with our tax laws be afforded every opportunity to do so. That requires up-to-date information from individuals and businesses on which to base these self-assessments. Canadians need to know the changes to the system as they happen, not just every decade. We, as parliamentarians, need to provide Canadians with these changes in a timely manner. It is not that difficult a process. Frankly, we have come to realize that Parliament needs to take its role in this process much more seriously.

Members of the House of Commons and senators should be demanding that these so-called "housecleaning bills" be dealt with in a timely manner not only so as to uphold our side of the bargain when it comes to providing the laws by which Canadians can judge their finances, but also because we need to reassert ourselves back into the process. That is to say, we need to demand better from ourselves and fully utilize our powers so that business is taken care of and there is no recurring backlog on such an important file as Canada's tax system.

We heard in committee the results of such a backlog. Ms. Carole Presseault, Vice President, Government and Regulatory Affairs of the Certified General Accountants Association of Canada, put it this way:

> These delayed technical tax amendments cause serious difficulties for taxpayers, businesses, professional accountants, their clients and, of course, the government. These difficulties include lack of clarity and certainty in legislation; inability of Canadians to self-assess or correctly calculate taxes; higher costs for taxpayers to obtain

professional advice to comply with tax law; absence of appeal right4s for taxpayers for these unlegislated tax measures; less efficiency doing business transactions; and, obviously, greater cynicism about the fairness of the tax system.

This greater cynicism about the fairness of the tax system is a very important point. It leads people to choose methods of abusive tax planning, which cause a breakdown at the very core of the guiding principle of how our tax system is designed to work, which is the principle of self-assessment based on compliance with up-to-date tax laws.

The testimony we heard from witnesses went beyond the technical. We also heard how the lack of movement on legislation such as these amendments can take a huge personal toll on those unfortunate enough to be caught in the so-called no-man's-land caused by such legislative delays.

We need to make the revisions to the tax system a regular exercise of our Parliament. Thus, I agree with the first observation made by our committee, which suggests that an annual review, or at least a biennial review, take place to update the system. This would, of course, relieve the pressure on both government and taxpayers to ensure compliance with our tax system.

What can we do beyond passing Bill C-48 and updating our tax system on a regular basis?

This country has not had a review of the tax system since the report of the Carter commission in 1972, which was over 40 years ago. It is time to study how the tax system is adapting to a world that has evolved in leaps and bounds since then.

The Honourable Scott Brison, the member for Kings—Hants in the other place, has been pushing for such a study. He puts it this way:

> The reality is that there have been so many fundamental structural changes to the global and Canadian economies since 1972 that we desperately need a thorough study, review and perhaps royal commission to deal with the tax changes we need as a country, with the objective of building a fairer and, in terms of economic growth, a potentially more competitive capacity to attract investment, as well as a simpler tax system.

Thus, I agree with the second observation made by our committee, which suggests that a study of our tax system be undertaken immediately, in the form of a royal commission or a task force.

In the interest of fairness and simplification, an overhaul of our tax system is long overdue.

Once again, I would like to thank senators for their work on Bill C-48. I also express my appreciation for the work of staff in the Department of Finance and the Canada Revenue Agency for their cooperation and patience in finally seeing this legislation become law.

Hon. Joseph A. Day: Honourable senators, I would like to compliment Senator Black and Senator Moore for presenting this particular bill, Bill C-48, to us. I have listened to their comments and I would like to participate in the debate, but I have not had an opportunity to draw all my thoughts together.

With your permission, I would ask that the matter be adjourned in my name for the balance of my time.

(On motion of Senator Day, debate adjourned.)

[*Translation*]

STUDY ON THE PROCEEDS OF CRIME (MONEY LAUNDERING) AND TERRORIST FINANCING ACT

TENTH REPORT OF BANKING, TRADE AND COMMERCE COMMITTEE ADOPTED

On the Order:

> Resuming debate on the motion of the Honourable Senator Gerstein, seconded by the Honourable Senator Eaton, for the adoption of the tenth report of the Standing Senate Committee on Banking, Trade and Commerce entitled: *Follow the Money: Is Canada Making Progress In Combatting Money Laundering and Terrorist Financing? Not Really*, tabled in the Senate on March 20, 2013.

Hon. Céline Hervieux-Payette: Honourable senators, allow me to say that the exercise we went through between January 2012 and March 2013 was something I had gone through before. The audit by the agency tasked with studying the issue of money laundering was set up just over 10 years ago, and we are still learning. We have to understand that it is hard to deal with this issue.

I want to thank all those who contributed, especially our chair, who was very open to hearing from the many different groups that appeared before the committee. We heard from 69 witnesses. Some were from the same department, but they talked about different sections and problems. Nonetheless, the work done by the Standing Senate Committee on Banking, Trade and Commerce was in keeping with what we expect from an institution such as the Senate: look at new issues, examine them thoroughly and advise the minister who asked for our view on what methods to use to correct the situation.

To give you some context and perhaps add to your summer reading list, I was going to suggest that you read the report in its entirety and familiarize yourself with some of the acronyms. I will list them to show you that in order to put ourselves into the context from one meeting to the next, we had to deal with issues related to agencies called CBSA, the Canada Border Services Agency; CRA, the Canada Revenue Agency; the Department of Finance; FINTRAC, the Financial Transactions and Reports Analysis Centre of Canada; Justice Canada; PPSC, the Public Prosecution Service of Canada; the RCMP, the Royal Canadian Mounted Police, which everyone knows; and CSIS, the Canadian Security Intelligence Service.

• (1520)

This was all a result of FATF discussions, which is the G8 Financial Action Task Force. It will test your memory because acronyms are used in every report and every time there is a

reference to these institutions. I begged and pleaded to have them included in the report, but I am sad to say that you will not find them there. To make it easier, you may consult my speech so that you will at least be able to read the report.

Where do things stand now? It is important to note that the G8 estimates that between two and five per cent of global gross domestic product, approximately $800 billion, is laundered money. That is a significant amount.

The RCMP estimates that, each year, between $5 and $15 billion is laundered in Canada. I feel that we have a vested interest in looking very seriously at this issue to determine how Canada could reduce that amount and ensure that taxes are collected on that money because it is a question of recovering the proceeds of crime.

There are two kinds of crime, the worst ones with the worst reputation being Mafia-related crimes. Those crimes involve using tax havens, creating shell companies, then bringing the money back to Canada and putting it to good use in construction, funding businesses, investing in the stock market and so on. It is camouflaged in accounts that have likely made the rounds of various tax havens.

We must advise the minister to review the Proceeds of Crime and Terrorist Financing Act.

As an aside, the financing of terrorist activities represented about three per cent of our committee's study, since these activities are even more covert than Mafia money.

I should also point out that we compared notes with people who run different agencies, such as the Financial Transactions and Reports Analysis Centre. We met with witnesses, including the head of the U.K. agency, the United Kingdom Financial Intelligence Unit, and a mission went to the United States to meet the key players there.

As I mentioned, G8 leaders spoke out at a meeting that was held today. We must follow through on that report, and the states are committed to improving it. We hope that the minister will jump on this and that he will propose amendments to this bill in the fall or at the start of next year.

I will share some figures to give you an idea. In 2010 and 2011, there were 20 million reports under the current system. This means that all transactions over $10,000 were reported. Banks alone generate more than 95 per cent of those reports. Of the 20 million reports, 58,722 were questionable, but the important thing is knowing which of these reports could represent proceeds from crime.

However, what is a bit odd is that in 2010, the centre reported only 93 reports to the RCMP. Of those reports, 69 did not amount to anything and 23 are the subject of an ongoing investigation. Nevertheless, in 2010, out of 20 million transactions, only 93 suspicious incidents were reported to the RCMP.

The law is fairly general. It stipulates that any cash payment of $10,000 or more must be reported. Other agencies such as the one in the U.K. do not have a designated amount. They may consider any amount as suspicious, and they have a risk analysis system in place. I suppose they work by looking at particular sectors and develop a method to ensure that they do not have to rely on the dollar amount.

At this time, our committee has at least requested that all electronic transfers of $10,000 or more be declared, regardless of origin; this includes not only cash but electronic money as well.

The pre-paid card is a tool that seems innocuous because it does not represent a considerable sum of money. We are told that it is often used to cover the basic living expenses of people involved in terrorist activities. They are given cards with enough money — a few hundred or a few thousand dollars — to cover rent and food so that they can engage in terrorist activities without necessarily having to earn a living. This is their only area of activity. Obviously, this is not to say that all prepaid cards are necessarily a tool for terrorists, but they are one of the tools they use.

During the testimony, a major issue kept cropping up in our information systems. I think that given what happened recently in the U.S. and Canada concerning telephone calls, there is the whole issue of privacy. As you can imagine, the commissioner is doing her job and constantly urges us to be mindful of the privacy issue and the investigations that can be conducted to protect personal information.

One of our 18 recommendations pertained to public education. I like to point that out, and I am pleased that the government recently decided that it would reward whistleblowers who provide information about people who do not pay their taxes. We sometimes see people with fairly low incomes living an extravagant lifestyle. Perhaps there is money laundering involved. In such cases, the government could obtain information from a whistleblower. The government is in the process of implementing a series of regulations to ensure that people who do file their income tax returns are not victims of revenge, and to pay whistleblowers up to 15 per cent of the tax money that is recovered.

As I said, there are two types of crime. I spoke about heinous Mafia-related crimes that occur in tax havens. Yet in these same tax havens, there is legitimate money on which no one has paid taxes. That is called tax evasion, which is also a crime. In both cases, we are talking about proceeds of crime. The money may not come from the same source and the source may be legitimate in some cases, but when people do not pay their taxes, they are committing a crime. This government measure will — I hope — help to curb people's desire to hide money in tax havens.

I would also like give a bit of a cost-benefit analysis. Despite all the sympathy I have for the dedicated people who work for the Canada Revenue Agency, I regret to inform you that Canada spends about $64 million a year on all the organizations that work to recover this laundered money. Unfortunately, very little money is recovered and very few charges are laid. Only about $80 million dollars is recovered every five years.

Our system therefore needs to be improved. I mention this because I think that everyone knows it to be true. Just think of the list of all the organizations that deal with this issue.

• (1530)

It became clear that there was a blatant lack of dialogue and coordination in the administration of this policy on money laundering. There are many stakeholders and eight government organizations involved. Thus, it is difficult to build a court case, get a conviction and send these people to prison. The key players are border agencies, banks and business owners.

Those who sell luxury products must also be monitored, considering the sums of money involved. As we know, one can invest laundered money in a magnificent yacht, which may be worth $500,000 or more. One can invest in jewels. Needless to say, gemstones can be extremely expensive and can be used to conceal huge sums of money. Thus, the range of products that must be examined and the list of people who must report cash payments for these items have been expanded.

Improving the effectiveness of officials in the Department of Finance to eliminate loopholes is therefore not a luxury.

If we could recover between $5 billion and $15 billion a year, we could reduce the deficit and improve access to prescription drugs. We could build daycare centres and invest in infrastructure. These are significant sums of money, between $5 billion and $15 billion every year.

It is important to understand why we also proceed in this manner as far as reinvestment is concerned. Consider the example of a Canadian businessman who has made his fortune legitimately. Then think about someone who comes here with laundered money. Laundered money usually comes from the drug trade and all kinds of illicit activities like prostitution, human trafficking and weapons trafficking. These people come and compete in Canadian markets. They do not have to pay any interest because proceeds from these activities just keep pouring in. Our business people are therefore at a disadvantage when bidding on contracts. Some sectors are more vulnerable than others. The construction sector is particularly vulnerable, but so are many others. Money from XYZ company that comes from an island tax haven somewhere is invested in the stock market.

I would ask for two more minutes.

The Hon. the Speaker: Do honourable senators agree?

Hon. Senators: Agreed.

Senator Hervieux-Payette: In such a case, the stock exchange can be manipulated. It happened in Montreal. BioChem was forced to undergo a criminal investigation because organized crime was able to fraudulently manipulate the price of certain stocks. Share prices were artificially inflated, the shares were sold, the stock plummeted and major legitimate Canadian institutions were put at risk.

Passing legislation on this sector is therefore not a luxury but an obligation. As my English-speaking friends say, "it's a must." The government has a duty to make these changes and fulfill its international obligations. To that end, at this morning's press conference, the Prime Minister pledged to work with his colleagues in order to essentially destroy tax havens.

Hon. Pierre Claude Nolin: Senator Hervieux-Payette, you met with the Americans. Every year, they prepare a very long report on the committee's mandate, among other things. Is the exchange of information between our two countries comparable to the exchange among American authorities that have the same responsibility as a number of Canadian agencies?

Senator Hervieux-Payette: I was going to tell you that my trip to Washington and New York was very useful, especially because I learned more about how they operate. They do certain things that we do not do here. We discussed that and will do so again with the minister.

Some of the money collected is used to augment the budget of the organization that goes after criminals. Thus, they have much more flexibility and money to build capacity. They, too, are frustrated by the amount of money recovered.

Wall Street in New York and The City in London manage 80 per cent of international funds. These two centres need to be held to rules that ensure that big multinationals are not putting their profits in tax havens and then funnelling the money back into the country by other means. We need to ensure that these people will not allow proceeds of crime into their economy.

The United States has an advantage in that sense because it has more money. On the other hand, like us, it has difficulty coordinating the people who work in the sector, and it lacks the political will to link the issue of money laundering with tax havens.

When we met to write the report, tax havens were not a hot topic. However, given recent events, we know full well where that money comes from. Now, it is important that clear mandates be given and that we tighten up Canada's laws.

Senator Nolin: According to testimony from the RCMP — and from what I read in Senator Gerstein's opening remarks when he tabled the committee report — the annual global volume of laundered money is between $800 billion and $3 trillion. That is huge. We are not just talking about buying boats, fur coats or cases of wine. We are talking about money being deposited in banks.

You just spoke about two major financial centres in the United States and Great Britain. What about our banks in Canada? Am I to understand that our banks are innocent, immune and not mixed up in this? I have a hard time believing that Canadian banks would pass up between $800 million and $3 trillion and engage only in operations that are totally legitimate, barring any proof to the contrary.

Senator Hervieux-Payette: The most famous case is that of HSBC, which was operating in Canada. Some arrests were made because the bank was promoting the practice of sending money out of Canada to evade taxes.

With regard to our large banks, there is still immunity here. However, an investigation should be conducted. The process is much less complicated today, when people know how to use a computer. Very few people walk around with a briefcase

containing $500 million. In general, these transactions are done electronically. It is therefore much easier to trace the various companies used to hide these amounts. We hope that the banks, like the government, will get to the bottom of things and find out where this money is coming from.

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

Hon. Senators: Question!

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

Hon. Senators: Agreed.

(Motion agreed to and report adopted.)

[*English*]

INCOME TAX ACT

BILL TO AMEND—THIRD READING—MOTIONS IN AMENDMENT—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Carignan, seconded by the Honourable Senator Marshall, for the third reading of Bill C-377, An Act to amend the Income Tax Act (requirements for labour organizations);
>
> And on the motion in amendment of the Honourable Senator Ringuette, seconded by the Honourable Senator Jaffer, that Bill C-377 be not now read a third time, but that it be amended in clause 1,
>
> (*a*) on page 2, by replacing line 30 with the following:
>
> "the period is greater than an amount that is equal to the maximum total annual monetary income that could be paid to a Deputy Minister, shown as"; and
>
> (*b*) on page 3, by replacing line 13 with the following:
>
> "ees with compensation that is greater than the maximum total annual monetary income that could be paid to a Deputy Minister and disbursements";
>
> And on the motion in amendment of the Honourable Senator Segal, seconded by the Honourable Senator Nancy Ruth, that Bill C-377 be not now read a third time, but that it be amended in clause 1,
>
> (*a*) on page 2,
>
> (i) by replacing line 1 with the following:
>
> "(2) Subject to subsection 149.01(6), every labour organization and every", and
>
> (ii) by replacing line 30 with the following:
>
> "the period is greater than $150,000, shown as";
>
> (*b*) on page 3, by replacing line 13 with the following:
>
> "ees with annual compensation of $444,661 or more and";
>
> (*c*) on page 5, by replacing lines 34 to 35 with the following:
>
> "poration;
>
> (*b*) a branch or local of a labour organization;
>
> (*c*) a labour organization with fewer than 50,000 members;
>
> (*d*) a labour trust in respect of one or more labour organizations that, in total, have fewer than 50,000 members; and
>
> (*e*) a labour trust the activities and operations"; and
>
> (*d*) on page 6,
>
> (i) by replacing line 6 with the following:
>
> "described in paragraph (6)(*e*)), that is limited",
>
> (ii) by replacing line 10 with the following:
>
> "(6)(*e*);", and
>
> (iii) by adding after line 16 the following:
>
> "(8) For greater certainty, nothing in this section shall be interpreted as affecting solicitor-client privilege.".

The Hon. the Speaker: Honourable senators, I will make an observation for clarity of the procedures. Yesterday, during the debate on Bill C-377 at third reading, the Honourable Senator Ringuette moved an amendment. Subsequently the Honourable Senator Segal moved a separate amendment.

• (1540)

As honourable senators know, a practice has developed where the Senate sometimes give leave to "stack" amendments at third reading. Rather than limiting debate to a single amendment until it is decided, the final resolution of all amendments is put into abeyance until the conclusion of all debate related to the third reading motion and the various amendments and subamendments. Once debate is concluded, any amendments are put to the Senate in the order in which they were moved. If none carry, the Senate will eventually deal with the motion that the bill be read a third time. If any of the amendments carry, the question would then be that the bill, as amended, be read a third time.

Since it is possible that some amendments overlap or contradict each other, if one amendment is adopted it might affect how or whether some of the subsequent amendments are put to the Senate.

This process of stacking amendments is normally done with leave. Yesterday there was no objection to Senator Segal moving his amendment. This practice or process has been applied in the current situation since it is the simplest way, in light of our procedures, to accommodate the situation that has arisen. Other amendments can, with leave, be added to the stack.

Is that clear, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: On debate.

[*Translation*]

Hon. Fernand Robichaud: Honourable senators, is it agreed that the amendments that were proposed yesterday be stacked?

The Hon. the Speaker: Yes.

Senator Robichaud: Honourable senators, although there was no request for leave, do you still grant it?

The Hon. the Speaker: Yes. During yesterday's sitting, the Senate accepted the second amendment proposed by the honourable senator. Senators agreed to a completely standard procedure.

I also noted yesterday that, if there were any more amendments, they could be added and that a senator could speak about either the main motion or any of the amendments.

Hon. Pierrette Ringuette: Honourable senators, as you mentioned, some amendments are very different from others. I would like to have the opportunity to speak about each individual amendment. Is that possible? I think it is simply a matter of identifying which amendment one wants to speak about.

[*English*]

Hon. Joan Fraser: Could I ask a question, Your Honour? When Senator Ringuette just asked you, you nodded, but I do not think the record would show a nod.

The Hon. the Speaker: I concur with the Honourable Senator Ringuette's interpretation. A senator may rise and speak on any one of the amendments, and they have the right to speak on each of them.

Hon. James S. Cowan (Leader of the Opposition): Honourable senators, I was hoping that someone from the government side might speak on this bill. Senator Carignan proposed the motion last night but he did not speak to it, and Senator Eaton, the sponsor of the bill, has not spoken. We heard eloquent speeches last night from Senator Ringuette and Senator Segal and, frankly, I expected someone from the government side would respond today. I would be happy to hold my tongue until I have heard from them if someone wishes to speak today.

Silence speaks volumes.

Honourable senators, in his book *1984*, George Orwell wrote:

> Doublethink means the power of holding two contradictory beliefs in one's mind simultaneously, and accepting both of them.

Sales of *1984* have skyrocketed recently, and discussions abound that 2013 looks a lot like the scenario presented in *1984*. The source of this latest surge in interest relates, of course, to the revelations about electronic surveillance, but I worry that the parallels in fact go deeper and are, if anything, even more pernicious.

The Harper government talks a lot about transparency. This is the standard that the supporters of Bill C-377 wave as they triumphantly demand the right to publish individuals' salaries, loans and even health and dental benefits.

We all recognize that transparency is a critical condition for a healthy democracy. How can people properly assess their government if they do not have access to the information about what that government is doing?

Ironically, although the Harper government came to power promising "a new era of transparency and accountability," it has proven to be the least transparent government in Canadian history.

I have spoken about this in some detail in other speeches, including at second reading on this bill, and I will not repeat now what I said then. However, it is deeply disturbing to see the government simultaneously reject calls for greater transparency about its own actions while turning around and with cries of "Transparency! What do you have to hide?" then promote Bill C-377 to impose an unprecedented level of personal, public disclosure on individual Canadians just because they work for or do business with a labour organization.

Honourable senators, this is transparency turned upside down — rejected where it actually is proper, in the sphere of government, and imposed where it does not belong, on private organizations. That is, if I may mix my literary metaphors, the brave new world of doublethink. Let us just call it "Harper-think."

Canadians value and expect transparency, but they also understand when transparency is being used as a ploy for other, far less noble purposes. They understand when the line is being crossed between transparency and inappropriate intrusion into the lives of private citizens. They recognize when it is in fact being wielded as a weapon to undermine a group in society — in this case, trade unions.

Honourable senators, that is what Bill C-377 is all about.

The Privacy Commissioner of Canada testified before the Banking Committee. This is what she said:

> ... transparency and accountability need to be appropriately balanced with the protection of individuals' privacy. Put differently, any public disclosure of personal information, as

> contemplated in Bill C-377, needs to be carefully assessed against a substantive need for disclosure.

She was very clear:

> ... I think that naming that category of individuals that would still be named under this current legislative draft is a significant invasion of their privacy. By not restricting web searches in some way, given the power of web searches these days and the ultimate replicability of information on the web, since the web never forgets and people have the right to be forgotten and other issues like that, I think I would have problems with the bill. I would have problems with it.

It would be a "significant invasion of privacy," according to Canada's Privacy Commissioner. And for what purpose? Canadians are deeply concerned at the idea that their telephone calls and emails may be monitored for so-called metadata by the Communications Security Establishment of Canada — and that is for reasons of national security, to protect all Canadians against terrorism. How can we pass a law that will force the posting on the Internet of private citizens' salaries for neighbours, friends and relatives to see, and for what public purpose?

The only purpose that has been identified is for the sake of disclosure itself, but disclosure cannot be for disclosure's sake. Prurient curiosity is not a reason to violate a private citizen's privacy. That is so-called transparency run amok.

Of course, the committee heard extensive testimony that the effect of the bill will be to give an unfair advantage to one side — the employer's side — in labour disputes as a union's financial position and the ability to strike is known to its bargaining partner, with no similar disclosure the other way. The bill will unfairly advantage non-unionized organizations, like Merit Canada, over their unionized competitors. That is not transparency, honourable senators. That is undermining collective bargaining and labour relations in this country.

• (1550)

Our colleagues on the Standing Senate Committee on Banking, Trade and Commerce were deeply concerned by the testimony they heard about the many serious issues with this bill. The committee sat for three weeks of hearings. They heard from 44 witnesses and received many more written submissions from across the country from five provincial governments; trade unions; professors; the Privacy Commissioner of Canada, as I mentioned a moment ago; and a myriad of groups representing the gamut of our economy, from doctors and nurses, to screenwriters, accountants, teachers, police officers — and that is just a few.

Overwhelmingly, the testimony that the committee heard was that this bill is seriously flawed and that it serves no public good. Witness after witness implored us to give this bill a sober second thought and not to pass it.

Indeed, as this chamber has heard, the members of our committee, led by our new Conservative colleague Senator Black, decided to append observations to its report of the bill. I know we have all heard them before, but they are brief and I believe they are well worth repeating. This is what the committee said by way of observations:

> While the Committee is reporting Bill C-377 without amendment, it wishes to observe that after three weeks of study — hearing from forty-four witnesses and receiving numerous submissions from governments, labour unions, academics, professional associations and others — the vast majority of testimony and submissions raised serious concerns about this legislation.
>
> Principal among these concerns was the constitutional validity of the legislation both with respect to the division of powers and the Charter. Other issues raised include the protection of personal information, the cost and need for greater transparency, and the vagueness as to whom this legislation would apply.
>
> The Committee shares these concerns.
>
> The Committee did not offer any amendment because these substantial issues are best debated by the Senate as a whole.

Honourable senators, let me repeat what I said when I stood up. I expected that, following the powerful speeches by Senator Ringuette and Senator Segal yesterday, we would have a defender of the bill, either Senator Carignan, who proposed the motion yesterday; Senator Eaton, the sponsor of the bill; or some other government senator who would stand in his or her place and give us the other side of the story. There are always two sides of the story, but we need to hear the other side. We heard two powerful speeches and I was hoping that before I had an opportunity to speak, I would hear from them. That, apparently, is not the case.

I was reading the observations which were appended to the report and I point out, honourable senators, that this was not a minority report of the committee. To the contrary, it was proposed by a Conservative senator and supported by honourable senators on both sides of the aisle.

As honourable senators know, when I spoke at second reading on Bill C-377, I raised many concerns with the purpose, the effect, the drafting and, perhaps most important, the constitutionality of the bill. The witnesses before our Standing Senate Committee on Banking, Trade and Commerce have only confirmed that my initial concerns were more than justified.

As our committee recognized in its observations, there are very many profound problems with Bill C-377, beginning with the most fundamental: its constitutionality. This point was repeatedly made by legal experts who appeared before the committee. Indeed, none of the constitutional experts who appeared before the committee said that the bill was constitutional. To the contrary: they were all very clear that it is not.

Bruce Ryder is a constitutional law professor at Osgoode Hall Law School. As he told the committee, he has taught constitutional law at Osgoode since 1987 — for more than 25 years. He has also published frequently on issues of the division of

legislative powers between Parliament and the provinces. He is, in other words, a recognized expert in this the field. He was very clear in his testimony to our committee. He said:

> I am here to share the bad news that Bill C-377 is beyond the legislative jurisdiction of the Parliament of Canada. Its dominant characteristic is the regulation of the activities of labour organizations, a matter that falls predominantly within provincial jurisdiction to pass laws in relation to property and civil rights pursuant to section 92.13 of the Constitution Act, 1867. If Bill C-377 is passed by Parliament, it will be declared unconstitutional and of no force and effect by the courts.

Professor Alain Barré of Laval University testified on the same panel as Professor Ryder. He, too, concluded that Bill C-377 deals with matters that fall within provincial jurisdiction and cannot be justified as a taxation measure. He referred to two other legal opinions in the course of his testimony, one from constitutional law Professor Henri Brun, also of Laval University; and another from constitutional law Professor Robin Elliot of the University of British Columbia.

The sponsor of this private member's bill in the other place, Mr. Russ Hiebert, also testified before our committee. He was asked which constitutional experts he consulted who said that the bill was constitutional. This is what he replied:

> Regarding the constitutionality of the bill, first, as I mentioned in my opening remarks, I consulted the House of Commons lawyers. The standing committee within the House of Commons — a subset of the PROC committee — has four criteria to permit a private member's bill to proceed to the house. One of them is whether it is constitutional, and that is an all-party committee that included, in this case, former Liberal leader Stéphane Dion. It assessed the bill and said it was not unconstitutional.
>
> In addition, the Attorney General of Canada, who is the highest legal officer in Canada, recommended that the government support the bill. He could not have done so if it was not deemed to be within the bounds of the Constitution.

Mr. Hiebert was unable to provide any documents to support his contention that the Minister of Justice, or the Attorney General of Canada, had in fact examined the bill and concluded that it is constitutional. In fact, it quickly became clear that the real basis for his position was the report of the PROC subcommittee. This was reiterated later in another hearing by another leading proponent of the bill, Mr. Terrance Oakey of Merit Canada. In arguing for the constitutionality of the bill, Mr. Oakey said this:

> ... the subcommittee on private member's bills, whose membership includes the noted constitutional scholar the Honourable Stéphane Dion, received expert counsel by the House of Commons lawyers and did not find the bill to be unconstitutional, despite the fact that NDP members of Parliament made the exact same arguments that Professor Ryder made at this committee last week.

Mr. Dion wrote to the committee upon learning of this testimony. He told the committee that, "the Subcommittee on Private Member's Business of the Standing Committee on Procedure and House Affairs is not a constitutional court. The Subcommittee does not perform in-depth, comprehensive and definitive analyses of Bills. The only thing we do at Subcommittee is to determine if a Bill is worthy of debate and votable."

Honourable senators, "worthy of debate and votable" is not synonymous with constitutional.

I acknowledge that there was one legal witness who appeared before the committee to argue that the bill is constitutional. However, it quickly emerged that this witness is not a constitutional expert. Indeed, while he is a professor of law at the University of Alberta, he has never taught a course in constitutional law, nor has he ever appeared before a court on a constitutional case. He has taught courses in business law, energy and unfair trade. It also emerged under questioning — and I was surprised that the witness did not volunteer this information himself among the other points he raised, in his words, "in the interests of transparency" — that he is currently serving as an appointee of Minster Kenney on the Selection Advisory Board for the Immigration and Refugee Board of Canada.

Honourable senators, it is clear that the constitutional experts who appeared before the committee were unanimous: This bill is not constitutional. We would be exceeding our constitutional authority if we were to pass it.

• (1600)

There was one opinion brought to the committee's attention that went counter to these and argued that the bill is in fact constitutional. That opinion was rendered by former Supreme Court of Canada Justice Bastarache, commissioned very late in the proceedings by Mr. Oakey of Merit Canada and released by Mr. Oakey in a press release. This opinion, Mr. Oaky acknowledged in his press release, was paid for. In other words, Mr. Bastarache, who is now a lawyer in private practice, had been hired for the purpose. This opinion was rather unusual. One might almost say it was a maverick opinion or perhaps, as others have suggested, consistent with Mr. Bastarache's prior position, a dissenting opinion. Unfortunately, our colleagues on the Banking Committee had no opportunity to challenge the opinion, as Mr. Bastarache never appeared to defend his position. The opinion, as I said, was provided by Mr. Bastarache to his client Merit Canada, which then simply released it to the public in a press release. In essence, Mr. Bastarache argued:

> Insofar as the new provisions address matters of fiscal transparency or fiscal integrity, they can properly be characterized as falling under Parliament's power to make laws in relation to "the raising of money by any mode or system of taxation" under 91(3) of the *Constitution Act, 1867*.

Professor Ryder took the step of writing to the committee to express his strong disagreement with this argument. He wrote:

> Senators should be deeply concerned about the extraordinary breadth of the power to impose substantial financial reporting costs on provincially regulated organizations that this line of reasoning about the taxation power gives to Parliament.

Mr. Ryder concluded:

> My view, shared by other constitutional scholars whose opinions were cited in committee hearings in Parliament, is that the courts will see through the ruse of using the Income Tax Act as a Trojan horse for an unconstitutional attempt to regulate all labour organizations.

I agree.

Honourable senators, the argument of Mr. Bastarache is an exceptionally dangerous one. Essentially, one could say that any citizen, as a taxpayer, is subject to the Income Tax Act. Under this argument, Parliament would have the jurisdiction to pass any legislation mandating any conceivable behaviour of them simply by using the Income Tax Act as justification — regulating the behaviour of public schoolteachers, accountants or truck drivers simply because they are taxpayers. Is that really where we want to go?

Honourable senators, it was not only the constitutional experts who told us that we would be legislating in areas of provincial jurisdiction. Five provinces wrote in and two of them testified, expressing concerns about the constitutionality of Bill C-377.

Five provinces, honourable senators: Quebec, Ontario, Nova Scotia, Manitoba, and New Brunswick — large provinces and small, governments of all political stripes, Liberal, NDP, Parti Québécois and Conservative. Based on the 2011 census, Manitoba, Ontario, Nova Scotia, New Brunswick and Quebec comprise 71 per cent of the population of Canada. All said that the bill is not constitutional, is not needed and would negatively disrupt labour relations in the province.

Not one province wrote in or sent a representative to argue that the bill is a constitutional exercise of federal jurisdiction and should be passed. Not one province, honourable senators.

Let me read to you from the letter received from the Conservative government of New Brunswick. The Honourable Danny Soucy, Minister of Post-Secondary Education, Training and Labour, wrote to the committee on June 6 because, in his words, "I wish to provide my concerns in writing regarding Bill C-377."

He said:

> The Government of New Brunswick is concerned about the financial disclosure requirements proposed in Bill C-377 because, in our opinion, the internal administration of union business is primarily a matter between the union and its members. The issue of union financial disclosure is addressed in New Brunswick's *Industrial Relations Act*, which includes financial accountability provisions to ensure fiscal transparency by organized labour to its members. Under this provision, union members may request a copy of audited financial statements confirming appropriate management and administration of union funds. The Labour and Employment Board has the authority to enforce the provision, if necessary.
>
> New Brunswick data demonstrates that no complaints have been filed with the Board in the last four years and very few have ever been brought for adjudication. This confirms that existing protections available in New Brunswick's legislation meet the expectations of union members. It also suggests that the democratic principles operating within union structures are responsive and effective in meeting standards of accountability and transparency demanded by union members.

Mr. Soucy, the Conservative Minister of Labour in New Brunswick, continued:

> The regulation of labour law, including governance of trade unions, is an area of provincial jurisdiction. It has been well-settled since the Privy Council decision in *Snider* (1925), that jurisdiction over labour relations rests with the provinces. Bill C-377 focuses on imposing reporting obligations on unions, rather than managing federal taxation. As noted above, New Brunswick already effectively legislates the subject-matter proposed under Bill C-377.
>
> I have consulted with public and private sector unions in New Brunswick and all respondents expressed concerns about Bill C-377's potential implications. These concerns include:
>
> - Impact on key constitutional rights:
>   - privacy rights (especially where unions administer health, benefit or pension plans with sensitive personal member information); and
>   - *Charter* rights (including freedom of association, freedom of speech, and freedom from unreasonable search and seizure).
> - Significant administrative and financial burden to generate the comprehensive reports required by the Bill, particularly for small Locals.
> - Concerns that the Bill might create a competitive disadvantage by virtue of the party opposite gaining knowledge of a union's financial position, for example:
>   - in dealing with employers when collective bargaining (exposure of strike funds), etc, responding to certification applications, dealing with grievances and other legal or policy matters.
>
> As the Minister responsible for labour in the province, and in light of the concerns highlighted above, it is my strong recommendation that this Bill not proceed.

This letter is representative of the position taken by all of the provinces that intervened in this matter. The Minister of Labour for my own province of Nova Scotia came to testify in person. He told our committee that Bill C-377 would be so disruptive to collective bargaining that the bill "is a grenade in the room of collective bargaining."

Honourable senators, the duly elected governments of five provinces, representing almost three quarters of the population of Canada, have told us they oppose our passing of this bill.

There has been a great deal of discussion lately about our role as senators and whether, indeed, the Senate has any value or purpose. Here, we all know the history of this institution. As

originally conceived, a fundamental — indeed critical — role of the Senate is to protect and defend regional and provincial interests against the combination of majorities in the House of Commons. As Sir John A. Macdonald said during the Confederation debates at the Quebec Conference:

> To the Upper House is to be confided the protection of sectional [now referred to as regional] interests: therefore, is it that the three great divisions are there equally represented for the purpose of defending such interests against the combinations of majorities in the Assembly.

Honourable senators, we have been contacted by half of the provinces asking us to oppose this bill. With not a single province expressing support, what imaginary region of the country would we be representing or supporting if we agreed to pass this private member's bill?

We represent our individual provinces in this chamber. More than half of us have been urged by our provinces to defeat this bill. More telling, not a single one of us has been told by our province to pass the bill. We have all been asked by the member for South Surrey-White Rock-Cloverdale to pass this bill, but none of the provinces we represent were interested in associating themselves with that member — not even the government of his own province. As well, the province of the sponsor of the bill here in the Senate has implored us to defeat the bill.

• (1610)

If we pass this bill that no province supports and that, indeed, five provinces tell us will wreak havoc with labour relations in their provinces, then we will be doing so at the behest of the member from South Surrey-White Rock-Cloverdale and Merit Canada. If we pass this bill, I know of no clearer way of declaring that we are here not to represent our regions, but rather to represent private interests.

Just this morning, Preston Manning published what he called, "An open letter to the Canadian Senate" in the *National Post*. He challenged us "to be vigorous defenders and champions of regional and minority interests." He pointed to various instances over the years when, in his words, the Senate failed to "deliver on your founding purposes." He said:

> ... it is imperative that you now advance concrete measures to rekindle public faith in the Senate's willingness and capacity to provide sober second thought and effective regional representation.

Honourable senators, if Bill C-377 is not such a case, then I do not know what is.

Of course, the issues that have been raised by the provinces urging us not to pass this bill are the issues we heard repeatedly raised by witnesses who appeared before our committee. Witness after witness told us that Bill C-377 is a solution in search of a problem. Labour unions are already required — by law in most provinces and by their own constitutions, as well — to provide their members with financial information about their union. Witness after witness told us of their concerns for the privacy of their employees and the businesses that do work for them, if their names, salaries and other information must be posted online.

The President of the Canadian Police Association testified about his association's concerns. He said:

> ... this proposed legislation seems like a solution in search of a non-existent problem and a costly solution at that.

Indeed, he drew a parallel between this bill and the gun registry, saying:

> As police officers, we were told that the gun registry was expensive to set up, expensive to maintain and was of little value since criminals would not be the ones to register their firearms. Bill C-377 will create a registry that will be expensive to set up. According to Canada Revenue Agency, it could cost many millions of dollars, be expensive to maintain and would likely be of little value since people committing fraud are unlikely to report on their own criminal behaviour.

Perhaps most significantly, the President of the Canadian Police Association told the Committee of the security risks to which his members would be exposed if this legislation were to pass. He said:

> I will give you one good example. A person on my executive board in Vancouver is a sergeant in the Combined Forces Special Enforcement Unit in British Columbia. The sole function of that unit is to target organized crime groups, outlaw motorcycle gangs, and identify gangs engaged in serious criminal activity. Their main function is to surveil gang members and their activities with a view to successfully prosecuting them. Bill C-377 would put this individual in a situation where at the very least his name would be published. In this day and age with technology the way it is, it probably would not take much for someone to do something.

Honourable senators, I return to the question I have asked repeatedly about this bill: What is the overriding public purpose to justify this kind of invasion of Canadians' privacy — to justify placing this police officer, and others like him, at risk?

Make no mistake. Asking the Canada Revenue Agency to take on the tasks demanded by the bill will require it to forgo doing other work that it is expected to be doing. This was made very clear when officials from CRA testified before our committee. The officials said:

> ... there would be, at the very least, an opportunity cost. There would be other activities that we would forgo.

Honourable senators, which tax evaders will CRA not be able to pursue because it has allocated more scarce resources to this bill? How many millions — or billions — of dollars in tax revenue will we forgo because of this?

Of course, that is separate and apart from the millions of dollars that our committee heard this bill will cost unions to be able to comply with the onerous disclosure obligations imposed by the bill.

Ken Georgetti, President of Canadian Labour Congress, testified on June 6 and said:

> When we saw this legislation, I asked our accounting department to give us a cost. Our budget is about $20 million per year, and the cost to set up a database to collect this information would be $400,000. Our ongoing cost to collect this information, to be able to segregate it and collect in a way that would be presentable, would be $400,000 annually. If you extrapolate that across our system, you are talking in the tens if not hundreds of millions of dollars to our union movement, which would have to be expended to collect this bureaucratic information.

There are many problems with this bill, from constitutional issues, privacy ones, public policy and basic drafting. In my opinion, this bill cannot be amended in any way that will make it acceptable. Instead, this is one of the rare instances when the Senate should simply defeat a bill passed by the other place. However, I realize that there are senators opposite who may disagree. I can count and I know that the numbers of those of us opposed to this bill have a slim chance of persuading others to reject the bill, although we will continue to do our best in that regard.

Notwithstanding that I believe the bill cannot be fixed, I would like to move an amendment that may at least eliminate one of the more egregious features of the bill. It relates to an issue I discussed at length at second reading.

The proponents of the bill, including Mr. Hiebert and Senator Eaton, have argued that the amendments passed in the other place limit the disclosure obligations of labour organizations, for example, to exclude disclosure of the names and salaries of employees earning less than $100,000 unless they are in positions of authority.

In fact, as I said at second reading — and others, for example the Privacy Commissioner, have supported my interpretation — because the opening paragraph (b) of clause 149.01 ends with the words "and including", the extensive list that follows are only examples of what must be disclosed. The words in that opening paragraph (b) govern, and they, for example, require the naming on the Internet of every payer and payee who receives cumulative value greater than $5,000 from the labour organization.

My amendment would replace the words "and including" with the word "namely," and make a small change in the opening of the paragraph, to make it clear, as we were told by the sponsors in both chambers, that the paragraphs that follow are the entire and not the partial list of what is required to be disclosed.

Once again I want to emphasize that I am under no illusion that this amendment, or indeed any amendment proposed by us, can fix this bill. Simply put, we should refuse to pass this bill.

I have argued before in this chamber that as legislators we would be wise to adopt the medical profession's maxim, "First, do no harm." Bill C-377 would do harm. It would do harm to federal-provincial relations, it would do harm to the Charter, and it would do harm to privacy rights of Canadians. It would do serious harm to individuals, as our committee heard from the President of the Canadian Police Association who fears for the safety and security of his members if the bill should pass. This bill will do profound harm to labour relations in this country. In the words of the Nova Scotia Minister of Labour, it would be a "grenade in the room of collective bargaining."

• (1620)

Honourable senators, the government keeps telling Canadians that our economy is in a fragile state and must not be thrown off balance. Trade unions, witness after witness from across the spectrum of Canada's economy, and five provincial governments all have warned us not to pass Bill C-377, that it risks destabilizing labour relations across the country. Why would we do this when, as the Harper government tells us, the economy is so fragile?

The submission to the Senate Banking Committee that was filed by the Government of Ontario last week addressed this very point. It said:

> This bill has the potential to drastically derail collective bargaining in Ontario. In these tough economic times we need governments, organized labour and management to work together, and this bill would needlessly intervene in that process.
>
> Balance is essential. Putting a thumb on the scale in either direction damages this delicate balance. By imposing unnecessary and draconian costs on one side, and not the other, this bill might unbalance that scale.
>
> Our economy works best when it is working. Inviting labour strife, by definition, interferes with this goal.

The concluding line in the submission from Ontario Minister of Labour Yasir Naqvi is:

> [W]e recommend that this bill not be passed into law.

The New Brunswick Minister of Labour's conclusion was the same:

> [I]t is my strong recommendation that this Bill not proceed.

The Honourable Frank Corbett, Minister of Labour and Advanced Education in my home province of Nova Scotia, came to Ottawa to tell our committee in person:

> This bill has the potential to disrupt collective bargaining at a time when we need greater cooperation between governments, organized labour and business to resolve our economic challenges....
>
> No one will be helped by the passage of Bill C 377. I urge you to vote against this bill and end this needless attack on labour organizations.

The message from the Manitoba and Quebec governments was the same.

Honourable senators, this is a bad bill. Let us follow the ancient maxim from the Hippocratic oath recited across the country by the medical profession and, first and foremost, make sure that in passing legislation we do no harm. We should not pass this bill. At the very least, we should minimize the harm we will actually do.

MOTION IN SUB-AMENDMENT

Hon. James S. Cowan (Leader of the Opposition): Consequently, I move, as a sub-amendment that the motion in amendment be amended as follows:

That Bill C-377 be not now read a third time, but that it be amended in clause 1, on page 2,

(*a*) by replacing line 23 with the following:

"(*b*) a set of the following statements for the fiscal period"; and

(*b*) by replacing line 36 with the following:

"that is to be paid or received, namely,".

Some Hon. Senators: Hear, hear.

Hon. Anne C. Cools: Would the honourable senator take a question?

Senator Cowan: Certainly.

Senator Cools: I thank the honourable senator for his detailed and clear statement. Clarity of mind is always a very desirable thing, I thank him for that. I listened carefully. I wonder if the honourable senator could answer a question. If he cannot answer, I both appreciate and understand that.

I have always understood that the Income Tax Act is part of the taxing relationship between sovereign and subject, in other words, between government and citizen. I have always understood that proposed changes to the Income Tax Act should originate with the government, preferably the Minister of National Revenue. I have always believed and have been taught that the Income Tax Act is not a proper object for amendment by private members, or private members' bills.

Has Senator Cowan given any thought, or did any witness raise such a question in committee? It is rare that proposed amendments to the Income Tax Act are moved as a private member's bill. I wonder if he has thought about this, and if not, I appreciate that he has not.

Senator Cowan: The short answer, honourable senators, is that I have not thought about it, but I will now.

I agree with the honourable senator in that it is unusual to have a private member's bill that proposes to amend the Income Tax Act. Normally, such amendments involve the raising of more money, which is something that the government would do. However, this bill would not raise more money, and I suspect that is the reason it was allowed as a private member's bill without being ruled out of order — if that is the appropriate term — in the House of Commons when it was introduced by a private member.

The essential argument is that while it purports to be an income tax matter and, therefore, within the federal power set out in the Constitution Act, the expert evidence heard by the committee suggested that while it purports to be an income tax matter, it really is a matter regulating labour relations. Under the Constitution Act, labour relations are a provincial concern. That is why the five provinces have written to the committee asking us to not pass the bill. I suspect that none of the other provinces have written to suggest that this is an appropriate use of the undoubted power of the federal authority under the Constitution Act to legislate with respect to income tax matters.

Senator Cools: I take the honourable senator's point well. I am mindful that the bill's intent is not to raise taxes or money. In a way, this fact of the raising of taxes is not particularly relevant to the point that I am making. Any bill to raise taxes has to be introduced by a minister in the House of Commons. The raising of a tax is beyond the reach of a private member.

However, I am speaking to a principle which is as large and important as the Income Tax Act. Based on what I am hearing here, the Income Tax Act is possibly being put to a use that is not intended in the framing and casting of the act. In addition, I am still under the impression that amendments to the Income Tax Act should be moved by and under the purview, and with the support of a minister of the Crown. I could be proved wrong, but I have always understood that. Perhaps that is a point I may want to speak to, so I will take the adjournment of the debate.

The Hon. the Speaker: We still have questions and comments.

[*Translation*]

Hon. Percy Mockler: Honourable senators, would the Leader of the Opposition, Senator Cowan, take a question?

[*English*]

Senator Cowan: Of course.

Senator Mockler: I listened carefully to the words that the honourable senator chose; and I listened carefully when he quoted the Honourable Danny Soucy from New Brunswick, which is my province. Would the honourable senator be generous enough to table the letter which he quoted from?

Senator Cowan: I would be happy to do that, but I am not quite sure of the procedure. It was tabled with the committee. I would be happy to deliver an autographed copy to my good friend, Mr. Mockler.

(On motion of Senator Cools, debate adjourned.)

• (1630)

LANGUAGE SKILLS BILL

THIRD READING—DEBATE ADJOURNED

Hon. Claude Carignan (Deputy Leader of the Government) moved third reading of Bill C-419, An Act respecting language skills.

Hon. Joan Fraser: Honourable senators, I want to go on record saying how absolutely delighted I am to see that this bill has reached the third reading stage with such broad support. This is a great step forward in our collective understanding as parliamentarians of the importance not only of the existence of Canada's two official languages but also of the implementation of policies that enshrine, enhance and affirm the importance to Canadian citizens of our two official languages. It is not a theoretical construct; it is a real, profound, fundamental fact of this country that we have two official languages representing two of the founding peoples of this great country.

Only a few years ago, it would have been unthinkable for this bill to be passed with the kind of support it has — indeed, to be passed at all. We all remember the endless arguments about how, when appointing someone as important as an agent or officer of Parliament, you have to look at merit only. The concept that the ability to do one's work at that high level includes, as a component of merit, the ability to do that work in both of Canada's official languages was utterly rejected at the time and for many years.

The fact is that, for example, the Auditor General of Canada is more than a simple accountant. He or she must be an accountant of very high skill, but there is much more. If you are going to be an officer of Parliament, there is much more to the job than the simple technical, professional skills, whether for the Auditor General, the Privacy Commissioner or, indeed, the Official Languages Commissioner. In order to do your work, you must be able to communicate with and understand not only parliamentarians of both official language groups but also citizens of both official language groups, because you occupy one of the highest offices in the land and you have a duty to all Canadians to be able to deal with them in the official language of their choice.

That is a founding, fundamental principle as far as I am concerned. With this bill we affirm it and recognize it. This is a great day.

I look to the day when the same principle will at last be applied to members of the Supreme Court of Canada. However, we are not there yet. This is a great step. Take it for what it is — a tremendous affirmation of the nature of this country and of the responsibilities of those who hold high office in it.

[*Translation*]

Hon. Hugh Segal: Honourable senators, I fully support the purpose of the text before us this afternoon.

I want to commend Senator Carignan for sponsoring this bill and I want to pick up on what Senator Fraser was saying about how Canada's success and its success as a multicultural and bilingual country is built on the Quebec Act of 1774, which, for the first time in the history of the British Empire, established that one of the peoples of the empire would enjoy linguistic, religious and cultural rights forever.

It was on this principle that the best country in the world was built. The fact that Parliament is now able to talk about officers of Parliament needing to have this bilingual capacity illustrates to what extent Canada's linguistic duality is at the heart of our country, our past and, more importantly, our common future.

Hon. Maria Chaput: Honourable senators, I will speak briefly to Bill C-419, because the subject matter of the bill, the language requirements for officers of Parliament, has been debated a number of times in this chamber.

The genesis of this bill comes from the controversial appointment of a unilingual Canadian to the position of Auditor General of Canada. According to the Commissioner of Official Languages, this appointment caused quite a backlash not just in Parliament, but among many members of the Canadian public. The Commissioner of Official Languages received 43 complaints about this.

You will recall, honourable senators, that this appointment was reviewed in committee of the whole in the Senate in 2011. Although it is a shame that appointing bilingual officers of Parliament has to be legislated, I would point to the general consensus that all parliamentarians have been able to create around this legislative initiative. Of course, amendments were made in the other place, but all the parties agreed on the importance of Parliament's institutional bilingualism and Canada's linguistic duality.

Bill C-419 had unanimous consent, which should be applauded.

The Standing Senate Committee on Official Languages heard from the bill's sponsor and the Commissioner of Official Languages at its meeting on June 17. These witnesses reassured the committee that the amendments do not weaken the bill and the message it sends.

Our study was brief, but focused. I would like to thank the witnesses for their support, my colleagues for their precise questions and our clerk, Danielle Labonté, and analyst, Marie-Ève Hudon, who made our job easier.

The committee proposes that Bill C-419 be adopted without amendment. The unanimous support of the Senate will allow all parliamentarians to send a powerful message to Canadians about the importance of this bill and the linguistic duality of our country.

Hon. Fernand Robichaud: Honourable senators, I also attended the hearings on this bill, and it goes without saying that I support it wholeheartedly.

I still wonder why we needed such a bill to ensure full compliance with the Official Languages Act. I hope and have been assured that language skills will be an essential requirement for appointment to the positions set out in the legislation. I

emphasize "essential" because, in the past, we thought that competency in both official languages was a requirement for certain positions.

I hope that this term will resonate, that it will be essential and that debates such as those we have had in the past will no longer be required to ensure compliance with the Official Languages Act. Thank you.

(On motion of Senator Carignan, debate adjourned.)

• (1640)

[*English*]

MEDICAL DEVICES REGISTRY BILL

TWENTY-THIRD REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE— DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Ogilvie, seconded by the Honourable Senator Patterson, for the adoption of the twenty-third report of the Standing Senate Committee on Social Affairs, Science and Technology (Bill S-202, An Act to establish and maintain a national registry of medical devices, with a recommendation), presented in the Senate on April 30, 2013.

Hon. Mac Harb: Honourable senators, given the heavy load before the Senate and that these are the final days before the break, I would like to propose that the clock be reset on this item so that we may continue debate on the report when there is time to discuss the ramifications of the committee report and recommendations.

(On motion of Senator Harb, debate adjourned.)

[*Translation*]

BROADCASTING ACT

BILL TO AMEND—SECOND READING— DEBATE ADJOURNED

Hon. Pierre de Bané moved second reading of Bill S-220, An Act to amend the Broadcasting Act (directives to the Canadian Broadcasting Corporation).

He said: Honourable senators, the bill I am introducing today is very short and addresses the CRTC's analysis that there is an anomaly in the act creating the Canadian Broadcasting Corporation, where the corporation is fundamentally not accountable for its decisions.

[*English*]

The basis of my bill is to try to remedy a situation described by the CRTC that there is an anomaly in the Broadcasting Act where the Canadian Broadcasting Corporation is not accountable to anybody in Canada for its decisions. The problem that has not been resolved is how to ensure that we have freedom of information while at the same time being accountable to the people of this country. No one wants to listen to a propaganda station. On the other hand, when we put questions to the CBC, they answered that they do not have to answer because the freedom of managing their affairs cannot be questioned.

I have given it a lot of thought, and I have arrived at the conclusion that none of us would not be interested in being in politics if our freedom of expression, et cetera, was not guaranteed; if that is not there, it is not worth it. To restrict the freedom of Radio-Canada — how it handles the public affairs or newscasts, et cetera — the government has no business in it. However, surely we can insist that the Broadcasting Act, passed by Parliament and funded by all Canadians, be respected.

The idea that inspired this very short bill is the solution that Parliament has identified to resolve the issue of the independence of the Governor of the Bank of Canada. While fiscal policy is the domain of the government, and particularly the Minister of Finance, the Bank of Canada Act states very clearly that the monetary policy is made independently by the governor of the bank. It then adds that, notwithstanding that, the government may, in writing, give instructions to the governor of the bank regarding monetary policy — but in writing, published in the official *Canada Gazette*, so Canadians can check the responsibility of the government.

This bill says essentially this: that the government may give instructions, in writing, to the corporation, that those instructions have to be for a period of time and that they have to be in specific terms related to a number of domains. First, the government can give instructions about the corporation's image and branding. Recently the board and the chief executive officer attempted to change the name of the divisions of the corporation. The government can insist on maintaining the name of CBC-Radio Canada.

That is the first thing. Regarding branding and marketing, we can give them instructions in writing that they cannot dispense with the name Radio-Canada.

• (1650)

Number two is the coverage of news from across Canada, including a national perspective in both English and French. It is absolutely distressing to watch the news in the evening in English and then switch to French, or the opposite. What strikes everyone is that there is absolutely no resemblance whatsoever. One is covering Canada from coast to coast, and the other one is essentially Quebec.

A few months ago, Ms. Chantal Francoeur, PhD in communications, professor at the Université du Québec à Montréal and former journalist for 15 years at Radio-Canada, wrote her PhD thesis after having spent three years studying the inner workings of Radio-Canada. She says:

> In winter 2010, the Radio-Canada information service employed 765 journalists in various positions across the country. They worked as correspondents, anchors, researchers,

editors, copy editors, special reporters, regional reporters, and national reporters. Between them, they held 480 permanent and 285 temporary positions (160 women and 125 men). Most of these journalists worked in Montreal, specifically 559 of 765, representing 73 per cent of all journalists in the entire country.

Seventy-three per cent of all journalists of Radio-Canada are in Montreal. CBC has essentially the same number of journalists, and in the province of Ontario there are 13 million people, compared to the 8 million in Quebec. They have barely 200, compared to about 600 based in Montreal for Radio-Canada.

I commissioned a study that was done by the School of Journalism and Communication at Carleton University that took all the newscasts from Radio-Canada and CBC for two years, 2010 and 2011. What we see is that on the French network, Radio-Canada, the news segment about the province of Quebec is over 40 per cent; the second segment, international affairs, was 35 per cent; third, national news, federal news from the federal government but seen from Quebec, the reaction of the government of Quebec to initiatives, policies, measures from the national government; and finally, 4 per cent for the nine other provinces and the three territories. How can we imagine that whole generations of Quebecers who have been exposed to this kind of imbalance for 40 years could have any affinity to Canada, which is projected most of the time after the international news? That is to convince the audience that this is a country that is very far away from us, and it is always, through the point of view, the perspective of one province.

This is why I said give us the Canadian perspective of the news, not always one province.

In Europe, they have some of the greatest media in the world, but they have realized that to give a perspective of the European Union, they had to fund euronews in Brussels for the perspective of the 27 countries. Irrespective of the quality of their papers, they are really covering their local market.

Number two is to give the national perspective.

Number three is to cover all aspects of the Canadian reality in English and French. This is again the distinction when we look at the CBC and Radio-Canada.

When I asked them how many French-speaking Canadians switch to CBC to know what is going on in their country, they said, "We do not have the to answer that question — freedom of expression."

[*Translation*]

And everyone knows that in all provinces, including Quebec, anyone who wants to know what is happening in their country has to tune in to the other station of the national public broadcaster.

[*English*]

Honourable senators, the next one is increased cooperation between the two networks. Richard Stursberg, the executive vice-president of the English network, has just published a book called *The Tower of Babble*. He has a description of how those two networks form one corporation — because the Broadcasting Act is not two corporations, but one corporation — and he said there is absolutely no relationship between the two networks. None. We have seen it recently with the kind of branding Radio-Canada attempted to do.

It is quite surprising when one listens to CBC Radio and they boast "Canada lives here." One would never, ever hear that on Radio-Canada. If they say "Canada," they have to add the word "Quebec." It is Quebec and Canada. If they want to say only one word, it is "le pays" or "the country." Otherwise, if they use "Canada," they have to use "Quebec."

• (1700)

Finally, the cabinet can give instructions to support the work of researchers in journalism and communications.

Why did I put that there? It is because on March 26, 2012, we had at the Standing Senate Committee on Official Languages, presided over by the Honourable Senator Maria Chaput, from Manitoba, a senior representative of CBC/Radio-Canada. I asked that senior executive this question: Can you give me an idea of the percentage of your newscast that deals with the province of Quebec, international news, national news, the other nine provinces, et cetera?

The answer was, "We have absolutely no data about that, nothing." Nothing. Absolutely nothing. No information.

This is why I commissioned the study by the School of Journalism and Communication at Carleton University.

Recently, on the occasion of the hearings of the CRTC for the renewal of the licence of the national broadcaster — of course the CRTC is not at liberty not to renew, because the corporation was created by law — thousands of French-speaking Canadians complained to the CRTC that it has taken a view of the world that only what goes on in their own province is covered by Radio-Canada for their province, and they are not allowed to be on the national news in the evening, at nine o'clock or ten o'clock. No; this is reserved for Quebec.

The fifth case is that they should keep data so that researchers and journalists in that field can prepare an analysis to see whether the law passed by Parliament has been respected.

These are the restricted fields where the government can give instructions because, as the CRTC says, the way that corporation is set up, it is not accountable. As this statement of the CRTC is very serious, I would like to provide honourable senators several quotations from the CRTC about it in the special study it did for the Prime Minister of Canada in 1977.

Certain anomalies in the setting up of the CBC have made it basically accountable to no one and, as a bureaucratic reflex action, it consistently rejects all efforts to make it accountable.

This was evident in the CBC response to this inquiry and its refusal to permit detailed examination below the management level of the way in which practices, policies and controls are

carried out. Parliamentary criticism of the CBC is virtually useless, since members have only limited access to information.

I have another quotation about the two solitudes and, to use the expression of the CRTC, the cultural apartheid between the English and the French.

Then they say something that is very important. They say there is something different between the national broadcaster and the private networks, in the sense that all the media are equally delinquent in covering the news from a certain bias, but only the CBC has a mandate to work in the opposite direction, that is, to give a national perspective. It is in the law of the CBC, and it is only they who have that responsibility.

There is a feeling among members of Parliament that the CBC is not properly accountable to Parliament and that, although it is right in defending its own freedom of expression and information, the CBC tends to obscure some details of its policy and operations, which MPs need to understand if they are discharging their duties properly.

Finally, this needs to be thought about:

> There seems to be a good deal of anxiety, both inside the CBC and outside it, about protecting the CBC in its present form. We believe that this feeling is out of touch with the reality of the situation now. It seems to spring from a fear that the CBC may lose its present degree of autonomy and be taken over as a spokesman for the government, or rather for the party in power in Ottawa. It seems to us —

That is the CRTC..

> — that this danger is remote, and we have tried to show that the present status of the CBC, in which it has autonomy without true accountability, is a far more immediate danger, and one which threatens the continued existence of the CBC itself.

I am fully conscious that, for Canadians, freedom of information is very important, but I think that the government of the day should have the right to give written instructions that will be printed in the *Gazette* to make sure that the eight missions of the CBC in the Broadcasting Act are pursued. When we look to the report of the CRTC, they do say there is a major failure in having one network — the Quebec one — failing to give a national perspective to the news. They use the expression "striking difference."

Let me quote exactly that excerpt from the CRTC:

> The differences in French and English treatments of Canadian content news are striking. The main thrust of French television newscasts is Québec, almost half of the newscast time being devoted to Québec stories. Then again, at least a third of the national Canadian stories have a marked Québec point of view, and much of the news classified as "other Canadian provinces" involves reactions to developments in Québec.
>
> French news has virtually no reaction stories from other regions than Quebec.
>
> In an examination of English and French national evening radio news-scripts during the four-month period from September through December of 1976, it was found that only 3 per cent of the CBC French newscasts dealt with any part of Canada other than Quebec.

• (1710)

This is exactly what the report of Carleton University Professor Vincent Raynauld, PhD, found for the full year of 2010-11, 365 days a year for two years in a row.

I think it is not right that Canadian taxpayers' money is not being spent the way they want. Another issue is the failure to establish any relationship between those two silos that do not communicate with each other.

Honourable senators, this is my attempt to put an end to an anomaly without infringing on the freedom of expression of the corporation. We live in an era whose main characteristic is that of media and communications. How do we expect people to have an affinity for Canada when, day after day, that country comes at the end of the newscast?

For years in Quebec, every day on the radio, we heard the promotion —

[*Translation*]

The promo, translated into English, states: Listen to Radio-Canada this afternoon for today's top stories in Canadian and international news.

[*English*]

Canada is being lumped together with foreign countries.

A few months ago, at the CRTC hearings, President Blais asked the CEO of the corporation: What percentage of the newscast on Radio-Canada covers Canada? What was the answer? "Mr. Chairman, the news about Canada and international news, 50 per cent."

To lump Canada together with foreign countries is inexcusable. What is even more offensive is to try, in that way, to hide the reality, which is that international news is 35 per cent, with Canadian news at 15 per cent. We add those figures together to come to 50 per cent. However, of course, Quebec cannot be there. Quebec is separate at 40 per cent. We do not talk about that. It is unbelievable, and I think it is time that we find a solution to this situation of unaccountability.

Therefore, I present this bill. Surely the situation can be improved. I leave it to honourable senators' wisdom to think about that.

The other thing I have put in the bill is that besides the government, the two houses together can pass a motion on one of those very limited aspects of how that corporation should honour and implement the eight missions, which are very well defined in the Broadcasting Act.

Some Hon. Senators: Hear, hear.

The Hon. the Speaker *pro tempore***:** Questions or further debate?

(On motion of Senator Carignan, debate adjourned.)

CONFLICT OF INTEREST ACT

BILL TO AMEND—SECOND READING—
DEBATE ADJOURNED

Hon. Joseph A. Day moved second reading of Bill S-222, An Act to amend the Conflict of Interest Act (gifts).

He said: Honourable senators, first let me thank the previous speaker, Senator De Bané, for his wonderful exposé on an issue that we might not have thought of previously and that certainly leaves us with a good deal to think about it.

I am hopeful, honourable senators, that this particular bill will achieve the same result in bringing about a discussion with respect to a matter that most of us would not think existed. It is quite simple; it deals with gifts and how gifts are dealt with under the Conflict of Interest Act. In effect, there is a gaping hole in the legislation that leaves the conflict of interest legislation virtually ineffective in achieving what we believe the legislation is intended to achieve.

Honourable senators, let me provide some background so we can understand this. "Gifts" are gifts to public office-holders. Who are public office-holders? Public office-holders are ministers, ministers of state, parliamentary secretaries, members of ministers' staff, advisers to the ministers, Governor-in-Council appointees, ministerial appointees, et cetera. They are defined in the legislation.

This public office-holder conflict of interest legislation was part of Bill C-2, the government's much-heralded accountability ominous bill back in 2006. Several of us will recall that legislation that I think gave us a wonderful opportunity to show the role of the Senate at its best. The Honourable Speaker *pro tempore* was deeply involved in that particular matter as the sponsor of the bill in this place. He and I had some interesting discussions and many evenings trying to sort out some of the amendments.

This was one of the amendments that were proposed by the Senate at that time, honourable senators, when that bill went through this chamber, having come from the other place. When it went through this chamber, this was one of the amendments. Honourable senators will know that when there are amendments, they may be sent back, where some are accepted, some are not, and then they send it back again. We went through that process with this particular bill. Then there was a conference with representatives from each chamber to sort out which amendments should be accepted and which ones should not be accepted. Unfortunately, these amendments got lost in that process.

• (1720)

On three different occasions since then, we have attempted to bring in these fundamental amendments. They relate to the Conflict of Interest Act, 2006, sections 11, 23 and 25. The main section is section 11, which is the prohibition against accepting certain gifts. Sections 23 and 25 are public disclosure, or disclosure to the commissioner, of gifts over $200.

Before 2006, back to at least 1985, each prime minister has had a Conflict of Interest Code. Cabinet ministers are not elected; they are appointed. When they were appointed, they were subject to this code. It was made clear to them that they would be subject to the code.

In 2006, the current Prime Minister decided to take the code that was in existence and, with certain modifications, put that code in legislation. Where it was previously a code, it became a legislated act in 2006.

The Conflict of Interest Code contained the term "gifts from personal friends." That was in 1985. The commissioner of conflict of interest felt that gifts received from personal friends was an exception. You should not receive gifts, but you can receive gifts from personal friends. They felt that was a little too loose, so it was changed to something a little tighter: "close personal friends." That was the term in existence in 2006 at the time the new code came in.

When we look at Bill C-2, it did not use the "close personal friend" and "personal friend" exception. As an exception, it used the words "relatives or friends." That is what we are left with in this particular legislation, honourable senators.

Even in the circumstance where a gift — and this is the wording in the legislation — "... might reasonably be seen to have been given to influence the public office holder in the exercise of an official power, duty or function," that was okay if it was a gift from a friend.

If the friend gave you money or some other advantage, even though it could be perceived as influence, then it was okay. That is what we are left with, honourable senators. We have tried valiantly to change that particular loophole.

Howard Wilson and Bernard Shapiro were commissioners of conflict of interest for a period of time under previous prime ministers. When we studied Bill C-2, they both pointed out that the relaxation of this exception was not a good idea and that there should be some tightening up of the wording.

In the Senate, we tried to follow their suggestion, but we were not successful. We have tried on two different occasions since then.

This bill seeks to close that major loophole by removing the word "friend" from the legislation.

A purely hypothetical example can explain how this might happen. A cabinet minister meets a CEO of a major organization at a reception. The CEO wants legislation introduced that would help his organization. Over time, he offers the cabinet minister the use of his ski chalet, or he might offer him an envelope, but it does not have to be that blatant. He might offer him the ski chalet.

Whether the legislation gets passed or not does not matter, because the cabinet minister does not need to disclose this gift to the commissioner or the public, as long as he considers what he received from the CEO to be a gift from a friend.

Who defines "friend," honourable senators? The recipient defines "friend."

There is no definition of "friend" in the legislation. It does not have to be a close friend; it does not have to be a close personal friend. It just has to be a friend.

We have a system where public office-holders may be very easily influenced by individuals or groups outside of government, and with no way of knowing whether something might be happening or has happened, it makes us overseers of the government and the executive. It puts us in a very difficult position. However, our job would be a lot more reasonable if we knew that this legislation was in place and that those disclosures were taking place.

There is the prohibition section, section 11. It says you must not accept these gifts if they could reasonably be seen to have been given to influence a decision, and then they list the exceptions.

Two other sections are disclosure provisions: sections 23 and 25. Each of those sections has the same exception, which is that you do not have to disclose whether the money or advantage is coming from a friend. I say "money" because that is how "gift" is defined here — to include money or other advantage. Anything over $200, as long as it did not come from a friend, has to be disclosed. That is the situation that we have today.

Honourable senators, "... accepting the gift or other advantage, make a public declaration that provides sufficient detail to identify the gift or other advantage accepted, the donor and the circumstances under which it was accepted." This is the process that we have put in place to make sure that we do not have things happening that we will be sorry about in the future.

Senator Mercer: Brown envelope.

Senator Day: Regretfully, with the word "friend" in there, this public disclosure is quite ineffective. If it was from a friend, no one would ever know. Another problem, as I have indicated, is that the word "friend" is not defined.

What is the solution? The solution I have proposed is to take out the word "friend" everywhere it appears — sections 11, 23, 25. Take out that exception.

There is no limit under the current legislation as to the value of the gift. There is no upper limit on the value of the gift if it is from a friend. The act is explicit that the gift may be an amount of money even if there is no obligation to repay. That is basically a gift, an amount of money. That is under section 2.

• (1730)

Senator Mercer: Like $90,000?

Senator Day: Thus, the act permits a cabinet minister, among others, to accept large sums of cash, even where the circumstances are such that a reasonable person would believe that cash was given to influence the minister. There is still no requirement to disclose because of this "friend" exception.

As I have indicated, Howard Wilson and his colleague Bernard Shapiro both indicated that we should be taking steps to improve that area.

The Liberal members of the Standing Senate Committee on Legal and Constitutional Affairs put forward two amendments, as I have indicated. The government felt that this, perhaps with the other 150 amendments, did not loom as large, I suspect mainly because no one focused on it.

Honourable senators, the bill proposes that these amendments be made. We have it in the code of ethics that applies to us as senators: If it is a gift of over $500, we are required to declare it. Under the Canada Elections Act, if it is a gift over $500, there is a requirement to declare that. However, there is no requirement as long as the word "friend" remains in there. It is an exception. You cannot do it; however, from a friend, you can do it. You do not need to declare it.

Honourable senators, I believe Canadians have a right to know who is giving expensive gifts to high-ranking members of the Government of Canada. Surely an act purporting to provide transparency and accountability should provide nothing less.

The Hon. the Speaker *pro tempore***:** Honourable Senator Day, will you accept a question?

Senator Day: Yes.

Hon. Roméo Antonius Dallaire: Honourable senators, this is a little tangential to what Senator Day was speaking of. As we have the financial administration directives, the legal branch and the ethics officer, is it possible that one could have something that is ethical but not legal?

Senator Day: This is a bit of an esoteric question. I cannot give honourable senators an example, and I thank Senator Dallaire for the question.

I believe that, yes, one could. They are two different legally based terms, and we could have one and it might be quite an unethical thing that one sees happening. In ethics, it tends to be more of a subjective thing, whereas legal is more black and white. Yes, we could have one without the other.

Hon. Wilfred P. Moore: I want to thank Senator Day for bringing this amendment forward; it is most timely. I would like to take the adjournment for the balance of my time.

(On motion of Senator Moore, debate adjourned.)

BUSINESS OF THE SENATE

Hon. James S. Cowan (Leader of the Opposition): Honourable senators, Senator Mockler asked me to table the letter from the Honourable Danny Soucy, Minister of Post-Secondary Education, Training and Labour in New Brunswick, dated June 6. I have obtained the original of that letter from the clerk of the committee and the French translation. The letter was written in English and this is a French translation, presumably produced by the clerk of the committee.

With leave of the Senate, I will table those documents.

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

Hon. Senators: Agreed.

Hon. Pierre De Bané: Honourable senators, with leave of the Senate, I would like to table the following documents in both official languages: my study about Radio-Canada, including the study done by Mr. Vincent Raynauld of Carleton University; excerpts from the CRTC report of March 14, 1977 done for the Government of Canada about CBC /Radio-Canada; evidence of two witnesses before the Standing Senate Committee on Official Languages, Ms. Patricia Pleszczynska and Mr. Florian Sauvageau; letters I have written to members of the board of CBC/Radio-Canada; an excerpt from the PhD thesis on Radio-Canada by Ms. Chantal Francoeur, a professor at the University of Quebec; an article from the *Globe and Mail* in which they confirmed the number of journalists by the director of communications of CBC; and another list of data that the parliamentary officer of CBC to Parliament, Mr. Shaun Poulter, has sent to me about their journalists. I would like to table them in both official languages.

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

Hon. Senators: Agreed.

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. Larry W. Smith: Honourable senators, I would like to make a short statement, not on debate, to expedite our file.

[*Translation*]

I would like to say a few words about Bill C-304.

[*English*]

The bill before us, which came from a motion of the late Senator Finley, seconded by Senator Frum, has been on our books for quite a period of time. To expedite our agenda, I would ask that we look at this legislation and deal with it as expeditiously as possible. I hope this legislation can advance as soon as possible.

Thank you, honourable senators.

Hon. Sandra Lovelace Nicholas: Honourable senators, I would like to speak to this legislation, and I think I have the right to. I would like to take the adjournment.

(On motion of Senator Lovelace Nicholas, debate adjourned.)

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

BUDGET AND AUTHORIZATION TO TRAVEL—
STUDY ON CURRENT STATE OF SAFETY
ELEMENTS OF BULK TRANSPORT OF
HYDROCARBON PRODUCTS—
ELEVENTH REPORT OF
COMMITTEE ADOPTED

The Senate proceeded to consideration of the eleventh report of the Standing Senate Committee on Energy, the Environment and Natural Resources (supplementary budget—study on hydrocarbon transportation—power to travel), presented in the Senate on June 13, 2013.

Hon. Richard Neufeld moved the adoption of the report.

The Hon. the Speaker *pro tempore***:** Are honourable senators ready to adopt the motion?

Hon. Senators: Agreed.

(Motion agreed to and report adopted.)

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

SEVENTH REPORT OF COMMITTEE—ORDER STANDS

On the Order:

> Resuming debate on the motion of the Honourable Senator Smith, P.C. *(Cobourg)*, seconded by the Honourable Senator Comeau, for the adoption of the seventh report of the Standing Committee on Rules, Procedures and the Rights of Parliament (Amendments to the *Rules of the Senate*), presented in the Senate on March 19, 2013.

Hon. David P. Smith: Honourable senators, this is the seventh report of the Rules Committee, which was adopted unanimously by all members of the committee, the majority of whom are from the other side. This report has been delayed by Senator Carignan for over three months in his name. He has never said why it is being held. I cannot get the honourable senator to tell us what his concerns are.

Some weeks ago Senator Carignan said he would deal with it the week of June 4, 5 and 6. On June 6, I asked the honourable senator what he was going to do about it. I will quote from Hansard. Here are his words on page 4174, Thursday, June 6: Honourable senators —

• (1740)

The Hon. the Speaker: Order. This is not a subject for debate. If the honourable senator wishes to inquire of the Honourable Senator Carignan when he wishes or intends to speak, that is allowed. We cannot get into debate on this.

Senator Smith: He promised on the floor to answer it on June 6 and he said he would make a decision on Friday. That is 11 days ago and he has never said anything about it.

The Hon. the Speaker: Order. That is argumentation; that is debate. It is not permitted.

Senator Smith: Can we deal with it today, Senator Carignan?

Hon. Claude Carignan (Deputy Leader of the Government): Today, no.

Senator Smith: You said you would make a decision on the Friday.

Senator Carignan: No, but not for the moment.

Senator Smith: When will you deal with it?

Senator Carignan: Soon.

Senator Smith: Your Honour, we are afraid that we will have summer recess, then a prorogation, and then the hundreds of hours of work of all these members will go down the drain. I think that is what you want.

[*Translation*]

Senator Carignan: Honourable senators, I do not think that Senator Smith should be afraid of the summer recess. I do not want to comment on the prorogation rumours, but this issue will be examined at a later date when I am ready and when I have completed my study of it.

[*English*]

Senator Smith: Well, you have had over three months.

The Hon. the Speaker: Call the next item.

(Order stands.)

SIXTH REPORT OF COMMITTEE—ORDER STANDS

On the Order:

> Resuming debate on the motion of the Honourable Senator Smith, P.C. *(Cobourg)*, seconded by the Honourable Senator Comeau, for the adoption of the sixth report of the Standing Committee on Rules, Procedures and the Rights of Parliament (Amendments to the *Rules of the Senate*), presented in the Senate on March 6, 2013.

Hon. David P. Smith: Honourable senators, Order No. 3 is the sixth report, and Senator Carignan has been holding this up for months, too. Can he tell us when he will deal with it? He said two weeks ago but he did not. Can he tell us when?

[*Translation*]

Hon. Claude Carignan (Deputy Leader of the Government): People are always known for saying certain things and, when they leave, we always mention those catchphrases. Mine will obviously be "soon."

(Order stands.)

[*English*]

STUDY ON PROVISIONS AND OPERATION OF THE ACT TO AMEND THE CRIMINAL CODE (PRODUCTION OF RECORDS IN SEXUAL OFFENCE PROCEEDINGS)

TWENTIETH REPORT OF LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE ADOPTED

On the order:

> Resuming debate on the consideration of the twentieth report of the Standing Senate Committee on Legal and Constitutional Affairs, entitled: *Statutory Review on the Provisions and Operation of the* Act to amend the Criminal Code (production of records in sexual offence proceedings), tabled in the Senate on December 13, 2012.

Hon. Joan Fraser: Honourable senators, this is another report that has been on our Order Paper for some time, not because anyone wished to delay it, but I think there was a bit of a communications gap, which is rare, between the chair of the committee and myself about who would actually rise and do the necessary, "I move the adoption of this report." I stress that communications gaps with the chair are very rare; this may be the first one. Working with him is a genuine pleasure and a privilege.

This report, honourable senators, concerns the law affecting the production of records in sexual offence proceedings, which is a rather dry, technical phrase describing what happens in trials for sexual offences, specifically notably sexual assaults.

A bit of history: Back in the 1980s and early 1990s, Canada started to tighten up a bit its legal regime governing the way trials for sexual offences, rape and what have you could be conducted, with the aim of providing a bit more protection for the victims of those offences without impeding the rights of the defence.

The legal profession, which yields to no one in its inventiveness, rapidly discovered that one way to get around any possible difficulties was to go on what became known as "fishing expeditions." That is, you have a client who has been accused of a sexual offence and, among other things, you go out and you try to find every conceivable record about the past history of the complainant in the case, not just the complaint's sexual history — although that information is obviously a notorious element, as the complainant is usually but not always a woman — but also child welfare cases, psychological counselling, employment histories, performance reviews, everything that you could possibly find on which you might build a case that the complainant was not a credible witness or complainant. These fishing expeditions became notorious and often constituted grievous invasions of privacy, some leading to lifelong disadvantage for the person whose records were concerned.

In 1995, in a case called *O'Connor*, the Supreme Court of Canada made a ruling about the production of records that was quite favourable to the defence, shall we say. However, it was a dissenting opinion in the *O'Connor* case, the dissenting opinion written by then Justice Claire L'Heureux-Dubé asserting the rights of complainants to have their privacy and equality rights taken into full account, that ended up having a more lasting

influence. Then in 1997 Parliament passed Bill C-46, which set up a legal scheme to reflect the reasoning of Justice L'Heureux-Dubé.

That bill called for a legislative review within three years. I repeat: that was in 1997. Here we are in 2013, and the report now before us is the very first legislative review that has ever been conducted of that bill. We come to our task a little late.

However, the Standing Senate Committee on Legal and Constitutional Affairs did spend a year, off and on, doing the legislative review and attempting to do it as rigorously as possible. One of the things we discovered is that there is very little hard, factual research on the implications of Bill C-46 and the way it has been put into practice, so we have had to rely on witness testimony, on best efforts of experts to describe to us the system as they now understand it and also, I must say, on a second Supreme Court ruling in the *Mills* case, which basically upheld the provisions of Bill C-46.

I would argue that the lack of hard research on the implications of Bill C-46 and the lack of any outcry about it, from either the defence or the complainant's side, suggest that the bill is working pretty well. That was pretty well the burden of what we did here, that the bill has worked pretty well as intended. It has done a reasonable job of protecting both the defendant's right to give a full answer and defence against the charges and the complainant's privacy and equality rights. It has done this by setting up a series of tests that must be administered before a given record is admitted into the proceedings. I will not go into the technical detail of it all, but it is a fairly rigorous system of tests, and it does seem to have worked fairly well.

Nevertheless, your committee did recommend some changes, some improvements, some tweaking, if you will. I will not go into the fine detail of them all; they tend to be a bit technical. However, the general thrust of them is to give a bit more strength to the privacy protection for the complainant, although we were very conscious of the need to also protect the defendant's rights in our judicial system.

• (1750)

We call for clear language versions of the quite numerous sets of instructions and explanations that have to be given to all the different parties in this case. We call for strengthening of the protection of the various parties' personal security, not only the complainant's — the person alleging the sexual offence — but also other people's. Third parties sometimes might be concerned about their personal security if they are actually called to testify or produce records in cases of this nature.

Of course, we called for the government to support research — hard research, academically solid, well-grounded research — on how this bill has actually been applied; how many applications for production of records are made; how many are granted; what the nature of the records is; where applications are granted; and where they are refused. We need more than anecdotal evidence on this.

Honourable senators who are interested might notice something I find, shall we say, "novel" about the way we have couched our recommendations. Quite a number of them say that the Government of Canada should consider doing something — should consider amending the Criminal Code, for example. This strikes me as excessively deferential language. We were the ones who were doing a legislative review and, if we thought the Criminal Code should be amended, then I think our job was simply to say that the Criminal Code should be amended in such-and-such a fashion.

Nevertheless, the thrust of the recommendations is clear and, deferential language or not, our last recommendation — and this is why I do hope that this report will be adopted, honourable senators — calls for the government to respond, to report back on progress concerning matters in this report within two years of the tabling of the report in the Senate.

I think, particularly if the research is undertaken, as I hope it will be, that could be a most instructive, useful and constructive report for the consideration of the Standing Senate Committee on Legal and Constitutional Affairs and, ultimately, of this body.

If anybody has any questions, I will try to answer them, but I just want to say, honourable senators, that I do hope that you will adopt this report. I believe it merits your consideration and support.

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

Hon. Senators: Agreed.

(Motion agreed to and report adopted.)

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

FIFTH REPORT OF COMMITTEE—ORDER STANDS

On the Order:

> Resuming debate on the motion of the Honourable Senator Smith, P.C. *(Cobourg)*, seconded by the Honourable Senator Fraser, for the adoption of the fifth report of the Standing Committee on Rules, Procedures and the Rights of Parliament (Amendment to the *Rules of the Senate*), presented in the Senate on March 5, 2013.

Hon. David P. Smith: Honourable senators, this is the fifth report that was unanimously adopted months ago. Senator Carignan, can you tell us when you will deal with this?

[*Translation*]

Hon. Claude Carignan (Deputy Leader of the Government): As soon as I finish my notes, honourable senators.

[*English*]

Senator Smith: Senator Carignan, can I ask you one last question?

Senator Carignan: One? Only one?

Senator Smith: Well, for today.

Quite a few weeks ago, you were appointed to be a member of the Rules Committee to replace Senator Duffy. We have had many meetings since you were appointed. You have never come to a single meeting. Not exactly a role model for attendance at a committee. Can you tell us —

[*Translation*]

Senator Carignan: Point of order, Mr. Speaker. I understand that Senator Smith is frustrated, but he is not discussing the report. He is talking about my attendance at committee as Senator Duffy's replacement. I think that—

[*English*]

Senator Smith: I am talking about it because I think you will not come because you do not want to explain to the committee —

The Hon. the Speaker: Order, order. Under a Point of Order, for understanding the flow of government business, a short inquiry is permitted. That has been made and a response has been given.

To the Point of Order that was raised, it is the practice not to mention the presence in chamber or in committee of honourable senators. The record of the Hansard and the record of committees indicate presence.

An Hon. Senator: He should apologize.

(Order stands.)

STUDY ON HARASSMENT IN THE ROYAL CANADIAN MOUNTED POLICE

FOURTEENTH REPORT OF NATIONAL SECURITY AND DEFENCE COMMITTEE AND REQUEST FOR GOVERNMENT RESPONSE ADOPTED

The Senate proceeded to consideration of the fourteenth report of the Standing Senate Committee on National Security and Defence entitled: *Conduct Becoming: Why the Royal Canadian Mounted Police must Transform its Culture* tabled in the Senate earlier this day.

Hon. Daniel Lang moved:

> That the report be adopted and that, pursuant to rule 12-24(1), the Senate request a complete and detailed response from the Government, with the Minister of Public Safety being identified as minister responsible for responding to the report.

He said: Honourable senators, I am pleased to rise and speak about the Standing Senate Committee on National Security and Defence report on harassment in the RCMP entitled: *Conduct Becoming: Why the Royal Canadian Mounted Police must Transform its Culture*.

I wish to acknowledge the members of the committee who have worked hard to cooperate and generate a report that will have a positive impact on the RCMP and its 26,000 members if the recommendations are implemented.

This has not been an easy subject. Needless to say, there were many different views on how we should have proceeded. I recall when the leadership of the Senate requested that we undertake this study, recommended by Senator Mitchell, and many thought that it would be very difficult, if not impossible, for our committee to be able to come to a consensus.

Honourable senators, I am pleased to be able to return to the chamber with a report supported by all sides that can enhance the public's confidence in the RCMP and bolster members' trust in the disciplinary systems designed to protect them.

Before I turn to the details of the report, I would like to personally thank the Deputy Chair, Senator Dallaire; Senator Plett; and Senator Nolin for their support, guidance and leadership, and to also thank the other members of the committee.

I also wish to acknowledge the political staff from both sides of the chamber who brought their dedication, passion and commitment to this subject and the writing of the report. Specifically, I wish to recognize Allison O'Berine and Naresh Raghubeer. Together with the committee and library staff named in the report, these two individuals provided valuable guidance and advice.

Honourable senators, Canada's iconic national police force, the Royal Canadian Mounted Police, with its red serge and stetson hat, has been the focus of internal and external reviews, particularly on how it handles harassment. This subject has been raised numerous times in the chamber, most recently during the debate on Bill C-42. As honourable senators are aware, the RCMP is facing lawsuits from women and men across the country who claim to have been harassed at work. This includes a potential class action lawsuit in British Columbia.

All parties, including the minister, the commissioner and the organizations representing the members of the force, acknowledged that harassment in the RCMP work place is a problem. Our committee heard from a number of well-informed witnesses that, contrary to the public perception, harassment in the RCMP is not systemic. However, according to the Ian McPhail of the Commission for Public Complaints Against the RCMP, there was no proof to the contrary.

In its attempt to put the problems of the RCMP in perspective, the report by the Commission on Public Complaints stated that "out of ten selected Canadian police forces, the RCMP has the third lowest number of recorded harassment complaints." Illustrating —

The Hon. the Speaker: Honourable senators, it being 6 p.m., is there unanimous consent that we not see the clock or do we see the clock?

Some Hon. Senators: No.

The Hon. the Speaker: We see the clock. The Senate will return at 8 p.m.

(The sitting of the Senate was suspended.)

• (2000)

(The sitting of the Senate was resumed.)

Senator Lang: Honourable senators, in illustrating one of the major challenges of measuring harassment, the Commission on Public Complaints Report noted:

> For a variety of definitional and methodological reasons, direct comparisons across the various police jurisdictions cannot be easily made. Among other factors, there appeared to be a high degree of variability in how workplace harassment was recorded and categorized by the different police agencies.

Honourable senators, we can all agree that the RCMP must take stronger actions to address issues of harassment and discipline, and work harder to address victims' concerns. Bill C-42, which recently passed this chamber, is part of the solution, and so is the RCMP's Gender and Respect Action Plan, released earlier this year.

The recommendations in our committee's report are designed to ensure that all RCMP members and employees can be confident that the force will strive to protect them from harassment and discrimination. Members and employees must be confident that they can speak out about harassment when they see or experience it and that they will not be subject to punishment, recrimination and/or retaliation.

In a written submission to the committee, Ms. Sherry Lee Benson-Podolchuk, herself a former RCMP officer and a victim of harassment at the hands of her colleagues, noted that "unresolved conflicts poison the workplace and slowly create a toxic work environment."

A study in British Columbia's Division E noted that "frequent tales of retaliation against those who bring forward harassment complaints can also leave victims and bystanders feeling helpless to try to address the problem."

Honourable senators, our committee's report offers 15 recommendations on how the Royal Canadian Mounted Police can build a more respectful workplace and address ongoing issues of harassment and discipline. The committee's recommendations are centred on four key areas: ensuring meaningful cultural transformation and increased accountability; strengthening and clarifying the RCMP Code of Conduct; increasing independent oversight of harassment programs and policies through the proposed civilian review and complaints commission; and implementing a position of RCMP ombudsman.

The committee believes it is important that the RCMP take stronger actions to address harassment, including holding those responsible to account. We heard many instances of the RCMP Code of Conduct violations being met by less than adequate punishments. We urge the RCMP to communicate clearly and on a regular basis to members and the public what constitutes unacceptable behaviours and actions. We are also seeking assurances that the RCMP will be equally clear in stipulating real consequences for those found to have acted in contravention of policy and regulations.

Honourable senators, if the RCMP is to effect a true cultural change, it is our opinion that the following recommendations should be implemented: Sanctions for contraventions of the Code of Conduct must be timely, proportionate, predictable and applied throughout the RCMP, regardless of rank and insignia; any alleged violations of the Criminal Code must be sent directly to the appropriate authorities as early as possible; promotion within the RCMP must take into consideration violations of the Code of Conduct, including past incidents of harassment; and the RCMP must not use transfer of either perpetrators or victims of harassment as a means of avoiding dealing with underlying disciplinary issues.

In line with these changes, the committee urges the government to consider implementing a position of RCMP ombudsman, outside the chain-of-command structure, to allow for members of the lower ranks to step forward on issues of concern without fear of retribution, and for senior management to take corrective action early on. Such a recommendation is not new. In fact, it has been part of numerous recommendations to the government. In the past it has garnered little sympathy or support.

Like the Canadian Armed Forces, the RCMP should welcome positive change and implement a new RCMP ombudsman position so that its 26,000 employees can have the opportunity to raise issues and concerns outside the chain of command — and I will repeat — outside the chain of command, confidentially and free of fear, recrimination, retribution and retaliation.

Additionally, the committee notes that there is a need for independent civilian oversight of the RCMP's harassment-related program and policies and that this responsibility should be directed by the minister and carried out by the proposed civilian review and complaints commission. Moreover, the committee recommends that no member of the RCMP should be promoted to a supervisory program or management position prior to having completed harassment prevention training required for these new responsibilities.

Not losing sight of the victims, the committee notes that the RCMP should take seriously its duty to accommodate and do more to address the needs of victims, including those still suffering from operational stress injuries. At the same time, the RCMP must ensure that the confidentiality of victims is protected, as well as those who report abusers. Positive changes have already begun in the RCMP, and cultural change must be part of it.

Honourable senators, our committee's report and the 15 recommendations are a positive mandate for the RCMP. Building on its proud history and legacy in shaping our post-Confederation identity, the best days for the RCMP do not lie in the past but in its future.

The RCMP is playing a valuable role as our national police force, and in many parts of Canada it is the provincial, territorial and municipal police. The women and men who have served the

RCMP and continue to serve today with honour and distinction are our neighbours, our friends and, in some cases, our colleagues within this chamber.

We wish the RCMP the best as it moves forward to address issues of harassment and make the necessary changes to serve its members and all Canadians better.

On behalf of the committee, I ask for your support in adopting the report.

[*Translation*]

Hon. Roméo Antonius Dallaire: Honourable senators, I want to thank Senator Lang, who mentioned the cooperative atmosphere in the committee.

Although we got off to a rough start, once there was a change in leadership and organization, we felt compelled to put together a good report. This report was essential and initiated by our colleague through a rather unique motion, moved by Senator Mitchell who, as someone from western Canada, is intent on ensuring that the RCMP carries out its responsibilities as it should.

[*English*]

Honourable senators, I will try to avoid repeating what Senator Lang has already indicated, so I may at times be paraphrasing. We have had a very progressive working relationship. We even brought Senator Plett in, and that worked out reasonably well too.

• (2010)

Some Hon. Senators: Oh, oh!

Senator Dallaire: I really did not want to overdo it. My dear colleague on the Veterans Committee, thank you very much for permitting this committee and the steering committee the responsibility to bring about this report.

I echo the words of Senator Lang and thank the staff for building a cooperative atmosphere and pulling the nuts and bolts of the report together. Also, Ms. Josée Thérien and Senate staff were crucial to adding the appropriate discipline to some of the wording and ambitions we had on paper. We worked on and approved a media statement, which is out there, and an op-ed piece, which we co-signed, that should be published tomorrow.

This truly is an effort by the Senate and the Standing Senate Committee on National Security and Defence to assist the RCMP in moving into this era where values and ethical standards have changed. This conservative bastion or pillar of society has to continue to progress to become one of the value-added assets in Canadian society and not be regressive or hold us back. In that way, it will still be within its parameters a value-added, force multiplier of stability in this country, thus permitting us to progress.

I will say a few words about the report. The title is quite something, *Conduct Becoming: Why the Royal Canadian Mounted Police must Transform its Culture*. It is a positive report and we want people to take positive references out of it in order to implement them to bring about the change that is so essential in the RCMP to continue to maintain its standards and reputation.

I will quote Sir Winston Churchill speaking to an American general who was giving him a hard time about his use of prose. Saying that he could be more passive, Churchill said:

> What if I had said, instead of "we shall fight on the beaches", "Hostilities will be engaged with our adversary on the coastal perimeter"?

The latter was not particularly effective when trying to rally the troops.

We hope that the title of the report will rally the RCMP leadership, in particular, to achieve the same. It is a strong title and a strong report; they are complementary.

The committee recognized that in order to deal with the issues of harassment currently affecting the RCMP, a major cultural transformation is needed within the force. Change will come not in the form of new regulations, nor in the implementation of Bill C-42, which will be an asset, nor by simply a few personnel changes, nor in the form of important speeches from the RCMP leadership. Rather, change will come only from a thorough examination of the culture, the practices, the attitudes and the ethos of the RCMP — what more it is beyond the red serge uniforms, the hats and the horses. It will have to take root at every level of the chain of command in every division and by every member and employee who sees that change within its structure.

On a number of occasions I referred to the RCMP by going back to my military background. One of the interesting questions we had was about the RCMP being a paramilitary organization. The RCMP is not a run-of-the-mill municipal or provincial police force, with their unions, structure and oversight. It is a national paramilitary organization that has a history of being paramilitary. It was started by the military in the northwest frontier. Its first commanders were ex-generals; and it has kept that tradition. The question is, does that tradition meet today's requirements?

I would argue that it can meet them if the leadership responds to its responsibilities as a paramilitary organization, which people expect it to do.

[*Translation*]

Our committee had relatively little time to address the issue of harassment at the RCMP, but during our study, witnesses expressed their serious concerns about the prevalence of harassment at the RCMP. Among the testimonies, as Senator Lang was saying, the written submission presented by Sherry Lee Benson-Podolchuk really stood out.

[*English*]

Over the years, she has spoken and written extensively about the harassment she suffered by her colleagues. As so many of these cases do — and this brings me right back to the 1990s in the forces — it started with name-calling and crude jokes, the kind of things that too often we accept as a normal in an old-fashioned, male-dominated work environment where boys will be boys.

When these small but toxic incidents of harassment become common and acceptable, she did what anyone would be expected to do. She approached the men who were making the comments and asked them to stop. Instead, she was targeted for further abuse. Her colleagues continued to harass her, tampered with her belongings, ignored her when she was at work and spread vicious rumours attacking her character. This behaviour went on for 20 years.

This is not an unusual scenario in an organization that has not adjusted to the fact that women within the force create a different dynamic, both within the leadership structure and its philosophy, which have been male-dominated, and in the employment of personnel in day-to-day life.

Another example that I witnessed was a female RCMP corporal who had been with the force for 27 years. One day, she walked into the office of her boss and saw a calendar, like the ones we used to see in a garage. It was quite a progressive sort of calendar. She asked him to take it down, and he refused. The next week, not only was his calendar up but also similar calendars had been put up by his three buddies of the same rank. That kind of behaviour is endemic in an organization that has a fundamental problem with ethics, respect for personnel and the chain of command doing its duty.

[*Translation*]

We cannot keep ignoring harassment victims. We cannot settle for acknowledging the problems and hoping that the RCMP will fix them in due course. As we learned, far too many harassment complaints have gone unaddressed for years. Sometimes the offenders get supervisory positions; sometimes the offenders or the victims are transferred to other units so that management does not have to deal with the underlying problems.

Those who are aware of the transformation the Canadian Armed Forces has undergone over the past 20 years recognize that the current situation at the RCMP was the stuff of catastrophe in terms of leadership and recognition, not to mention the respect Canadians had for and the confidence they had in the Canadian Forces during the 1990s.

[*English*]

Our committee heard testimony from two former commanders of the Canadian Army: Lieutenant-General Andrew Leslie and Lieutenant-General Michael Jeffery. They both appeared before the committee to discuss the process of the re-professionalization that has taken place in the Canadian Armed Forces since the mid-1990s.

• (2020)

[*Translation*]

General Jeffery recalled the time period immediately following the infamous Somalia incident in 1993. He noted:

> When faced with what was clearly a crisis, the leadership of the Canadian Forces was slow to respond and resistant to change. There was a belief that the institution was sound and that the problems were only a few bad apples.

However, the government demanded fundamental changes within the armed forces and, over time, those changes were implemented. The re-professionalization process included creating and publishing a new code of professional conduct, reforming the professional development system, tightening the academic criteria, updating the Code of Service Discipline, improving basic training as well as leadership development and selection training, and creating new civilian oversight bodies.

[*English*]

These were not brought about because the generals suddenly realized they had a problem; they were brought about because of civilian oversight by the government. One day the predecessor to our colleague Senator Eggleton paraded all the two-star and three-star generals into his conference room, and he said to us in clear terms, "Gentlemen" — there were no women at that rank at that time — "I know that when generals are posted to National Defence Headquarters they do not get a lobotomy. However, the troops believe they do, and it is because of that that the reforms must come about."

It was a civilian hit between the eyes to make us realize that we could not continue, that we had to not only fiddle on the margins; we had to reform. I was given the mandate for the reform of the Canadian officer corps, which has subsequently been implemented.

The key change in the culture of the Canadian Armed Forces did not come through new regulations. It had to come from the leadership of the institution. As General Jeffery explained:

> If the senior leadership do not believe reform is essential and are not invested in it, nothing will change....
>
> It is not easy to stand before soldiers and admit that the institution and the leadership have failed them, but that was an essential step in rebuilding trust within the institution.

It is this final point that brings me back to our study of harassment in the RCMP. In order for transformation to occur, senior leaders must be prepared to offer their unreserved acknowledgment that the problem of harassment is real, that it merits the attention of and must be redressed by the chain of command.

The Hon. the Speaker: I regret to inform the honourable senator that his time has expired.

Senator Dallaire: May I have another 15 minutes?

I will take 10 as your last offer.

[*Translation*]

That is why I was shocked by some of the comments made by the RCMP Commissioner, Bob Paulson, during his recent testimony before the committee for its study on the issue of harassment.

In his opening remarks, the commissioner named three individuals who alleged that they suffered serious acts of harassment during their service with the RCMP. One of those

individuals was invited to appear before the committee, but the RCMP told his that his career would be over if he testified. This matter is still under investigation for a potential breach of privilege.

The commissioner decided to address these three cases directly. The committee chair, Senator Lang, wisely informed him that it would probably be best if he did not comment on the case related to the breach of privilege. The commissioner did not heed his warning, and he made his remarks as planned.

[*English*]

Speaking about these individuals who have brought forward serious complaints of harassment and bullying, the commissioner said:

> Some people's ambitions exceed their abilities....
>
> Policing is a very tough job.... it is not for everyone.

He implied that these three individuals were bringing forward their complaints either for the sake of monetary gain or because they were upset about other issues like unionization and their own career advancement. Those are his references.

Here we have it: Mere moments after our committee had heard how important it was for senior leaders to unreservedly acknowledge the problem of harassment from the two generals who testified just before the commissioner, the commissioner said that these people who are bringing forward accusations of harassment are doing so for their own gain. He said they are people who do not belong in the RCMP; they are people with unrealized ambitions who are making these claims to try to gain some notoriety and prestige.

In the worlds of the Calgary police chief, Rick Hansen, "Culture will always rule out over policy, training and procedures."

[*Translation*]

Our report recommends that clearer policies on harassment, improved training for all members of the RCMP and the implementation of new practices for promotions, transfers and dealing with complaints be implemented. The very first recommendation of the committee is as follows: The RCMP must undergo a cultural transformation paying particular attention to professional staff development of civilian and regular members, and especially of the leadership.

[*English*]

I will conclude by saying that the culture of the RCMP, particularly when it comes to harassment, reminds me of the old military policy from the United States: "Don't ask, don't tell." In my view, this was always a deeply unethical policy, one that encouraged members to adopt a culture of lying by omission or of hiding information rather than bringing it forward. We need to transform this culture in the RCMP so that the RCMP's policy on harassment is, to quote: "If you see something, say something." If you experience harassment, or even witness it, you should speak up, expose the problem and identify the perpetrators.

It has become undeniably clear that the only way the RCMP members will be confident saying something is if they are given the mechanism to do so confidentially without fear of negative consequences and escalating harassment.

This assessment was perfectly expressed by the chief of the Australian army, Lieutenant General David Morrison, in a recent public service radio announcement regarding sexual harassment in the Australian army. He said, "The standard you walk past is the standard you accept."

The RCMP leadership, the minister and we here in Parliament cannot continue to walk past issues of harassment. We must deal with them head on.

The recommendations are far-reaching, but they are all achievable. For that, and for the excellent report, I thank the leadership of the committee. I thank Senator Mitchell for raising this matter and the rest of the members of the committee, who were fully participatory throughout the exercise of bringing about this excellent report. I recommend that honourable senators support it unreservedly.

[*Translation*]

Hon. Grant Mitchell: Honourable senators, it may come as a surprise to my colleagues, but I am very pleased to see that the committee has prepared such a convincing report. I believe that this report will do a great deal to advance the cause of the RCMP.

Thank you and congratulations to the chair, Senator Lang.

[*English*]

Senator Lang has done an excellent job in leading this committee. He took it over midstream and was responsible for bringing the committee together and producing an excellent consensus report. I believe very strongly it will advance the challenge of repairing the RCMP, which many witnesses — including the minister and Commissioner Paulson, himself — indicated is a troubled institution in need of some repair.

• (2030)

I also want to thank Senator Dallaire and all members of the committee for their great work on this effort. I think it speaks for itself. If honourable senators read the report, they will see that it is excellent. Senator Dyck said it is very clear and powerful, and she could not be more correct.

I would like to emphasize some of the reasons why I particularly like it. I would like to suggest that there are a couple of things we could pursue further. I would also like to bring the two parts together by pointing out that there really is a blueprint through which tremendous progress can be made in bringing the RCMP back to the level of respect that it has known for so many decades in our history, so that we can be certain that it is always conducting itself in a way that, as the report suggests, is very becoming.

The first, and I think perhaps the most powerful element of this report, is that it talks about this problem as a problem of culture. This is not a problem of management — it is a problem of

leadership — and is not even necessarily one that is structural. In fact, it is too easy to say that a structural solution will fix the problem. This is a problem of culture.

We have seen it in other organizations; we have seen it in the military. There is much experience in the corporate world with cultural problems and the development, evolution and improvement of cultures. This report can be commended by virtue of the fact that it says explicitly that this organization's issue is an issue of cultural transformation.

That raises the spotlight on Bill C-42. We do refer to the importance of implementing features of Bill C-42 that will potentially assist in dealing with the harassment issue, and there are some. Certainly the development of a better grievance process is one, for example. However, Bill C-42 is not enough and will not solve the problem without other steps being taken. Many of these other steps are considered in this report.

A second feature of this report that I particularly commend to honourable senators and that I particularly like, because it lends tremendous strengths to this report is its focus on leadership in solving the cultural problem. We received some excellent witness testimony. It has been alluded to before, particularly from retired Generals Leslie and Jeffrey, who made the point that the solution to this issue is leadership — "all about leadership all the time," I think those were the words they used.

There was a very interesting juxtaposition of these two generals, who were very elevated in the way they conducted themselves. They presented their case. Their analysis was extremely insightful. They said you have to accept the problem, as hard as it is to do; you have to speak to the people in the military, as hard as that is to do, and that this is an organization with a problem. If the senior-most levels do not grab that in their gut, then it will never be fixed. Then, you lead people in a positive way to change the organization to achieve that objective.

The contrast was with the commissioner, who appeared immediately after that and portrayed quite a different presentation — one that was inclined to blame others. In doing so, he did not reflect a grasp that the problem has to be understood and that ownership has to be taken of that problem by the senior-most leadership. Then, he went on to single-out subordinates by name and criticized them in the most public forum that you can imagine: a Senate committee.

I think that was a juxtaposition that says that, while some changes are being undertaken in the RCMP, some very important steps need to be taken. In fact, this report alludes to that and talks about leadership in making that point.

There are many valuable recommendations and strong comments made in the report. There was an emphasis on the need for an ombudsman. We had strong witness testimony that an ombudsman would allow for many things, one of which would be to give members and people with concerns within the force the chance to express those concerns in a safe environment, where that expression of concerns could be taken forward to senior leadership without fear of reprisal, in an objective way, where the concerns could be evaluated and given even greater strength by the time they are presented to senior management.

There is an emphasis on redoing the code of conduct; integrating the code of conduct into the DNA of the organization; and ensuring that the code of conduct is very public, both to the members of the force and to the public themselves, to promote accountability.

There was a discussion of the process of promotion. We learned a concern is that there can be a bias in the way promotions are done. The "old boys' network" would be a way that could describe it. We make some recommendations in here as to how that promotion process can be made more objective, more merit-based and more specific in dealing with the problems of harassment.

A corollary to that point was made in the recommendations that the force should not use transfer of either harassed victims or their harassers to solve the problems; the problems need to be addressed head-on.

Among many other things, the point is made in the report that to make progress, you need outside, independent, civilian oversight. We have recommended that the harassment change process, so to speak, be overseen by the Civilian Review and Complaints Commission, the CRCC, which is an all-but-independent — and certainly independent to some extent — group that has nothing but civilian membership. The promise in that recommendation is very powerful, as well.

There are many features of this report that I can emphasize as making it very favourable. I think it will make a real difference. It is coming together. At this stage, there have been a number of reports, but a number of elements are coming together. There is much more public awareness and much more awareness within the force — certainly at the level of ranks and non-commissioned officers. I think, more and more, we are building to a point where this report can be a real catalyst.

I urge the senior-most levels of management — certainly, I urge Commissioner Paulson — to read this carefully and understand where it comes from. This is not coming from people on our committee who want to be critical of the RCMP. We all care deeply about the RCMP. We want to ensure the RCMP is the kind of organization where women and men can feel safe; where there can be a trust within the ranks of the senior ranks; and where Canadians can regain the trust they have traditionally and historically felt for this organization.

There are some areas where more work could be done and where we could emphasize more as a committee in the future. I still think there is much to be gained by listening to actual victims — the injured. I am not sure that will happen in the committee, but the opportunity still exists.

In and of itself, giving Canadians who have been through what they have been through — the victims, that is — the chance to present at a public forum — in their Senate, in their Parliament; it is their place — can be cathartic and healing. It is not too much for them to ask that we would allow that. They are some tremendous Canadians — powerful, courageous people — who have come forward, and honourable senators know their names: Catherine Galliford, Krista Carle, Sherry-Lee Benson-Podolchuk and many others.

I think we would accord them great respect — the respect that they have earned for their courage — if we could listen to them in the Senate committee and in that kind of public forum. We would learn more, elevate the issue further and provide a greater drive within the force if we could elevate that, recognizing and validating their concerns in that way, of them just being heard in this remarkable institution could serve to accomplish.

I am encouraged that the Veterans Affairs Subcommittee will consider Post-Traumatic Stress Disorder. We excluded that study. PTSD is the consequence of this harassment in all too many cases. It fundamentally changes and damages lives, and damages the families of the people whose lives have been damaged by PTSD.

• (2040)

In many respects, it is treatable. There is a question as to whether there are sufficient services for members of the RCMP and whether there is sufficient recognition of PTSD's consequences, depth and importance within the senior ranks in their relationships with the rank and file of the RCMP.

There are questions that I think need to be investigated and answered, and they will be on the Veterans Affairs Committee. That cause and effort would be advanced tremendously if the committee would agree to call witnesses. There has been a concern that this might become a witch hunt. We have done two public hearings, we being Member of Parliament Judy Sgro, myself and other members of the Senate, MPs. The witnesses we called were extremely good, very careful. They are people from the RCMP and they know how to present and how to conduct themselves in an elevated way. If they could present to the Veterans Affairs Committee, it would advance that report and that study very effectively and serve other purposes as I have outlined as well.

The civilian review and complaints commission is, as I said, independent to a large extent and it is civilian.

It does not meet the full test of independent police commission, non-political supervision of police forces. Every major police force in the country has an independent police commission with supervisory authority, budgetary planning authority, line authority and relationship to the political authority in turn, in a significant way. I think that that question is begged to some extent by this report. We did not go the next step, and I think it is something we should consider further.

On the question of a union or an association, every major police force has that. It is not the case that they go on strike, and one could structure an association in a way that that would not be possible, that this would be limited. However, there is so much experience now that suggests that within an association that can negotiate an agreement with management and leadership, you facilitate the relationship, the independence of the review process. You know the people who are complaining are protected and that when a decision is made to discipline someone, the process has been done in a full and open manner with the utmost of security for both sides, and the outcome is largely indisputable.

That would advance the process as well. Regarding re-professionalization generally, there is a great deal to learn from the military experience about the use of outside civilian groups, monitoring groups. There are six of them in the case of the military. There are lots of best practices and learned lessons to be found, and one is how they upgraded their officer corps. In the military of Canada, we now have 90 per cent of officers with post-secondary education and 50 per cent with two post-secondary degrees.

They have changed the curriculum from only technical when getting an engineering degree if one wants to be an artillery officer — and General Dallaire would never dispute that link — to also study the social sciences, philosophy, theology, so they get a greater sense of society and of the human condition. That is strictly an element, a very necessary condition of great leadership.

Re-professionalizing is not to diminish the significance, expertise and quality of RCMP membership, but to say that it could be enhanced with that kind of process. What I like about the report is that by taking what we could do to improve, one could see a very powerful blueprint.

Could I have another five minutes? Thank you very much.

By way of summary, there are a number of points: an ombudsman; a structured, full, public, independent police commission organization; hiring on merit, making certain that there is not a hiring bias because of who someone knows; pursuing the possibility, allowing the membership and the public to discuss the possibility of having a union or an association, which might be a better word; enhancing the organization's commitment to and services in support of identifying people with PTSD, validating their concerns and working with them to heal; re-professionalization of the officer ranks through raising the level of education and educational requirements.

Honourable senators, I think there is a need to consult with victims in a structured way and not just the Senate committee, which I would encourage, but also the senior leadership of the RCMP. That would serve to validate the concerns, send a message to the rank and file that there is an understanding and compassion for people and also reinforce the resolve and commitment to solve the cultural problems.

Finally, the most important part of the blueprint is that leadership understands it is all about leadership, all the time. The senior-most leadership, starting with the commissioner, need to own this problem, accept this problem, understand it, acknowledge it and say without equivocation that they will fix this problem. Once we get to that stage, once we see that in the leadership in the commissioner — in the next presentation I hope he makes before our committee — we can have confidence that progress will be made. It will not be overnight, but progress will be made; it can be made.

The other elements of this blueprint, as I call it, have a great chance to support this initiative and to get to where we want to get: a remarkable, wonderful, well-trusted RCMP where men, women, Canadians who work can feel safe and secure and can pursue a career that can be remarkably fulfilling in the public service, and the safety and security that it will provide all Canadians.

Hon. Donald Neil Plett: Honourable senators, it was not my intention to speak tonight. I was going to ask Senator Dallaire a question. Unfortunately, time ran out so I could not do that.

Therefore, I will make a few brief comments. After Senator Lang and Senator Dallaire spoke, I was expecting a chorus of Kumbaya, and Senator Mitchell brought us back down to earth and made me realize we are still in two parties. I appreciate the honourable senator's reassuring me that we are not in the same party and that we still have some disagreements, including in this report.

An Hon. Senator: Where did the love go?

Senator Plett: I want to make reference to a few of the comments Senator Mitchell made. One is the comments he made about Commissioner Paulson and his testimony where he was indeed a little harsh or explicit.

However, Commissioner Paulson was clearly addressing issues where people had come and made comments about the leadership of the RCMP, and I believe he was defending it. He was clear when he noted that this is not the RCMP that he joined and this one cannot continue. Commissioner Paulson was clear that he wanted to move this whole issue of harassment forward, and he should be commended for it. He is the commissioner and the head of the best police agency in the entire world, I believe, and as such, he should be commended for the steps that he had taken and will continue to take.

I want to emphasize what Senator Lang said. When 10 police agencies were surveyed, the RCMP came out third from the top. In fact, they were one out of a thousand in unit-reported workplace harassment cases in selected Canadian police services in 2011; they were one out of a thousand. We are always gunning for absolute zero cases of harassment, and I think the RCMP is doing that as well. However, very clearly when we look at other police services, the public service, we do not have that. I think the RCMP should be commended for the work they are doing.

• (2050)

Senator Mitchell talked about the ombudsman and about unions. Unions are not part of any of the recommendations. The ombudsman is right there in that recommendation that the government consider implementing a position of an RCMP ombudsman. I think it is one recommendation that clearly shows there was collaboration and cooperation in our committee. I, as well, would like to commend the entire committee, including Senator Mitchell, for the cooperation; even he and I could agree on a few of the recommendations, even though I was not entirely in favour of them. That was one I was not supportive of, but indeed it is in here.

I believe this is an excellent report. I have every confidence that the RCMP and Commissioner Paulson will move this forward. I look forward to our committee, as has been said in the report, on a regular basis or with some regularity, continuing to review how this is being moved forward.

In closing, I would like to make a comment about one of the things Senator Dallaire said. I am not sure if it had something to do with me being able to work reasonably well with him. To Senator Dallaire, I just say that I am deviating from this particular report a little with this comment, but we do indeed work on veterans affairs. In the report we are now working on, there is only one stumbling block. How does Senator Dallaire plan on crossing that stumbling block with me only working reasonably well? Someone will have to work very well to let us get over that stumbling block, honourable senators.

Senator Dallaire: The honourable senator started the debate, and the temptation is too great to let it go by without asking a question of my dear colleague. We have one stumbling block in our report but we will sort it out, I am sure.

I ask the honourable senator this: We discussed the work for the Veterans Affairs Committee regarding PTSD and the RCMP. I believe we are quite on net that we have to look at that injury within the RCMP in order to help them solve the problems they have with some of their leadership and also with their troops who are hurting. Am I correct with that?

Senator Plett: Absolutely, honourable senators, and I look forward to our continuing to work on that. As was shown in the last report, clearly I gave in on every issue except the one we are still dealing with. I look forward to continuing with the honourable senator.

The Hon. the Speaker *pro tempore***:** Is there further debate?

Are honourable senators ready for the question?

An Hon. Senator: Question.

The Hon. the Speaker *pro tempore***:** It was moved by the Honourable Senator Lang, seconded by the Honourable Senator Neufeld, that the report be adopted and that, pursuant to rule 12-24(1), the Senate request a complete and detailed response from the government, with the Minister of Public Safety being identified as minister responsible for responding to the report.

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

Hon. Senators: Agreed.

(Motion agreed to and report adopted.)

ANTI-TERRORISM

MOTION TO AUTHORIZE SPECIAL COMMITTEE TO STUDY THE CREATION OF A POTENTIAL NATIONAL SECURITY COMMITTEE OF PARLIAMENTARIANS AND TO STUDY THE ROLE OF WOMEN IN THE PROCESS OF DERADICALIZATION IN CANADA AND ABROAD—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Dallaire, seconded by the Honourable Senator Robichaud, P.C.:
>
> That the Special Senate Committee on Anti-Terrorism be authorized to examine and report on the creation, role and mandate of a potential National Security Committee of Parliamentarians;
>
> That the Special Senate Committee on Anti-Terrorism be authorized to examine and report on the role of women in the process of deradicalization in Canada and abroad; and

That the Committee submit its final report to the Senate no later than December 31, 2013, and that the Committee retain all powers necessary to publicize its findings until March 31, 2014.

Hon. Roméo Antonius Dallaire: Honourable senators, this has been pushed back so often that I have rewritten my remarks four times. I had wanted to bring it to the chamber today on the anti-terrorism motion but, in particular, the creation of a national security committee of parliamentarians. I do this not in haste but only in emphasizing at this time, as we see what is going on around the world and in Canada, the essential nature of this consideration before you. I hope it will gain support and be moved to a committee for study.

[*Translation*]

I rise tonight to speak to you about a motion that is very important for our country's national security. This motion would create new tools for parliamentarians to provide meaningful oversight of Canada's intelligence community. It would also allow us to develop a better understanding of what we can do to stop the kind of radicalization that could lead to attacks in the future.

[*English*]

I will open my speech by quoting Honourable Senator Segal: "The business of anti-terrorism is never-ending."

Just last week, we learned that the Communications Security Establishment Canada has been authorized to collect data trails, phone logs, Internet protocol addressees and other metadata associated with Canadian telecommunications.

Speaking on CBC Radio this weekend, University of Ottawa Professor Wesley Wark, himself an expert on intelligence services and national security, noted:

> Metadata is a slippery term, and we know too little about how intelligence services, including those in Canada, actually acquire and use this material.

Where did we as parliamentarians learn of this important and controversial anti-terrorism program? We learned of it in a news report — not from the government, not from the Prime Minister, not from our own work and research in committees. We learned this information the same way every other Canadian did: by reading the newspaper and listening to the radio. It is challenging to understand why parliamentarians are given so little information about Canada's intelligence and anti-terrorism activities.

Oversight of Canada's national security operations should not happen only when threats of terrorism make headlines. Crisis management is not a solution. Unfortunately, at the moment, parliamentarians do not have the information they need to understand the complex issues relating to national security.

We are working on the margins. This is why the first part of my motion proposes that the Special Senate Committee on Anti-terrorism is a useful tool to try to break out the fundamental problematics of instituting this new national security committee, to be authorized to examine and report on the creation, role and mandate of a potential national security committee of parliamentarians.

[*Translation*]

This national security committee would allow parliamentarians to get a comprehensive picture of how Canada's intelligence community operates. After all, that is why Parliament exists. We as senators and members are charged with ensuring that the institutions that are designed to keep Canadians safe actually get the job done. Certainly, we have committees in Parliament that touch upon issues of intelligence and national security.

How can the Defence Committee, which is responsible for national security, meet the challenge of ensuring that the executive branch is doing its job properly? How can we ensure that the legislative branch has the ability to monitor and provide oversight as well as provide advice to the executive branch? How can Parliament assess the work of Canada's intelligence services when it cannot even get a low-level confidential document?

Of course Canada's intelligence and public security community is not completely without oversight. The primary oversight bodies in matters of national security in Canada are the Security Intelligence Review Committee, whose mission is to protect Canadians' rights by ensuring that the Canadian Security Intelligence Service acts within the law; and the Commissioner of the Communications Security Establishment, which oversees the activities of Canada's signals intelligence agency. These agencies certainly do important work, but unlike parliamentarians, they are not responsible to Canadians, and they do not represent our constituents across the country, which is a basic responsibility of parliamentarians.

[*English*]

It would seem that, in principle, the government might agree with this proposal. Last week, the Minister of Public Safety released the *2013 Public Report on the Terrorist Threat to Canada*, which I mentioned when I began my speech on Thursday.

• (2100)

This report sets out the recent developments in the domain of terrorism in 2012. It also highlights the key areas of concern for the government. These include the continued threat posed by al Qaeda, the growing presence of terrorism cells in Africa and the danger of radicalization and extremists here in North America. We in Canada are not immune to it.

What is intriguing about this report is that it truly makes a strong case for parliamentary oversight in the domains of anti-terrorism and public security. It demonstrates how terrorist threats are evolving in our world. It notes that Canada is now undertaking significant cooperative efforts to combat terrorism. These efforts include the Beyond the Border Action Plan, implemented by Canada and the United States, as well as RCMP-led integrated national security enforcement teams.

The report also notes, however, that there is now significant cooperation between federal departments on this issue. These departments all work together on aspects of Canada's fight

against terrorism, but they also communicate with Canadians in quite a separate way. Outside of the executive, there is no oversight for the cooperative relationships between these departments. Therefore, there is no accountable measure of their success.

What is needed is a permanent committee, tasked with overseeing Canada's intelligence institutions and national security matters. Under my proposed motion, the details of the composition and operation of this committee would be studied by the Special Senate Committee on Anti-Terrorism, which can bring at least the first level of report.

[*Translation*]

It should be noted that this is not the first time that such a committee has been proposed. The idea of creating a permanent parliamentary committee on national security has been around for almost 45 years, since the 1970s.

However, in more recent years, there have been extensive studies done to try to determine just what this committee would look like. In 2004, the Honourable Senator Kenny sat as Vice-Chair of the Interim Committee of Parliamentarians on National Security. That committee released a report in October of that year that proposed specific details of how a permanent national security committee might operate.

Among other things, the report recommended that the committee would be composed of an equal number of senators and members of Parliament; once appointed, members of the committee would continue to serve until a new committee was formed at the beginning of the next Parliament; and the committee would be provided with the necessary resources, including a permanently assigned, security-cleared staff and secure premises for holding meetings.

Based in part on these recommendations, in 2005, the Liberal government at the time introduced legislation to create a permanent national security committee. Unfortunately, the legislation — Bill C-81 — died on the Order Paper when an election was called in January 2006.

Since then, we have seen no motivation on the part of the current government to revisit this issue. It is my belief that the creation of a national security committee would be a significant step in the right direction for a government that has so often said that it is focused on upholding Canada's sovereignty and security.

[*English*]

This issue has been studied extensively over the years, and we have even seen legislation — I mention Bill C-81 again — that would have established a national security committee of parliamentarians. As was raised by my honourable colleague Senator Segal, Bill C-81 would not have created a parliamentary committee but a committee of parliamentarians. It would have established an entirely new committee structure around that committee for this purpose alone, just as is done in the U.K.

This is why I am so shocked, in fact, and frustrated by the government's motion to dissolve the Special Senate Committee on Anti-Terrorism before it has had the chance to undertake this proposed study, and even before it has had a chance to digest the significant report that the minister of security just punched out. We have so many models we could draw on to inform our study on a national security committee. We would not be starting from scratch. We would be taking inspiration from our allies and from our own experiences to construct a truly worthy committee to study these matters.

When it comes to matters of national security, an old adage is true: There is no time like the present. In order to demonstrate our commitment to parliamentary oversight, giving us a real job, we must act now to empower the Special Senate Committee on Anti-terrorism to study the issue.

If one wants proof that a public security committee would be an important tool for providing effective oversight of intelligence and anti-terrorism activities, we should not have to look far for examples: Australia, France, the Netherlands, New Zealand, the United Kingdom and the United States, the famous Five Eyes — except one eye is blind, and that is ours — all have such a committee in place.

The Hon. the Speaker *pro tempore***:** Senator Dallaire, I regret to advise you that your time has expired.

Senator Dallaire: May I have a few moments more, please?

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

Some Hon. Senators: Five minutes.

Senator Dallaire: What is more, these countries have given their committees the tools they need to do the work effectively. Let us look quickly at the U.K. They have the Intelligence and Security Committee. This committee of parliamentarians was established by a special statute. It reports annually to the Prime Minister, and its report is tabled in Parliament. Members of the committee are given access to any highly classified materials required for the carrying out of their duties. The committee has access, oversight and meaningful input into government security and intelligence policies.

Clearly, it is possible for this type of committee to work effectively, so why do we not have a Canadian equivalent? In the end, Canada is lagging behind the rest of the world when it comes to oversight of our intelligence, public security and anti-terrorism activities. Parliamentarians lack the tools and the venue they need to do our jobs properly and to hold these institutions to account on behalf of all Canadians.

What is our job, then? It is time for us to step into the modern world of intelligence and security. As the threats continue to grow, they are very close to home and we are in a totally different scenario than we were during the 40 years of the Cold War when the threat was identified, it was over there and we deployed accordingly. The threat is now around us; it is here; it is growing; and it can, in fact, achieve its aims.

[*Translation*]

Before I close, I would like to point out that a national security committee is just one part of my motion. The second part would authorize the Special Senate Committee on Anti-Terrorism to

examine and report on the role of women in the process of deradicalization in Canada and abroad.

Canada's national security and intelligence agencies should be at the forefront of deradicalization research and policy development. It is incumbent upon us to be vigilant against radicalization and to provide all Canadians with the tools they need to steer clear of such dangerous, violent ideologies.

[*English*]

Counter-terrorism experts have frequently observed that countries that nurture terrorist groups tend to be the same societies that marginalize women. Therefore, if we make the empowerment of women a real priority, we may also strengthen our ability to counter extremism and terrorism before it turns into explosive violence right here at home, in our communities and our families.

I conclude by saying that the passage of this motion would represent a step in the right direction — a leap in the right direction. In fact, it is like jumping out of an aircraft with a parachute in the right direction, where one ends up in the right battlefield. The passage of my motion would represent our renewed focus on our country's intelligence, public security and anti-terrorist activities and would allow Canadians to feel safer. Surely that resonates on the other side as it does here, knowing that Parliament has made security a priority.

• (2110)

[*Translation*]

I will close by saying that the Anti-Terrorism Committee can conduct a preliminary study on the need for a National Security Committee of Parliamentarians. Let us at least start with that and then, if you do not see the need to continue with this committee, we can reconsider. Let us not give up before we even use the tools that we have, which are already exceptionally limited.

(On motion of Senator Segal, debate adjourned.)

[*English*]

BLINDNESS AND VISION LOSS

INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Seth, calling the attention of the Senate to the increasing rates of blindness and vision loss in Canada and the strategies to prevent further vision loss.

Hon. Mobina S. B. Jaffer: Honourable senators, I would like to thank Senator Seth for bringing up the inquiry on the subject of blindness. It gives me the opportunity to speak about blindness in the rest of the world, particularly in Africa. Trachoma is a highly contagious and blinding disease that occurs in 57 countries and destroys the lives of 40 million people. Globally, trachoma costs 2.1 billion euros in lost income. This is unnecessary as trachoma is easy to treat and prevent with the right medicines and hygiene rules.

Overall, Africa is the most affected continent with 27.8 million cases of active trachoma. Roughly half of the global burden of active trachoma is concentrated in five countries: Ethiopia, India, Nigeria, Uganda and Sudan.

Trachoma is one of the many so-called neglected diseases in the tropics, which dozens of non-governmental organizations are currently fighting throughout the world.

Pharmaceutical companies, such as Pfizer, have donated over 145 million doses for trachoma control, but even with donations, the cost is too high for some of the poorest in the world to be treated. Worldwide, every four minutes one person experiences severe sight loss, and every four hours four people become blind.

I want to start by telling you the story of Mrs. Alehegn. Mrs. Alehegn was a strong young woman when she started to develop trachoma, or "hair in the eye," as it is known in East Africa.

The pain made it impossible for her to cook over smoky dung fires, hike to distant wells for water or work in dusty fields — the essential duties of a wife. The disease caused her relationship with her husband to deteriorate until he left her for a healthy woman. "When I stopped getting up in the morning to do the housecleaning, when I stopped helping with the farm work, we started fighting."

For 15 years, Mrs. Alehegn suffered. Every blink of the eye would feel like thorns scraping her eyes. She would pluck the hairs of her in-turned eyelids, only to have them grow back more coarse and more debilitating. With the help of her daughter, she persevered until she could scrounge up enough money from her meager income to get the surgery. For 15 years, she needlessly suffered to overcome a disease that is preventable and treatable.

When Mrs. Alehegn's ex-husband was asked why he left her, he said that he, too, had begun to develop "hair in the eye." He too had been forced to stop working. If they had not separated, they would have both become completely blind and died. A hard-working wife would provide him the income he needed to be able to afford the life-saving surgery. "If we had not been sick," he said sadly, "we would have raised our children together."

The World Health Organization estimates that with the right help, trachoma can be eradicated by 2020.

Honourable senators, our government, our country and Canadians can be part of eradicating this debilitating disease. Thank you.

(On motion of Senator D. Smith, debate adjourned.)

[*Translation*]

UNIVERSITIES AND POST-SECONDARY INSTITUTIONS

INQUIRY—DEBATE CONTINUED

On the Order:

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

Hon. Claudette Tardif (Deputy Leader of the Opposition): This inquiry stands in the name of Senator Fraser, and at the end of my speech I would like the inquiry to continue to stand in her name.

Honourable senators, I am pleased to speak today to take part in the inquiry co-sponsored by Senators Cowan and Segal calling the attention of the Senate to the many contributions of Canadian universities to innovation and research.

I want to thank the senators for giving us the opportunity to celebrate the work of Canadian universities. As a former professor at the University of Alberta, I am very passionate about research and the contributions universities make to Canadian society.

Having also had the opportunity to work in university administration, I can assure you that Canadian universities are complex institutions that contribute to our society in a number of ways. First of all, they provide a public service as their role is to expand our knowledge and hand down our scientific and cultural heritage to the next generation of Canadians. They offer an ideal vantage point for taking a critical look at society. They cultivate students' independent and critical thinking. They also help train professionals and highly skilled workers in Canada.

As an employer in our communities, they contribute to the prosperity and cultural life of many regions in Canada. Universities are where researchers discover and develop new ideas, products and treatments.

It is this last role that I would like to highlight today. The research activities that push the limits of our knowledge result in improved quality of life and contribute to our long-term prosperity.

The senators who spoke to this inquiry have already talked about a number of Canadian establishments and accomplishments that demonstrate why university research is more valuable than ever.

I would like to contribute to this inquiry by highlighting some of the research conducted at the University of Alberta. For lack of time, I will only be able to present a very small sample of the many types of research and innovation.

The University of Alberta, located in the heart of Edmonton, is truly a research-intensive university. It receives almost $500 million annually from governments, foundations and other donors for various research projects, making it one of the most important research institutions in Canada. It has almost 39,000 students, including more than 7,000 graduate students, and more than 400 separate laboratories where research is conducted in practically every field.

[*English*]

Notably, the university is home to several research centres dedicated to finding solutions for health and medical problems. The university is an established leader in researching virus-based diseases, such as hepatitis B and C, which affects some 600 million people in the world and approximately 600,000 in Canada. These diseases can lead to several health problems, including liver failure and liver cancer. In fact, hepatitis C, for which there is no vaccine, is the leading cause of liver transplants in Canada.

University of Alberta researchers have been at the forefront of research relating to hepatitis B and C, including Dr. Lorne Tyrrell, whose work on developing antiviral therapy for hepatitis B is now being used around the globe.

• (2120)

In the 1980s Dr. Tyrrell headed a team whose research led to the licensing of the first drug treating hepatitis B infection. For his work, Dr. Tyrrell has been named an Officer of the Order of Canada and has been handed other awards too numerous to mention.

He is currently the director of the University of Alberta's Li Ka Shing Institute of Virology. The institute was established in 2010, thanks to a $28-million gift from the Li Ka Shing Foundation, the largest cash gift in the university's history, and $52 million in funding from the Government of Alberta.

Along with developing new treatments, the institute seeks to attract private sector collaboration with pharmaceutical and life sciences companies in its efforts to treat and cure virus-based diseases. I am happy to note that last year, Dr. Michael Houghton, the current chair in virology of the Li Ka Shing Institute of Virology, announced the discovery of a vaccine that will potentially help combat hepatitis C. With hundreds of thousands of people being infected with hepatitis C annually, and with between 20 per cent and 30 per cent of those developing some form of liver disease, this announcement brings much hope.

Honourable senators, according to the Canadian Diabetes Association, today more than 9 million Canadians live with diabetes or pre-diabetes, a condition that, if left unchecked, puts people at risk of developing type 2 diabetes. The prevalence of diabetes has risen dramatically over the past 30 years and has been identified as the sixth leading cause of death in Canada.

As some honourable senators may know, diabetes is a disease influenced by numerous hereditary, lifestyle and social factors. An effective approach to understanding the disease can be achieved only by integrating the knowledge from many disciplines. This is why the University of Alberta's Diabetes Institute, Canada's largest diabetes research centre, brings the world's leading researchers from different disciplines under one roof to find new, collaborative ways of preventing, treating and ultimately curing the disease.

The institute was created in 2007 and is supported by both public and private funding sources, including the Alberta Diabetes Foundation. Well-known researchers at the institute are Dr. James Shapiro, Dr. Gregory Korbutt and Dr. Raymond Rajotte, who, honourable senators might be interested to know, is the cousin of James Rajotte, Member of Parliament for Edmonton—Leduc.

The three researchers, along with Drs. Jonathan Lakey, Edmond Ryan, Ellen Toth, Norman Kneteman and Garth Warnock, formed the group that helped establish the University of Alberta as a pioneer in diabetes research by developing a new medical procedure in the late 1990s, now dubbed the "Edmonton Protocol."

The procedure greatly increases the success rate of islet transplantations, a treatment that helps improve the quality of life of people suffering from severe type 1 diabetes. The treatment involves isolating islet cells from a donated pancreas and transplanting them into the liver of the patient. Although still an experimental treatment, successful islet transplantation can change a person's life. For those living with type 1 diabetes, it can mean an end to multiple daily insulin shots, constant blood monitoring and the risk of complications from the disease.

Today, the University of Alberta Hospital is home to the largest clinical islet transplant program worldwide. Its researchers have continued to work on refining the Edmonton Protocol, which has been adapted by islet transplant centres around the world and has been hailed as the biggest advance in diabetes research since the discovery of insulin.

Honourable senators, sometimes the next big thing in science can be really small. This is especially true with the science of the infinitely small nanotechnology. To put it simply, nanotechnology is the science that looks at how we can manipulate matter and build applications at the molecular and atomic level. This might sound abstract, but it holds the promise of revolutionizing our approaches to common problems in many areas, from applications in medicine and agriculture to developing alternative energy sources.

A leading centre of research and innovation in the field of nanotechnology is the National Institute for Nanotechnology, located on the University of Alberta campus. The institute was established in 2001 as a partnership between the National Research Council of Canada, the University of Alberta and the Government of Alberta. As a result, many researchers at the institute are affiliated with both the National Research Council and the University of Alberta.

The institute's building is one of the world's most technologically advanced research facilities. For those amongst you who have trouble focusing in a noisy environment, the institute houses the quietest laboratory space in Canada, which for scientists means a place with ultra-low vibration and minimal noise, an environment that is essential for research at the nano-scale. Nanotechnology is a relatively new field of research. Therefore, many researchers at the institute are working to discover so-called design rules that will eventually lead to applications that can be put to practical use. It is work that has the potential to have long-term relevance and value for Alberta and Canada, as well as to foster innovation in support of a new generation of nanotechnology-based firms.

[*Translation*]

Honourable senators, as you know, Alberta is known for its energy resources, which have in many ways helped shape the province and its economy. However, you may be less familiar with the role played by professors and former students at the University of Alberta in the discovery and development of Alberta's oil sands. Without a doubt, one essential contribution was the invention of the hot water extraction process to separate the bitumen from the oil sands. It was developed in the 1920s by Professor Karl Clark at the University of Alberta. This bitumen extraction process is still used today.

Although this process works well technically, its environmental impact is considerable. It requires the use of large quantities of water, creates large basins of toxic waste and releases huge amounts of carbon dioxide into the atmosphere.

In 2005, the engineering faculty at the University of Alberta created the Centre for Oil Sands Innovation. It is funded in part by members of the petroleum industry and the National Research Council of Canada. Its goal is to develop more environmentally friendly and energy-efficient ways to develop the oil sands, to replace the hot water extraction process.

One of the main areas of research at the centre is the development of an extraction method that will reduce water use by 90 per cent and reduce or eliminate the need for tailings ponds. The process is based on a reusable, gasoline-based solvent that is injected into the oil sands rather than the use of hot water. Although this process is still at the experimental stage, the centre's director described this emerging extraction technology as having the potential to revolutionize the industry.

Honourable senators are no doubt aware that the University of Alberta is home to Campus Saint-Jean, the only francophone university west of Saint-Boniface. Campus Saint-Jean plays a very special role in the Franco-Albertan community. In addition to its training and research mandate, Campus Saint-Jean also plays a key role in preserving and promoting the French language and culture in Alberta. The institution is located in the heart of Edmonton's francophone neighbourhood and it has a very close relationship with the Franco-Albertan community, which derives great benefit from the institution's vitality and contribution.

In terms of research, the institution's researchers base their work in large part on the social context of the Franco-Albertan community, which is in a minority situation and has to fight against assimilation.

• (2130)

Since the 1970s, researchers associated with Campus Saint-Jean have been making a special effort to promote Franco-Albertan heritage, advance the language rights of francophones and respond to the specific education needs of minority francophones.

Since 1987, Campus Saint-Jean has been offering a specialized training program for teachers in francophone minority settings, the only program of its kind in Canada at the time.

Campus Saint-Jean was also one of the first institutions to offer a training program in immersion education, and has contributed to research in that area.

May I request an additional five minutes?

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to grant an additional five minutes?

Hon. Senators: Agreed.

Senator Tardif: Campus Saint-Jean is also home to the Canadian Studies Institute, which is known for the quality of work done by its researchers on Canadian Francophonie and federalism. The institution's research focuses on French-speaking Canadian populations, their history, their culture and their governance. Take, for example, the work of Professor Donald Ipperciel, who received the Campus Saint-Jean award for excellence in research in 2009 and who is the Canada Research Chair in Political Philosophy and Canadian Studies. He is interested in studying Canadian nationalism in order to better understand Canadian history from both English- and French-speaking perspectives, as well as relationships with First Nations and other multicultural groups.

Another Campus Saint-Jean initiative that is worthy of note is the Institute of Western Canadian Francophone Heritage, which seeks to preserve, promote and share Franco-Albertan heritage.

The current director of the institute is François McMahon, former dean of Faculté Saint-Jean. The institute published the first overview of the Franco-Albertan community's history, which was written by France Levasseur-Ouimet, professor emeritus and writer in residence at Campus Saint-Jean.

In recent years, research efforts at Campus Saint-Jean have been closely tied to Gilles Caron's court case. He is a French-speaking Albertan who is challenging the unilingual status of Alberta and Saskatchewan. Professor Edmund Aunger, now retired, discovered long-forgotten, historic documents that prove that Rupert's Land and the North-Western Territory — which now make up the bulk of the Western provinces — were primarily francophone in the 19th century. Therefore, the language rights of francophones in the West should have been guaranteed from 1869 onwards. According to Professor Aunger, the continued protection of those rights was promised in a royal proclamation approved by the Queen in December 1869. Those rights were also unanimously approved by a major joint constitutional convention of francophones and anglophones who met at Red River in early 1870. Professor Aunger's research provided a historical basis for Mr. Caron's defence and could ultimately be used to advance the language rights of francophones in Alberta and Saskatchewan. Alberta's Court of Appeal is currently looking at the matter, which will likely be referred to the Supreme Court of Canada.

Honourable senators, I would like to conclude by reiterating that research and innovation have been and continue to be essential to improving and maintaining the living conditions of Canadians and all people. Research allows us to better understand ourselves and the world. I hope that this small sample of the numerous research activities at the University of Alberta has demonstrated the importance of university research and the high quality of research being done at this university in my province.

[*English*]

The Hon. the Speaker *pro tempore*: Further debate?

Hon. Joan Fraser: This item had been standing in my name, Your Honour, and I ask that it continue to do so.

The Hon. the Speaker *pro tempore*: Honourable senators, this item had previously been standing in the name of Honourable Senator Fraser. Is it agreed that it remain in her name?

Hon. Senators: Agreed.

(On motion of Senator Fraser, debate adjourned.)

MISSING AND MURDERED ABORIGINAL WOMEN

INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Lovelace Nicholas, calling the attention of the Senate to the continuing tragedy of missing and murdered Aboriginal Women.

Hon. Jane Cordy: Honourable senators, I rise this evening to speak to a critical issue, that of murdered and missing Aboriginal women. I want to thank Senator Lovelace Nicholas for starting this very important inquiry in the Senate.

Honourable senators, the statistics are staggering. We know that over the last decade indigenous women and girls represented approximately 10 per cent of all female homicides in Canada while only making up 3 per cent of the population. Furthermore, 580 cases of missing and murdered Aboriginal women have been documented by the Native Women's Association of Canada, mostly within the last three decades, and we suspect this number is actually much higher. Of these cases, 67 per cent are known to be murders; 20 per cent are missing women and girls; 4 per cent are cases of suspicious deaths; and 9 per cent represent cases where the nature is unknown.

Honourable senators, this is nothing less than a crisis. Were these statistics applied to non-native women, the number of cases would have reached approximately 20,000 by now. It is clear that we need to look more closely at current cases and to establish a national strategy in order to lower these statistics significantly.

Amnesty International, which along with the UN has been critical of Canada as it relates to this issue of missing and murdered Aboriginal women, has laid out a pattern in our country of why we continue to be a breeding ground for this particular problem. They suggest that racist and sexist stereotypes, which deny indigenous women their dignity and worth, encourage some men to think that they can get away with these acts of hatred. They also put the problem down to decades of government policy that has impoverished and broken up indigenous families, leaving women and girls extremely vulnerable. Finally, many police forces have failed to institute the proper training and investigative protocols and mechanisms for accountability in order to eliminate bias in how they respond to the needs of Aboriginal women and their families.

In February of this year, the online group entitled Anonymous released a map of missing and murdered Aboriginal women in North America. This map is along the same lines of Harassmap, a crowd-sourced map that tracks sexual harassment in Egypt.

Tim Groves, a Toronto-based freelance reporter and researcher, notes:

> While this map isn't official, and people need to be critical of any information — and question its source — crowd-sourcing can help fill in formal information gaps.

Groves also points to this as a means for people to be creative and use technology to add to the conversation. It is a means to not sit idly by and wait for the government to take action.

Upon examination of the map it is clear we are dealing with a serious issue here in Canada based on the sheer number of cases that show up. This map acts as a visual that will hopefully bring the issue to light and make Canadians aware of its severity and encourage a move towards truth and justice. We have to not only bring the issue to light but, more importantly, we have to work with and listen to the Aboriginal community.

Honourable senators, a national action plan would ensure indigenous women effective, unbiased justice, continued improvement in public awareness, and also accountability, with consistent collection and publication of statistics relating to this matter. It would also encourage adequate funding to organizations that can provide culturally appropriate counselling to Aboriginal women and girls in their own communities. Furthermore, it would examine ways to address root causes by closing the economic gap between indigenous and non-indigenous people and eliminate any inequality of services available.

Honourable senators, last fall I had the pleasure of visiting Thunderbird House in Winnipeg, Manitoba. This centre is a community gathering spot that aims to enhance and share Aboriginal beliefs, values, customs and practices.

• (2140)

I was able to tour the facility and speak to people there in order to gain an understanding of the value and benefit they bring to their community. I spoke with one woman, Shannon Buck, who was eager to share the stories and lives of the women she has encountered as a coordinator of the Red Road to Healing program at the West Central Women's Resource Centre.

Shannon Buck is one of the most courageous women I have ever met. Ms. Buck has written a speech compiled from words of community members who attended a healing circle on October 18 last year. She hoped to deliver the speech herself at a community meeting where the subject was missing and murdered Aboriginal women. However, when she got to the meeting with her speaking notes, which reflected the words and feelings of her community, she was told that she could not speak.

Honourable senators, this is a major part of the problem. The coordinator of the Red Road to Healing program, a woman whose words reflected what she heard from the women in her community, was not given a voice at the meeting. She asked if I would give voice to the words she was not allowed to speak. I am proud and privileged to share Shannon's words with you now in the Senate of Canada. She describes them as the heartfelt cry of a people to be acknowledged as valuable members of Canadian society and the voice of their frustration and pain over the epidemic of violence against their lifegivers.

Here are Shannon's words:

> My name is Wabbunnong Noodin Ikwe.
>
> I am here to represent my people.
>
> My sisters.
>
> My nieces.
>
> My daughters.
>
> My granddaughters.
>
> Those who have gone on before me. Those who walk the earth with me. Those who will come after me.
>
> I am here to tell you:
>
> That it is the slap in the face of the families of our missing and murdered girls and women that they have no place at the table with those who would make decisions about what is "best for them."
>
> There is no one who knows more about this issue and reality than those that are forced to live it every day.
>
> Yet, you shut your ears to the cries of the people; because we do not have the right letters behind our names, because we are not wealthy enough, not academic enough, not assimilated enough to be welcome behind the doors you have chosen to close on us.
>
> There is no one listening to the dedicated men and women that live and work every day in communities around this country. Those whose work does not end at 5:00. Those who

sit with the people in their pain and give of their own time and resources without recognition or compensation. The grassroots and frontline workers.

There is no one listening to the heartbreak of mothers and children as another of our women vanishes from our lives.

We know the issues that we courageously face day in and day out.

You have done a multitude of "studies" on us, only to hear the same conclusion over and over again.

You have held meetings and discussions about what to do with us...the ugly stain of truth on the great Canadian tapestry of deceit, denial and decimation.

What happened to the recommendations that came out of Royal Commission of Aboriginal Peoples?

Out of the National Aboriginal Women's Summits I and II?

Why do you refuse to hear us?

Why do you choose to turn a blind eye to the truth?

Why do you feel threatened by those of us that speak it out?

It is not okay to make decisions for us.

It is not okay to hide yourselves away, congratulating each other on another job undone.

We will not be placated.

We will no longer be pacified.

We will no longer live within the code of silence that holds our women captive and vulnerable.

We will speak out; we will make demands; we will take action.

We will see our women, our families and communities supported.

We will ensure that those that do the actual work, those that actually live with heartbreak and constant suffering, will have their voices heard any time decisions are to be made about them.

We are not asking your permission to do what needs to be done...we are telling you it will be done...with you or without you.

We are awakening.

EXPECT US.

Expect them, honourable senators. Those are powerful words. What we must now decide is how much can they expect from us. We can no longer allow these atrocities to continue. We must take action.

We must work together towards a solution that comes, first, from acknowledging the problem, which I am happy to see, as Senator Jaffer reported in this chamber, they have done in the other place by striking a special committee responsible for examining the issue of missing and murdered Aboriginal women and girls. I lend my full support to the efforts of Senator Lovelace Nicholas and Senator Dyck, and ask that you do the same, honourable senators.

June is National Aboriginal History Month. What better gift for a more common prosperous future than to acknowledge the vital part Aboriginal people play in Canadian history and to take genuine steps to improve the issue of missing and murdered Aboriginal women to ensure a vibrant future?

Honourable senators, let us walk together with our Aboriginal community to develop a national plan to eliminate this epidemic of missing and murdered Aboriginal women.

Hon. Lillian Eva Dyck: Would the honourable senator be willing to take a question?

Senator Cordy: Yes, but the honourable senator probably knows more about the issue than I do.

Senator Dyck: I thank her for the speech. The question I have is this. Recently, I was talking to one of the women in Saskatchewan. I do not know whether she heard about this when she visited Thunderbird House in Winnipeg. In some cases now, we have people who have actually been charged with murder or kidnapping or what have you, and then we have the children.

Now, we are dealing with children who are being exposed to information about their mothers in the media, which is causing trauma for the children of women who have gone missing or been murdered.

In her visit to Thunderbird House, did that issue come up? If it did not, does she think that is something we ought to start thinking about, because it can be intergenerational just like the residential school issue?

Senator Cordy: That is an excellent question. When I was speaking with Shannon Buck, she had a missing daughter. She spoke about getting a phone call. They had arrested a man who had murdered some Aboriginal women. Apparently, her daughter had been taken by this man, but then was not murdered just because of one of those fortunate things in life.

She did not realize that her daughter had been taken captive by this man, and she got a phone call from the media saying, "What do you think about the fact your daughter got away?" She said that she could not even speak on the phone and she was overwhelmed by how close her daughter had come to being murdered because of the number of women this man had murdered.

She said that this kind of situation was happening, just as the honourable senator said, where people are reading about family members in the media and reliving the trauma over and over again.

I think the example of the residential schools is very relevant, because very traumatic things are happening in their lives and they are seeing them being repeated over and over in the media. Certainly, what I heard from Shannon Buck is that we have to do something. I said, in my closing, that we have to walk together. Her words to me were something like this: What is happening is the community is walking ahead of us and we are supposed to be running behind. We do not want to be walking behind; we want to be walking with you to find solutions to this.

(On motion of Senator Campbell, debate adjourned.)

• (2150)

[*Translation*]

CIVIL MARRIAGE ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-32, An Act to amend the Civil Marriage Act.

(Bill read first time.)

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

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, this bill amends same-sex marriages performed abroad. It seeks to comply with a ruling that corrects the Civil Marriage Act. The ruling was to be effective and the amendment made by June 1.

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

[*English*]

CRIMINAL CODE
NATIONAL DEFENCE ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-54, An Act to amend the Criminal Code and the National Defence Act (mental disorder).

(Bill read first time.)

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

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

VIOLENCE AGAINST WOMEN

INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Oliver, calling the attention of the Senate to the need to engage in a national conversation to call for the elimination of violence against women, of all ages, in all its forms including physical, sexual, or psychological abuse, and, in particular, on how we, as a national legislative body, can take the lead in educating, preventing, increasing national and global awareness on gender equality and reaffirming that violence against women constitutes a violation of the rights and fundamental freedoms of each individual.

Hon. Mobina S. B. Jaffer: Honourable senators, I rise today to speak to the inquiry on violence against women. I want to thank Senator Oliver for speaking on this issue. As he and all honourable senators are aware, I have been an advocate for this issue for many years.

Violence against women is an everyday reality in Canada and around the world. The facts are sobering. Violence against women and girls affects one out of every three women worldwide. Half of all women in Canada have experienced at least one incident of physical or sexual violence since the age of 16.

In Canada, on any given day, more than 3,000 women, along with their 2,500 children, are living in an emergency shelter to escape domestic violence. As of 2010, there were 582 known cases of missing or murdered Aboriginal women in Canada. This is an issue which I have urged our government to take action on.

In countries experiencing armed conflict, violence against women has reached epidemic proportions. In the wars in Bosnia, Rwanda, Sierra Leone and the ongoing conflict in the Congo, rape has become a weapon of war. Rape is used to brutalize and humiliate innocent civilians. Sexual violence is targeted overwhelmingly at women and girls, simply as a result of their gender.

The former UN Special Representative of the Secretary-General on Sexual Violence in Conflict voiced that, "It has become more dangerous to be a woman fetching water or collecting firewood than a fighter on the frontlines."

Honourable senators, the war in the Democratic Republic of Congo has been called a war against women. The eastern Congo is described as "the most dangerous place in the world to be a

woman." A new study, published in June 2011 by the American Journal of Public Health, revealed that about 48 women are raped every hour in the Congo, totalling more than 1,100 women a day. These women are physically ravaged, emotionally terrorized and financially impoverished.

Today, honourable senators, I want to remind you of a woman who I know very well, who I worked with and whom I have spoken to you about before. This woman has completely changed my life. Her name is Bernadette. The first time the militia invaded her house, they killed Bernadette's husband, one son, and they raped and killed her daughter while she was forced to watch. That day, Bernadette was also raped. She shouted for help, but no one answered her pleas.

The second time the Congolese army invaded her house they raped and killed her second daughter while Bernadette was forced to watch. Bernadette was raped again. She shouted for help, but no one came.

The third time the militia invaded her house, luckily her other three children were not at home. Bernadette was again savagely raped. This time her genitals were mutilated. The militia poured kerosene in her vagina and lit her on fire. Although Bernadette survived, this time she did not shout for help. She knew there was no one to answer her pleas.

Honourable senators, this reality continues for many women in the Congo. This reality is also true for many women in other corners of the world living in conflict. Canadians and we senators need to hear Bernadette's cry. We have a duty to stand for the sake of humanity and take action to eliminate violence against women.

In order to eliminate violence against women, we must confront the core causes of this violence. The violence that women face in conflict does not exist in a vacuum. This violence occurs as a direct result of the discrimination and marginalization women face in society.

Women are not simply victims in conflict. Women are strong, yet they are too often made vulnerable through legal, economic and social discrimination. In order to eliminate violence against women, women must be empowered to be leaders and decision makers. Women must be involved as full and equal participants in building peace and reshaping their societies after a conflict.

In most formal peace processes, women's contributions to preventing violence and building peace continue to be unrecognized, underutilized and undervalued. According to the United Nations, women have made up fewer than 7 percent of negotiators on official delegations in peace processes since 2000, and just 2.7 percent of signatories.

In 13 major comprehensive peace agreement processes between 2000 and 2008, not one single woman was appointed as a mediator, yet the evidence supporting their participation is clear.

• (2200)

As honourable senators know, I served as Canada's Special Envoy for Peace in Sudan from 2002 to 2006. I was involved in the Darfur Peace Process in the Sudan.

I found out that a United Nations plane was being sent to pick up some Darfurian men in exile in Europe to bring them to the peace talks in Abuja, Nigeria. I went to Salim Salim, the mediator from Tanzania and former Prime Minister, and insisted that the women should also be brought to the peace talks. He agreed right away, acknowledging the importance of having women involved. He showed true leadership. After some negotiation with the people involved, 17 women were picked up from refugee camps from various parts of Darfur. These women were brought to the peace talks and received some of the same training the men were getting in mediation, land rights issues and leadership.

At the talks, the men were arguing about water rights in a particular region. One of the women questioned, "Why are you arguing about water rights in that region? The water dried up there more than five years ago." Also, when discussing a certain food route, another woman stated, "That route is not useable, it is covered with mines. Why insist on this route?" Having the women participate in this peace process and provide their knowledge and insights was critical to its success. Including women right from the beginning also ensured the entire process was more effective and long-lasting.

Canada played a key role in the work leading up to the adoption of Security Council Resolution 1325 on Women, Peace and Security. Our government viewed the protection and empowerment of women as critical to achieving sustainable peace. We have a proud history of peace-making and peace-building. Canada is a world leader of human rights, and we need to live up to this reputation for women around the world. Today, as I stand before honourable senators, I am ashamed to say that our government has taken a huge step backwards in protecting women's rights and combating sexual violence.

As I mentioned in my statement earlier, Canada is the lead negotiator on resolutions on violence against women at the United Nations Human Rights Council. Canada put forth a draft resolution at the United Nations that fails to account for recent international progress in tackling violence against women around the world. On Friday, the United Nations adopted this resolution. Canada had the opportunity to strengthen the protection of women, but instead we have regressed by setting the bar lower for women's rights.

Honourable senators, there are too many Bernadettes in the world. That is why it is so important that the government take a stronger stance, as I mentioned in my statement today. Sexual violence and rape is not a woman's issue. It is an issue that impacts every corner of the world, from Canada to the Congo. It is an issue that we all have to take action against.

Honourable senators, as Canada's envoy to the Sudan, I often spent many hours with the women at the camps. One day, while I was at a camp speaking to the women about how we could

empower those women, I heard a loud noise and saw a young girl of 16 years being brought on a cartwheel to the camp. This young girl had been raped by eight militia men. There is nothing that I can say today and get through this to describe the injuries on this girl. I cannot tell you whether there was even one part of her that was not broken. I looked at the mother and said, "You knew that when this young girl was going to collect firewood she would get raped." The mother looked me in the eye and said, "What choice do I have? I have to collect firewood. If I send my son, the militia will kill him. If I send my daughter, I will see her maimed."

Honourable senators, we in Canada have a big role to play to prevent violence against women. We have the means; we have the resources; and we have the values. Now, we need the intent.

(On motion of Senator Carignan, debate adjourned.)

[*Translation*]

CORRUPTION OF FOREIGN PUBLIC OFFICIALS ACT

BILL TO AMEND—MESSAGE FROM COMMONS

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons with Bill S-14, An Act to amend the Corruption of Foreign Public Officials Act, and acquainting the Senate that they had passed this bill without amendment.

[*English*]

TAX CONVENTIONS IMPLEMENTATION BILL, 2013

MESSAGE FROM COMMONS

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons returning Bill S-17, An Act to implement conventions, protocols, agreements and a supplementary convention, concluded between Canada and Namibia, Serbia, Poland, Hong Kong, Luxembourg and Switzerland, for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes, and acquainting the Senate that they had passed this bill without amendment.

CANADA NATIONAL PARKS ACT CANADA-NOVA SCOTIA OFFSHORE PETROLEUM RESOURCES ACCORD IMPLEMENTATION ACT CANADA SHIPPING ACT, 2001

BILL TO AMEND—MESSAGE FROM COMMONS

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons returning Bill S-15, An Act to amend the Canada National Parks Act and the Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act and to make consequential amendments to the Canada Shipping Act, 2001, and acquainting the Senate that they had passed this bill without amendment.

[*Translation*]

ACCESS TO JUSTICE IN FRENCH

INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Tardif, calling the attention of the Senate to access to Justice in French in Francophone Minority Communities.

Hon. Mobina S. B. Jaffer: Honourable senators, I address you today to pursue Senator Tardif's motion concerning access to justice for francophones in minority French-speaking communities in Canada.

I wish to thank the Honourable Senator Tardif for initiating this motion on a subject that is also close to my heart. For a long time, Canada has been a country of immigration.

According to Statistics Canada, on December 23, 2009, Canada's population stood at approximately thirty-three million. Again according to Statistics Canada, during the third quarter of that year, Canada's population grew strongly by 133,000 people.

Interestingly, somewhat more than two-thirds of the increase — about ninety thousand — was due to international immigration. Moreover, francophone immigration into minority communities has shown fresh growth in the last few years.

On 28 June 2002, the Government of Canada passed a new Immigration and Refugee Protection Act. Section 3 of that act states that, with respect to immigration, the objectives of the act are to enrich and strengthen the social and cultural fabric of Canadian society, while respecting the federal, bilingual and multicultural character of Canada.

This law also highlights the importance of fostering the development of minority official language communities in Canada. As a country that welcomes immigrants, Canada tries to recruit immigrants who will make a positive contribution to the development of Canadian society.

Let us remember that about 137,000 francophone immigrants live in these communities, with 70 per cent living in Ontario, 15 per cent in British Columbia and 8 per cent in Alberta.

According to the 2006 census, immigrants represent 13 per cent of the total population of francophone minority communities. However, one problem has emerged: immigrants who settle in francophone minority communities do not always have access to legal services in French.

• (2210)

In Ottawa, a complainant who had filled out the "Notice of Intention to Appear" form in French arrived to discover that while the provincial prosecutor was bilingual, the justice of the peace was a unilingual English speaker. In order to address this

problem, a national study was conducted on behalf of the Fédération des associations de juristes d'expression française de common law.

The federation represents regional, provincial and territorial associations of French-speaking jurists working to promote and defend the language rights of francophone and Acadian communities.

The study, *L'accès à la justice et les carrières en justice pour les immigrants francophones dans les communautés minoritaires du Canada,* focuses on access to justice and careers in justice for French-speaking immigrants in minority communities in Canada, and its purpose was to explore needs, priorities and possible courses of action in relation to access to justice for French-speaking newcomers living in Canada's minority francophone communities. The study sought not only to target access for newcomers to available resources, but also to suggest changes designed to promote access to justice in French.

Here are some important facts about newcomers to Canada:

The first is that access to justice is not seen in the same positive light as access to health care.

Second, a significant number of the groups questioned in connection with this study, such as refugees, had been marked by their own experience of the justice system in their country of origin. Hence the importance of stressing the reliability of Canada's justice system, as well as opportunities to access services in French.

For example, the study shows that about half of the respondents do not know where to go to obtain the services of a lawyer or learn about legal aid services in their province.

Canada is founded on the rule of law. That said, cultural and other customs must comply with the law. According to the study, it is therefore important to take these factors into consideration in the implementation of strategies to assist newcomers.

The issues and challenges identified in this study confirm that it will be necessary to develop strategies and activities that target francophone immigrants directly in order to increase access to justice in French.

The study proposes four major strategic orientations that will have to guide project implementation.

The first strategic orientation is to position access to justice in French as a determinant in successful immigration. The study notes that access to justice in French should be positioned as a determinant in successful immigration on the same basis as the economic, social and cultural integration of francophone immigrants.

The second specific orientation is to work on the attitudes and beliefs of francophone immigrants respecting access to justice. It is important to improve their awareness with support materials that provide a clear, straightforward explanation of the bases of Canada's justice system.

The third specific orientation is to organize a concerted approach by the various community agencies. One major finding from the demographic analysis is the unequal distribution of immigrants among provinces and territories. That said, there will be a need to accept that projects and strategies will differ from region to region, depending on the distribution of francophone immigrants across Canada.

The final specific orientation is to develop working relations with immigrant communities, taking advantage of their natural gathering places.

The strategies proposed in this study are but the beginning in the process of developing and enhancing access to justice in French for newcomers. These strategies help us understand the scale of the problem confronting francophone immigrants when they arrive in Canada.

Another point made in the study is a proposal for projects to address access to justice in French. The following are examples of two projects that emerged from the study.

The first is designed to raise the profile of justice in French by instituting an "Access to Justice in French Week" in francophone immigrant communities. Canada's Right to Know Week, Black History Month and the Semaine de la francophonie are important annual events in Canada. An event of this kind would provide an opportunity for community organizations to develop a series of events in order to raise the profile of the justice system among francophone immigrant communities and the host communities.

The second project would be the presentation of a provincial award recognizing services to justice and immigration to a person or organization that promotes justice issues to francophone immigrant communities.

The most important thing that emerges from this study is the need to work together, hence the importance of collaboration and cooperation among community organizations.

Before closing, I would like to take this opportunity to acknowledge the significant contributions made by Rénald Rémillard and his team at the Fédération des associations de juristes d'expression française de common law.

Honourable senators, this study has enabled us to highlight the problems confronting newcomers with respect to access to justice in French. Given the facts that have been established, some projects and strategies could improve the situation by promoting access to justice in French for immigrants living in minority francophone communities.

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

• (2220)

[*English*]

CHILDREN IN CARE

INQUIRY—DEBATE ADJOURNED

Hon. Elizabeth Hubley rose pursuant to notice of April 23, 2013:

> That she will call the attention of the Senate to Canadian children in care, foster families and the child welfare system.

She said: Honourable senators, I am in the process of completing my speech for this inquiry, and I would like to adjourn the debate in my name for the remainder of my time.

(On motion of Senator Hubley, debate adjourned.)

THE SENATE

INQUIRY—DEBATE ADJOURNED

Hon. Noël A. Kinsella rose pursuant to notice of June 12, 2013:

> That he will call the attention of the Senate to the cornerstone place of the Senate of Canada in the building and maintenance of the strong edifice of freedom and equality that is Canada.

He said: Honourable senators, I rise in my place in the Senate today to call attention to the 146-year cornerstone experience of the Senate of Canada in building and maintaining the practice of freedom structure in our great country.

The genius of our founders as articulated in the 1860s, whether at Charlottetown, Quebec, or London, provided Canadians with a system of governance that has resulted in a vibrant, free and democratic society, where respect for diversity and the protection of minority and linguistic rights is the envy of the world.

The high quality of liberty in Canada leads me to say that maybe, just maybe, there is something right about our system of governance.

Hon. Senators: Hear, hear.

Senator Kinsella: The wisdom of establishing a bicameral Parliament has been proven over and over. It was never intended that the Senate would simply duplicate the work of the House of Commons. Revising and reviewing legislation sent by the House of Commons was to be the primary function, but it was also to provide representation of the provinces, regions and minorities.

As is usually the case in a bicameral system, the Senate acts as a counterbalance to the House of Commons, providing calm and careful reflection, usually referred to as "sober second thought." However, another benefit is that it allows for additional participation by the Canadian public. Modelled after the House of Lords, the concept was modified by the Fathers of Confederation to meet the challenge of the size of Canada, its dispersed population and the multiplicity of contending interests that together require the second chamber.

Today in the House of Commons there are 308 members, of which 105 come from one province, and soon that province will have 16 more. This, of course, is the effect of representation based on population. However, in order to bridle this tremendous power, the necessity of a second chamber, based on a principle of regional representation, is essential. Without a doubt, this is true today.

Later this year, the Supreme Court of Canada will provide us with a constitutional law road map for Senate reform and will hopefully include guidance with regard to the controversial issues of the selection process, accountability and representation. This should allow us to get Senate reform back on track.

However, honourable senators, it should be recalled that substantial reform has already taken place in the Senate of Canada throughout its 146-year history as it adapted and evolved in its composition and roles since 1867. For example, the passage of the Constitution Act, 1915 reorganized and rationalized the basis of representation by creating a fourth division, composed of the four Western provinces. It seemed like a good idea at the time. Indeed, in 2006, our former colleagues the Honourable Lowell Murray and the Honourable Jack Austin proposed a motion to make British Columbia a region on its own, based primarily on population growth statistics and forecasts. They hoped that the starting point they provided might lead to a more equitable representation in the Senate for Western provinces.

Another change was brought about by the 1929 *Persons* case, which confirmed the right of Canadian women to serve in the Senate. Indeed, it was in 1947 that a Senate rule change permitted ministers to take part in Committee of the Whole debates. In 1965, there was the reduction of the senatorial term from life to age 75. This is one question that is brought to the forefront once again, and we will need to examine the question of term limits carefully and how this might speak to the question of accountability.

Discussion on the role and the function of the Senate, together with suggestions for changing it, started prior to Confederation and has never really stopped. If reformed wisely, the Senate will continue to play its important part in the development of effective governance and the preservation and promotion of our freedoms. No nation, including Canada, must ever take liberty and freedom for granted.

Turning back the pages of time, one can readily find examples of the Senate bringing forward issues of human rights and freedoms. A case in point occurred when the government was attempting to control Chinese immigration. The typical view was that Canadians of European ancestry were inherently superior to those of Chinese ancestry, or any other race for that matter. It is with no small measure of pride in this institution that I quote British Columbia Senator William J. Macdonald from the Senate Debates of June 10, 1887, when he said:

> I wish to express my satisfaction at the fact that a people who have been treated so rigorously and ungenerously, who are unrepresented, and who have been hunted to death,

should have found representatives to stand up on the floor of this House and speak on their behalf.

This early expression of respect for individual rights brought quite different policy options to the attention of the government of the day and was more in accord with our modern values than those which were being pursued at the time. Defending a minority position on constitutional principle against the popular majority opinion shows the Senate at its best.

Turning next to the legislative role of the Senate, it should be recalled that the powers of the Senate are virtually equal to those of the House of Commons. The exceptions are that the Senate is not a confidence chamber, meaning that the government cannot be brought down if a bill is defeated in the Senate, and that bills requiring the expenditure of public funds cannot be introduced at first instance in this chamber.

A commonly expressed concern is that the Senate and the House of Commons may frequently find themselves at an impasse if the two chambers take opposing views on proposed legislation. Well, honourable senators, this has rarely happened. Even when the government has a minority in the Senate, our history records relatively few instances in which the Senate has declined to pass government bills coming from the House of Commons. When it did occur, it was for a reason that the House of Commons and the government of the day, albeit reluctantly, accepted.

A few examples will illustrate the point. The Senate defeated the Naval Assistance Bill in 1913, adopting a resolution that "This House is not justified in giving its assent to a bill until it is submitted to the judgment of the country." A similar position was taken in 1988 with the free trade agreement. An old age pension bill was rejected in 1926 because the provinces had not agreed. A bill to remove the Governor of the Bank of Canada, James E. Coyne, was dropped in the Senate in 1961 after he resigned. One final instance is the defeat of the Lester B. Pearson International Airport Bill in 1996, which some of us will well remember.

In my opinion, this record clearly establishes the existence of a "parliamentary convention" pursuant to which, at the end of the day, the Senate yields to the will of the directly elected members of the House of Commons, notwithstanding that a general election might have intervened.

Honourable senators, let us engage our communities in a conversation that speaks to the challenges associated with Canada's demographic deficit.

• (2230)

Today, the vast majority of our Canadian population lives in just two provinces and within 300 kilometres of our southern neighbour. Today, Canada is recognized as a successful multicultural society that has built a solid economy with linguistic duality across a vast territory. As in the 19th and 20th centuries, today, in the 21st century, the Canadian compact continues to require a second chamber of Parliament to accommodate regional differences based on regional equality. The Senate must continue to address the risk of alienation. It must continue to support Canadian solidarity and to give light to social cohesion. It must continue to provide a voice for minorities.

The 1980 report of the Senate Standing Committee on the Canadian Constitution underscored at least four major roles to be played by the Senate, namely: a legislative role, an investigative role, a regional representative role, and a role in the protection of linguistic and other minorities. This is the role that the Senate must continue to play as we continue to grow Canadian freedom.

The work of the Senate committees has been and remains at the cutting edge. Our financial institutions have been greatly assisted by the stellar work of the Senate Banking, Trade and Commerce Committee. The Social Affairs, Science and Technology Committee made Canada a pioneer in the field of health, and mental health in particular. The National Finance Committee's ongoing work on the nation's finances recently drew our attention to the Canada-U.S. price gap. Much more can be said of the work of these committees and others that have contributed to the development of public policy in the national interest.

Honourable senators, as we return to our provinces, territories and constituencies this summer, let us engage our compatriots in a dialogue that will be informative of the principles which made Confederation possible and which keep Canada strong and free. Let us discuss the importance of dealing effectively with the challenges of any given moment, without placing at risk a proven system of governance and let us deal directly with those who, for whatever narrow, short-term gain or whim of the moment, would dismantle this 146-year proven model of governance.

Let us recall George Brown who viewed the Senate as the key to federation, indeed to use his words, "the very essence of our compact." Confederation in 1867 likely would not have occurred had an agreement not been reached which included the Senate as it was then created. It is my belief, honourable senators, that this reality about the pivotal importance of the Senate remains true today.

Honourable senators, students of freedom do not tear down the institutions which limit the awesome power of the state. Rather, they strengthen these institutions to enable them to bridle or fetter this power. The important checks and balances inherent in a bicameral system should not be lightly discarded.

Let us engage our compatriots on the critical role of the Senate in the practice of Canadian freedom and liberty.

Hon. Senators: Hear, hear!

The Hon. the Speaker *pro tempore***:** Questions or further debate?

Hon. Serge Joyal: I would like to move the adjournment of the debate under my name and thank the Honourable Speaker of the Senate for establishing the high level of this debate.

The Hon. the Speaker *pro tempore***:** Honourable Senator Jaffer had a question. Will you accept a question?

Hon. Mobina S. B. Jaffer: Honourable senators, I want to first congratulate Senator Kinsella for the brave presentation he made today. I will be reading his words during the summer and I will be thinking about what was said.

I have a question. When I came to this place, I understood that the House of Commons was where there were the rights of the majority; people who were the majority, elected to the House of Commons. We were here to look at the rights of the minority, for example, children, the vulnerable, Aboriginal people and ethnic minorities.

As part of that, when we looked at those rights, we ensured that the Constitution, the Canadian Charter of Rights and Freedoms, Canadian human rights, the issues of hate legislation were all things that we were proud of and we protected. I would like to know what his view is on that.

Senator Kinsella: Honourable senators, I think one of the great opportunities that we have to serve in this particular chamber is that it is in this chamber where the fullness of the Parliament of Canada meets, as defined in the Constitution of Canada, namely, the Parliament of Canada means the House of Commons, the Senate, and the Crown. It is only in this very special Canadian space where the three elements of the Parliament of Canada can meet and we do that, as one knows, for the installation of a new Governor General. We do it the for the Speech from the Throne and for the ceremony, which I understand will occur tomorrow, Royal Assent. The two houses having expressed their consent on a bill, it cannot become law until the consent of the Crown is indicated.

To the fact that the fullness of the Parliament of Canada, in my judgment, has the responsibilities for determining what is the national interest, given the nature of representation by population and the preoccupation that our colleagues in the other place would have — keeping an eye on the majority because it requires majority in each of the constituencies to maintain one's place there — the compact, in my judgment, that exists today is that you cannot have one third of the political party determine by one province as represented in the House of Commons. This is the genius of Confederation. Provinces that are much smaller and for Canadians in these other provinces — in fact everyone, to use the language of our Charter — the rights of everyone in Canada has the protection. More importantly, on the social, economic and cultural sides, those rights are programmatic and they require programs of state to have any meaning.

Therefore, the genius of our founders in having an upper house based on regional representation allows one to give focus to the promotion and protection of rights for all people from all parts of Canada and not based on a majority dynamic alone. This is the real necessity to maintain the quality of freedom that we have, to have the Senate of Canada strong.

(On motion of Senator Joyal, debate adjourned.)

(The Senate adjourned until Wednesday, June 19, 2013, at 1:30 p.m.)

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