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OFFICIAL REPORT
(HANSARD)

Wednesday, March 6, 2013

The Honourable DONALD H. OLIVER
Speaker pro tempore

CONTENTS

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

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THE SENATE

Wednesday, March 6, 2013

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

Prayers.

BUSINESS OF THE SENATE

The Hon. the Speaker *pro tempore*: Honourable senators, we are having difficulty with the sound system. The translation booth upstairs is not able to hear any of the words from here for translation.

By agreement of both the government and the opposition side, we will now suspend to the call of the chair on a five-minute bell, but the request is made that most people stay in the building. However, it will be a five-minute bell.

We stand suspended. Do I have permission to leave the chair?

Hon. Senators: Agreed.

(The sitting of the Senate was suspended.)

• (1350)

[*Translation*]

(The sitting of the Senate was resumed.)

SENATORS' STATEMENTS

ASSUMPTION LIFE

CONGRATULATIONS ON ONE HUNDRED AND TENTH ANNIVERSARY

Hon. Rose-May Poirier: Honourable senators, one thing that all communities, regions and provinces have in common is the key role that their institutions play.

The role that Assumption Life plays in bringing people together, providing support and contributing to the Acadian region's economic and social development cannot be ignored. Assumption Life has helped make the Acadian region the place it is today. Throughout its 110 years, Assumption Life has been a social and economic leader in the Acadian region, in an environment where the Acadian people are torn between the economic opportunities available in the northeastern United States and their deep attachment to their homeland.

Assumption Life made it possible for Acadians to maintain ties, despite the dispersal of this people. It helped them to maintain their faith, language and culture—their identity. If a family

member was unable to work as a result of illness, the entire Acadian community came to that family's aid with the help of Assumption Life.

What is more, this Acadian institution made sure that young Acadians got an education by financing the studies of the community's brightest minds. Given the limited options for obtaining a post-secondary education in French, Assumption Life made sure to contribute to the future of Acadian society. By helping young Acadians to attend school at Université Laval or Collège Saint-Joseph in Memramcook, Assumption Life gave Acadians the opportunity to get an education and to help Acadian society progress.

In 10 years, 85 boys have received an education through the vision that, although an individual acting alone may not have the required resources, if the community pools its resources, it can provide an education for one Acadian a year. Assumption Life was and still is more than just a company trying to make a profit. It was created with the goal of improving living conditions in the Acadian community and preserving the community's history, culture and identity by ensuring that it is strong enough to stand the test of time.

These are the kinds of institutions that make a strong and united Canada. Having worked for Assumption Life myself, I can assure honourable senators that this vision and desire to contribute to Acadia's economic and social development remain very present. I invite you to join me in wishing Assumption Life a happy 110th anniversary and all the best for the next 100 years.

[*English*]

CANADA-GREECE RELATIONS

Hon. Leo Housakos: Honourable senators, not too long ago we celebrated the seventieth anniversary of Canadian–Greek relations, a friendship forged during the cataclysm of the Second World War. At that time, Greece was under the Axis yoke, after making a valiant stand against the Nazi and fascist armies in the 1940s. The Greeks paid a heavy price for standing by the Western alliance and suffered devastation, mass reprisals and famine. In fact, it was Canadian wheat ships that saved millions of Greeks from the slow death of starvation. I cannot think of a more noble first contact between two nations.

[*Translation*]

Today I wish to recognize Mr. Dimitri Avramopoulos, the Minister of Foreign Affairs of the Hellenic Republic. His visit to Ottawa last week was part of a series of diplomatic visits that began in 2009, when the Governor General went to Athens to attend ceremonies celebrating the Vancouver 2010 Winter Olympics.

In 2011, when the people of Greece were going through a terrible financial crisis, Prime Minister Harper went to Athens to express Canada's solidarity and friendship.

[*English*]

In 2012, the Speaker of the Senate — the Honourable Noël Kinsella — Senator Cowan and I visited Greece on a parliamentary mission to show solidarity and to further encourage relations between Canada and Greece.

The visit of the Greek foreign minister to Canada has highlighted the strong bonds that link our two countries. These bonds are represented by the significant number of Canadians of Greek origin and the potential for trade between our two countries. During the incredibly difficult economic times confronting the Greek people, Mr. Avramopoulos's visit is indicative of the solidarity and friendship that are shaping relations between Canada and Greece. His messages were of hope for the future of Greece, affirming the commitment of his government to continuing to make structural improvements, eliminate waste and restructure the Greek economy for greater trade and investment.

The minister brought welcome news that Greece has turned the corner and is showing progress — a progress that can be helped and nurtured with investments from Canadian companies.

• (1400)

[*Translation*]

Mr. Avramopoulos's messages to business people from Montreal and Toronto were warmly received, in light of the fact that Greece is headed in the right direction.

Canada and Greece recently signed a youth mobility agreement, which I believe is a first for these two countries that want to move forward with developing trade relations.

[*English*]

Although Greece is a small country, it is a hub of trade routes to the Near and Middle East, the Balkans and the Black Sea region, and the eastern Mediterranean. Furthermore, Greece is a member of the EU and the eurozone and has a great deal to offer to potential trading partners.

This recent visit serves to enhance the great relationship that Canada has enjoyed with the Hellenic Republic, and we will continue to face tomorrow's challenges as steadfast allies.

CANADA-INDIA RELATIONS

Hon. Asha Seth: Honourable senators, the strengthening of Canada-India relations is a key priority for our government and our citizens. As we know, our Prime Minister and trade officials are working hard to complete a series of agreements that will benefit Canadians across a vast range of industries.

Higher education is a multi-billion-dollar industry in which Canada is a leader, and India is looking to our academic institutions to train their future teachers, engineers and administrators. The Shastri Indo-Canadian Institute was founded over 40 years ago by a mutual proclamation of the governments of Canada and India. It is the most prominent promoter of scholarly and academic activity between the two countries.

That is why I was so excited to join the Shastri Indo-Canadian Institute and their Doing Business in India Global Business Forum held at the HEC Montréal campus. This event gathered some of Canada's and India's most dynamic and animated thinkers to explore the growing cultural and commercial partnership between our countries. As a keynote speaker for this event, I presented greetings from our Prime Minister to our partners at the event — the Shastri Indo-Canadian Institute, the Canada-India Business Council and HEC Montréal — for their contribution to the advancement of Canada-India relations.

I also led a more specialized panel entitled Women in Indian Business. I was joined by Poonam Barua, Sumitra Rajagopalan and Dr. Shanthi Johnson, three women who embody what it means to be a leader and entrepreneur in the 21st century.

As we celebrate International Women's Day this Friday, I remind my fellow senators that expanding relations with India is not just about trade and profit but also about promoting the values of liberty and equality that allow Canadian women to prosper and shine. The female leaders of Canada, many of whom are sitting in this room today, are powerful examples of what a girl can achieve when she is empowered by education and supported by her community.

I hope honourable senators will join me in supporting the efforts of the Shastri Indo-Canadian Institute in their fight to bring Canada and India closer through a scholarly and academic partnership. Thank you.

RED RIVER COLLEGE PATERSON GLOBALFOODS INSTITUTE

Hon. JoAnne L. Buth: Honourable senators, I recently had the pleasure of attending the grand opening of Canada's newest hospitality and culinary school. On February 21, the Red River College's Paterson GlobalFoods Institute opened its doors to students in the rejuvenated historic Union Bank Tower in Winnipeg's downtown Exchange District. The centrepiece of the institute is Jane's, the anchor restaurant where students will prepare and serve the meals in an open-concept kitchen, allowing guests to see the students and learn more about cooking while they dine. This 105-seat, student-run restaurant provides the finishing touches to a school that the Canadian hospitality industry has been requesting for decades: a Canadian equivalent of the finest hotel and culinary schools in Europe.

The institute combines culinary, baking and pastry arts, mixology and hospitality management; and it has a student residence. It provides industry-relevant courses and programs to serve the hospitality and tourism sectors, as well as applied research on food products.

According to Stephanie Forsyth, President of Red River College:

. . . state-of-the-art equipment for training and research significantly enhances the learning experience for our students and faculty, and helps firmly establish Red River College as having one of the leading culinary institutes in Canada. . . . Learning and working in a space like this really inspires staff and students to do their best. The institute will attract and graduate the best hospitality people in Canada.

[Translation]

As with most big projects today, this multi-million dollar facility was financed by the three levels of government and by private donors, including Paterson GlobalFoods.

[English]

Jane's is named after Jane B. Paterson, the mother of Andrew B. Paterson, the current owner of Paterson GlobalFoods Inc. This four-generation private company is a leader in agricultural commodities and supplies. Andrew Paterson said that his mother, who passed away in 2003, would have been proud to dine at Jane's restaurant. She always appreciated hard work and youth who were learning a trade.

Honourable senators, please join me in congratulating Winnipeg's Red River College on the opening of the world-class Paterson GlobalFoods Institute.

[Translation]

ROUTINE PROCEEDINGS

COMMISSIONER OF OFFICIAL LANGUAGES

CERTIFICATE OF NOMINATION TABLED

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, I have the honour to table, in both official languages, the certificate of nomination of Graham Fraser, of Ottawa, Ontario, as Commissioner of Official Languages.

[English]

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

SIXTH REPORT OF COMMITTEE PRESENTED

Hon. David P. Smith, Chair of the Standing Committee on Rules, Procedures and the Rights of Parliament, presented the following report:

[Senator Buth]

Wednesday, March 6, 2013

The Standing Committee on Rules, Procedures and the Rights of Parliament has the honour to present its

SIXTH REPORT

Following the entry into force of the revised *Rules of the Senate* on September 17, 2012, your committee has, pursuant to rule 12-7(2)(a), continued to consider the Rules and now recommends as follows:

1. That:

(a) rule 4-3 be amended by replacing the current text by the following:

“Tributes

4-3. (1) At the request of the Leader of the Government or the Leader of the Opposition, the period for Senators' Statements shall be extended for the purpose of paying tribute to a current or former Senator.

Limits on Tributes

4-3. (2) Tributes to a current or former Senator shall be limited to three statements of five minutes each from Senators designated by the Senator to whom tributes are being given or, in the case of a former Senator, that former Senator or a representative.”;

No leave to extend Tributes

4-3. (3) No Senator shall seek leave to extend Tributes.

Acknowledgements of Tributes

4-3. (4) After Tributes are given to a current Senator, that Senator may speak, and the time for this acknowledgement shall be limited to no more than thirty minutes.

Inquiry for Tributes

4-3. (5) An inquiry allowing further tributes by other Senators may, without notice, be placed at the end of “Inquiries” on the Notice Paper for the same sitting at the request of any of the Leaders or Deputy Leaders. During this inquiry no Senator shall speak for more than three minutes.

Tributes in publications

4-3. (6) Tributes, including any acknowledgement, shall appear under the heading “Tributes” in the *Journals of the Senate* and the *Debates of the Senate*. Any inquiry for tributes pursuant to subsection (5) shall also appear with the same heading.

No bar to other tributes

4-3. (7) Nothing in this rule prevents tributes being offered to a current or former Senator, or any other person, by other means than through the period designated for Tributes.”; **and**

(b) rule 5-6 be amended by replacing subsection (2) by the following:

“Two days’ notice for inquiries

5-6. (2) Except as otherwise provided, two days’ notice is also required for an inquiry.

EXCEPTION

Rule 4-3(5): Inquiry for Tributes”; **and**

2. That all cross references in the Rules, including the lists of exceptions, be updated accordingly.

Respectfully submitted,

DAVID SMITH
Chair

The Hon. the Speaker pro tempore: Honourable senators, when shall this report be taken into consideration?

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

[*Translation*]

TAX CONVENTIONS IMPLEMENTATION BILL, 2013

FIRST READING

Hon. Claude Carignan (Deputy Leader of the Government) presented 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.

(Bill read first time.)

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

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

• (1410)

[*English*]

**CANADA-UNITED STATES
INTER-PARLIAMETARY GROUP**

U.S. CONGRESSIONAL MEETINGS,
FEBRUARY 28-29, 2012—REPORT TABLED

Hon. Janis G. Johnson: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canada-United States Inter-Parliamentary Group respecting its participation at the U.S. Congressional Meetings, held in Washington, D.C., United States of America, from February 28 to 29, 2012.

ANNUAL MEETING OF THE COUNCIL
OF STATE GOVERNMENTS - WEST,
JULY 20-23, 2012—REPORT TABLED

Hon. Janis G. Johnson: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canada-United States Inter-Parliamentary Group respecting its participation at the Sixty-fifth Annual Meeting of the Council of State Governments — WEST (CSG-WEST), held in Edmonton, Alberta, Canada, from July 20 to 23, 2012.

ANNUAL MEETING OF THE SOUTHERN
GOVERNORS’ ASSOCIATION,
AUGUST 10-12, 2012—REPORT TABLED

Hon. Janis G. Johnson: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canada-United States Inter-Parliamentary Group respecting its participation at the Seventy-eighth Annual Meeting of the Southern Governors’ Association, held in Rio Grande, Puerto Rico, from August 10 to 12, 2012.

NATIONAL CONFERENCE OF
THE COUNCIL OF STATE GOVERNMENTS,
NOVEMBER 30—DECEMBER 3, 2012—
REPORT TABLED

Hon. Janis G. Johnson: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canada-United States Inter-Parliamentary Group respecting its participation at the National Conference of the Council of State Governments, held in Austin, Texas, United States of America, from November 30 to December 3, 2012.

VISITOR IN THE GALLERY

The Hon. the Speaker *pro tempore*: Honourable senators, today marks the fifty-sixth anniversary of the independence of the Republic of Ghana. I wish to draw your attention to the presence in the gallery of His Excellency Samuel Valis-Akyianu, Ghanaian High Commissioner to Canada. His Excellency is the guest of the Honourable Senator Segal.

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

Hon. Senators: Hear, hear.

FOREIGN AFFAIRS AND INTERNATIONAL TRADE

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY OF ECONOMIC AND POLITICAL DEVELOPMENTS IN THE REPUBLIC OF TURKEY

Hon. A. Raynell Andreychuk: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That, notwithstanding the order of the Senate adopted on Wednesday, November 7, 2012, the date for the final report of the Standing Senate Committee on Foreign Affairs and International Trade in relation to its examination of the economic and political developments in the Republic of Turkey be extended from March 31, 2013 to June 30, 2013; and

That the committee retain all powers necessary to publicize its findings until July 31, 2013.

ORDERS OF THE DAY

KOREAN WAR VETERANS DAY BILL

THIRD READING

Hon. Yonah Martin moved third reading of Bill S-213, An Act respecting a national day of remembrance to honour Canadian veterans of the Korean War.

She said: Honourable senators, we reached this point, a very historic moment for Canada, our veterans of the Korean War and for Korea, as 2013 is the fiftieth anniversary of diplomatic relations between Canada and Korea and the sixtieth anniversary of the Korean War armistice.

Before I speak briefly to this bill, because we have already put much on the record, I want to recognize the work of the committee, our chair, Senator Wallin, and all members of the committee who in the midst of a very busy schedule studied the bill, were able to hear from veterans themselves, went to clause-by-clause consideration and have brought this back to the Senate for third reading. I want to thank the committee for its work.

As well, I need to acknowledge the friendship, partnership and hard work of my colleague Senator Joseph Day, the co-sponsor of this bill, who has been to the United Nations cemetery in Korea to know that almost 400 Canadians are buried there, that 516 Canadians made the ultimate sacrifice and that more than 30,000 Canadians served, including those who served after the armistice during the peacekeeping years, which were very hostile at times. At third reading of this bill, we know that it all began in this chamber with a motion to endorse July 27 as a day of recognition, which was unanimously supported and passed.

Recently, in late 2012, we had an inquiry in this chamber in which many honourable senators spoke to recognize the importance of the Korean War and the contributions that Canadians made. We know it is the third bloodiest war and that Canada was the third largest contributor to the efforts. Twenty-one countries responded to the call to defend the Republic of Korea, and as I have stated in the past, I personally would not be here today had it not been for such sacrifice.

As we near the sixtieth anniversary of the armistice, July 27 of this year, where the nations once again will convene in the Republic of Korea, last week Korea made history in inaugurating its first female president, Park Geun-hye, whose father had led the country for 18 years and was assassinated. Her mother, too, had been assassinated before that, and she had given her life in service to the country for decades. Twenty-one countries will convene, countries that made a difference, including Canada, which six decades ago made a significant contribution.

In this historic year, I ask all honourable senators to think about timeliness and urgency because I am told that every month more than 500 veterans pass away. I have heard that about 10,000 Canadian veterans of the Korean War are still alive to witness this historic moment, but every month we lose more than 500. Every day, we risk losing these heroes who embody this legacy. It is my hope and sincere wish, along with honourable senators who have supported this bill, that we all think about the urgency and support this bill at third reading.

I also want to recognize our table officer, Suzie Seo, who played a role in helping draft the legislation, and to all senators, my staff and others who have been a part of the process of bringing Bill S-213 to this stage

• (1420)

I thank honourable senators and hope that the urgency I speak of and the historic anniversary we are facing will allow us all to support this bill at third reading.

Hon. Joseph A. Day: Honourable senators, I would like to join in this debate. The typical role of critic on the bill will not be the role I will play in this instance, as I am fully supportive of the work that Senator Martin has done in relation to this initiative. I congratulate her sincerely for that work, not only for the resolution a few years ago, but she kept the issue alive by debating the issue here in this chamber, which many of us participated in, and now we are moving to the final step in asking that a day be set aside to commemorate the Korean War veterans.

Honourable senators will know that I have a particular personal interest in commemorating and thinking about the commemoration. One of the individuals who had a tremendous influence on me when I was younger while serving in the Royal Military College of Saint-Jean was our drill sergeant, and those who have spent any time in the military will know that drill sergeants get very close to you.

Senator Mercer: Yes.

Senator Day: Exactly.

For three years Sergeant Doucette taught me how to swing my arms and march, and to try to look as good as he could possibly make me look in representing the college. In all that time, I never knew that he was a veteran of the Korean War. I knew that he had a maritime background with the name Doucette, but never did I know that.

Then, a few years after I had been appointed to the Senate, I was serving on the Subcommittee on Veterans Affairs at the time and the Minister of Veterans Affairs asked if I would like to go with him and a number of other representatives of different political parties to Korea. That was almost 10 years ago. This is the sixtieth anniversary, so that would have been the fiftieth anniversary.

It was during that trip that we were travelling with the military veterans who had been invited. I kept looking over at this particular soldier who was just looking very sharp, of course no longer in uniform, and he kept looking at me, and then one day it finally clicked. He mentioned that he lived in Saint-Jean-sur-Richelieu and I said I went to school there. He said he taught there for several years and, just like that, I saw him as Sergeant Doucette. He had received a couple of promotions since our time together, but it was a wonderful reconnection. For all the rest of the trip when he was with his veteran friends from 50 or 60 years previously and, throughout the entire trip, he kept putting his arm around my shoulder and to all his colleagues would say, "one of my boys."

I dedicate my work and support for this particular matter to him and to all his colleagues.

Honourable senators, we had witnesses before the Standing Senate Committee on National Security and Defence, because, even though we knew there was strong support for the initiative, we wanted to bring some before the committee. We brought the National President of the Korean Veterans Association, Mr. John Bishop and, as an individual, Mr. Donald Dalke,

who was a veteran of the Korean War. We had hoped to have General Ramsey Withers, a graduate of the Royal Military College and a veteran of the Korean War, but he was not able to attend as a witness at that time. Of course, we also had Senator Martin, the sponsor and champion of this bill.

We had some good discussion, honourable senators, and there are two points to bring up that I think would be helpful because these were questions that were asked more than once.

First, we have Remembrance Day on November 11 and what effect will this bill have on November 11? It was pointed out to us by a number of the witnesses that there is very good cooperation between the veterans from the First and Second World Wars and the Korean Veterans Association. They did not see that this would in any way take away from the public recognition of all veterans on November 11 and they said they would participate fully in that. It was pointed out to us that there are other days that have been set aside: National Peacekeepers' Day on August 9 and the Merchant Navy Veterans Day on September 3. There are other days that have been set aside to commemorate specific activities of Canadians internationally from the military point of view and they do not in any way distract from the general recognition of all Canadian contributions that have been made that takes place on November 11. The committee was satisfied on that issue.

Second was a specific question in relation to The Royal Canadian Legion. Senator Manning had asked how this will work with The Royal Canadian Legion. It was pointed out to us by our witnesses again that members of the Korean Veterans Association are almost always members of The Royal Canadian Legion as well and they anticipate an even closer relationship in the future. As the veterans get older, their associations and the various branches are not able to continue as separate groups, but will blend in with while still receiving specific recognition within The Royal Canadian Legion.

It would have been nice to have someone from The Royal Canadian Legion to be in attendance, but we were told when the question was put that they were not able to attend but were fully supportive of the initiative of this bill. That satisfied us, honourable senators, in relation to those two important questions that were asked. I want to assure you that they were asked, and then we went ahead and did the clause-by-clause analysis of the bill.

Bill S-213 comprises quite a few paragraphs in the preamble. In fact, there are only three clauses in the body of the bill.

Clause 1 says that the short title of the bill is the Korean War Veterans Day Act.

Clause 2 states:

Throughout Canada, in each and every year, the twenty-seventh day of July shall be known as "Korean War Veterans Day".

The third and final clause states:

For greater certainty, Korean War Veterans Day is not a legal holiday or a non-judicial day.

We are covering all the bases so employers can, if they wish, recognize the day, but it is not one of those we sometimes refer to as a bank holiday or a school break day. However, it is a day when those who want to recognize the tremendous contribution that has been made by the many who served in Korea from 1950 to 1953 can do so. Then there is a day when we, who did not serve there, can take the time to recognize those we know did serve at that particular time.

• (1430)

Honourable senators, after the armistice was signed, there was a period of time, as Senator Martin indicated, when about 7,000 more Canadian Armed Forces served in a peacekeeping role. We wanted to ensure that they are recognized as well. I will come back to that point, but I wanted to make the point now that not only did the 25,000 serve during the three years of the conflict, but there was a period of two years afterwards when about 7,000 of our Canadian Armed Forces served, and those individuals consider themselves veterans of the Korean conflict as well.

We called it “the Korean conflict” initially because it was the first major military action, in 1950, five years after the United Nations was created, the first United Nations Security Council action for peacekeeping, for the restoration of peace, following the invasion from the north, north of the thirty-eighth parallel in North Korea, into the south without any warning. The United Nations immediately, through the Security Council, acted on a resolution. This was our first action, supporting, along with some 20 other countries, this United Nations resolution, this fledgling new body of the United Nations. Canada was the third-largest contributor to that United Nations force after the U.S. and the U.K. When you go to Seoul and view the wall of honour, you can see how important Canada’s contribution was to this particular activity.

It is disappointing that even today we hear of conflict and threats between North Korea and South Korea. We know that North Korea has exploded another nuclear device, contrary to the United Nations Security Council resolution, and we know they put a satellite into orbit just recently. There is serious concern about the continuation of the armistice.

One bright spot in all of this is that in the past — in fact, during the 1950 to 1953 conflict — China joined with North Korea in providing soldiers. Now China has agreed with this most recent resolution of the United Nations Security Council. They have not, in the past, been very cooperative in relation to the United Nations actions vis-à-vis the activity of North Korea — the condemnation and the setting up of the blockades to try to control the somewhat erratic activity of North Korea.

China, I think, is our hope on this particular matter because they are coming around to being an international trader and to having a role internationally, which will convince them to play a more international role in helping to corral North Korea. For that reason, the Canada-China Legislative Association and the participation of our parliamentarians in the Asia-Pacific

Parliamentary Forum, which brings China and South Korea at least together, are important activities for the future that we do not want to miss in hopefully controlling this somewhat erratic activity, as I described earlier, coming out of North Korea. I am trying to be diplomatic in my terminology for that activity.

[*Translation*]

Honourable senators, it is a pleasure to present Bill S-213 at third reading stage. A number of senators — including myself — have debated at length the importance of this bill. There can be no doubt that this legislation has gained strong support, and for good reason.

Although eclipsed to a certain degree by World War II, which preceded it, the Korean War was a major conflict that began on June 25, 1950, and ended on July 17, 1953. In those three years, almost one million members of United Nations forces were killed, injured or reported missing.

More than 26,000 Canadians fought in the Korean War and it was the largest contingent of forces, followed by those from the United States and the United Kingdom, to defend South Korea. Of these 26,000 Canadians, 516 died and were buried in the United Nations Memorial Cemetery in Busan, Korea.

[*English*]

Honourable senators, it is with pleasure that I support this particular piece of legislation, but I wish to propose two amendments. These amendments are being presented in a friendly fashion in an attempt to bring together the understanding and support of all parties, including consultations we have had with the other place.

The amendments deal with the point I made earlier that there was an action, sanctioned by the United Nations, in the form of peacekeeping, for two years following the armistice. Following July 27, for a two-year period, a further 7,000 soldiers were included. We also wanted to include the concept that those who returned, returned with injuries. This will be incorporated into the preamble.

MOTION IN AMENDMENT

Hon. Joseph A. Day: Therefore, honourable senators, I move:

THAT Bill S-213 be not now read a third time, but that it be amended in the preamble,

(a) on page 1, by adding after line 13 the following:

“Whereas the valiant efforts of these Canadians left many of them physically and mentally wounded, a price they continued to pay upon their return to Canada;” and

(b) on page 2, by replacing line 23 with the following:

“in South Korea during the Korean War and the peacekeeping years following the armistice;”.

Thank you, honourable senators.

[Senator Day]

• (1440)

The Hon. the Speaker pro tempore: It has been moved by Honourable Senator Day, seconded by Honourable Senator Mercer:

THAT Bill S-213 be not now read a third time, but that it be amended in the preamble,

(a) on page 1, by adding after line 13 the following:

“Whereas the valiant efforts of these Canadians left many of them physically and mentally wounded, a price they continued to pay upon their return to Canada;”;

(b) on page 2, by replacing line 23 with the following:

“in South Korea during the Korean War and the peacekeeping years following the armistice;”.

Is it your pleasure, honourable senators, to adopt the motion in amendment? Is there debate on the amendments?

Hon. Yonah Martin: Honourable senators, I thank the Honourable Senator Day for noting this important recognition of those who returned with such injuries, both physical and mental. I wanted to say that I absolutely support these amendments and to point to a very concrete example of Archie Hearsey, who returned from the war with emotional and psychological scars because he had enlisted first and his older brother Joseph enlisted afterward to go and protect his younger brother. Archie, the younger brother, did not know this until he saw his older brother being taken away after he died during an evening battle.

Archie returned to Canada and I met his daughter Debbie, who told me that for her whole life she heard her father speak of that terrible tragedy and how much it affected him, how he had nightmares every night and how he lived with the pain of knowing that his brother died perhaps because of him. We understand, have seen and know that the scars are far deeper than what we can envision.

In addition to the 516 Canadians who made the ultimate sacrifice, there are all those who returned with the memories and the physical, psychological and emotional scars of the war. I thank Senator Day for these amendments.

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

Hon. Senators: Question.

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

Hon. Senators: Agreed.

The Hon. the Speaker pro tempore: Carried.

Is there any further debate on the bill, as amended? Are honourable senators ready for the question?

Hon. Senators: Question.

The Hon. the Speaker pro tempore: It has been moved by Honourable Senator Martin, seconded by Honourable Senator Greene Raine, that Bill S-213, as amended, be read the third time now.

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

Hon. Senators: Agreed.

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

EMPLOYMENT INSURANCE ACT

BILL TO AMEND—THIRD READING— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Boisvenu, seconded by the Honourable Senator Braley, for the third reading of Bill C-316, An Act to amend the Employment Insurance Act (incarceration).

Hon. Art Eggleton: Honourable senators, I rise to speak on Bill C-316. It is not a government bill; it is a private member's bill, so the whips are off. Hopefully we will all be open-minded about it.

The bill was sponsored by Richard Harris, Member of Parliament for Cariboo—Prince George, British Columbia. He came to the Social Affairs Committee to tell us how the bill got going. He had a visit from a constituent who had been employed but then dropped the employment to go into further training for their education and during that time discovered that she had cancer. She was cut off Employment Insurance benefits, so she came to see her MP about the matter. He scoured through the books, or whatever he needed to do, to find some way to help her qualify for EI benefits but could not come up with anything.

While he was there, he discovered a couple of other provisions in the Employment Insurance Act that extended the qualifying period for people who are incarcerated less than two years. These are not the big, heavy offenders such as murderers and bank robbers; these are more minor offences of less than two years. The average, in fact, is about 30 days. In some cases it was even people who could not afford to pay fines. Nevertheless, that gives honourable senators an indication of the type of incarcerated population we are talking about.

Mr. Harris decided that was not fair and that he would introduce a private member's bill. One would have thought he would have been looking for ways to give a hand up to the lady who had cancer, but no, this bill instead attempts to tear down a provision that already exists.

Another factor worth noting is where this bill originated, where this provision in the Employment Insurance Act started. It actually started back in the 1950s. It was put forward by the then Minister of Labour in the John Diefenbaker cabinet, the Honourable Michael Starr. He proposed it, saying:

Ordinarily a person who had spent up to two years in penitentiary, would lose the benefit of unemployment insurance contributions, which would impose a further punishment in addition to those levied by the court. This disability is now removed and it will help a great deal in the rehabilitation of those who have been unfortunate enough to have punishment imposed upon them by the courts.

This means that those provisions are trying to eliminate an exception that helps former inmates return to the workforce, regain some self-confidence and access to paid job training. That is the sum and substance of this bill.

Let me go back to what I said a moment ago about fairness because that was Mr. Harris's justification. Anyone else I heard in the committee who supported the bill said it is not fair to that lady. Well, is this fair to that lady? It does not help her; not at all. Is it fair to the public? I do not think so, when one considers that if these people come out of prison, the chances of them reoffending are much greater if they do not have all the supports available to them now to get a job. In fact, statistics show that 11 to 13 per cent of those who come out of incarceration are less likely to reoffend if they have either a job or a bridge to a job. This certainly is a bridge to a job.

Does this bill help public safety at all? No, it does not. If those people reoffend, then again public safety is compromised. There will be future victims of crime that this bill will not help at all if people should reoffend and go back to prison.

• (1450)

Is it fair to the taxpayers? It is worth pointing out that Employment Insurance is paid for by the individuals and their employers. It does not come out of the general tax revenues. However, if offenders cannot get EI — if it gets cut off as this bill suggests — then these people will have to go to social service agencies to find whatever support they can. Guess where a lot of the money for social service supports come from? The taxpayer. Whether through the province, the municipality or whatever level of government, the taxpayer will end up picking up a lot of these costs, not to mention the additional jail costs. If these people are going back to jail, then there will still be additional costs to the taxpayer.

Is it fair to the taxpayer? Definitely not, and it is not fair to the families of these people. Many of these people are in prison for short sentences. Many are there for poverty-related issues. This bill is punishing the poor, because a lot of these people will have

been incarcerated for crimes relevant to poverty and their families continue to suffer, including their wives and children. Is the bill fair to the wives and children? It definitely is not.

Representatives of the Elizabeth Fry Society and the John Howard Society came before the committee and talked about the bill. They were able to give us some valuable information about who these people are. For example, they said that 75 per cent of these people have been sentenced for fewer than three months. Again, it is not the murderers or the bank robbers. It is not those kinds of criminals we are talking about here.

A representative of the Elizabeth Fry Society said that 80 per cent of the women in prison have essentially been living in poverty and attempting to deal with that. The majority are mothers, many of them employed or underemployed, and more often in seasonal or low-wage work. Before they go to prison, most of them are sole supporters of their children. In the federal system, about a third of them are indigenous women. It ranges as high as 75 per cent to 80 per cent in some provinces and about half are racialized minorities. They also went on to say that we have a high proportion with mental health issues. Are these the people we are going to tear down and create a greater disadvantage for them to get back on their feet, get back into the workforce and help to support their families? That is fundamentally wrong.

The dearly departed National Council of Welfare, cut in the last budget, stated in their report *The Dollars and Cents of Solving Poverty* that, of 80 per cent of Canadian women incarcerated for poverty-related crime, 39 per cent are for failure to pay a fine. For this reason they go to jail and, if they do not pay a fine, then I guess that is the sentence. Is that a reason to also cut them off the Employment Insurance benefits they have accumulated? We are not talking about adding something on; we are not talking about giving them more than they are entitled to. We are just saying that during the period of incarceration the clock freezes and when they come back out they will have a period of time to be able to collect it and that will help get them back on their feet. Again, 80 per cent are there because of poverty and 39 per cent because they failed to pay a fine — hardly hardened criminals.

For men it is very similar, according to the John Howard Society in their testimony before the committee.

We are talking about some of the most vulnerable, marginalized people in our society. Obviously we would be punishing the poor with this kind of provision.

Honourable senators, I believe we need to be more focused on rehabilitation with these people, giving them the opportunity to come out and lead productive lives again in order to get back into society. These are not hardened criminals; these are people who deserve to have a chance. They just want to use the money that they and their employer contributed, rather than having to use the tax money.

In this case, let us be smart; let us not be revengeful. Why would we want to make it more difficult for these people to integrate into society? As I have said, ex-offenders are 11 per cent to 13 per cent less likely to reoffend if they have a job or a bridge to a job.

I believe Michael Starr and John Diefenbaker had it right. This private member's bill will not be in the public interest and is not something that we should support.

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

Senator Eggleton: Yes.

Senator Munson: Honourable senators, I am curious about what Senator Eggleton thinks it says of a government when we have this particular private member's bill, but also when we have a government that has taken away prison farms, a place for prisoners to work, which were productive in Kingston, the community where Senator Segal is from; double-bunking; and also not allowing prisoners to contribute to any kind of charity if they want to do something together for the community from whence they came.

What is this particular bill saying about the government and its programs in dealing with prisoners?

Senator Eggleton: I thank the honourable senator for the question because it is a very important one.

If one treats people in this fashion, as Senator Munson described, if one tears them down and pushes them down and does not try to rehabilitate them and allow them to save whatever dignity they have and to get back into society and back on their feet, then there will be more and more people who will reoffend. Canada will become more like the United States, which already has the biggest prison population of any country in the Western world. We are heading down that same path with the kind of measures we have been adopting.

Honourable senators, the government says it wants to be tough on crime. I think we should be smart on crime. I think we should bear in mind public safety. We are not making the public safer if people come out and reoffend. The more one kicks them while they are down, the more the chances are they will reoffend.

Senator Munson: I thank the senator for that answer.

Honourable senators, in relation to downloading to provinces, the terms one would use is "provincially run institution." These are not penitentiaries. Obviously perpetrators have to pay for their crime, but we are talking about shoplifting. We have heard stories about Aboriginal women who, because of the poverty aspect and being a mom with three or four children, have to make ends meet, may make a mistake and perhaps shoplift or do something along that line. We will find them not in penitentiaries but in provincially run institutions.

What about the downloading aspect of that? How can the provinces afford to pay for what the federal government does not want to pay for?

Senator Eggleton: Honourable senators, that is very true; that is what will happen.

Unfortunately women, Aboriginal women and people with mental health issues are over-represented in our penal institutions. Of course many of those institutions are provincial and many of the costs in dealing with this will be picked up by the provincial governments. As a number of people I believe have said on both sides of this chamber at different times, there is only one taxpayer. It is the taxpayer who will absorb these costs.

By comparison, a small investment in prevention and rehabilitation will pay a far bigger dividend in the end than having to build more prisons and accommodate more people who are reoffending, which is also a matter of public safety.

Hon. Jane Cordy: Honourable senators, I thank Senator Eggleton for an excellent speech on what I believe is a very unfair bill.

• (1500)

A number of people appeared before our committee — the Elizabeth Fry Society, the Aboriginal women's group, the United Way of Calgary and the John Howard Society, to mention a few. They are all against the bill. When asked questions, the sponsor of the bill, Mr. Harris, spoke continually about the fairness of the bill.

This bill, to me, is very unfair to the people it will affect. I am wondering whether you would also comment on that.

We are penalizing individuals by sending them to jail for crimes they have committed, and I agree with that. You do the crime; you do the time. I think we all agree with that. Keep in mind that these are individuals who have committed crimes for which they will be sent to jail for two years or less. They are minor crimes. The bill then further penalizes them by not only sending them to prison for a criminal activity but also, on top of that, taking away their EI, which is not a government handout. EI is a program that the employer and the employee have paid into. Do you believe that that is fair?

Senator Eggleton: No, absolutely not because it then comes back on the taxpayer. If you cut these individuals off from the fund that they and their employer paid into, it is not fair to the taxpayer because these people will then require some sort of social service. Whether it is a government agency or a private one, almost all of them get heavy government subsidies. It might not be from the federal government. It might be from the provincial government, but it is still the taxpayer. I think the taxpayer comes out on the short end of this. Also, as I said before, if these people reoffend and are put back into the jail system, there are, again, more costs.

We are talking about people sentenced to less than two years. People who do more than two years do not get this at all. There was never a suggestion that they would. They are far beyond the time limits of Employment Insurance. It is the people in for a shorter period of time who can still benefit from EI. It can be used to help to get them back on their feet, and that is a far better investment than the taxpayer at any level having to pay to pick up the pieces.

Senator Cordy: You mentioned it briefly, but could you expand on whether this bill will disproportionately affect those who are poor? I asked Mr. Harris, when he appeared before the committee, why people are in jail for two years or less and what types of crimes they had committed. He was not able to answer that; he had not done the research to get the answer on that. However, the person from the Elizabeth Fry Society, I believe, appeared after that, and I asked that question of her. She said it will affect the poor. Knowing I am from Nova Scotia, she mentioned a report that came out, headed by Vincent Calderhead from Nova Scotia, who is well known for the work he does with the poor. The report states that 40 per cent of the people in jail for under two years are there because they have been unable to pay a fine. Now, 99.9 per cent of those people who did not pay the fine would not be able to do so because they are living in poverty.

Do you not feel that this bill will disproportionately affect the poor?

Senator Eggleton: The National Council on Welfare made it quite clear in their study called *The Dollars and Cents of Solving Poverty*. They said that 80 per cent of Canadian women who are incarcerated are there for poverty-related crimes, and 39 per cent of those crimes are failure to pay a fine. We asked Mr. Harris if he had consulted with any of these organizations. The United Way of Calgary was also there. He said he had not. We asked him, because of a lot of the data we received, particularly from the Native Women's Association of Canada, whether he consulted with them. He has a large Aboriginal community in his constituency. He said that he had not consulted with anyone. We asked him what was the basis and the evidence built up to justify this bill. Did he accumulate some evidence? The answer to that was no. No, this is all an emotional thing. He just thinks it is not fair. He thinks that, since he could not get some help for a lady with cancer trying to get EI benefits, he should now go and take them away from someone else.

Hon. Lillian Eva Dyck: The sponsor of the bill said that he thought the cancer victim or a victim of a crime would feel better if they knew that the offender who had committed whatever crime it was was losing their EI benefits. They would feel somewhat more satisfied thinking that was going to happen, which I think is quite an astounding statement.

You have said, Senator Eggleton, that in many cases Aboriginal women are the people who are not able to pay fines because they are too poor. In a sense, there is no victim because it would be the court or parking fines or whatever. Do you think that argument about the victim feeling better makes any sense?

Senator Eggleton: I think it is absolutely absurd. It does not help her get through the fight against her cancer at all. However, it certainly will hurt many other people. I do not think she would intend to hurt other people.

Another thing that I have mentioned here, both for Aboriginals and others, is the question of mental health issues. The Elizabeth Fry Society also said, in their testimony to our committee, that the last time the federal government looked at this issue, 91 per cent of indigenous women and 82 per cent

of women overall had histories of abuse, much of it stemming from childhood but also extending into adulthood. We not only have a very high Aboriginal population and Aboriginal women population in the group of people who will be affected by this, but we also have people who also have mental challenges.

Senator Dyck: As a follow-up to that, the honourable senator has mentioned the sad situation of too many Aboriginal women in our country in prisons, especially in B.C. That is the area with the Highway of Tears, from Prince George to Prince Rupert.

Do you think that the cancer victim would feel better knowing that she will penalize an Aboriginal woman who is more likely to be poor and more likely to have been abused and suffering from the effects of intergenerational residential school abuse?

Senator Eggleton: I never asked her. I do not know whether Richard Harris asked her. I doubt she would feel in any way satisfied at all.

Hon. Mobina S. B. Jaffer: Honourable senators, I am not part of the committee that studied this bill, so I would appreciate it if the Honourable Senator Eggleton could clarify two things. First, I understand that one has to pay into insurance to get these benefits. It is not something that is given to you; you have to have contributed. Could you clarify that it is an insurance?

Second, what will now happen? It will again fall on the provinces to look after people once they have been released from prison. Is that correct?

Senator Eggleton: That is absolutely correct. Employment Insurance is paid into by the employer and the employee, not the government. It is an insurance plan, and that is the only thing we are talking about here. If these people — the ones who can qualify for it — do not have part or all of it when they come out, they will not have that helping hand, that bridge, while they look for employment. Getting employment once you come out of incarceration is not easy to start with, so you need all of the assistance you can possibly get to get back on your feet. I think many of these people want to get back on their feet. They are not in there for major crimes. They are in for minor things. They want to get back on their feet, and there is a good chance when they have all of these kinds of supports. If that is taken away, pulled out from under them, and, yes, if they do not reoffend — and many will — then they will depend upon the social service agencies in their communities. Where do the social service agencies get their money from? The taxpayer. They probably come through the provincial government more than the federal government, but it is still the taxpayer.

Hon. Terry M. Mercer: Mr. Harris introduces this bill and says that the avenged people will feel better because these people have lost their EI, but then we hear that most of the people who will be affected are people who could not pay fines. Who is the avenged person who will feel good when some poor souls cannot pay a fine and find themselves incarcerated for a period of time? Mr. Harris will be sitting out there in British Columbia. He and this poor woman with cancer will be sitting there in their living rooms saying, "Does it not feel good that so and so could not pay their fine? I feel much better." Is that what he is trying to tell us?

- (1510)

Senator Eggleton: The honourable senator will have to ask Mr. Harris that question. Who will support this bill? We will find out who thinks this is a good bill when it comes time for the recorded vote. We will find out who thinks that vengefulness is a good idea as opposed to doing the smart thing to get people back on their feet.

There is the whole question of fairness, but I ask, fairness to whom? It is not fair to the lady with cancer, because she will not get anything out of this; to the taxpayer, who will have to pick up the pieces with additional investment; to the families; or to the public because it will not do anything to create greater public safety if these people reoffend. Rather, it will create more victims. What kind of nonsense is this?

Senator Cordy: May I ask the honourable senator another question? Honourable senators, I asked a question to a panel of witnesses that appeared before the committee about the connection between Bill C-316 and the victims of crime and whether the bill would help victims of crime. One panellist was a representative from an organization that helps victims of crime. Although I do not have her exact words before me, she said that she was not sure why she was asked to appear because there is no real tie-in.

Will this bill help victims of crime?

Senator Eggleton: No. It will make it worse for victims of crime because there will be more victims of crime if these people reoffend.

(On motion of Senator Munson, debate adjourned.)

CORRECTIONS AND CONDITIONAL RELEASE ACT

BILL TO AMEND—THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Boisvenu, seconded by the Honourable Senator Runciman, for the third reading of Bill C-293, An Act to amend the Corrections and Conditional Release Act (vexatious complainants).

Hon. George Baker: Honourable senators, I will say a few brief words. I do not want to delay the proceedings, but the order stands in my name at third reading. I would like to congratulate the members of the Standing Senate Committee on Legal and Constitutional Affairs, chaired by Senator Runciman, for their excellent work on this legislation. The Minister of Justice will appear before the committee today at 4:15, or when the house rises. When considering a bill such as this, it is important that the Senate do its job; and all members of the committee have done the job that the Senate is set up to do in committee.

I was reminded of that a moment ago when I noticed that another bill will come to the Senate, Bill C-55, to correct a mistake made in the legislation some time ago regarding the power of the police to tap telephones, people's Internet and

so on — warrantless searches. Within the past year, the Supreme Court of Canada passed judgment that the legislation was unconstitutional and must be changed. They gave Parliament one year, from April 13, 2012, to April 13, 2013, to change the law or the law would no longer apply. Section 184.4 of the Criminal Code is important for the police in Canada when investigating crime.

Honourable senators, my point is to put on the record why the Supreme Court of Canada made such a judgment, and I reference paragraph 28 of the Supreme Court of Canada's decision in *R. v. TSE 2012 Carswell B.C. 985* under the heading "Intention of Parliament." Honourable senators, when the Supreme Court of Canada judges laws in Canada and a constitutional question arises, they examine the intent of Parliament in passing the law. That is a part of life and law in Canada. It is instructive for the people of Canada, in particular those in the House of Commons, to realize the importance of the Senate as noted under "Intention of Parliament."

Paragraph 28 of the unanimous decision by Supreme Court of Canada states:

It is clear from the overall context of the provisions in Part VI of the *Code* that Parliament intended to limit the operation of the authority under s. 184.4 to genuine emergencies. Evidence before the Standing Senate Committee on Legal and Constitutional Affairs was that this emergency power was necessary for "hostage takings, bomb threats and armed standoffs"; to be used "only if time does not permit obtaining an authorization"; and for "very short period[s] of time . . . to stop the threat and harm from occurring": *Proceedings of the Standing Committee on Legal and Constitutional Affairs . . .* The Minister of Justice noted that these are situations where "every minute counts" and that the provision was "necessary to ensure public safety": *Proceedings of the Standing Senate Committee on Legal and Constitutional Affairs . . .* The evidence filed before the trial judge noted that kidnappings, child protection and hostage taking form a substantial backdrop for the use of s. 184.4 by police.

The intention of Parliament was determined by a standing committee of the Senate, not of the House of Commons. Honourable senators will find that invariably happens. The Supreme Court of Canada gave Parliament until April 13, 2013, to amend the legislation. The decision at paragraph 102 said:

For these reasons, we believe that the appropriate remedy is to declare s. 184.4 unconstitutional and leave it to Parliament to redraft a constitutionally compliant provision. In doing so, Parliament may wish to address the additional concerns we have expressed about the provision in its present form. We would suspend the declaration of invalidity for a period of 12 months to afford Parliament the time needed to examine and redraft the provision.

The very concerns that were raised at the Standing Senate committee on Legal and Constitutional Affairs form the basis of the judgment of the Supreme Court of Canada.

• (1520)

As honourable senators know, every day I read case law. I have this unusual, strange habit. It does not talk too much about an exciting life, but I read it every morning and every evening. I can tell honourable senators that invariably members of the Senate are mentioned and committees of the Senate are mentioned. Committees that have nothing to do with acts of Parliament are mentioned on a daily basis in our courts and tribunals right across the country. Yet, yesterday we had a political party standing up and saying, “Abolish the Senate.”

I recall the first time when, under this government, the NDP came to us in the Senate and asked us to do something about that great big Federal Accountability Act. They could not do anything about it. They could not pass any of their amendments. Senators sat down, with cooperation between both sides in the Senate, and drafted and passed over 50 amendments to that legislation. It was 90, but eight of them actually originated from the committee itself. That is after the bill had been considered and passed in the House of Commons.

A second time, I recall that the NDP came rushing down the hall here. There were two of their members — they call me George — and they asked, “George, are you a member of the Standing Senate Committee on Banking, Trade and Commerce?” I said, “No, but that I could be. What do you want done?” They said, “Well, we are into quite a bind.”

There was one member there from the NDP and one from the Bloc. Here is what had happened: A bill had passed the House of Commons, a 500-page bill relating to income tax. In the bill there were nine pages that were missed by everyone. One might ask, “How can you miss nine pages in a bill?” In the House of Commons, as honourable senators know, when a bill goes to committee, it is not dealt with as it is in the Senate. It is not examined as it is in the Senate. Motions are put; they deem to have passed this or they deem to have agreed. Shall clauses 1 to 100 pass? Then, shall clauses 200 to 300 pass? That was how they missed nine pages in the bill.

Now, add to that the fact that it was not brought up in the House of Commons. I do not blame the minister of the government here at all, because with a complex piece of legislation, the department that prepares the bill. The department prepares the notes and one could, under certain circumstances, miss something that was in the bill.

To solidify my memory on this, a minute ago I went to my iPad and found the question that I asked at the request of MPs. I went to the Banking Committee meeting. In that meeting, Sarah Polley, Gordon Pinsent, David Cronenberg and the Trailer Park Boys were there.

I asked this question in the Banking Committee. I said:

We are to provide the sober second thought. However, now the MPs say they did not know what was in the bill. You have heard the political parties say they did not know what they were passing. I do not know how we can give sober second thought if there is no first thought given to the bill.

[Senator Baker]

. . . given that this provision will now be directed at other productions, do not you agree this is an attack on the “Trailer Park Boys” — an attack on Bubbles and Ricky, and that they really want Mr. Lahey to drink tea and his side kick to put on a shirt?

My second question is this. The House of Commons did not know what was in the bill, and two political parties stated they would not have voted the way they did. None of the words “film,” “writing” or “artistic community” were mentioned in the three readings in the House of Commons or in the committee. . .

Do you agree, then, that we have a duty to amend the impugned sections relating to censorship in this bill and send it back to the House of Commons for reconsideration on the basis that they did not do their job in the first place?

Some Hon. Senators: Hear hear!

Senator Baker: Reading this refreshed my memory that we had a situation where two political parties, the NDP and the Bloc, had very dear friends in the film industry who came to them and said they had passed it unanimously. Honourable senators, it was a unanimous vote in the House of Commons that passed that bill. Their friends said, “What have you done to our film industry? You have taken away a tax credit, but you have given to the Americans. The Americans will get the tax credit on certain types of films, but we will not. How dare you do this to us?”

The message from the NDP was, “Boy, you fellows in the Senate have got to do your job,” and, of course, we did our job. We held the bill up so long and never reported the bill, and it thereby died on the Order Paper.

I recall a time after that, which was not too long ago, when the NDP again came down the hall and they said that they were the only ones who objected — this is what they claimed — to a provision in a bill passed unanimously in the House of Commons to amend the Elections Act, a provision to send the date of birth, the address, the telephone numbers and all of the information that Elections Canada had about every voter in Canada out to the public.

What a disaster. They called on the Senate publicly to amend the bill. What did we do? We amended the bill. I did not propose the motion; it was Senator Stratton, I believe, who moved the amendment to the bill. There was all-party support in the House of Commons and it unanimously passed in the House of Commons. The NDP claimed they did not support it, but I checked the record and they did. There was one NDP member who did not, but we changed that.

We have a situation today where there is a bill that is before the House of Commons. We had a Conservative member of Parliament, a well-respected gentleman, appear before the committee. It was the Honourable Michael Chong. He said, “Please, Senate, do not pass this bill, because this bill was passed in the House of Commons and we did not have a chance to vote on it.”

If honourable senators go to the record of the committee meeting, they will see that I gave him a hard time. I should not have done it, but I had to. I said, "What do you mean you did not have a chance to vote on the bill? Were you absent?" He said, "No, and a lot of other members did not have a chance to vote on the bill either." I said, "What happened?" He said, "There was no vote." There was no vote. It all happened on a Friday afternoon. A fix was on, according to the MP, and I respect his opinion on that.

• (1530)

It is before the House of Commons now. We dealt with it with due diligence in the committee. Right now pressure is being put on senators as to which way to vote.

Looking at the Honourable Senator Norman Doyle, who is a proponent of defeating the bill —

Some Hon. Senators: Hear, hear.

Senator Baker: I was in the Halifax airport recently, and I noticed that a person of very high standing in the Roman Catholic Church was speaking to the Honourable Senator Elizabeth Marshall, to an MP and to Senator Doyle.

The plane I was on was going direct to Gander, and it was a small plane. When going down the aisle, one has to keep going because people are coming behind and the seats are rather crowded. As I got halfway down the cabin, this person in a very high position in the Roman Catholic Church was sitting at the window seat, and he had his Bible out in front of him.

As I was passing by, he said to me, "Senator Baker, Senator Baker." There were people coming up behind me, so I could not stop for long. I said, "Yes?" He said, "You know that bill concerning betting — to increase the bets in Canada — that people can bet on sporting events all over the place?" I said that I did. He said, "Have you taken a position on the bill?" I said, "Well, I am looking at it." He said, "Do me a favour. When is your next caucus meeting?" I said it was next Tuesday. "Oh, good." He said, "Could you do me a favour? During your caucus meeting, could you have a chat with Senator Doyle?" I said, "Okay." People were coming behind me. As I was being pushed along, I said, "I will try." "If you cannot," he said, "have a chat with the Prime Minister during the caucus meeting."

I went and sat down. I wondered, "What is the direction I have been given here? If I cannot speak to Senator Doyle, I will have to speak to the Prime Minister during the caucus meeting."

I came back and in the foyer to the rear of the building I recounted this story to Senator Doyle. He smiled, then got serious, and he said, "He might still believe that you are a member of the Conservative Party because you ran as a Conservative." I said, "My goodness. That was 40 years ago — it was 45 years ago."

I had gotten into a dispute at the time. For three years I was the law clerk, chief clerk, editor of *Hansard* and Editor of Debates. The Chief Legislative Librarian and the provincial legislature got

into a dispute on editing *Hansard*. My editing was not good enough. The premier at the time wanted to change the record, to be honest with honourable senators. After three years in that position, we were into a dispute. With coaxing from John Crosbie and Frank Moores, I said I would run, and I actually did.

Regardless, I said to Senator Doyle, "That was 40 years ago." Senator Doyle, in his great style, laid his hand on my shoulder, looked me straight in the eye, and said, "Senator, while the lamp hangs out to burn, the vilest sinner can return."

Some Hon. Senators: Hear, hear.

Senator Baker: I will get back to this bill, which I have not mentioned as yet.

Senator Nolin: Do you know which bill you are talking about?

Senator Baker: When I was mentioning the Supreme Court of Canada decision on the bill, I should have congratulated Senator Joyal, who had a successful hearing yesterday before the Supreme Court of Canada on behalf of the Senate. I wish him the best in his position as an intervener in that particular case.

Getting back to the bill that we are voting on at third reading, it has received a very good hearing in committee. I think there are some problems with it. I will not vote for the bill.

Briefly, the bill allows the commissioner to designate an inmate as being a frivolous or vexatious complainant.

We heard from lawyers and all of the authorities, but the legal opinion given to us was very clear. The point that will be questioned is that one cannot make a decision on a vexatious complainant. As honourable senators know, in looking at the rules of court right across this nation, one can declare someone a vexatious complainant, but there must be a hearing. One cannot do it *ex parte*; it must be done *inter partes*. That is a rule of law, of fundamental justice, which is section 7 of the Charter, and we think that will be challenged in the court.

Second, I believe we should have waited until after the coroner's inquest on Ashley Smith was completed. One of the questions there was that the Correctional Service of Canada regarded her as being a vexatious complainant; they did not read her written complaints. This bill would legitimize that situation.

I will congratulate the committee; they have done a marvellous job. Again, I congratulate the Senate on fulfilling the function that the House of Commons does not. Honourable senators, I have been here for 39 years: 29 years as an MP and 10 years as a senator. Before that I worked in an official position in a legislature. The Parliament of Canada has only two main functions. One is that Parliament must make the government accountable to the people of Canada, mainly done through Question Period, and there are also other facets of accountability. However, that function is primarily left, but it should be left exclusively, to the House of Commons, I believe.

I believe the legislative function is in the hands of the Senate. Honourable senators can see the proof in our case law and courts that it is right here in the Senate that the legislative function is fulfilled on behalf of the people of Canada. It cannot be fulfilled in a house filled with political partisanship, in the House of Commons.

• (1540)

The Senate has fulfilled that role in the best way possible. It continues to fulfill that role. Unfortunately, it is not generally understood by the people of Canada. However, in fact and in reality, that role is being fulfilled and that role is just as important as the role fulfilled today by the House of Commons.

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

Hon. Senators: Question.

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

Some Hon. Senators: Agreed.

Some Hon. Senators: On division.

(Bill read third time and passed, on division.)

[*Translation*]

CANADIAN HUMAN RIGHTS ACT

BILL TO AMEND—SECOND READING—ORDER STANDS

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. Claude Carignan (Deputy Leader of the Government): Honourable senators, Bill C-304 stands adjourned in the name of Senator Day. This bill was introduced and read the first time on June 7. Senator Finley sponsored the bill and began debate on June 27, 2012, which was 45 sitting days and 252 calendar days ago. Will Senator Day let us know when he plans to speak to this bill and how much time he needs?

Hon. Joseph A. Day: Honourable senators, I took the adjournment of this bill eight days ago. If I understand the rules correctly, I have 15 days. I can assure you that I will exercise my right to speak within 15 days.

(Order stands.)

[Senator Baker]

CRIMINAL CODE

BILL TO AMEND—SECOND READING—ORDER STANDS

On the Order:

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

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, Bill C-217 stands adjourned in the name of Senator Dallaire. Debate on this bill began on November 8, 2012, which was 25 sitting days and 118 calendar days ago. Does anyone know when Senator Dallaire plans to address the chamber?

Hon. Claudette Tardif (Deputy Leader of the Opposition): Honourable senators, I cannot answer on behalf of Senator Dallaire.

(Order stands.)

[*English*]

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

FIFTH REPORT OF COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration 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 moved the adoption of the report.

He said: I will be quite brief, honourable senators. The Standing Committee on Rules and the Rights of Parliament continues its work reviewing the *Rules of the Senate*. The change that has been brought to you is fairly straightforward.

As honourable senators know, we have developed a practice of allowing senators to adjourn debate for the balance of their time once they have started their speeches. Although this does not guarantee that the senator who adjourned debate can use the rest of their time, we are, of course, very reticent about depriving a colleague of their speaking time. While acknowledging this practice, the fifth report proposes to curtail it slightly by limiting to one the number of times a speech on an item of non-government business can be adjourned in this way.

I can tell honourable senators that this recommendation was adopted unanimously by our committee, and I commend it for your consideration and adoption.

[Translation]

Hon. Fernand Robichaud: Honourable senators, I have a question.

[English]

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

Senator D. Smith: Yes.

[Translation]

Senator Robichaud: Do senators often adjourn the debate more than once and then continue their speeches? I am sure you have had a chance to look at times when that has happened.

[English]

Senator D. Smith: I believe it has happened. This was a change that all the members of the committee thought was reasonable and fair, and we all agreed to it.

Hon. Joseph A. Day: I seek a point of clarification and I wonder if Senator Smith could help me.

The adjournment one time is by the one speaker, and that would not preclude another speaker later on in the same manner to take an adjournment one time. Is that correct?

Senator D. Smith: That is correct.

(On motion of Senator Carignan, debate adjourned.)

STUDY ON MANAGEMENT OF GREY SEAL POPULATION OFF CANADA'S EAST COAST

SEVENTH REPORT OF FISHERIES AND OCEANS COMMITTEE AND REQUEST FOR GOVERNMENT RESPONSE—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Manning, seconded by the Honourable Senator Meredith, that the seventh report of the Standing Senate Committee on Fisheries and Oceans, entitled: *The Sustainable Management of Grey Seal Populations: A Path Toward the Recovery of Cod and other Groundfish Stocks*, tabled in the Senate on October 23, 2012, 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 Fisheries and Oceans being identified as minister responsible for responding to the report, in consultation with the Minister of Health.

Hon. Mac Harb: Honourable senators, this report, as tabled, and the recommendation it makes to kill 70,000 grey seals fly in the face of all reputable scientific evidence. The recommendation to cull grey seals “to see what happens” is the very antithesis

of the precautionary approach to ocean management, and it has caused alarm and anger in the scientific community. Recently, several dozen seals were senselessly killed on a beach in Prince Edward Island. This event fostered widespread outrage in P.E.I. and around the world. Just imagine the public reaction when thousands and thousands of grey seals are slaughtered and their corpses left to sink or rot on area beaches, all to avoid facing the fact that past and present human overfishing and mismanagement have caused the commercial fishery to flounder.

• (1550)

Let us look at some of the committee's recommendations from this report tabled in the Senate.

Recommendation 1 is that the Department of Fisheries and Oceans continue — and I underline continue — to identify recovery targets and timelines and limit reference points in accordance with the existing precautionary approach framework for all depleted fish stocks, starting in the southern Gulf of St. Lawrence.

Honourable senators, I have to take issue with the word “continue.” Canada has failed to identify recovery targets and timelines even after more than 20 years of the cod fishery moratorium. Some fishing zones remain open to commercial cod fishing, and cod actually accounts for \$7.6 million in value to Newfoundland fisheries, according to the Department of Fisheries and Oceans' figures for 2011. There is a need to identify recovery targets and timelines for depleted fish stocks. That was acknowledged in the Senate report and repeatedly raised by Dalhousie marine biologist Jeffrey Hutchings, both in testimony to the committee and in his role as Chair of the Royal Society of Canada Expert Panel on sustaining Canadian marine biodiversity. We are not listening to the scientists. We think we are doing it right, but we are not.

In Recommendation 2, the committee recommends that the Department of Fisheries and Oceans coordinate and participate in a scientific research agenda to address the knowledge gaps identified by witnesses during this study. These gaps include the percentage of cod in the seal diet, the seals' range on the Eastern Scotian Shelf and the application of alternative management methods.

While the recommendation to identify knowledge gaps is good, implementing a cull before addressing these gaps does not make any sense. Proceeding with a cull without proper scientific evaluation and fisheries recovery plans is simply irresponsible.

This report ignores complexities of the marine ecosystem and the risk inherent in a large-scale seal cull. The fact is that cod — and this is very important — has been increasing on the Eastern Scotian Shelf over the past five years. This is where the population of grey seals is most dense. The committee's conclusion of a direct link and cause and effect between seals and cod does not add up. If the seals are eating the fish, why is it that, on the Eastern Scotian Shelf over the past five years, we are seeing an increase in the fish stock?

In Recommendation 3, the committee wanted, starting in the 2013 season and continuing for a period of four years, the Department of Fisheries and Oceans to implement and manage a grey seal targeted removal program in the southern Gulf of St. Lawrence to reduce the level of the herd by 70,000 animals.

Honourable senators, implementing a cull now flies in the face of all scientific evidence. A cull — an experiment — would be unscientific. There is no way to monitor the variables. Therefore, we would never know if cod would have done better or worse without the cull. I am not the one saying this; it is Dr. Lavigne, in a letter he wrote to the minister on February 14, 2012. We must do the science before moving in on the animal.

A cull is not consistent with the precautionary approach. That is what has been championed all along by the Department of Fisheries and Oceans. Allow me to quote one of the many experts who share an opinion on the value of the seal cull. Dr. Heike Lotze of Dalhousie University said:

It is, therefore, unlikely that a seal cull in Eastern Canada would have a substantial positive effect on cod populations.

That is a scientist. That is not a politician.

Dr. Lotze referred to a scientific study of culls conducted by Bowen and Lidgard, of the Department of Fisheries and Oceans' Canadian Science Advisory Secretariat, that revealed that culls have an unknown effect or no effect on the fish stock, even in cases where marine mammal populations were reduced by 50 per cent to 80 per cent. There is no evidence, so do not do it.

There is more scientific evidence that has been ignored. In an online research journal, an article entitled "Marine Mammal Impacts in Exploited Ecosystems: Would Large Scale Culling Benefit Fisheries?" found that there was no clear and direct relationship between marine mammal predation and the potential catch by fisheries. The study was conducted by Morissette, Christensen and Pauly, December 6, 2012. That is very recent.

The research brought to the committee shows that, when properly analyzed, grey seals do not eat much cod, not any more than any honourable senator eats cod. In fact, only 1 per cent to 3 per cent of the seal diet, over the long term, is cod. That is a very small percentage. Seals prefer high-fat forage fish. When the cod fishery collapsed, the amount of forage fish biomass grew by 900 per cent. When forage fish had depleted their food supply and crashed back to more normal numbers, cod, redfish and haddock stock started to recover. That is where we are today.

I have here another quote from Dr. Boris Worm, from Dalhousie University, who appeared, with his colleagues, before the committee when we were in Halifax studying the matter. He said:

Because seals primarily consume forage fish, it is even conceivable that a reduction of seal numbers would lead again to an increase in those forage fish, which could have some negative effect on cod recovery.

You see, you kill the seal, you damage the fish. These are what the scientists are saying, not me.

Another report, out of the Technical University of Denmark, concluded that "Grey seals do not prevent cod recovery in the Baltic Sea." That is for Europe, not Canada. Even with the increased seals in that region, cod is recovering just fine.

We cannot forget the cost of a cull. A 2009 study said that it could cost at least \$4 million, but, in my opinion, it would likely be much higher due to bounties paid to sealers and the cost of regulated observers, not to mention the cost of dealing with the bodies of thousands and thousands of dead seals. Scientists say that the cull must reduce a population by more than 50 per cent, and control must be maintained in the long term to maintain any benefit. Are we prepared to spend millions of dollars, indefinitely, to artificially manage this population? Is that what we want do?

Honourable senators, the committee assumed that a cull is even possible. Department officials said, when they appeared before the committee, that they have no idea how to conduct a cull of this magnitude. The sealers must follow the mandated three-step process, but these are not baby seals anymore, with no defences, who sit still awaiting their fate. These are big animals that weigh half a tonne. Most would likely drown after being shot, preventing any scientific recording of the number of animals that we kill.

Recommendation 4 wanted the harvest of grey seals to be performed by qualified and trained seal harvesters under the monitoring of at-sea observers.

Due to the clock, could I ask for adjournment for the rest of my time?

The Hon. the Speaker *pro tempore*: The table has advised me that you have 35 seconds to go before I have to advise you that it is four o'clock.

Senator Harb: May I use the remainder of my time at the next sitting of the Senate?

The Hon. the Speaker *pro tempore*: Are you moving the adjournment of the debate now?

Senator Harb: Yes.

(On the motion of Senator Harb, debate adjourned.)

(The Senate adjourned until Thursday, March 7, 2013, at 1:30 p.m.)

CONTENTS

Wednesday, March 6, 2013

	PAGE		PAGE
Business of the Senate		Foreign Affairs and International Trade	
The Hon. the Speaker <i>pro tempore</i>	3402	Notice of Motion to Authorize Committee to Extend Date of Final Report on Study of Economic and Political Developments in the Republic of Turkey.	
<hr/>		Hon. A. Raynell Andreychuk	3406
SENATORS' STATEMENTS		<hr/>	
Assumption Life		ORDERS OF THE DAY	
Congratulations on One Hundred and Tenth Anniversary.		Korean War Veterans Day Bill (Bill S-213)	
Hon. Rose-May Poirier	3402	Third Reading.	
Canada–Greece Relations		Hon. Yonah Martin	3406
Hon. Leo Housakos	3402	Hon. Joseph A. Day	3407
Canada–India Relations		Motion in Amendment.	
Hon. Asha Seth	3403	Hon. Joseph A. Day	3408
Red River College Paterson GlobalFoods Institute		Hon. Yonah Martin	3409
Hon. JoAnne L. Buth	3403	Employment Insurance Act (Bill C-316)	
<hr/>		Bill to Amend—Third Reading—Debate Continued.	
ROUTINE PROCEEDINGS		Hon. Art Eggleton	3409
Commissioner of Official Languages		Hon. Jim Munson	3411
Certificate of Nomination Tabled.		Hon. Jane Cordy	3411
Hon. Claude Carignan	3404	Hon. Lillian Eva Dyck	3412
Rules, Procedures and the Rights of Parliament		Hon. Mobina S. B. Jaffer	3412
Sixth Report of Committee Presented.		Hon. Terry M. Mercer	3412
Hon. David P. Smith	3404	Corrections and Conditional Release Act (Bill C-293)	
Tax Conventions Implementation Bill, 2013 (Bill S-17)		Bill to Amend—Third Reading.	
First Reading.		Hon. George Baker	3413
Hon. Claude Carignan	3405	Canadian Human Rights Act (Bill C-304)	
Canada–United States Inter–Parliamentary Group		Bill to Amend—Second Reading—Order Stands.	
U.S. Congressional Meetings, February 28-29, 2012— Report Tabled.		Hon. Claude Carignan	3416
Hon. Janis G. Johnson	3405	Hon. Joseph A. Day	3416
Annual Meeting of the Council of State Governments - West, July 20-23, 2012—Report Tabled.		Criminal Code (Bill C-217)	
Hon. Janis G. Johnson	3405	Bill to Amend—Second Reading—Order Stands.	
Annual Meeting of the Southern Governors' Association, August 10-12, 2012—Report Tabled.		Hon. Claude Carignan	3416
Hon. Janis G. Johnson	3405	Hon. Claudette Tardif	3416
National Conference of the Council of State Governments, November 30–December 3, 2012—Report Tabled.		Rules, Procedures and the Rights of Parliament	
Hon. Janis G. Johnson	3405	Fifth Report of Committee—Debate Adjourned.	
Visitor in the Gallery		Hon. David P. Smith	3416
The Hon. the Speaker <i>pro tempore</i>	3406	Hon. Fernand Robichaud	3417
		Hon. Joseph A. Day	3417
		Study on Management of Grey Seal Population off Canada's East Coast	
		Seventh Report of Fisheries and Oceans Committee and Request for Government Response—Debate Continued.	
		Hon. Mac Harb	3417

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