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OFFICIAL REPORT
(HANSARD)

Wednesday, February 6, 2013

The Honourable NOËL A. KINSELLA
Speaker

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THE SENATE

Wednesday, February 6, 2013

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

[Translation]

Prayers.

2013 also marks the Year of the Korean War Veteran in honour of the 60th anniversary of the signing of the Korean War Armistice.

SENATORS' STATEMENTS

[English]

WINTERLUDE 2013

Hon. Yonah Martin: Honourable senators, I rise today to speak about Winterlude, the national capital's winter celebration. Each year Winterlude is held in Ottawa-Gatineau during the month of February; this year it is the first to the eighteenth. Winterlude was created in 1979 to celebrate Canada's unique northern climate and culture.

[Translation]

This year at Winterlude we are celebrating the Year of Korea in Canada and 50 years of friendship between our two countries.

[English]

The city of Jinju has brought the Lantern Garden of the Jinju Namgang Yudeung Festival, a spectacular 35-metre long tunnel made up of over 1,300 lanterns, to brighten Confederation Park daily throughout Winterlude. This extraordinary exhibit, three years in the making and created in collaboration with the Jinju Namgang Yudeung Lantern Festival in South Korea, represents the true spirit of our deep friendship.

[Translation]

I would like to recognize the contribution of the tireless visionaries and champions who supported this unique collaboration and who made the project possible.

[English]

In particular, I wish to acknowledge Guy Laflamme, Senior Vice-President, Capital Experience and Official Residences, NCC; Professor Jeong Gang Hoan, and their dedicated teams.

The Mayor of Jinju, Lee Chang-hee, and nine others took part in the opening weekend of Winterlude. As an honorary citizen of Jinju City, I had the pleasure of welcoming them to Parliament Hill on Monday, February 4. For Mayor Lee, it was a kind of homecoming. Thirty years ago he was a parliamentary intern in the National Assembly and participated in an overseas experience in Ottawa for six months, so for him this occasion was truly a homecoming.

On February 7, on behalf of Minister Steven Blaney, I will be attending the unveiling of an impressive ice sculpture, *The Statute of Brothers*, to commemorate this important milestone.

Last but not least, on February 10 there will be a most special event called the "Imjin Classic," a commemorative hockey game played during Winterlude on the Rideau Canal Skateway. A Canadian military team will play a parliamentary all-star team of ministers and MPs including our colleagues Senators Patrick Brazeau and Michael MacDonald; NHL alumnus Doug Smith; a Vancouver Canucklehead named Doug Martin, who happens to be my husband; and a group of hockey-loving Canadians who live or lived in Korea and who belong to the Geckos Hockey Club.

[Translation]

In Korea, the Imjin Classic annual hockey tournament is played in honour of the hockey games played on the frozen Imjin River during the war. The founders of the Geckos hockey club will be in Ottawa with the cup to play in this special game.

[English]

I hope that all honourable senators may enjoy the hockey game and celebrate the importance of the tradition of hockey, the legacy of the Korean War and the Canadians who brought with them their love of the sport during the midst of war.

VIOLENCE AGAINST WOMEN

Hon. Mobina S. B. Jaffer: Honourable senators, I rise today to address the problem of violence against women throughout the world.

On December 16, 2012, a 23-year-old woman in New Delhi was returning home from seeing a movie with a male friend. They boarded a bus with six young men. Both the woman and her friend were attacked, robbed of their belongings and she was brutally gang raped and assaulted with an iron bar. After driving around for hours, the men eventually pushed their victims' naked bodies onto the road. The young woman was airlifted to a Singapore hospital where she died of internal injuries on December 28, 2012. Although this incident has been most publicized, it is not the only recent example.

Despite the country's recent economic growth, women are still largely seen, and treated, as objects. In a recent poll, India was labelled as the worst place to be a woman among G20 countries. The incidence of rape in India has increased 875 per cent in the

last 40 years alone. According to India's own statistics, two women are raped every hour in the country and rapes have increased by 20 per cent between 2007 and 2011. Local police have said that a woman is raped every 18 hours and molested every 14 hours in the capital city of New Delhi alone. These are just the attacks that are reported.

Cultural stigma discourages many victims from reporting sexual violence. A journal of international affairs at the University of California, San Diego, estimates that only 10 per cent of rapes committed in India are ever reported. Of the total number of cases that made it to court in 2011, the overall rate of conviction stood at 26.4 per cent, or 4,072 convictions, while 11,351 acquittals were recorded.

The statistics in Canada are also disturbing. As of 2010, there were 582 cases of missing or murdered Aboriginal women in Canada; 582 and counting. More than 3,000 women live in emergency shelters to escape domestic violence, and 1 in every 17 Canadian women is raped at some point in her life. Eighty per cent of these assaults happen in the victim's home.

Although the nationwide protests triggered by this crime in India and the vigils held here in Canada are encouraging, protest and hope are not enough. What happened to this young girl in Delhi can happen to our daughters and our sisters. We have to stand with India and its people to bring about change. We can lead by example by doing more to protect and empower women and girls in Canada and around the world, who deserve nothing less than the full recognition of their unalienable right to safety, security and a life free of violence.

BLACK HISTORY MONTH

CANADIAN ECONOMIC PARTNERSHIPS— NIGERIA AND GHANA

Hon. Don Meredith: Honourable senators, as the fourth African-Canadian appointed to the Senate of Canada, I am proud to stand before you to commemorate Black History Month. Every year Canadians are invited to participate in festivities that honour the legacy of Black Canadians, past and present. There is no shortage of Black people whose lives inspire greatness in others. The list of successful African-Canadians is extensive, praiseworthy and important.

I strongly believe that the success of all African-Canadians should be celebrated, but it is important to recognize the current success of a nation of African people. The current generation of Africans have much to commemorate. Recent economic reforms and foreign investments have positioned Nigeria and Ghana, in particular, for success. The African economy is a diverse emerging market that is creating unparalleled business opportunities.

Earlier this month I was blessed to join Minister Ed Fast on a trade mission to Nigeria and Ghana. Alongside representatives from 28 Canadian companies, I witnessed first hand the rapid rate at which the African economy is growing and flourishing. This prosperity creates a significant opportunity for partnerships with

Canadian businesses. As Canada continues to partner with this booming economy, we are presented with a platform to showcase Canada as a leader in extraction and infrastructure development not only in Africa but on the world stage.

The Nigerian government's pledge to reform the oil and gas industry promotes a sustainable and long-term partnership with Canadian businesses as Canadian experts work with African businesses to share knowledge, products, services and technology. This is a huge market, with potential for vast opportunity and expansion.

• (1340)

To provide context for the magnitude of the markets I am talking about, it should be referenced that Canada's bilateral merchandise trade with Nigeria reached a whopping \$2.7 billion in 2011, an increase of nearly 44 per cent over 2010. Trade between Ghana and Canada was about \$322 million, an increase of 61 per cent over 2010.

Canadian investments and long-term trade opportunities in Nigeria and Ghana open doors, create jobs, inspire growth and promote prosperity in both countries. This partnership will result in a more sustainable economy for Africa and will create new employment opportunities for youth, not only in Nigeria and Ghana, but also in Canada.

It is important that as community and business leaders we promote and enhance opportunities for youth to aspire to and strive for. It is imperative that we engage, encourage and empower our youth on the world stage to promote success for future generations of business leaders.

Multinational companies provide recipient countries with increased capital, technological advances, increased productivity gains, increased quality control, reliability and product delivery times. Canadians and Africans working together and learning from each other break down walls created by distance, economies, education and race. Creating mutually beneficial ways to conduct business development and growth must be applauded. I look forward to future prosperity and increased partnerships between our nations.

NORTHWEST TERRITORIES

Hon. Nick G. Sibbeston: Honourable senators, last week, territorial government ministers, MLAs, Aboriginal leaders, businessmen, northern artists and performers travelled to Ottawa to celebrate Northwest Territories Days in the nation's capital. I know all of the traffic stopped for a few days and everyone was attuned and recognized it was Northwest Territories Days.

On Wednesday and Thursday nights, galas were held at the Château Laurier to showcase northern resources and performers and to serve delicacies, such as caribou, duck, seal and others. Many ministers, MPs, senators, and government and industry officials, as well as former northerners, were in attendance.

More important, perhaps, numerous meetings were held from Wednesday to Friday to discuss the priorities of northerners with respect to economic and political development. I am told that these discussions were very productive, including the one that took place between Premier Bob McLeod and Prime Minister Harper.

Senator Vern White and I had the opportunity to meet with a large number of northern delegates for more than an hour, and we listened to their interests and the problems they face in the North. We all came away from that meeting understanding each other, and I am committed ever to speak on behalf of northerners in this regard. I am sure that Senator White and I came away much better informed of northern concerns and determined to assist in whatever way we can in the upcoming months and years.

I also met with Honourable Tom Beaulieu, Minister of Health and Social Services. I had a good discussion with him on the issues of addictions and mental health, which I will be raising here in the coming weeks and months.

Northerners have great expectations about the results of these meetings because it is a long way and very expensive to come from the North to Ottawa. We truly hope that this trip and the meetings that have been held will be fruitful.

There is a big issue in the North these days about devolution. We northerners are not very many — only 40,000 people — but we feel responsible and want to take over lands and resources — the last remnant of federal control over us in the North. There is a movement afoot to devolve this responsibility to the North. I hope that in the next few weeks and months, this will occur.

At the moment, four of the Aboriginal governments in the North are supporting the devolution negotiations. My hope is that eventually all the northern Aboriginal groups will be onside with the territorial government in this regard. In the meantime, it is incumbent on the federal government and Minister Duncan to ensure their rights are protected in many of these devolution talks.

[Translation]

VICTIMS' RIGHTS

Hon. Pierre-Hugues Boisvenu: Honourable senators, on Monday, February 4, 2013, the Minister of Justice, Rob Nicholson, revealed the next phase of the government's action plan in the area of justice, in order to ensure safe streets and communities in Canada.

In 2006, our government unfortunately inherited a justice system that had been evolving in the wrong direction for 40 years. At the time, priority was given to the rights of criminals, rather than the rights of victims. I would even say that the justice system completely ignored victims and focused only on rehabilitating criminals.

From day one of our election as government, we have been dedicated to reversing that trend. This government made the safety of communities one of its top priorities and, more importantly, it is taking steps to return victims and their families to their rightful place in the judicial process. Over the past seven years, we have adopted more than 30 legislative measures to address those priorities. We have passed legislation to begin the significant shift in favour of victims' rights and the rights of law-abiding Canadians.

In 2013, our government will continue its work on justice-related issues on four fronts. Tough on crime: we will impose new measures to crack down on crime by forcing...

The Hon. the Speaker: Honourable senators, the *Rules of the Senate* contain certain restrictions regarding the content of senators' statements. Perhaps a review of this statement is in order.

SUICIDE PREVENTION WEEK

Hon. Dennis Dawson: Honourable senators, I will try not to be controversial and to obey the rules.

As you know, suicide prevention is a topic that is of great interest to me. This week, from February 3 to 9, is the 23rd annual Suicide Prevention Week. This year's theme, as you may recall, is: You're important to us. Suicide is not an option.

Although we talk about it often, for over one week every year in Quebec and in Canada, this topic comes up more frequently in Parliament.

Both chambers unanimously adopted a motion to develop a national prevention strategy.

In December we also passed Bill C-300, regarding suicide prevention. This is good, but the government must do more. Specifically, we must directly examine what falls under federal jurisdiction. For example, we can look specifically at the situation with Aboriginals, members of the military and members of the federal public service.

Large organizations, including public services, are looking at this issue more and more and have developed a lookout model to identify the people who could potentially commit suicide. We must follow this example, honourable senators.

Suicide is a scourge that takes the lives of approximately 10,000 people a year in Quebec and affects thousands of people. Let us be proactive and remind everyone that suicide is not an option.

[English]

VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Mr. Jim Byrne, Chair of the British Columbia Milk Marketing Board. Mr. Byrne is the guest of the Honourable Senator Jaffer.

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

Hon. Senators: Hear, hear!

[Translation]

ROUTINE PROCEEDINGS

STUDY ON POTENTIAL REASONS FOR PRICE DISCREPANCIES OF CERTAIN GOODS BETWEEN CANADA AND UNITED STATES

SIXTEENTH REPORT OF NATIONAL FINANCE
COMMITTEE TABLED

Hon. Joseph A. Day: Honourable senators, I have the honour to table, in both official languages, the sixteenth report of the Standing Senate Committee on National Finance entitled, *The Canada-USA Price Gap*.

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

• (1350)

[English]

CANADA-EUROPE PARLIAMENTARY ASSOCIATION

FOURTH PART, 2012 ORDINARY SESSION OF THE
PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF
EUROPE AND ITS PARLIAMENTARY MISSION TO
IRELAND, OCTOBER 1-10, 2012—REPORT TABLED

Hon. David Tkachuk: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canada-Europe Parliamentary Association respecting its participation at the Fourth Part of the 2012 Ordinary Session of the Parliamentary Assembly of the Council of Europe and its Parliamentary Mission to Ireland, the country that will next hold the rotating Presidency of the Council of the European Union, held in Strasbourg, France, and Dublin, Ireland, from October 1 to 10, 2012.

MEETING OF THE STANDING COMMITTEE OF
PARLIAMENTARIANS OF THE ARCTIC REGION,
NOVEMBER 13, 2012—REPORT TABLED

Hon. Percy E. Downe: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canada-Europe Parliamentary Association respecting its participation at the Meeting of the Standing Committee of Parliamentarians of the Arctic Region, held in Inari, Finland, on November 13, 2012.

[The Hon. the Speaker]

Honourable senators, no senators participated in these meetings.

INTER-PARLIAMENTARY UNION

EXECUTIVE COMMITTEE,
SEPTEMBER 8-9, 2011—REPORT TABLED

Hon. Salma Ataullahjan: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Inter-Parliamentary Union respecting its participation at the Two-hundred and Sixty-first Session of the Inter-Parliamentary Union Executive Committee, held in Geneva, Switzerland, from September 8 to 9, 2011.

MEETING OF THE STEERING COMMITTEE OF
THE TWELVE PLUS GROUP, SEPTEMBER 12, 2011—
REPORT TABLED

Hon. Salma Ataullahjan: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Inter-Parliamentary Union respecting its participation at the Meeting of the Steering Committee of the Twelve Plus Group, held in Paris, France, on September 12, 2011.

ANNUAL PARLIAMENTARY HEARING AT
THE UNITED NATIONS, NOVEMBER 28-29, 2011—
REPORT TABLED

Hon. Salma Ataullahjan: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Inter-Parliamentary Union respecting its participation at the Annual Parliamentary Hearing at the United Nations, held in New York, New York, United States of America, from November 28 to 29, 2011.

COMMISSION ON THE STATUS OF WOMEN,
FEBRUARY 29, 2012—REPORT TABLED

Hon. Salma Ataullahjan: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Inter-Parliamentary Union respecting its participation at the Fifty-sixth Session of the Commission on the Status of Women, held in New York, New York, United States of America, on February 29, 2012.

MEETING OF THE STEERING COMMITTEE OF
THE TWELVE PLUS GROUP, MARCH 5, 2012—
REPORT TABLED

Hon. Salma Ataullahjan: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Inter-Parliamentary Union respecting its participation at the Meeting of the Steering Committee of the Twelve Plus Group, held in Paris, France, on March 5, 2012.

EXECUTIVE COMMITTEE,
AUGUST 29-30, 2012—REPORT Tabled

Hon. Salma Atallahjan: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Inter-Parliamentary Union respecting its participation at the Two-hundred and Sixty-fourth Session of the Inter-Parliamentary Union Executive Committee, held in Geneva, Switzerland, from August 29 to 30, 2012.

MEETING OF THE STEERING COMMITTEE OF
THE TWELVE PLUS GROUP, SEPTEMBER 17, 2012—
REPORT Tabled

Hon. Salma Atallahjan: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Inter-Parliamentary Union respecting its participation at the Meeting of the Steering Committee of the Twelve Plus Group, held in Paris, France, on September 17, 2012.

ASSEMBLY AND RELATED MEETINGS,
OCTOBER 21-26, 2012—REPORT Tabled

Hon. Salma Atallahjan: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Inter-Parliamentary Union respecting its participation at the One-hundred and Twenty-seventh Inter-Parliamentary Union Assembly and Related Meetings, held in Quebec City, Quebec, from October 21 to 26, 2012.

ANNUAL SESSION OF THE PARLIAMENTARY
CONFERENCE ON THE WORLD TRADE
ORGANIZATION, NOVEMBER 15-16, 2012—
REPORT Tabled

Hon. Salma Atallahjan: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Inter-Parliamentary Union respecting its participation at the Annual 2012 Session of the Parliamentary Conference on the World Trade Organization, Back to Basics: Connecting Politics and Trade, held in Geneva, Switzerland, from November 15 to 16, 2012.

ANNUAL PARLIAMENTARY HEARING AT
THE UNITED NATIONS, DECEMBER 6-7, 2012—
REPORT Tabled

Hon. Salma Atallahjan: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Inter-Parliamentary Union respecting its participation at the Annual Parliamentary Hearing at the United Nations, held in New York, New York, United States of America, from December 6 to 7, 2012.

[*Translation*]

HUMAN RIGHTS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE
TO EXTEND DATE OF FINAL REPORT ON STUDY
OF ISSUES PERTAINING TO HUMAN RIGHTS OF
FIRST NATIONS BAND MEMBERS WHO RESIDE
OFF-RESERVE

Hon. Mobina S. B. Jaffer: Honourable senators, I give notice that at the next sitting of the Senate, I will move:

That notwithstanding the Order of the Senate adopted on March 15, 2012, the date for the final report of the Standing Senate Committee on Human Rights on issues pertaining to the human rights of First Nations band members who reside off-reserve be extended from February 28, 2013 to October 3, 2013.

[*English*]

QUESTION PERIOD

ABORIGINAL AFFAIRS AND NORTHERN DEVELOPMENT

COST OF FOOD IN THE NORTH

Hon. Nick G. Sibbeston: Honourable senators, my question today for the government leader deals with the high cost of food in the North. As senators may appreciate, in the far North, where it is difficult to get supplies and food, planes are often used to bring supplies in, so the cost of food is very high. The federal government, through Aboriginal Affairs and Northern Development, has a program that subsidizes the businesses that provide food to people, but there are still complaints.

More recently, the federal Department of Agriculture entered into an agreement with northern governments to provide \$3 million or \$4 million to promote greenhouses and people in the North growing their own food. These two programs are welcome, but it does not yet solve the problem. That agriculture program is just beginning.

Would the Leader of the Government in the Senate commit to getting more ministers than the Aboriginal affairs and the agriculture ministers involved to undertake an evaluation of the relative merits of these two programs to determine which is the most effective and efficient in providing nutritious food to communities in the North? While she is doing this, could she suggest to them that the evaluation include an assessment of the proper balance between providing subsidies to commercial enterprises versus promoting local food production and self-sufficiency and making recommendations for modifying both of these important programs?

Hon. Marjory LeBreton (Leader of the Government): I thank the honourable senator for the question. As usual, he asks relevant questions with regard to people in the North, and he does a good job speaking on their behalf.

As honourable senators know, a concern of this government and governments in the past has been to ensure that nutritious foods are made available at more reasonable prices to people who live in the North. Northerners, as the honourable senator has indicated, have been asking for these changes for some time. The Chair of the Nutrition North Canada advisory board has indicated publicly that the changes the government has brought in have made a big improvement in the quality, quantity and accessibility of foods in the North. However, as the honourable senator quite rightly states, there is still room for improvement.

With regard to the specific suggestion about the possibility of the Minister of Agriculture, the Minister of Aboriginal Affairs and other ministers exploring the possibilities of producing food in the North, it is an excellent suggestion, and I will be happy to ask my colleagues to look into the matter.

PARLIAMENTARY BUDGET OFFICER

TERMS OF REFERENCE

Hon. Joan Fraser: Honourable senators, my question is for the Leader of the Government in the Senate. As we all know, the Parliamentary Budget Officer will be moving on, and presumably we are looking for a new one. Can the leader tell the Senate whether the mandate, the job description or the contractual terms of employment of the new Parliamentary Budget Officer will differ from those of the present Parliamentary Budget Officer?

Hon. Marjory LeBreton (Leader of the Government): As the honourable senator knows, the Parliamentary Budget Officer operates within the Library of Parliament, a position that the existing Parliamentary Budget Officer agreed with and supported, as per his testimony before committee a few years ago. We, as the government, created this office, as the honourable senator knows. We are absolutely committed to the continuing existence of this office, and the government will ensure that Parliament will be able to consider a credible and non-partisan replacement as soon as possible.

Senator Fraser: That is all very comforting, but the leader did not answer the question.

When it was campaigning for election in 2006, one of the rare good promises made by the Conservative Party was that it would create an independent parliamentary budget authority to provide objective analysis directly to Parliament about the state of the nation's finances and trends in the national economy and would require government departments and agencies to provide accurate and timely information to that parliamentary budget authority.

• (1400)

The Federal Accountability Act amended the Parliament of Canada Act to create the Parliamentary Budget Officer and, again, referred to a mandate for him to provide independent

analysis to the Senate and House of Commons and, when requested to do so by a member of either house or by a committee, to estimate the financial cost of any proposal that relates to a matter over which Parliament has jurisdiction.

Most observers would agree that those are precisely the things that the present Parliamentary Budget Officer has done. Over the years, as he has done so, the government has indicated a growing degree of irritation with his work, presumably because so many of his forecasts, according to the Auditor General, turned out to be more accurate than those coming from the departments of government themselves.

Recently the Minister of Finance suggested that the PBO should be a sounding board, which is very different from an independent and objective analyst, and seems to be suggesting — I am sorry to interrupt the leader's conversation.

Senator LeBreton: I am listening; I can multitask.

Senator Fraser: All women can. Nonetheless this is, I believe, a serious question.

What the finance minister has been suggesting sounds dramatically different from the present law and Canadians' understanding of the mandate of the PBO. I ask again: What will be the mandate of the new PBO in law, in regulation, in job description and in contractual arrangements?

Senator LeBreton: I thank the honourable senator for her question, but I will repeat the answer I just gave. We created this position as a government. It was, as the honourable senator rightly states, part of the Federal Accountability Act. We are committed to this office continuing to exist. The government will ensure that Parliament will be able to consider a credible, non-partisan replacement.

The Parliamentary Budget Officer has obviously participated in a great number of works. We have all read about them. People can agree or disagree, but I do think the Parliamentary Budget Office has had a high profile in Parliament and the government, as I just said, is committed to this position and will seek a credible, non-partisan replacement.

Senator Fraser: Let me try from another angle, then, honourable senators. How would the government define someone who is credible?

Senator LeBreton: First, I listened to the honourable senator's question even though she accused me of not listening. I can listen and I can hear many conversations.

The honourable senator cited some of the comments made about the Parliamentary Budget Officer and comments by various parliamentarians. I have put on the record in this place before that neither parliamentarians, nor the government nor people on

this side or that side, but *The Globe and Mail* did an analysis of the work the Parliamentary Budget Officer has done compared with the work of the Department of Finance and found that the Department of Finance predictions were accurate more times than those of the Parliamentary Budget Officer.

Senator Fraser: The Department of National Defence might have a slightly different history on that front.

What is “credible”? What is “credible” in the views of this government? Does “credible” mean someone who will agree with us? Does “credible” mean someone who will not take issue with whatever the government has decided is the line of the day?

Senator LeBreton: “Credible” is a person who can perform their functions in a non-partisan, credible way.

Hon. James S. Cowan (Leader of the Opposition): Honourable senators, the question Senator Fraser asked is: Are you looking for someone to fulfil the job description of the existing occupant, or are you looking to change the terms of reference and the job description? It is a simple question; yes or no?

Senator LeBreton: I think I made it very clear, honourable senators, that the Conservative government created this particular position. We support this position and office. The roles of the Speakers of both chambers are involved here, as well as the Parliamentary Librarian. Hopefully the applicants who apply for this position will be credible and non-partisan.

Senator Cowan: I am not talking about credibility and partisanship or non-partisanship. Is the search for a parliamentary budget officer to carry out the same functions as the present parliamentary budget officer, or is the government looking for someone to fill a different job? We need to know the answer to that. We are not talking about credibility or partisanship.

Senator LeBreton: I think the Office of the Parliamentary Budget Officer is within the confines of the Library of Parliament. I have seen no evidence that is going to change. If honourable senators go back and look at the testimony of the present Parliamentary Budget Officer, he was fully comfortable and supportive of his position when it was created within the Library of Parliament.

[Translation]

Hon. Marie-P. Charette-Poulin: Honourable senators, I have a supplementary question. Can the minister tell us if the position has been posted externally yet?

[English]

Senator LeBreton: Honourable senators, I will have to take that as notice because this is a position within the Library of Parliament. The Speakers of this chamber and of the other place work very closely with the Parliamentary Librarian, so I am not absolutely certain what the process is and whether, in fact, the search has begun or not, but I will find out.

[Translation]

HUMAN RESOURCES AND SKILLS DEVELOPMENT

EMPLOYMENT INSURANCE

Hon. Jean-Claude Rivest: Honourable senators, I have a question about the implementation of the employment insurance reform that was recently passed in Parliament.

I am sure that the government is fully aware that since the bill was passed, thousands of seasonal workers have been quite concerned about the reform as it applies to certain regions of Quebec, the lower St. Lawrence, the Gaspé, the Magdalen Islands, and the Maritime provinces.

I think we can all agree that there may be some legitimate reasons for the government’s proposed reform. But for seasonal workers — fisherman, in particular — in certain regions, this reform is disastrous for individuals and communities. Take, for example, the Magdalen Islands, where workers need to sign up and look for a job. There are three or four employers there and 2,000 seasonal workers. Implementing the reform there makes no sense. And the 100 km, or 100 mile, requirement puts them in the middle of the ocean.

Is the government aware that its proposed employment insurance reform is causing significant problems for communities? These communities are at risk of losing their workers because they will have to find work outside their community and will not be available when they are needed for the seasonal work. Seasonal work will disappear and employers are very worried about that.

These people have been out in the streets in good faith, protesting nearly every day for months to defend their living conditions. Does the government not think it would be reasonable to meet with them and determine, freely and respectfully, how this proposed employment insurance reform could be implemented so that the legislation respects the basic rights of workers?

• (1410)

[English]

Hon. Marjory LeBreton (Leader of the Government): I thank the honourable senator for the question. First, we have made the necessary changes to EI. We are actually trying to help better connect unemployed Canadians with jobs that are available in their local area: jobs that match their skills. This initiative is clarifying, not changing, the responsibilities of Canadians collecting EI.

The new enhanced job-alert system, which has just been introduced and is already showing great promise and uptake, is being introduced to improve and strengthen information made available to Canadians as they seek to find work. We all will agree that to connect people and their skills to available jobs is, of course, the desired result. Having said that, and this is the important point that I want to make to the honourable senator, for those who are unable to find employment, for those who find themselves in unusual circumstances, the Employment Insurance system will be there for them now, as it is now and always has been.

[Translation]

NATIONAL DEFENCE

SUPPORT PROGRAMS FOR PERSONNEL

Hon. Roméo Antonius Dallaire: Honourable senators, my question is for the Leader of the Government in the Senate. In the last budget, the government made certain strategic decisions in its cuts to the Department of National Defence. One of those decisions was to protect the envelope for procurement of military materiel in order to ensure that our armed forces are well equipped for operations in which they may have to participate.

[English]

The Canadian Association of Defence and Security Industries put out a report indicating the significant impact of defence and security spending in capital, in particular, to the tune of over \$7 billion a year and the concern they would have if any of those projects got moved to the right, meaning pushed to the right or downscaled, and thus affected their industry and Canadian jobs. We saw that strategic decision of trying to protect the capital program to the maximum.

However, over the last months — nearly weekly — we keep getting these reports that the National Defence quality-of-life envelope for military personnel and their families, now that they are back home and reconstituting themselves — the leader will notice I did not use the expression “lick their wounds,” because she did not like that, although that is parlance of the military milieu, but we are here in Parliament — but as they do that, they are subject to continuous cuts in quality-of-life programs. There are separated expense accounts, when they are posted and their families cannot follow, that are being cut significantly. The equalization amounts, when they are posted to a high-cost-of-living area from a lower one, have been cut. We have seen cuts in support even to programs that have been announced, such as the mental health program. We have actually seen cuts in the employment of people: They have been cutting the number of people. We have seen cuts in the family support centres, where they have had to absorb the cost of living increases, and that is the start.

What is the aim? We want the kit, but we do not want to keep the people? Can the leader give us a feel for how that envelope, which is a very specific one at National Defence, is now being

[Senator LeBreton]

affected by the budget and the transformation, and whether or not the troops and their families will be subjected to more duress in order to continue to serve?

Hon. Marjory LeBreton (Leader of the Government): First, honourable senators, there are many news reports and stories that are quite erroneous. I cannot answer speculation. All I can say is that since our government took office seven years ago — sworn in seven years ago today — the defence budget has grown substantially every year. As a government we have made key acquisitions, committed to the care for ill and injured personnel, and invested across the country in infrastructure to meet the needs of our men and women who serve in uniform as they work and train. On the equipment side, we have delivered planes, helicopters, trucks and tanks.

The result of all of this is that the Canadian Forces are larger, better equipped, better cared for, and more operationally ready than at any time in their history. Obviously, with the support of the government, they are prepared and able to meet the challenges of the 21st century.

Over the past two years, we have examined ways to implement cost-saving measures to ensure efficiency and effectiveness, to ensure tax dollars are well spent and Canadian taxpayers get the best return on their investment in our Armed Forces.

Combined with the end of the combat mission, National Defence will return to a more normal tempo of operations. Again, as honourable senators know, the government has made significant investments, in many areas, in the men and women who serve so valiantly in the Canadian Forces. All I can say is the Department of National Defence is reviewing all of its expenditures and, of course, is expected to do its part, as all departments are, in finding savings.

Senator Dallaire: I have a supplementary question, if I may. I always cringe a bit when we go into history. We will go further back into history than CNN's version, which is last week. The leader has said the forces have never been so well equipped and that, in fact, the government has made extraordinary efforts to modernize and fund it as never before.

Let us remember a bit of the history. The 1987 white paper was supposed to meet the capability commitment gap and provide the forces with what it needed. Within two years, the then Minister of Finance, Mr. Wilson, absolutely shot the thing to death. There was nothing left of the known deficiency at the time of the forces. The Conservative government simply cut everything they were promising in the white paper and never implemented it.

In 1993, when the Liberals came in and had the massive budget problem of credibility, of course they cut into defence: they cut everywhere else. However, by 1997, they realized they had cut too far into quality of life, the human capital. They then got involved in a significant program of quality of life, where they brought in 500 million new dollars a year in order to cover that angle. That has continued to progress and the Conservatives have simply continued with that until recently.

Now that they are back, now that they want to hold that experience in the forces and build on that experience so we are ready to use the new equipment that the leader is talking about, why are we chopping the support to them and their families when we should be giving them the opportunity to thrive and want to stay in and reduce attrition? Can the leader explain the strategic position taken in cutting support to the people side, please?

Senator LeBreton: If the honourable senator wants to get into a history lesson, I remind him that, first, I stand in this place — and have done so for seven years — answering for a government that I am very proud to be part of. We have made significant commitments and restored the Canadian Armed Forces to where they should be. We were not sending them to Afghanistan in green uniforms to fight in the desert.

If honourable senators want to get into history, it was the era that Senator Dallaire talks about that the Chief of Defence Staff called the “decade of darkness.” Senator Dallaire’s Prime Minister disbanded the airborne. If the honourable senator wants to get into that kind of history, I would be happy to have that debate with him.

• (1420)

The accusations the senator makes about what the government is or is not doing are mostly founded on hearsay. The fact is that the government is committed to our Canadian Armed Forces. Obviously, as in all departments, it is necessary to be mindful of taxpayers’ dollars. However, this government continues to support the Canadian Armed Forces in ways that no government has ever supported them. With the Afghanistan mission coming to an end in 2014, there will be changes in missions and responsibilities. The government is fully committed to ensuring that our armed forces are well equipped and have the personnel necessary to deal with the emerging issues of the 21st century.

Senator Dallaire: When this government came into power, Canada was on a war footing. The country was not at war, but our armed forces were. The shooting war started in 2006. Not to have provided the capabilities to protect our soldiers and give them the ability to do the job that the government decided to sustain and, in fact, increase, would have been approaching a level of irresponsibility not seen since preparations for World War II. The government had a fundamental responsibility to the troops to improve their situation.

The projects that the leader mentioned did not start overnight when the Conservative government was elected. Many of those projects started five or six years previous to that. Extensive studies had been done and funding had been provided for a number of these projects. The rebuilding started in 2002. The leader’s government continued the momentum and responded to its responsibility to ensure that those projects came to fruition in a timely manner because the troops were at war.

The forces are now back home. We want to keep the strength and the depth that we have acquired and to support the troops and their families.

Will the leader ask the Minister of Defence why funding to support the quality of life of troops and their families in order that they will want to continue to serve is being cut when the government is protecting other areas of the budget? The minister should be accountable to respond to that very specific envelope versus funding for fuel or flying hours, because it will have a direct impact on attrition. The impact will be negative, which means that we will have to begin recruiting and will waste a lot of money training new people rather than sustaining our current strength.

A strategic decision must have been taken. Will the leader ask the minister why they are cutting on that side, knowing that it will have such a negative impact on the forces?

Senator LeBreton: Honourable senators, that was an interesting exercise in revisionist history. It was the government of Mr. Martin that committed the Canadian Armed Forces to Afghanistan. It was that government that sent them there with green uniforms, improper land vehicles, no tanks and no heavy lift aircraft.

We were elected by the Canadian people to run the government; we did not “come into power” as the senator says. That is very much a Liberal term.

Honourable senators, the budget of the Canadian Armed Forces, including that of the army, has grown significantly since 2006. Last year, the army’s budget was \$500 million larger than it was in 2006, an increase of 45 per cent. As I have said before, after years of unprecedented growth and resources being allocated to the Canadian Armed Forces, the end result is that we have very well equipped armed services. As I have also said, with the roles of the forces changing in Afghanistan, we will ensure that we have a capable, well-equipped Canadian Armed Forces prepared to meet the challenges of the twenty-first century.

ORDERS OF THE DAY

BANKING, TRADE AND COMMERCE

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Leave having been given to proceed to Motions, Order No. 138:

Hon. Gerald J. Comeau (Acting Deputy Leader of the Government), pursuant to notice of February 5, 2013, moved:

That the Standing Senate Committee on Banking, Trade and Commerce have the power to sit on Wednesday, February 6, 2013 at 3:15 p.m. for the purposes of its study of Bill C-28, An Act to amend the Financial Consumer Agency of Canada Act, even though the Senate may then be sitting, and that rule 12-18(1) be suspended in relation thereto.

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

Hon. Senators: Agreed.

(Motion agreed to.)

INCOME TAX ACT

BILL TO AMEND—SECOND READING— DEBATE ADJOURNED

Hon. Nicole Eaton moved second reading of Bill C-377, An Act to amend the Income Tax Act (requirements for labour organizations).

She said: Honourable senators, I rise today to speak in support of Bill C-377, An Act to amend the Income Tax Act (requirements for labour organizations).

Honourable senators, 4.3 million Canadians currently hold union membership; millions more have held union cards at some point in their working careers. Labour organizations play a valuable role in Canadian society, representing and defending the rights of workers. The important contributions made by such organizations and the valuable role that unions play in the lives of many Canadians have not gone unrecognized.

Our nation's federal tax system provides benefits to support the work that unions do. Key among these benefits is the 100 per cent tax deduction workers receive for the union dues they pay. In addition, labour organizations receive tax-exempt status. Such accommodations in the tax system represent considerable benefit to the public.

• (1430)

Each year, the federal government forgoes \$795 million in tax revenue for union and professional dues. The majority of this, a \$400-million to \$500-million tax exemption, is claimed by union membership. Honourable senators, these figures are significant. It is equally significant to note that unions, as tax-exempt organizations, should be accountable to their membership, given the extent of benefit that they and their members receive through the tax system.

Honourable senators, transparency is one of our government's watch words. We require it of our public institutions, federal departments, Crown corporations and agencies. To this end, early in our mandate, the Federal Accountability Act streamlined and simplified accountability and transparency throughout the government. Its provisions also made federal Crown corporations more open and transparent by ensuring their applicability to these institutions. This bill's requirement for public disclosure by labour organizations is based on the long-standing provisions in the Income Tax Act with which charities must comply. This private member's bill deals specifically with labour organizations that have never been subject to public disclosure before now.

Also the beneficiaries of tax exemptions, Canadian charities have complied with similar requirements such as those prescribed in this legislation for over 35 years. The charitable sector is robust in its efforts to work with the Canada Revenue Agency toward demonstrating transparency. The Canada Revenue Agency's Charity Quick View is a summary of key information from a charity's registered charity information return, which is readily available on the CRA website. Imagine Canada, a national charitable organization whose cause is Canada's charities, also worked with the Canada Revenue Agency to provide CharityFocus, an in-depth year-to-year comparison of a charity's financial information.

Political financing in Canada has also seen significant effort applied to increasing transparency. Indeed, former Prime Minister Paul Martin's government introduced limits on contributions in 2004. Our government made further changes in 2007. Together, these efforts ensured that the principles of transparency and fairness apply to all participants in the electoral process. This information is readily available on the Elections Canada website.

Simply put, because there is substantial public benefit, it is most appropriate that Canadian workers are able to see how their union dues are being spent. Honourable senators, this bill proposes to amend the Income Tax Act. Its provisions will require the public disclosure of the finances of labour organizations.

As I have pointed out, the notion of increased accountability for public funds is not new. In addition to improvements in the bureaucracy and the political domain, efforts are being undertaken by our government to enhance transparency for Canada's First Nations communities. Legislation under study in this place today by the Standing Senate Committee on Aboriginal Peoples will seek to increase accountability measures on First Nations reserves.

Honourable senators, with significant accommodation comes the need for equally significant responsibility. Labour organizations find themselves much less frequently having to fund financial compensation for members due to strikes or lockouts, as they did decades ago. Thus, they have greater resources at their disposal.

As the figures I have quoted today illustrate, with significant revenues to devote to various causes, rank and file membership and Canadians have a right to know where tax-exempt union monies are invested, applied and utilized. This notion of greater transparency and accountability is not new. Many other G8 countries, such as France, Great Britain, the United States and Australia, require similar disclosure. They have lived with the requirement for financial transparency for a long while without issue or cause.

Honourable senators, Canada once required unions with more than 100 members to provide returns to Statistics Canada under the Corporations and Labour Unions Returns Act. However, the Chrétien government abolished this requirement in 1998. The Americans have a statute outlining a number of obligations and requirements for labour union reporting called the Labor-Management Reporting and Disclosure Act of 1959. As

honourable senators can see, this is one of the few areas where Canada is not leading the charge. We are playing catch-up. With the passage of this bill, both union membership and the Canadian public will be empowered to gauge the financial integrity and health of any labour organization. We remain confident that nothing of note will be found amiss. Let us be clear, honourable senators: This is something that Canadians want. According to a Nanos poll taken for Labour Day, 2011, 83 per cent of Canadians, and even more union members, 86 per cent, want public financial disclosure by unions.

Honourable senators, Bill C-377 simply proposes that the statements of income and expenditures for labour organizations be electronically submitted annually to the revenue minister. Among the funded activities captured in the annual reporting will be organizing, collective bargaining, education and training, and conferences, in addition to political activities and lobbying. The statements would also require reporting of disbursements over \$100,000 to directors and staff. It would not require reporting from registered pension plans, health benefit plans or other regulated plans; and it would not require unions to conduct an audit. This level of detailed public disclosure will increase the confidence of Canadians that the public tax subsidy for labour organizations is warranted and its reporting deemed useful.

I wish to be clear about the bill and its provisions. The proposed legislation does not prescribe to unions how to spend their resources and does not restrict them in any way. The bill does not place a substantial burden or undue expense on unions. It is recognized that unions are engaged in responsible accounting of their finances and that many unions are already publicly reporting this financial information to their members and others. As well, unions are filing much of this information with the Canada Revenue Agency through their tax returns. Again, only salaries in excess of \$100,000 will require disclosure.

Honourable senators, while it is recognized that this legislation is a private member's bill, our government supports and affirms that organizations receiving public benefit should be accountable and transparent in disclosing how they use such benefit. This is not a matter of ideology and is not reflective of any agenda other than that of responsible conduct by an enterprise that receives public accommodation. It is an affirmation of a commitment to open, transparent and responsible stewardship of public funds. Honourable senators, transparency, increased accountability and proactive, open communication are the touchstones of a progressive society, of robust commercial enterprise and certainly of good government. I look forward to the debate on this bill. I ask that honourable senators carefully consider its provisions in the days to come.

Hon. Jim Munson: Honourable senators, I would like to ask a few questions of Senator Eaton.

Would the honourable senator favour a similar bill for medical professions, engineering associations, nursing associations, real estate associations, and their presidents and executives to make their books public, to make them transparent?

Senator Eaton: Absolutely, if they receive tax credits and are exempt from taxation.

• (1440)

I think anyone here who wants to introduce a private member's bill should do so.

Senator Munson: They already have tax credits, and we know that. How far is the honourable senator prepared to go? Does she want to open up every book of every association in this country?

Senator Eaton: That is for others, honourable senators, to decide. I simply agreed to sponsor this bill. If other people want to bring up other organizations, by all means.

Senator Munson: Then would the honourable senator accept an amendment?

Senator Eaton: I think this bill should first go to committee. We should debate it in committee, and it should be at committee that those kinds of things are decided.

Senator Munson: There have been suggestions in the world beyond the Senate that the Conservative government is simply using unions as scapegoats, going after them, trying to reduce the power of unions and silence the voice of unions in any kind of public debate by urging this kind of bill that, once again, is through another door — not the main door — trying to stifle debate and lessen the union's power and influence in our society. They have come to see all of us to say that they have been very transparent with their organizations and with their members, and their books are quite open. Why do we need a bill like this? Why would the government not start by focusing on someone else, like nurses' associations, medical professions and so on? It does not matter: They are not unions. That is a good point.

Senator Stratton: What is wrong with going after unions?

Senator Munson: There is nothing wrong with unions in this country.

Senator Eaton: I guess the honourable senator's question was more of a statement. There has never been anything in this government's platform that was against unions. In fact, we recognize how valuable unions have been to the stability of the Canadian workforce and that our productivity and our economy depend on the good will of the unions.

Please remember that a lot of Canadian unions with American affiliations already give this information. It is already online in the U.S., so why should it not be publicly disclosed in this country? I do not understand why they are opposed to having it online. What possible difference could it make to them? We know what sophisticated organizations they are. When you are an autoworkers union and have your very own economist that writes in *The Globe and Mail*, I am sure you will not find this reporting onerous in the least.

I do not know why the honourable senator would be upset about it. Political parties have all had to adjust and put our donors online with their names and addresses. I do not understand; I am sorry. As far as our government is concerned, unions are very important in the Canadian economy.

Senator Munson: I have another question. If this bill is so important to the government, why is it not a government bill? Why is it moving in this way if it is really important to get into the books of unions? Obviously someone on the honourable senator's side does not feel that the unions are open enough, but they are open to their memberships.

An Hon. Senator: No, they are not.

Senator Munson: Why is this bill coming through this particular door?

Senator Eaton: I think the government has made clear its priorities. The Prime Minister is very focused on getting the Canadian economy up and going and creating jobs. I think that has been his big focus. I think keeping Canadians safe in their streets is another one of his focuses. This private member's bill has received the government's blessing, and that is all that has to be said. Is the honourable senator saying, by his question, that private members' bills have no value?

Senator Munson: I absolutely say that they have value because it took three years to get my autism bill through Parliament. There is nothing wrong with that. Let us look at the three-year rule on this sort of thing. I am asking the questions; you are supposed to give me the answers.

Hon. James S. Cowan (Leader of the Opposition): Would Senator Eaton entertain another question?

Senator Eaton: Yes.

Senator Cowan: Is it the honourable senator's view that this disclosure regime ought to be extended to any organization that receives fees from its members that are deductible, for income tax purposes, by those members?

Senator Eaton: I will simply say that I am sponsoring this bill. If any senator wishes to bring forward a private member's bill looking at other organizations that receive tax exemptions, then it will be debated in this chamber and taken to committee, and we will see what happens. I am not for or against it.

Senator Cowan: The honourable senator has expressed a principle here, as she did with her views with respect to charities and not-for-profit organizations, and talked about the impact that it has on the tax system. Clearly, if I pay dues or a fee to an organization and am able to deduct that from my income for tax purposes, that has an impact on the income tax system. I take it that the logical extension of what the honourable senator is saying is that she would be concerned about where that organization is spending the money it receives from me and the other members. Would she not agree that the logical extension of her argument is that this kind of disclosure regime ought to apply to all such organizations? Where would she draw the line?

[Senator Eaton]

Senator Eaton: When an organization receives up to \$500 million, or half a billion, in tax exemptions, I do not think it is out of line to request transparency. If you find that there are other professional organizations that are getting up to half a billion Canadian tax dollars, then perhaps it should apply.

Senator Cowan: I am taking the principle that the honourable senator has mentioned. Surely no union is receiving that kind of money. She is talking about a collectivity of unions. I am saying that there are other organizations. When I pay my dues to the Nova Scotia Barristers' Society, I deduct those dues from my income. I am sure that doctors who practise in any province in Canada would deduct the fees that they pay to their medical societies, and I am not suggesting that there is anything wrong with that. The medical society would use its fee income to provide services to its members but also to lobby government on behalf of various things.

I do not understand where the honourable senator is drawing this distinction. If the test is whether or not there is an impact on the tax revenue of the country, then I think she must say that she would favour the same disclosure regime for all of these organizations. We need to know exactly where this is going because it will come as no surprise to Senator Eaton that many organizations out there have very legitimate concerns about how broadly this regime will impact their organization.

I understand my honourable friend's concern and focus on labour unions, but I would like to hear her explain how she can say that this only has to do with labour unions. Surely there are other organizations that have an impact on the tax system that she is trying to protect.

Senator Eaton: I think, honourable senators, that we should have this debate in the Finance Committee with witnesses.

An Hon. Senator: Right; hear, hear!

Senator Ringuette: This will be a very interesting debate.

(On motion of Senator Ringuette, debate adjourned.)

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. Noël A. Kinsella: Honourable senators, it is rare that the Speaker will take his or her place in the chamber to participate in the debate on an item on the Order Paper, but the rules do provide for the right of a senator who has the honour to be in the chair to do exactly that and, indeed, to vote on any measure.

As I listened to the debate when it was last engaged in shortly before the Christmas break, I was listening very carefully to our distinguished colleague, the Honourable Senator Nolin, who in my judgment raised extremely important points that speak to the kind of best work that this chamber can do.

• (1450)

I felt that, because of the 20-plus years that I served as chairman of a human rights commission in Canada and the other work I have done on human rights legislation, it might be helpful if I was to place a couple of observations of my own on the record.

First and foremost is the question of whether or not human rights legislation was properly entitled in the beginning. It seems to me that the phrase “human rights” is very large for the human rights acts that we have had in all the provinces, the territories and federally since the late 1970s when Parliament enacted the Canadian Human Rights Act. When we examine the human rights laws of Canada, we quickly come to the realization that we are dealing with anti-discrimination law and that perhaps the title “human rights” was a little bit too ambitious. The role of our human rights commissions across Canada, provincial, territorial and federally, does not have them deal with civil and political rights, economic, social and cultural rights, but more directly with what students of human rights would refer to as “equality rights.” Equality rights are best promoted and protected by anti-discrimination law.

The story in Canada is a pretty good story of how the practice of freedom has grown by, in large part, the positive roles played by legislative assemblies and the Parliament of Canada in enacting legislation to combat discrimination. In the early days, the focus was on racial discrimination and the record is clear that we, as Canadians, have been successful in combatting racial discrimination by having enacted anti-race discrimination laws. Then, the list of prohibited grounds of discrimination was expanded to include place of origin, ethnic origin, gender, sexual orientation and others.

However, when one looks at the model of the anti-discrimination laws — or the human rights acts as we call them in Canada — it is helpful for all of us when dealing with human rights law under the Canadian experience, or within the Canadian experience, to understand that they have grown out of anti-discrimination law, whether it was the fair employment practices laws or the fair accommodation practices laws. There was a codification of these fair employment practices and fair accommodation practices laws, which were directly anti-discrimination statutes. The legislatures and Parliament recognized that if one is being discriminated against and cannot get a job because of one’s race, then one was hardly in a position to take carriage and incur the cost to combat that racial discrimination. That is why it was deemed to be in the public interest to have an agency of the province or an agency of Parliament that would take carriage of these complaints.

Human rights law was described by Mr. Justice Walter Tarnopolsky in an excellent article that appeared in the *Canadian Bar Review*. He called anti-discrimination laws the iron fist in a velvet glove. We have lost vision of the velvet-glove part and we would do a great service as we analyzed this bill to

ensure that the non-punitive nature of anti-discrimination law, our human rights act, has not eroded. Our human rights laws were never intended to be punitive. They were meant to be educative. They were meant to be providing fora. It was meant to be conciliatory, because it was based on old labour law which operated on the basis of not seeking punishment, but being corrective and allowing us, as a matter of public policy, to grow our country where equality rights are protected by statutory law.

We all know that since 1982 with section 15 in particular of the Charter of Rights and Freedoms, equality rights have had a constitutional protection. However, these anti-discrimination laws across Canada, the human rights acts, deal very specifically with individual-to-individual issues of discrimination, where the Constitution is regulating a relationship between the citizen and the state or governments at whatever level.

Honourable senators, I would like to place on the record that I think what Senator Nolin was saying before Christmas was extremely important and that this is not punitive legislation. However, the honourable senator did point out to us that, in the late 1990s, when we were enacting an amendment dealing with terrorism, amendments were made to the Human Rights Act that added a punishment, a punitive provision. That, with hindsight, was probably a mistake because we changed the nature of human rights law, at least federally. It does not prevail provincially.

Finally, I was quite pleased when all honourable senators supported the anti-bullying legislation dealing with bullying on the Internet. It seems to me that we would want to look at the current section 13, to which Bill C-304 seeks to provide an amendment, in terms of what motivated us when we dealt with the cyberbullying issue. Do we really not want to have a statutory provision to deal with discrimination on the Internet?

I wish to add those words of reflection and hopefully they might serve of some value as honourable senators deal with this bill.

Hon. Joseph A. Day: Honourable senators, I would like to thank the Honourable Speaker of this chamber for his insightful remarks and I look forward to having an opportunity to review them in more detail before I make my remarks. Therefore, I would ask that the matter be adjourned in my name.

(On motion of Senator Day, debate adjourned.)

[*Translation*]

CRIMINAL CODE

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator White, seconded by the Honourable Senator McInnis, for the second reading of Bill C-299, An Act to amend the Criminal Code (kidnapping of young person).

Hon. Mobina S. B. Jaffer: Honourable senators, I am pleased to rise today to speak at second reading to Bill C-299, An Act to amend the Criminal Code (kidnapping of young person).

Bill C-299 imposes a five-year minimum mandatory sentence when a kidnap victim is under 16 years of age, unless the person who commits the offence is a parent, guardian or person having the lawful care or charge of the victim.

In other words, honourable senators, this bill deals with strangers who kidnap children under 16 years of age.

• (1500)

[*English*]

In the wake of the tragedy in Newtown, Connecticut, President Obama spoke a simple truth. He said:

This is our first task, caring for our children. It's our first job. If we don't get that right, we don't get anything right. That's how, as a society, we will be judged.

As a mother and a grandmother, those words reflect my core purpose as a member of this house. I am a grandmother first; this is my preferred vocation. Children are the most vulnerable members of our society. That does not mean that they are not subjects of their own rights, uniquely talented and capable. However, the state nonetheless has an explicit responsibility to protect its children.

[*Translation*]

Article 19 of the UN Convention on the Rights of the Child requires states to take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of violence.

According to Article 36, the state must protect the child against all forms of exploitation prejudicial to any aspects of the child's welfare.

[*English*]

The UN Convention on the Rights of the Child is perhaps the most widely recognized international law. Disappointingly, the rights defined by the convention are shamefully far from being guaranteed, including here at home, in Canada.

That is what debate on this bill should be about: a child's unalienable right to live in safety and security, and the legal obligations for states to protect children and their rights. I truly believe that this ideal is what the sponsor of this private member's bill had in mind when he drafted and proposed this legislation in the other place.

Honourable senators, I wanted to start my speech today by talking about the shared priority of caring for our children. In the cut and thrust of parliamentary debate, we sometimes forget that we agree much more than we disagree. In debate, we draw distinctions and highlight disagreement to persuade and convince. At the same time, it is important to refocus debate and discussion of our shared values from time to time.

Caring for and protecting our children should be our ultimate priority. This is our common ground. Nonetheless, we may disagree strongly, politely and, at the very least, respectfully on how best to achieve this priority.

[Senator Jaffer]

Let me be clear. While I am framing my critique of this legislation in the broader context of a child's right to live free of violence and exploitation, I recognize that this frame is broader in scope than the particular branch of legal policy that this bill addresses. However, I think that private members' bills often lend important opportunities to comment on and debate complex policy questions. Especially at second reading, when we debate the main principles of a bill, it is important to consider how answers to these broader questions might inform our position on this particular legislation.

The question that I would propose is as follows: How can the federal government best protect children against violence and exploitation? I will repeat the question, because I think it is essential. How can the federal government best protect children against violence and exploitation?

[*Translation*]

The federal government should promote education and public awareness and support the organizations that do this kind of work, such as the Canadian Centre for Child Protection.

The government should work with the provinces and municipalities in order to proactively address the social factors that foster crime. It should provide a social safety net. It should also ensure that men and women serving a sentence in a federal prison receive the services they need, especially mental health treatment, to be rehabilitated and reintegrated into society.

[*English*]

To answer my question in the context of Bill C-299, it is important to affirm that mandatory minimum sentences do not protect children against violence and exploitation. To be fair, there are other government initiatives to protect children. Senator White mentioned AMBER Alert, and the government does support the Canadian Centre for Child Protection. However, there are some other areas, such as ensuring a social safety net; addressing mental health; and promoting education and awareness where the federal government should demonstrate leadership. Instead, Parliament debates a bill on child kidnapping that does not protect children against violence and exploitation.

Enacting legislation that purports to address the child's right to live free of violence and exploitation, but that in effect stalls or subverts those efforts, does more harm than good. This is not new knowledge, of course. The Canadian Sentencing Commission published a report in 1987 that found that:

Mandatory minimum sentences that create injustices by unnecessarily restricting judicial discretion without accomplishing other functions ascribed to them.

Rather than deter criminal behaviour, mandatory minimums engender recidivism. Rather than promoting fairness, they gamble with justice. Rather than responsibly addressing a public safety issue, they masquerade as silver-bullet solutions.

More recently, provincial court Judge James Bahen ruled that a mandatory minimum sentence enacted in 2008 “creates an arbitrary and fundamentally unjust sentencing process in violation of Section 7” of the Canadian Charter of Rights and Freedoms. In other words, honourable senators, mandatory minimums subvert the principles of fundamental justice enshrined in our Constitution.

Moreover, mandatory minimum sentences are inherently contrary to the sentencing purposes and principles enumerated in the Criminal Code. Canada’s sentencing purposes and principles were codified in the Criminal Code in 1995. I found such in sections 718 and 718.2 of the code. Section 718 states:

The fundamental purpose of sentencing is to contribute, along with crime prevention initiatives, to respect for the law and the maintenance of a just, peaceful and safe society by imposing just sanctions that have one or more of the following objectives:

- (a) to denounce unlawful conduct;
- (b) to deter the offender and other persons from committing offences;
- (c) to separate offenders from society, where necessary;
- (d) to assist in rehabilitating offenders;
- (e) to provide reparations for harm done to victims or to the community; and
- (f) to promote a sense of responsibility in offenders, and acknowledgment of the harm done to victims and to the community.

In addition, according to section 718, sentences should be proportionate to the gravity of the offence and the degree of responsibility of the offender. Section 718.2 of the Criminal Code outlines other sentencing principles and specifies a number of aggravating factors that the courts may also take into consideration. These principles include judicial discretion, mitigating circumstances, finding the least restrictive sentence and restorative justice sentences. They are about fairness and justice, but also the public interest and proactively rather than reactively promoting the protection of Canadians from violence and crime.

In *R. v Wust*, Madam Justice Arbour commented on the relationship between Canada’s sentencing principles and mandatory minimums. Writing for the court, she said:

Mandatory minimum sentences are not the norm in this country, and they depart from the general principles of sentencing... expressed in the Code, in the case law, and in the literature on sentencing. In particular, they often detract from what Parliament has expressed as the fundamental principle of sentencing in s. 718.1 of the Code: the principle of proportionality.

The Canadian Sentencing Commission has elaborated on the principle of proportionality even before the sentencing purposes and principles were codified. In its 1987 report, the commission said:

Each criminal offence is uniquely defined by its own set of circumstances and the notion of a judge pre-determining a sentence before hearing the facts seems abhorrent to our notions of justice. If the punishment is to fit the crime, then there can be no pre-determined sentences since criminal events are not themselves pre-determined.

• (1510)

Writing in a 2008 issue of the *Oxford Journal of Legal Studies*, Canadian Supreme Court Justice Fish concluded that in cases where the judge finds that the mandatory minimum sentence would be unjust in the circumstances, mandatory minimum sentences are plainly inconsistent with the principle of proportionality.

Honourable senators, Mr. Irwin Cotler, Member of Parliament for Mount Royal and former Minister of Justice and Attorney General of Canada, is recognized as an expert on international law and human rights law. He also has considerable expertise in the area of criminal sentencing and, as honourable senators know, currently serves as the Liberal Critic for Justice and Human Rights. Professor Cotler was not always critical of mandatory minimums. He is very open about this. He said that his perspective has evolved. As such, he presents a very compelling point of view, a legal expert who deeply understands the arguments for and against the enactment of mandatory minimum sentences.

Speaking at a meeting of the House of Commons Standing Committee on Justice and Human Rights, Professor Cotler laid out the following 12 criticisms of mandatory minimums. I would like to quote his critique as I believe it would be particularly germane to the debate on Bill C-299. He said:

The first thing is that my own appreciation of mandatory minimums is that they do not advance the goal that I thought they did, namely that of crime prevention and deterrence. Part of that, as I said, came from my look at international social science research and evidence. Part of it came from my own experience as minister in the Department of Justice. I came across a document . . . that was originally published in December 1990. It was called “A Framework for Sentencing, Corrections and Conditional Release, Directions for Reform”, Justice Canada 1990. In particular, if you look at page 9 of that report, it says:

. . . the evidence shows that long periods served in prison increase the chance that the offender will offend again... In the end, public security is diminished rather than increased if we “throw away the key”.

. . . I’m making reference to it, in that as Minister of Justice some of the evidence produced by the Department of Justice did have its own impact on my thinking, particularly as it dovetailed with what I was observing or appreciating or studying, not only in the Canadian jurisdiction but in other jurisdictions.

In a moment I will reference a report from the U.S. Sentencing Commission that was released this month, on November 12, [1990,] which I think is relevant to our approach this evening. That's my first point.

Professor Cotler continues and says:

The second point is that mandatory minimums do not necessarily target the most dangerous offenders who will already be subject to very stiff sentences because they have committed the most serious of crimes. Regrettably, . . . more often less culpable offenders may be caught by mandatory sentences and subjected to extremely lengthy terms of imprisonment.

In this regard, let me quote from the report that came out, as I said, in the second week of November. It's a 645-page report from the United States Sentencing Commission. I take what has been said about the differences between Canada and the United States, and I don't make applications in terms of Texas to Canada willy-nilly without knowing the differences. . . . I'm saying that on the issue of principle and policy, what was found with regard to the mandatory minimums . . . and I will just share it with you for its appreciation.

The Sentencing Commission found that federal mandatory minimum sentences are often "excessively severe", not "narrowly tailored to apply only to those offenders who warrant such punishment", and not "applied consistently". . . .

That leads me now to the third consideration or critique I want to make, which is that mandatory minimums—and we've heard this—have a disproportionate impact on minority groups who already suffer from poverty, deprivation, and disadvantage. In particular, it may prejudicially affect aboriginal communities. Again, this is something I appreciated, not just from the studies but more when I was Minister of Justice, and that is why I made aboriginal justice a priority. I found that aboriginal peoples are overrepresented as inmates in the criminal justice system and underrepresented as judges, law enforcement officers, and the like.

. . . this has a particular application in terms of sentencing principles and the overall approach to the fallout with respect to mandatory minimums and their impact on aboriginal peoples. Accordingly . . . Criminal Code paragraph 718.2(e) requires that the situation of aboriginal offenders be considered at sentencing. If a less restrictive sanction would adequately protect society, or where the special situation of aboriginal offenders should be recognized, increased sentences and mandatory minimum sentences would tend to conflict with that principle.

The Supreme Court of Canada, in the Gladue case, also recognized that incarceration should generally be used as a penal sanction of last resort and that it may well be less appropriate or useful in the case of aboriginal offenders.

I make that point to conclude this third critique, and that is the disproportionate and prejudicial impact that mandatory minimums may have on vulnerable communities, particularly aboriginals.

This leads me to the fourth critique, which is that mandatory minimums may undermine important aspects of Canada's sentencing regime. Reference has been made to that, and I don't want to belabour this point, but it can undermine principles such as proportionality and individualization and the corresponding reliance on judges to impose a just sentence after hearing all the facts in a particular case.

This leads me to the fifth critique. Let me return . . . to the United States Sentencing Commission, which I referred to before, and the manner in which it determined that federal mandatory minimum sentences can be excessively severe and can have a differential impact on those who do not warrant such sentences and the like This is especially true in the matter of drug offences, which make up, for example, some 75 per cent of those involved in mandatory minimums. So there's a particular fallout with regard to the genre of offences, and as I said, not all of them are engaged in the matter of organized crime.

Sixth . . . mandatory minimums have the potential to add an unnecessary complexity to the framework that we now have with respect to our existing sentencing principles and to increase the court time that is required for sentencing hearings.

In other words... we have a kind of double paradox here, almost a dialectic. Fewer accused are likely to plead guilty, adding to current strains on court resources. On the other hand, prosecutors may leverage the fact of mandatory minimums in order to get accused to plead guilty. So it's a kind of pincer movement where they are caught in between precisely because of the underlying premise with regard to mandatory minimums to begin with. Therefore, the bill would often conflict with existing common law and statutory principles of sentencing such that the sentences could end up, however inadvertently, being excessive, harsh, and even unfair, and raise a [question of] section 12 Charter consideration, which leads me to the eighth consideration.

The mandatory minimums, for reasons I need not go into, and I think have been referenced, may invite a spectrum of constitutional challenges that will further clog up the courts and further take us away from principles of justice and fairness.

This leads me to the ninth critique, and as the U.S. Sentencing Commission and the Canadian Sentencing Commission have pointed out, inequitable and inconsistent sentencing policies—and this can and very often does result from mandatory minimums—may foster disrespect of and lack of confidence in the criminal justice system, another consideration or variable that I share, which leads to the tenth critique

At the end of it all, as the evidence has shown, we may end up with a situation in which we will find ourselves incarcerating more people for longer periods of time, thereby aggravating the existing problem of prison overcrowding, which we had even before the legislation was tabled and which may, in and of itself, raise a question of constitutional concern—as it has in the United States and the ruling recently in the United States Supreme Court in the matter of California—with regard to the perspective of cruel and unusual punishment.

The eleventh critique has been mentioned, and I won't mention any more. That is the question of costs.

We have a risk not only of increased or often skyrocketing costs, but also a fallout or impact on federal-provincial relations, where the provinces have to endure the burden of these increased costs by reason of these increased mandatory minimums, and there may not have been the appropriate federal-provincial consultation for that purpose.

Finally, . . . as the U.S. Sentencing Commission and equally Canadian evidence have pointed out, confirming evidence from other jurisdictions I have examined . . . The U.S. Sentencing Commission confirms this or reflects other jurisdictions.

The rise in mandatory minimum sentences has damaged the integrity of the justice system, reduced the role of judges in meting out punishment and increased the power of prosecutors beyond their proper roles.

Let me just continue on this point . . . because that was from an editorial commenting on this U.S. Sentencing Commission report. This editorial came out even before it arrived, as a result of another study that was made in New York on the matter of mandatory minimums. I won't prolong it, but I just want to say that in *The New York Times* editorial on September 28, 2011, it referred to the fact that

. . . prosecutors can often compel suspects to plead guilty rather than risk going to trial by threatening to bring more serious charges that carry long mandatory prison terms. In such cases, prosecutors essentially determine punishment in a concealed, unreviewable process—doing what judges are supposed to do in open court, subject to review.

• (1520)

“This dynamic”, the editorial holds—and again, I just throw it out for consideration, not for conclusive appreciation—is yet “another reason”, as they put it,

to repeal mandatory sentencing laws, which have proved disastrous across the country, helping fill up prisons at a ruinous cost. These laws were conceived as a way to provide consistent, stern sentences for all offenders who commit the same crime. But they have made the problem much worse. They have shifted the justice system's attention away from deciding guilt or innocence. In

giving prosecutors more leverage, these laws often result in different sentences for different offenders who have committed similar crimes.

. . .

In conclusion, . . . if you look at all the criminal justice organizations that have studied this—both in the United States and in Canada—and focused on this particular issue of mandatory minimum sentences, the general conclusion arising from all these studies is to be critical of, if not to oppose, mandatory minimums.

Honourable senators, I do not quote Professor Cotler as I believe mandatory minimums change how we punish people. That is why I wanted to ensure that his complete critique was in front of you. I think it is important that the Canadian criminal justice community and Canadians generally note principled opposition to the concept of mandatory minimum sentences, but I also think it is important for us to consider Professor Cotler's 12 criticisms in the question that I proposed at the outset of my speech: How can the federal government *best* protect children against violence and exploitation? That is what this bill is supposed to be about—protecting children. Instead, we are talking about enacting legislation that will take away judicial discretion.

If anything, the most direct consequence to children would be that criminal behaviour, rather than being responsibly addressed through a system designed to consider the particular circumstances of a crime, is met with a five-year sentence that will only promote recidivism. As Professor Cotler points out, an indirect consequence of the legislation is that resources will be misappropriated: less for crime prevention, less for poverty reduction, less for social programs. Less money to protect children, more money to . . . Well, honourable senators, I admit that I am not quite sure what the objective is anymore.

[Translation]

There is no honour in passing a bill that is supposed to deal with child abduction but does not. Doing so would mean failing in our duty to respect children's rights.

In his speech, Senator White mentioned passing an amendment that was proposed by a Liberal member in a House of Commons committee and that was designed to order judges to take into account the age of the victim when determining the sentence.

When it comes to sentencing, we must give judges the tools they need to ensure that sentences are proportional to the crimes committed.

[English]

Offenders in serious kidnappings usually receive sentences of 10 to 15 years. The existing punishment in section 279(1.1)(b) of the Criminal Code already provides for the maximum sentence of life imprisonment in stranger kidnapping cases, but Bill C-299 removes the judge's discretion in determining the minimum sentence.

[*Translation*]

When the offender has mental health problems, for example, imposing a mandatory minimum sentence does not enhance public safety.

If we agree that the sentence imposed must correspond to the crime committed, facilitate the offender's rehabilitation and reintegration into society and enhance community safety, a mandatory minimum sentence is not the solution.

[*English*]

Caring for our children is our first job. If we do not get that right, we do not get anything right. That is how, as a society, we will be judged. As I said at the outset of my speech, honourable senators, we agree more than we disagree, and I believe that President Obama's poignant words at Newtown evoked a responsibility that we all feel and share.

Discussion and debate on this bill will undoubtedly continue at the committee stage. As the debate continues, I ask you to remember this key question: How can the federal government best protect children against violence and exploitation? Answering this question in the most responsible and forward-thinking manner possible may be the most important thing we do as senators.

The Hon. the Speaker: Honourable senators, are you ready for the question?

Hon. Senators: Question.

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

Some Hon. Senators: Agreed.

Some Hon. Senators: On division.

The Hon. the Speaker: Carried, on division.

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

REFERRED TO COMMITTEE

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

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

CRIMINAL CODE

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Plett, seconded by the Honourable Senator Patterson, for the second reading of Bill C-309, An Act to amend the Criminal Code (concealment of identity).

[Senator Jaffer]

Hon. Mobina S. B. Jaffer: Honourable senators, I rise to speak at second reading of Bill C-309, An Act to amend the Criminal Code (concealment of identity).

Bill C-309 amends sections 65 and 66 of the Criminal Code to make it an offence to wear a mask or other disguise to conceal one's identity while taking part in a riot or an unlawful assembly.

As parliamentarians, we have a responsibility to ensure that police officers have the tools they need to protect public safety and the rights of peaceful protestors, and we also have a responsibility to engage with and listen to those with whom we disagree. In other words, honourable senators: peace, order, and good government. These are the principles under which section 91 of the Constitution Act of 1867 authorizes Parliament to make laws. Unfortunately, Bill C-309 does not honour these principles.

There are three criticisms of the bill that I will briefly elaborate today. First, Bill C-309 is redundant. Second, the ambiguous wording of Bill C-309 will likely lead to Charter rights violations. Third, excessively harsh penalties under Bill C-309 will undermine its usefulness for law enforcement officials.

I will begin with the redundancy of Bill C-309. The purpose of criminal penalties for rioting or participation in an unlawful assembly is to prevent destruction of property, intimidation of the public or disturbance of the peace. These criminal penalties are already codified in the Criminal Code. Under sections 63, 64, 65 and 66 of the Criminal Code — the latter two of which Bill C-309 seeks to amend — rioting or participating in an unlawful assembly is already a crime.

What about concealing one's identity while rioting? Honourable senators, this too is already an indictable offence. Section 351(2) of the Criminal Code reads as follows:

Every one who, with intent to commit an indictable offence, has his face masked or coloured or is otherwise disguised is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years.

Compare that existing provision to the new provision proposed by Bill C-309:

Every person who commits an offence under subsection (1) —

— in other words, honourable senators, whoever commits the indictable offense of rioting —

— while wearing a mask or other disguise to conceal their identity without lawful excuse is guilty of an indictable offence and liable to imprisonment of a term not exceeding 10 years.

Honourable senators, this bill suggests that Parliament should amend the Criminal Code using a copy-paste function.

Witnesses testified at the committee stage in the other place that the main challenge in dealing with public riots is not the lack of legislation. The challenge is enforcing existing rules. Law enforcement officials at committee affirmed that alternative policing techniques or additional personnel would have helped at recent riots in Vancouver, Montreal or Toronto.

To paraphrase Osgood Hall's Professor James Stribopoulos' testimony before the Commons' committee, Bill C-309 is a legislative solution in search of a legislative problem.

The problem is not legislative, honourable senators. It is about resources, training, sharing best practices and, most of all, addressing the root causes of riots and unlawful assemblies.

• (1530)

My second criticism of Bill C-309 is that it is ambiguously worded and will therefore likely lead to charter rights violations. Under Bill C-309, a Muslim woman wearing a niqab could be arrested if she was in the wrong place at the wrong time. Under Bill C-309, a sports fan with his face painted could be arrested if he was in the wrong place at the wrong time. Under Bill C-309, a person wearing a mask for health reasons could be wrongfully arrested if he was in the wrong place at the wrong time.

Bill C-309 responds insufficiently to these concerns in its third clause by exempting individuals who conceal their identity with a "lawful excuse." What constitutes lawful excuse? The concept is not defined in the bill. If one were to ask 10 different lawyers to define the concept, one would likely get 10 different definitions.

Amendments moved by the Liberals in the other place to clarify this wording were not accepted. Instead, police officers are delegated the task of interpreting vague laws rather than enforcing clear ones. Peace, order and good government are the principles under which we are to legislate. As I stated earlier, ambiguity is not conducive to any of those principles.

My third criticism of the bill is that its excessively harsh penalties will undermine its usefulness for law enforcement officials. A proposed legislative shortcoming identified by witnesses at the committee stage in the other place was that existing provisions are too strict and difficult to use in cases involving riots.

The Chief Constable of the Victoria Police Department, Chief Jamie Graham, testified that under the current law — section 351(2) of the Criminal Code dealing with covering one's face while committing an indictable offence — trying to get charges laid against people wearing a disguise is difficult because the level of intent required by a Crown prosecutor to proceed is, in his view, unreasonably high. Amendments to the Criminal Code should increase the effectiveness of the Canadian criminal justice system, not undermine it.

Honourable senators, Bill C-309 is redundant and will likely compromise the rights of Canadians. The excessive penalties it proposes will adversely affect the fairness and efficacy of our criminal justice system. Preventing and confronting crime is not about replicating Criminal Code provisions, sacrificing constitutionally-enshrined rights or unduly burdening police officers. Preventing and confronting crime is about supporting law enforcement officials, empowering Canadian citizens and addressing the root causes of criminal behaviour.

Honourable senators, proposed section 65(1)(2) states:

Every person who commits an offence under subsection (1) while wearing a mask or other disguise to conceal their identity without lawful excuse is guilty of an indictable offence and liable to imprisonment for a term not exceeding 10 years.

Honourable senators, we are looking at a law that is unclear. What does "other disguise" mean? We are setting laws that are not clear and, therefore, will cause issues for law enforcement. I suggest that honourable senators study this bill very carefully at committee.

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

Some Hon. Senators: Question.

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

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

The Hon. the Speaker: On division.

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

REFERRED TO COMMITTEE

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

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

[*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. Marie-P. Charette-Poulin: Honourable senators, I note that this is the 13th day of 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.

Unfortunately, I did not have time to prepare. Would it be possible to extend the deadline?

The Hon. the Speaker: No. If the honourable senator considers this to be the beginning of the debate, within the 15 minutes she has been allocated, the Rules state that adjournment can be moved for the remainder of the time.

The Honourable Senator Poulin moved the adjournment of the debate for the remainder of her time to the next sitting of the Senate.

(On motion of Senator Poulin, debate adjourned.)

[*English*]

VOLUNTEERISM IN CANADA

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Mercer calling the attention of the Senate to Canada's current level of volunteerism, the impact it has on society, and the future of volunteerism in Canada.

Hon. Catherine S. Callbeck: Honourable senators, I am pleased today to join in the debate of Senator Mercer's inquiry into the state of volunteerism in Canada, the impact on society and the future of volunteerism. I commend Senator Mercer for bringing forth this important topic for discussion.

The voluntary sector makes a major contribution to the quality of life enjoyed by all Canadians. Through charitable giving, volunteering of time for community causes, invaluable acts of helping others and the spirit of caring and sharing make our communities and our country better places in which to live. That spirit of caring and sharing is recognized and celebrated by Canadians during National Volunteer Week, which is observed

every year during the month of April. National Volunteer Week is in recognition of the millions of volunteers from all walks of life and of all ages who want to and do make a difference. Every day, these dedicated volunteers make an enormous contribution to their fellow citizens. Every day, they help to strengthen and sustain the very fabric of our communities and our country.

Volunteer groups play a key role in the lives of all Canadians. They deliver a wide range of programs and services, including health care, recreation, culture and the environment. They provide advocacy to promote greater equality and social justice. They enliven our society and enrich our lives. Indeed, the volunteer sector has been characterized as the third pillar of our society, alongside government and the private sector. It plays an essential role by promoting active citizenship and by building bridges among communities and people.

Last March, Statistics Canada released information on its survey of giving, volunteering and participating.

• (1540)

The survey found that, in 2010, nearly 24 million Canadians, representing 84 per cent of the population aged 15 and over, made a financial donation to a charitable or non-profit organization, with the average annual donation being \$446.

This survey also found that 13.3 million Canadians, or 47 per cent of the population aged 15 or over, have volunteered to work with a voluntary organization or have helped out regularly in providing services or supports to others in their community. In total, these dedicated individuals volunteer for more than 2 billion hours a year, the equivalent of nearly 1.1 million full-time jobs.

I am proud that the same Statistics Canada survey clearly demonstrates the generosity found in my home province of Prince Edward Island. Islanders have long been recognized for their dedication and hard work in the charitable and volunteer sectors, generously giving donations and their time to create a better quality of life for everyone. In fact, with regard to charitable donations, Prince Edward Island ranks near the top, with 91 per cent of the adult population giving a donation of some kind and with an average annual donation of \$479.

Prince Edward Island also has the second highest volunteer rate in the country, with 56 per cent of our adult population volunteering. Islanders contribute more than 9 million hours, the equivalent of about 4,500 full-time jobs.

Islanders can see the difference that volunteerism makes in the lives of our citizens every day, and we greatly appreciate the outstanding contributions of our province's volunteers.

The level of participation we see across the country is a testament to the compassion and caring that has come to characterize Canadian society. There is no doubt that individual volunteers and volunteer organizations help to shape our communities and improve the quality of life of so many.

This is why I am pleased that the private sector, the government and volunteer organizations are coming up with ways to encourage volunteerism.

The private sector in this country has stepped up in an effort to promote volunteerism. A number of major Canadian corporations have established incentives to encourage their employees to become involved in volunteer activities. For example, they have provided for some paid hours for employees to volunteer their time. This kind of employer-supported volunteerism is not only beneficial for the volunteer groups, but it has always been shown to help employees play a greater role in their communities, while developing leadership and other skills at the same time. Supporting volunteers is also beneficial to corporations in their objective to be good corporate citizens.

Some provincial governments are also getting involved. The Government of Prince Edward Island is taking steps to encourage volunteerism among island youth, to support volunteer organizations and to assist young people in achieving their educational goals. The Community Service Bursary Program offers students in grades 11 and 12 who plan to attend any post-secondary education institution a bursary in recognition of volunteer work performed in the community. Students may begin volunteering as soon as they are promoted to grade 11. The bursary is calculated at a rate of \$5 per hour. For example, 100 hours is worth a \$500 bursary. Students are required to volunteer a minimum of 30 hours or up to a maximum of 100 hours. I applaud these and other measures to promote and encourage volunteerism in Canadian society.

Voluntary organizations are also playing a role. Prince Edward Island has a broad range of voluntary and charitable organizations doing good work across the province. In fact, we have a charitable organization whose main function is to strengthen communication and cooperation amongst the voluntary sector in our province and to provide services and information. Originally founded more than 30 years ago, the Voluntary Resource Council is a registered charity and has a board of directors. It owns and operates the Voluntary Resource Centre, where members can access information, rent affordable offices or use its free meeting rooms.

On November 10, 2012, the Voluntary Resource Centre honoured 10 outstanding volunteers for their tireless contributions to their communities. I would like to take the opportunity to name and congratulate these individuals for their hard work and efforts on behalf of their fellow Islanders: Thane Smallwood of Scouts Canada; Nancy MacLean-Eveson of the Town of Souris; Wendy Ross of Kids West Family Resource Centre; Samantha Harris of Big Brothers, Big Sisters; Norm Fotheringham of the Canadian Cancer Society; Amanda Moore of Canadian Parents for French; Chris Ortenburger of Eco PEI; Edith Perry of Cooper Institute; Joan MacDonald of PEI Citizen Advocacy; and Melissa Good by Charlottetown People First.

Honourable senators, people volunteer for many reasons. They may want to contribute to their communities. They may want to use their skills and experiences to help others. Many are actively involved because they have been personally affected by the issues being dealt with by volunteer groups.

Belonging to an organization also provides benefits to its volunteers. They learn to develop new interpersonal, leadership and organizational skills. They can network with people who share their beliefs and values. They help promote the principles of active citizenship, equality, diversity, inclusion and social justice. Belonging to a volunteer organization helps to engage people as members of a civil society, and our country is stronger because of that. Our Canadian identity and values are based on citizens actively engaged in society, and that includes participation as volunteers.

However, the voluntary sector in Canada is facing some serious challenges. The recession of the past few years has had a major impact on the ability of groups to attract volunteers and raise needed funds. Indeed, in October 2012, the issue of *Imagine Canada's Sector Monitor* demonstrates this impact. This publication, which provides information on the current state of the volunteer sector, surveys charity organizations on carrying out their missions and on their predictions for the future. The October survey shows that charity leaders are more likely to report both an increase in demand for services and a difficulty in covering expenses.

While the economic crisis has contributed to the growing need of many Canadians who find themselves increasingly vulnerable, it also limits the work of many volunteer organizations that serve them. The *Sector Monitor* survey also found that charity groups are less optimistic than they have ever been and predict that their organizations will be less able to perform their missions in the near to medium terms. As governments cut back on services, the role of these volunteer groups will become even more vital in helping to fill the gaps.

Honourable senators, many volunteer organizations across the country struggle to survive at the best of times. That struggle is even more difficult now. In view of the essential role played by volunteer organizations in our society, I believe we should examine seriously the challenges and opportunities facing the volunteer sector, identifying measures that will help make it more self-sustainable.

I hope this inquiry will lead to positive action for the millions of Canadians who now and will in the future volunteer their time, energy and talents to serve the people around them. By helping these dedicated volunteers and volunteer organizations, we help to benefit our communities, our country and our society as a whole.

(On motion of Senator Robichaud, debate adjourned.)

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

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