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(HANSARD)

Wednesday, March 20, 2013

The Honourable NOËL A. KINSELLA
Speaker

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THE SENATE

Wednesday, March 20, 2013

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

Prayers.

SENATORS' STATEMENTS

BUDGET SPEECH

ACCOMMODATION FOR SENATORS IN COMMONS GALLERY

The Hon. the Speaker: I remind honourable senators that the budget speech will be delivered in the other place at 4 p.m. tomorrow, Thursday, March 21, 2013.

As has been the practice in the past, the section of the gallery in the House of Commons that is reserved for the Senate will be reserved for senators only on a first-come, first-served basis. As space is limited, this is the only way we can ensure that those senators who wish to attend can do so. Unfortunately, any guests of senators will not be seated.

TRIBUTES

THE HONOURABLE BERT BROWN

The Hon. the Speaker: Honourable senators, I received notice earlier from the Leader of the Government in the Senate who requested that the time provided for the consideration of Senators' Statements be extended today for the purpose of paying tribute to the Honourable Senator Brown, who will retire from the Senate on March 22, 2013.

I remind honourable senators that pursuant to the rules each senator will be allowed three minutes and may speak only once, and the time for tributes shall not exceed 15 minutes. However, the 15 minutes do not include the time allotted to the response of the senator to whom tribute is paid.

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, about five and a half years ago, I was very proud to stand in this place to introduce only the second individual to be appointed to the Senate of Canada following election by the people of his province, Alberta. Today, we bid farewell to our colleague, Senator Bert Brown, who has been a proud representative of the province of Alberta in this chamber and a valued member of this place. Senator Brown will not be soon forgotten by any of us.

I suspect that all those years ago, when he used his tractor to plow the words "Triple E or Else" into a neighbour's barley field on the approach to the Calgary airport, Bert Brown had no idea just where or how far his message of Senate reform would take him. After being twice elected as a senator-in-waiting, in 1998 and 2004, and despite being passed over four times in nine years when it was Alberta's desire to have an elected senator appointed, Bert Brown was finally named to this place in 2007 by our

Prime Minister, the Right Honourable Stephen Harper. Other than naming Senator Fortier to the Senate in 2006, this was the only appointment made by the Prime Minister to the Senate between February 2006 and January 2009. Since that time, Senator Brown has remained faithful to his beliefs and has taken the important message of Senate reform right across the country. Senator Brown now leaves the Senate of Canada knowing that he has made a significant contribution to this debate.

I am certain that Senator Brown is very pleased that two other senators selected by those they represent have joined him in this place: Senator Betty Unger, who was appointed last year; and Senator Doug Black, who was introduced just last month. They will continue to be a strong voice not only for the people of Alberta but also for our government's commitment to Senate reform in order for the Senate to reach its full potential as a democratic institution serving Canadians. Indeed, with our government's recent reference to the Supreme Court of Canada, this is the first time in a generation that the Supreme Court will consider the constitutional amending process for reform of the Senate.

As a senator, Bert Brown has contributed to the work of this chamber and Senate committees, most recently as a member of the Standing Committee on Rules, Procedures and the Rights of Parliament and the Standing Senate Committee on Energy, the Environment and Natural Resources, where his background as a retired farmer and his skills in engineering and as an aircraft pilot no doubt served him well.

• (1340)

Honourable senators, on behalf of all Conservative senators, I would like to extend our best wishes to Senator Brown and his wife, Alice, whom I knew before I knew Bert because she was a member of the Status of Women, appointed by the government when I was working on appointment. She is up in the gallery; I am glad to see that.

I am sure that he and Alice will continue in their million endeavours. I am quite certain that Bert will not be retiring but will continue to promote meaningful Senate reform — or as Alice often described this unrelenting campaign, "Bert's magnificent obsession."

Hon. James S. Cowan (Leader of the Opposition): Honourable senators, I rise to join Senator LeBreton in paying tribute to our colleague and friend, Senator Bert Brown, on his retirement from this place. In the 18th century, the English had a famous landscape architect, Lancelot "Capability" Brown. Here in Canada, we have Bert "Determination" Brown. Like his namesake, he became famous for a piece of landscaping he did one day. On a fine autumn day in 1984, Bert and a number of fellow farmers got on their tractors and headed into a neighbour's barley field. When they had finished, they had ploughed 19 letters into the field, which were, according to media reports, 500 feet wide and two miles long: "Triple-E Senate or Else."

I certainly hope they asked the neighbour's permission before they went in.

Honourable senators, many Canadians who know Senator Brown might not think of him as a social media kind of guy, but this was a YouTube moment before there was even a YouTube. The words went viral, as one would say today. Certainly, they galvanized many who were hungry to improve parliamentary institutions and this chamber in particular.

Honourable senators, while not all of us support the specifics of Senator Brown's proposal for Senate reform, I believe everyone shares with him the desire to make this institution as effective a chamber as it can be.

We do not all agree on what would best contribute to that effectiveness or on the constitutional path to achieving true, lasting, positive Senate reform. However, passion is always impressive and important, especially on a subject that can sometimes seem dry. Passion is certainly something that Bert has in abundance. Senator Brown and I have debated Senate reform, in private and in public, on many occasions. I have always appreciated his absolute dedication to Canada and his deep desire to improve this place. He may be leaving this chamber, but I am sure and I hope that he is not leaving the field of Senate debate.

Perhaps we should send a word of warning with him as he returns to his farm in Alberta. His neighbours would be well-advised to take good care as to what they plant in their fields next to his home.

I suspect Senator Brown is feeling rather torn these days, reluctant to leave this place, which has been a focus of his energy and attention for so many years, yet also happy to return to Alberta with his dear wife, Alice. I know that she has been experiencing some health issues recently, and I am sure that they will be relieved to be able to settle in one place, to avoid the rigours of travel across the country and perhaps even to spend a little time in a warmer climate than either Alberta or Ottawa.

On behalf of all of us on this side of the house, I wish Senator Brown and Alice a long, happy and healthy retirement together.

Hon. Betty Unger: Honourable senators, it is my honour also to rise today to pay tribute to our retiring colleague, Senator Bert Brown from Alberta.

From the early days of plowing "Triple-E or Else" into his neighbour's field to other more serious projects, like acting as special adviser to the Premier of Alberta during the 1992 Charlottetown Accord negotiations, Senator Brown has seen Alberta politics in play up close and personal. His decades-long working commitment has made the Triple-E model of Senate reform his own.

He was appointed to the Senate by Prime Minister Harper on July 10, 2007, making him the second elected senator in the history of this place. When I first met him, on the campaign trail in 1998, there was no mistaking his passion for and dedication to this cause. As a fellow senator-elect, I was very proud to attend his Senate swearing in ceremony.

Now, aside from his keen interest in political matters, he has had a long and varied career. I could say more about that, but, most of all, it must be said that he is a loving husband to Alice, who has always been at his side, and a devoted father to his daughter, Angie.

Senator Bert Brown has served his Alberta constituents admirably and has more than earned the right to his retirement. However, his departure comes at a time when the democratic shortcomings of this institution are under scrutiny as never before. We applaud the efforts of our Conservative government under Prime Minister Stephen Harper to advance reform through legislation and the legal reference to the Supreme Court.

I am proud to take up the torch as the third elected senator in Canadian history, following Bert Brown and the late Senator Stan Waters. I look forward to working with my elected Alberta colleagues, as well as with the many other senators who appreciate the critical role of the Senate in our bicameral system and who recognize that reform is essential not only to restoring and sustaining the legitimacy of this institution but also to protecting it from the threat of abolition.

In that sense, we are all heirs to the legacy of Senator Brown and Senator Waters. We are all in their debt for their pioneering work on reform, and we are all obliged to carry it on to ensure fair, effective and accountable parliamentary democracy for future generations of Canadians.

Senator Bert Brown, I wish you and Alice a very long and happy retirement.

EXPRESSION OF THANKS

Hon. Bert Brown: Honourable senators, I rise for my final speech on Senate reform in this wonderful chamber. I had the privilege of being in caucus this morning, and I was overwhelmed by 300 people in the caucus who actually stood and complimented me and shook my hand. They actually gave me a red chair, just like these ones. It is the Speaker's room, and they put a plaque on it. Now, all I have to do is to figure out how to get it the 1,800 miles back to where I live.

In any case, I should not take too much more time. I was quite disappointed, after 29 years of discussion with many provincial premiers throughout Canada and numerous dialogues with past prime ministers, until today. The Triple-E Senate committee for elected equal and effective senators was a kind of obsession on my part. When the Elected, Equal and Effective Committee was struck in Alberta, in MLA Connie Osterman's constituency, I was elected chair of that committee. I wanted to have a way to help farmers to be heard by the Government of Canada.

At first, we were the Alberta committee for promoting the idea of an elected, equal and effective Senate. That committee lasted for less than a year, but the membership included people from four provinces, representing doctors, lawyers, academics, members of legislative assemblies and Western premiers Harcourt, Getty, Devine and Filman.

The Triple-E went national in its first year.

• (1350)

Alberta formed a select special committee to study Senate reform in all provinces and in other countries. From 1983 to 1992, there was a lot of interest by academics, which caused efforts to strike a constitutional amendment for Senate reform and to involve ordinary Canadians. As different interest groups joined the discussion, many causes were added to the idea of Senate reform. There were, to name only a few, Aboriginal affairs, women's interests, Quebec interests, et cetera. By the time the Canada-wide vote was called, the discussions in Halifax, Montreal, Toronto, Calgary and Vancouver had encompassed the ideas and wants of many diverse groups.

There were a number of days when the premiers gathered in Ottawa to plan Senate reform. It was agreed that there would be an equal number of senators for each province. The premiers were sent to Charlottetown to discuss the powers of a new elected Senate. Prime Minister Mulroney had pressured the premiers into agreeing to take away all the powers of a future Senate to make it a debating society.

By the time the vote for the Charlottetown constitutional amendment was called, there were so many separate wants by various groups, the people of Canada were literally dumbfounded by the array of decisions facing them. Thus, nine of 10 provinces voted "no" to the Charlottetown constitutional amendment. The people had spoken.

Canada has had at least two stand-alone constitutional amendments. One was with regard to the importance of the French and English languages in Quebec; the second concerned the separation of Catholic and Protestant schools in Newfoundland and Labrador.

As different suggestions entered the discussions when I was twice elected by Albertans and appointed by the Prime Minister, he suggested I discuss the feelings of each provincial premier.

When I began my first trips to the provinces, there were 19 Conservative senators in this chamber, 80 Liberals on the other side and five independents. There was an opportunity for Liberals to join the idea of Senate elections. When the Prime Minister met with a group of senior senators, he said he wanted elected senators in the future and with a limited term. The Liberals and Conservatives said eight years were too few and that they might agree to a 12-year term for senators.

Prime Minister Harper was true to his word in not appointing any senators who were not elected by their provinces. A couple of years went by until there were 18 vacancies and no new elections from any province except Alberta. A Liberal senator proposed a motion that Mr. Harper should be forced to appoint senators to fill the 18 vacancies. The Prime Minister then filled all 18 vacancies.

There were few provinces that were interested in the proposed elections. During my third year of discussions with existing premiers, elections in provincial government found us with four new premiers.

There are five provinces interested in electing future senators. The sticking points were, first, term limits and whether the provinces or the federal pays for the election. The election process

up to this time in Alberta has paid the cost of Senate elections through a bill that is an offer to the provinces. A provincial bill does not force the senators-in-waiting onto the Prime Minister of the day. Alberta has had four elections for senators and the Prime Minister has chosen the ones with the most ballots by the provincial choices after a senatorial vote.

Seven provinces representing 50 per cent of the population is the only way to a stand-alone constitutional amendment to design the future number of Senate seats and the powers of the Senate.

Some provinces have claimed that the election of senators from a list of candidates is constitutionally challengeable. Until now, when Quebec claimed a challenge, the Prime Minister sent both the provincial Senate elections, the term limits and whether or not the Senate can be abolished to the Supreme Court of Canada. Some say the court can decide in three months or in three years. It is my hope that the court will decide in three months.

My opinion, honourable senators, for what it is worth, is that the Supreme Court should decide on a 12-year term with re-election for three four-year terms, instead of having appointed senators who stay until their seventy-fifth birthday, allowing someone 35 years old to be appointed to a 40-year continuous term.

With regard to election of senators from the provinces, I take the words of the Constitution Act, 1867-1982. I quote from the first line on page 7, under "Representation of Provinces in Senate," which states:

22. In relation to the Constitution of the Senate Canada shall be deemed to consist of Four Divisions:

1. Ontario;

2. Quebec;

3. The Maritime Provinces, Nova Scotia and New Brunswick, and Prince Edward Island;

4. The Western Provinces of Manitoba, British Columbia, Saskatchewan, and Alberta;

which Four Divisions shall (subject to the Provisions of this Act) be equally represented in the Senate as follows: Ontario by twenty-four senators; Quebec by twenty-four senators; the Maritime Provinces and Prince Edward Island by twenty-four senators, ten thereof representing Nova Scotia, ten thereof representing New Brunswick, and four thereof representing Prince Edward Island; the Western Provinces by twenty-four senators, six thereof representing Manitoba, six thereof representing British Columbia, six thereof representing Saskatchewan, and six thereof representing Alberta; Newfoundland shall be entitled to be represented in the Senate by six members; the Yukon Territory, the Northwest Territories and Nunavut shall be entitled to be represented in the Senate by one member each.

My opinion of the possibility of abolishing the Senate altogether is that the Senate is one the five major institutions of the Canadian government. The five major institutions are the

House of Commons, the Senate, the Supreme Court, the Bank of Canada and the Treasury.

Canada is a democracy and the definition of “democracy,” as found in the *Merriam-Webster Dictionary*, is:

1 a: government by the people; especially: rule of the majority

b: a government in which the supreme power is vested in the people and exercised by them directly or indirectly through a system of representation usually involving periodically held free elections.

The most important reasons for an elected, equal and effective Senate come from the history of our nation. I will give honourable senators a few examples to make it abundantly clear.

We have had a number of prime ministers who used their powers to govern only parts of the country while ignoring the rest of the provinces. That is a phenomenon caused by the party system.

One example was a prime minister who imposed martial law on Canada when a terrorist kidnaped and killed one man in one province. Prime Minister Trudeau snubbed the Prairie provinces by saying, “Why should I sell your grain?” Trudeau also imposed a national export tax on Alberta oil, causing great financial stress on the wealth of Alberta and Saskatchewan. The party system allowed the Liberal Party to impose a law on the prairie grain growers that for decades forced farmers in the West to sell their grain to one market, preventing the farmers from getting the best prices. Over the years, that cost farmers in four provinces literally billions of dollars.

Another prime minister promised to solve the problems of national health, Canada-wide. He called all the premiers together and asked them for their ideas. Before they could give their opinions, he told them to take it or leave it, and the Prime Minister left the room.

• (1400)

When a lunatic killed 16 young women in Quebec with a machine gun, the government at the time passed the gun registry law. It cost a few billion dollars across the country and was imposed for decades.

Prime Minister Diefenbaker destroyed the diamond of aviation in Manitoba by killing off the Avro Arrow and selling pieces of the intelligence to the United States.

Honourable senators, the real purpose of an elected Senate is to give power to the provinces through votes that can counter the ability of a party leader — picked only by a couple of provinces — from passing hugely detrimental laws or regulations that damage all the provinces. The reformed Senate would be able to have an equal number of senators in each province, because they all have legislatures that pass laws or regulations relative to the needs of their province and allow recognition of the rights of each province.

As an example of what the Senate has done is the 11 per cent GST imposed by Prime Minister Mulroney. People across Canada rebelled and told their MPs that the GST had to come down to 9 per cent. The people were not satisfied. The Senate held

a filibuster and reduced the GST to 7 per cent. That is what an elected Senate would be able to do whenever a prime minister became dictatorial — that is, if they had the votes to represent their provinces.

The provinces have yet to realize that they have no constitutional powers to force change of proposed bills in the House of Commons. What provinces need is that future senators who represent them must be elected to have the necessary powers over future prime ministers. As an example of when they are ignored, as Manitoba was when Mr. Mulroney took the repair and maintenance jobs and plants to another province, hence the Reform Party.

Today, three Atlantic provinces are considering amalgamating their legislatures into one. It is not the cost of three legislatures that has caused their loss of wealth and industry, but the way former governments ignored their needs and often took away their industries to satisfy other provinces. This caused a slow strangling of industry and business, and the neglect of the Atlantic provinces.

The effective part of a reformed Senate is needed not to gridlock the government of the day but to encompass the needs of the provinces if a bill is detrimental to the specific problems it could cause. The votes required to change or to abort a bill would be a majority of senators from seven of ten provinces representing 50 per cent of the population.

Killing a bill would not create gridlock of the government; the House of Commons could change the troublesome phrases or let the bill die. It would not be a vote of confidence in the government.

The New Democratic Party believes in abolishing the Senate. That is not possible and would create a one-party dictatorship, with no recourse to bills that are damaging to a good portion of the country. The NDP states a new plan when in the province of the day.

Those who support a reformed Senate have been speaking over the past three decades. When Senate reform began in the Prairie provinces, some referendums were proposed without any legal powers. During the years of discussions on Senate reform, the Angus Reid Public Opinion polls have consistently found approximately 70 to 75 per cent of Canadians want to elect their senators. Canadians also want to see term limits for senators.

Since the beginning of Confederation, the people of Canada have wanted Senate reform. Prime Minister Harper has been the only head of our government who has declared his desire for elected senators and senator term limits. He has sent a number of questions to the Supreme Court. I am told the court can deal with a legal problem in three months or three years. I hope that the Supreme Court will act as soon as possible. The rumour has it that the Supreme Court’s decision will come in November of this year.

Angus Reid has never asked us to pay for any of the polling that it has done. We know of the Canadians who want to directly elect their senator by the numbers. We listed them in a chart. In Newfoundland's last election, there were 414,779 electors. Since 75 per cent of their population wants to elect their senators, that would have brought 311,084 votes. I could go through all 10 of them, but I will not.

I will, however, talk about Alberta, because Alberta has just held another election in which 2,509,390 votes were cast. The support for Senate elections at that time was 77 per cent. The number of Alberta votes that came along with their MLAs is 1,932,230. This is proof that people do want to vote for their senators, and if they are given the chance to do so, they will do it in huge numbers. Doug Black received 400,000 votes this last time and Scott Tannis actually got over 358,000 votes.

This chart deals with every province in the country. If anyone wants a copy, they are welcome to it.

Angus Reid asked us many years ago about polling and said it would cost quite a few thousand dollars. We said we did not have any money to do that. Six months later they started polling and have been doing it ever since.

I would like to thank everyone in this chamber. It has been nice to work with all honourable senators. We have had our differences, I know, and there will be differences with other people who will come to this chamber, but I think it is a great exercise in democracy. No one has tried to shoot me yet. No one has taken the —

Senator Mercer: Thank God for gun control!

Senator Brown: Maybe that is why I am leaving; I figure someone might get violent.

Honourable senators, I want to thank His Honour, especially. I would like to thank the leader of our party here, and thank her very much for the nice comments she has made. I would also like to support the whip, who always takes a beating no matter what. I also want to thank my wife.

That is about all I can say.

Hon. Senators: Hear, hear!

• (1410)

[Translation]

INTERNATIONAL DAY OF LA FRANCOPHONIE

Hon. Claudette Tardif (Deputy Leader of the Opposition): Honourable senators, on this International Day of La Francophonie, we join with nearly 10 million Canadians and over 200 million francophones in 75 countries throughout the world who are pleased to express their francophone identity, which is seen in every aspect of our society.

Our country's history has been shaped by our Francophonie as it evolved from generation to generation. The Francophonie in Canada is becoming increasingly diverse and holds a place in our economy, our work, our schools, our institutions, our communities and our digital world.

International Day of La Francophonie reminds us that the Francophonie is much more than a history-based heritage; it is a culture and a daily way of life for thousands of people, and it must be recognized. One thing is for certain, Canada's Francophonie contributes to building a rich society that is open to the world.

The people of my generation and many pioneers before them have demonstrated the importance of the French language. They fought for the development of their communities and won, all while fostering a culture that defends its language. As a result of demographic and social changes, the integration of a growing number of francophone immigrants, the commitment of francophone youth and partnerships that are growing stronger, we are increasingly adopting an attitude that highlights the assets and advantages that Canada's Francophonie provides in every area.

Learning French is more valued in our society. More and more senior positions in our public and private institutions require knowledge of French. Increased communication and trade broadens the scope of the Francophonie every day. For example, last week, during the official visit to Canada of the Prime Minister of France, Jean-Marc Ayrault, wonderful partnerships were formed between France and Canada to promote our common values in the scientific, economic, academic and cultural arenas.

This year in Canada, the fifteenth edition of the "Rendez-vous de la Francophonie" is taking place from March 8 to 24. Various cultural events will be held across the country. In Alberta for instance, 23 flag raising ceremonies featuring the Franco-Albertan flag took place in 21 communities.

Honourable senators, let us hope that the Canadian Francophonie will continue to assert itself with strength and conviction, both within Canada and around the world. Happy International Day of La Francophonie!

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, I am pleased to rise here today also in recognition of the International Day of La Francophonie. Celebrated around the world since 1990, the International Day of La Francophonie is an opportunity to underscore our commitment the French language, which is spoken by nearly 10 million people in Canada and by 220 million people around the world.

French is an official language in 32 states and governments of La Francophonie. In addition to the history and culture that we share, francophones from across Canada — in particular, Acadians, Quebecers, Manitobans from Saint Boniface, and all other francophones and francophiles — also see this special day as an opportunity to celebrate the values of peace, democracy and respect for human rights that unite all members of the Organisation internationale de la Francophonie.

Honourable senators, French is an essential part of Canada's history and heritage. It is important to work tirelessly to strengthen relationships between Canada's francophone

communities, which differ in many respects, and yet remain united through their love and respect for the French language. French is a vital asset for the future of our young people, who will be called upon to maintain and promote French in every province, as well as around the world.

Canada plays a key role within the Francophonie. Our participation reflects our country's linguistic duality and the importance we place on shared francophone values. We were one of the first countries to promote the Francophonie by helping establish and develop its many institutions.

Last July, Canada hosted the very first French Language World Forum in Quebec City and the international meeting of the Francophonie on the economy, which was held in conjunction with the forum. The Canadian government is the second largest donor after France, contributing approximately \$40 million per year to the Organisation internationale de la Francophonie and francophone institutions.

Canada also hosted the second Summit of Heads of State and Government of Countries using French as a Common Language, which was held in Quebec City in 1987. It also hosted the eighth summit, in Moncton, in 1999, and the twelfth summit in Quebec City, in 2008, which was also the 400th anniversary of the founding of Quebec City — one of the oldest cities in the Americas.

Honourable senators, we recognize that francophone communities around the world contribute directly to prosperity and economic growth. The government will continue to help develop and strengthen the economies of the Francophonie. Thank you, and best wishes to all francophones.

[English]

NORTHERN CANADA

NATURAL RESOURCES AND DEVOLUTION

Hon. Dennis Glen Patterson: Honourable senators, a key feature of Canadian history has been the evolution of our nation's vast northern regions into self-governing territories with resource development as the mainstay of their economies. For example, Prime Minister Diefenbaker's 1958 Roads to Resources platform was the beginning of a concentrated effort to build the infrastructure necessary to unlock the North's resource potential.

In 1979, the Conservative government of Prime Minister Clark instructed the Yukon Commissioner to take direction from the Yukon cabinet, thereby bringing responsible government to the territory.

The Mulroney government was instrumental in securing agreement for the 1993 Nunavut Land Claims Agreement, which was also the basis for the creation of the Nunavut territory and government on April 1, 1999.

The Mulroney era also saw the transfer of the Northern Canada Power Commission and responsibility for health to the Northwest Territories government.

This proud record of achievements can be attributed to the long-standing and fundamental belief of our Conservative Party and successive Conservative governments that the people and

governments of this country's northern territories should govern themselves, including making decisions on the management and development of their natural resources.

On March 11, Prime Minister Harper continued this nation-building tradition when he announced in Yellowknife that negotiators have reached consensus on the terms for the devolution of lands and resource management from the Government of Canada to the Government of the Northwest Territories.

He stated:

Our Government recognizes that Northerners are best placed to make the important decisions about how to run their economies and how to maximize use of their resources.... Once finalized, this historic agreement will provide the Northwest Territories (NWT) with greater decision-making powers over a range of new responsibilities which will lead to jobs, growth and long-term prosperity across the Territory.

Under devolution, the NWT government will become responsible for the management of onshore lands, the issuance of rights and interests for onshore minerals and oil and gas, and collecting and sharing in resource revenues generated in the territory. Once again, Prime Minister Harper has demonstrated a strong commitment to our government's northern strategy, which includes strengthening northern governance as one of its four pillars.

I note that this commitment also applies to Nunavut, where a mandate is being developed to begin devolution negotiations, and to Yukon, where the federal and territorial governments have agreed to revise the 2001 revenue sharing agreement.

Honourable senators, our Conservative government's proud record stands in marked contrast to federal Liberal governments, which for decades treated northern territories as colonies and northern resources as an exclusive federal treasure chest.

[Translation]

ROUTINE PROCEEDINGS

CANADIAN HUMAN RIGHTS COMMISSION

2012 ANNUAL REPORT TABLED

The Hon. the Speaker: Honourable senators, pursuant to section 61 of the Canadian Human Rights Act and section 32 of the Employment Equity Act, I have the honour to table, in both official languages, the 2012 annual report of the Canadian Human Rights Commission.

[Senator Carignan]

• (1420)

THE ESTIMATES, 2012-13

MAIN ESTIMATES—SEVENTEENTH REPORT OF NATIONAL FINANCE COMMITTEE TABLED

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

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

[English]

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

TENTH REPORT OF BANKING, TRADE AND COMMERCE COMMITTEE TABLED

Hon. Irving Gerstein: Honourable senators, I have the honour to table, in both official languages, the tenth report of the Standing Senate Committee on Banking, Trade and Commerce, entitled: *Follow the Money: Is Canada Making Progress In Combatting Money Laundering and Terrorist Financing? Not Really.*

This concludes the committee's review of the Proceeds of Crime (Money Laundering) and Terrorist Financing Act, which was begun on February 1, 2012, by my predecessor as chair, the Honourable Michael Meighen.

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

[Translation]

QUESTION PERIOD

FINANCE

BANKS—INTEREST RATES

Hon. Céline Hervieux-Payette: Honourable senators, my question is for the Leader of the Government in the Senate. The question is on a matter which is definitely of general interest and is very timely. When the Bank of Montreal lowered its five-year mortgage rate to 2.99 per cent, Manulife Financial lowered its rate to 2.84 per cent. We are aware of the risks of a mortgage rate war at a time when Canadians have a very high debt load. However, each time, the Minister of Finance called the banks or had one of his officials call them.

I would like to note in passing that the government knows how to intervene in the economy to prevent the banks' interest rates from going up, but does not seem to know how to intervene to prevent these same banks from engaging in speculation, putting their capital in tax havens and creating crises such as the one affecting Canadians today, that is, the huge debt that they are carrying.

I also note that the libertarian Minister of State for Small Business and Tourism is opposed to the intervention of his colleague, the Minister of Finance. At least one of them is speaking up.

My question for the leader is this: do the government's policies on controlling household debt involve making phone calls to banks and creating a cartel initiated by the Minister of Finance? I want to point out that a cartel is when businesses get together to set prices. The Minister of Finance is now initiating this. He is calling the banks to tell them that they must all bill the same amount. That looks a lot like a cartel.

Or will the leader try to convince her caucus that the free-for-all approach of libertarian Maxime Bernier is the way to go in a Conservative government?

[English]

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, in Canada, as we know, the federal government — and, of course, that means the taxpayers — backstop certain riskier mortgages. We owe it to Canadians to ensure that banks follow basic prudent guidelines to protect taxpayers' money.

[Translation]

Senator Hervieux-Payette: Honourable senators, as you said, this all falls under the mandate of the Canada Mortgage and Housing Corporation. You know that I have had my doubts since the last budget about the policy of a government that could eventually shed this responsibility by selling its debts to private companies.

The debt of the country you are governing — which is at over \$600 billion — is increasing alongside household debt, and your government's only solution is to make cuts. These cuts could undermine Canadians' purchasing power and could increase their debt. Tomorrow the budget will be tabled, and we do not know how we will manage, especially since our country's growth will be lower than 2 per cent, according to experts and even according to analysts at the Royal Bank.

Can the leader tell us if, after seven years in office, with such a poor track record regarding the public debt and Canadians' debt, there is an economic action plan — I see and hear about one almost daily on television — to stimulate the economy, other than the one that does not work and that costs so much in television advertising?

[English]

Senator LeBreton: It is very clear that the government has taken many measures to increase savings for families through home ownership, including not only the Minister of Finance but also

the Governor of the Bank of Canada encouraging Canadians not to take on more personal debt. For example, we capped the length of taxpayer-backed mortgages, meaning that families will save \$150,000 over the life of a typical \$350,000 mortgage, and our actions on taxpayer-backed mortgages are good for Canada, good for Canadian families and, most important, fair to taxpayers.

Our economic record is sound. It is borne out by independent monetary organizations that continue to cite Canada as a leader in world economic matters.

[Translation]

Senator Hervieux-Payette: Let us continue with our own little review of the economy. The government reduced mortgage amortization periods from 40 to 25 years, and I must admit that is a proposal I made many times in the Senate, when we were looking at the frenzy generated by mortgage loans provided under incredible conditions. Even worse is the fact that hardly any down payment was required. The result was that one could buy a house without money, at a very low interest rate set by the Bank of Canada, precisely because of the country's economic woes. You are right. Now, Canadians are the ones who underwrite the loans on which banks make profits.

So, I am suggesting to the leader that, instead of phoning bankers, the Minister of Finance should undertake a review of his general policy on borrowing and on the Canada Mortgage and Housing Corporation. He is the one who sets policies. This is not about phoning banks and bankers. It is about having a sound policy and knowing that people who buy a house will make a reasonable down payment. I think that this down payment should never be less than 10 per cent.

There was a time when one did not have to put down a penny. There was a token amount. Now, people read in the newspapers that they can phone their bank and it will say: "Here is the lowest rate. We are prepared to lend you money at less than 2.99 per cent." People will go for it.

There is the market of course, but who takes the risk? Not the banks. They make the profits. The government that is taking the risk. So, honourable senators, I am putting the question to the leader: in the weeks and months to come, what will her government put in its economic action plan to ensure that we do not fall into the same trap as the Americans?

[English]

Senator LeBreton: The honourable senator just confirmed what I said, that the federal government, meaning taxpayers, backstops riskier mortgages.

With regard to the economic action plan going forward with Budget 2013, I would suggest the honourable senator wait another approximately 24 hours.

Hon. Jane Cordy: Honourable senators, is it normal practice for a staff member of the Minister of Finance to phone a financial institution and tell them that they have to keep mortgage rates higher for Canadian taxpayers?

[Senator LeBreton]

Senator LeBreton: This is very interesting because I remember getting a mortgage back in the Trudeau era where I paid 17.5 per cent for my mortgage.

• (1430)

An Hon. Senator: When was that?

Senator LeBreton: That was under the Trudeau government.

I will repeat what I said to Senator Hervieux-Payette. In Canada, the federal government, and that means all of us as taxpayers, backstop certain riskier mortgages. We owe it to Canadians to ensure that banks follow basic, prudent guidelines to protect taxpayers' money. As the Minister of Finance said yesterday — and we have certainly seen examples in other countries where the housing issue has caused grave damage to an economy — we do not want to have a race to the bottom.

FOREIGN AFFAIRS

INAUGURATION MASS OF POPE FRANCIS— OFFICIAL GUEST LIST

Hon. Jim Munson: Honourable senators, I have a question for the Leader of the Government in the Senate. However, before I ask it, I have to admit that yesterday when I asked the leader about the guest list at the pope's inauguration yesterday, I seem to have implied that the government ignored a Liberal.

One would say that a big man has to make mistakes; I would suggest a vertically challenged man can admit a mistake, so I will admit a mistake. I do so not as a big man but as an honest person. I did make a mistake in the sense that the government did invite Francis Scarpaleggia.

I have the opposite side in shock. I see that Senator Brown is sitting in the Speaker's chair. Be that as it may, Francis Scarpaleggia of our caucus was invited by the government and was on the plane and did see the pope, which are all good things. I know that Senator Doyle was there too and that his name was on the list. I guess it is too bad we did not have a Liberal senator, but that is a sidebar.

As people should say more often in the business of news and politics, "Sorry, I made a mistake." I will move on.

PUBLIC SAFETY

CANADA BORDER SERVICES AGENCY— TELEVISION PROGRAM

Hon. Jim Munson: Honourable senators, over the weekend we learned that the controversial reality television program *Border Security* received approval directly from Public Safety Minister Vic Toews. This show, as some honourable senators know, is produced by Force Four Entertainment for Shaw Media, and it follows Canada Border Services Agency personnel at Vancouver International Airport and land crossings located in B.C.'s Lower Mainland. It is important to note that both Force Four Entertainment and Shaw Media are private for-profit

corporations. The document approved by Minister Toews and obtained by CBC notes that “while there is no financial contribution, there is an operational cost to supporting the film, its shoots, and participating in the editing and review process.” The proposal stresses “that this burden is not significant.”

How great of a burden is it? How many taxpayer dollars are being used to subsidize Force Four Entertainment and Shaw Media?

Hon. Marjory LeBreton (Leader of the Government): I thank the honourable senator for acknowledging his mistake yesterday by claiming that the government did not offer a seat on the aircraft to members of the opposition; I appreciate that.

Since Senator Brown is in the chair, which Senator Munson pointed out, I will take the opportunity before I answer Senator Munson's question to correct something that Senator Brown said in his statement about the Right Honourable John G. Diefenbaker in terms of the Avro Arrow.

I keep this document and keep pointing it out to my colleagues, who of course believe all this revisionist history. There was a document printed in *The Globe and Mail*, but of course I have other documentation. An historian wrote an article in *The Globe and Mail* in 2007, which at that time would have been the fiftieth anniversary of the election of the Diefenbaker government. I will quote from the historian. The article talks about when Mr. Diefenbaker was elected.

When the Conservatives were elected in 1957, they had major problems to deal with, including an unprecedented economic recession with no recovery plan in place, a senior bureaucracy committed to the Liberal Party, a Governor of the Bank of Canada with unusual ideas, and difficult decisions that had been postponed (the cancellation of the Avro Arrow, for example). On top of these problems, the Conservatives were totally inexperienced in government.

The fact of the matter is, and it has been historically proven, that the decision to cancel the Avro Arrow was made by the St. Laurent government and was left on the table. When the Diefenbaker government came into power in 1957, they were confronted with this difficult decision. The only mistake they made was not acting quickly and implementing the policy of the previous government. Therefore, there was some hope held out that the Avro Arrow would survive. That happens to be historical fact.

With regard to the reality show, it is about the situations faced daily by our front-line border officers. Minister Toews has said that the privacy of individuals is protected at all times. I am told the majority of episodes deal with front-line Canada Border Services Agency officers stopping criminals from entering Canada. We expect the CBSA to enforce Canada's laws and ensure the safety and security of law-abiding Canadians.

Hon. James S. Cowan (Leader of the Opposition): Could I invite Senator Brown in his role as Acting Speaker to rule the Leader of the Government in the Senate out of order when she sought to use the vehicle of Question Period to correct a statement the

honourable senator made in his own closing speech? Could we have a ruling on that?

Hon. Bert Brown (The Hon. the Acting Speaker): I was about to apologize to the leader.

I was supposed to call Senator Callbeck, I believe.

Senator Munson: I have supplementary questions on this matter. In the reality of the Senate, we cannot have reality TV because we do not have television in here, which is a shame.

The proposal approved by Minister Toews notes that “the CBSA would enjoy de facto executive production authorities” as a result of its involvement with border security. I do not understand this. In the business, this means you have input into creative elements and storylines of a project. A recent immigration raid in Vancouver — this is pretty serious business — was filmed for the series and has resulted in a public outcry. As of earlier today, nearly 20,000 individuals had signed an online petition calling for *Border Security* to be taken off the air.

Honourable senators, this is Canada; this is not the United States. Since a document approved by the minister states that “CBSA would not enter into any long-term agreements and would re-evaluate its participation on an ongoing basis,” can the leader tell honourable senators whether, in light of the recent backlash, the CBSA will re-evaluate and withdraw its support for *Border Security*? Does the leader personally feel it is appropriate for the government to act as an executive producer for a series that hinges on exploiting vulnerable individuals facing serious immigration issues, as we saw on television?

Senator LeBreton: Honourable senators, I do not think the government is acting as an executive producer, and the honourable senator knows that full well. I can only repeat what I said in my first answer. The majority of episodes deal with front-line Canada Border Services Agency officers stopping criminals from entering Canada, and of course we expect the CBSA to enforce Canada's laws.

Senator Munson: The *Border Security* portal on the National Geographic Channel website boasts that “Force Four Entertainment has gained exclusive access into the highly classified world of the Canadian Border Services Agency.” I doubt that any honourable senator could get that access. This raises serious questions about the minister's judgment.

What sort of highly classified material or areas is this production company accessing? Given his track record of the record of conviction under the Manitoba Election Finances Act and accusations that opponents of the lawful access legislation, Bill C-30, support child pornographers, one would have to think that the minister must wonder if he will be left standing after this summer's *Survivor* cabinet shuffle edition.

There is an irony here. Sometimes the Conservative government's antics seem like reality TV, and now it is producing it.

Senator LeBreton: I glean from the honourable senator's very colourful question that he is actually looking for a job as a writer.

• (1440)

Hon. Roméo Antonius Dallaire: Honourable senators, I watched the program where this family was arrested and where two underage children were being held by the border agents. They are not criminals. They may be prosecuted and may be determined to be criminals, but they were just being held for questioning.

With respect to the leader's previous answer when she said it is good that they are being filmed as criminals, the point is that it is not necessarily that all of them are criminals; the point is to stop people they suspect as being criminals and then justice will follow.

Coming back to this family, there must be laws, surely. I have been involved with child soldiers, where you are not allowed to film minors in an activity that has links to the judicial process.

Can the leader tell honourable senators who is vetting this material? Who is ensuring that they respect human rights, the Charter and the legal dimensions of this country before this stuff goes on the air?

Senator LeBreton: Honourable senators, to be perfectly blunt and honest, I do not even watch the show. I think I saw it one time when I was scrolling through looking for something interesting, which is hard to do these days in television, except when Senator Demers' team or the Ottawa Senators are winning a hockey game.

As the minister has stated, the privacy of individuals is paramount. I am not sure what arrangements the Canada Border Services Agency has made in order to produce these reality shows on their work, but I will get some detail by written response to Senator Dallaire.

Hon. Jane Cordy: Could the honourable senator answer Senator Munson's question about the cost to the taxpayers of Canada?

Senator LeBreton: I thank the honourable senator for the question. I will add that to the written request.

SMALL BUSINESS AND TOURISM

CANADIAN TOURISM COMMISSION

Hon. Catherine S. Callbeck: Honourable senators, my question is to the Leader of the Government in the Senate. One of Canada's top tourism organizations is painting a bleak picture for the Canadian tourism industry, one that generated \$78.8 billion in total economic activity in 2011 and employs 603,400 people directly.

According to Kevin Desjardins, a member of the Tourism Advisory Council of Canada, international visitors to Canada

have been dropping as more and more people are choosing to go to the United States over Canada. He said:

We're losing market share... we're losing out on this opportunity to bring in revenue.

He adds, "This is something that's harming the economy."

At a time when the Canadian tourism industry really needs help, the government is slashing the Canadian Tourism Commission's budget for marketing and sales by \$13 million in the Main Estimates. Why is this government turning its back on the tourism industry and the hundreds of thousands of Canadians that it employs?

Hon. Marjory LeBreton (Leader of the Government): First, honourable senators, the government is not turning its back on the tourism industry. There are many examples — and we see them actually right here in the city of Ottawa — of increased tourism numbers.

As we know, all departments of government are going through a budgeting exercise and were asked to come up with savings in their own departments to meet expenditure reduction targets. Each department came to the government with areas where they thought savings could be made without harming government services. Most of the time these changes were internal and were never intended to affect services delivered or, I am sure in the case of tourism, the bottom line of attracting more tourists to Canada.

I have not seen the latest figures and am unsure of the organization the honourable senator is quoting, but I have not seen figures that would indicate that the tourism industry is in the dire straits that Senator Callbeck says it is.

Senator Callbeck: Tourism is a major industry in my province, and the Tourism Advisory Council of Prince Edward Island has had to revise its five-year revenue goal after numbers fell in the last two years below its estimates. The federal government really does not understand the importance of tourism. This is an industry that contributes more to Canada's GDP than agriculture, forestry and fisheries combined. However, the Canadian Tourism Commission has seen a steady decline in its funding from \$82 million in 2011-12, down to \$72 million in the 2012-13 estimates to date, and now again down to \$57.8 million in the Main Estimates for 2013-14. That is a decrease of roughly 30 per cent. This industry employs 1.6 million Canadians indirectly, which is 9.2 per cent of all the jobs in Canada.

Will this government reverse the dangerous track it is on and reverse the cuts that it is making to the sales and marketing budget of the Canadian Tourism Commission and start investing money back into an industry that is very vital to the Canadian economy?

Senator LeBreton: Honourable senators, the fact of the matter is that we are, and have been for quite some time, in the midst of a worldwide economic downturn. Obviously the economic conditions of other countries affect the ability of their people to travel abroad and plan vacations; many people are not doing that.

As I pointed out a moment ago, the government asked all departments to review their operations to see where they could make cuts to save money. As honourable senators know, when one looks at the economic pie, 50 cents out of every dollar goes to various social support programs.

All government departments were asked to find savings, and they all came back to the table individually with where they thought they could make these savings. I am quite confident that was the case with regard to the Canadian Tourism Commission. However, that in no way should prevent or prohibit the Canadian Tourism Commission or various provincial governments or the private sector from continuing to promote Canada and the various sites and interesting locations we have to offer. There is nothing to say that they will not continue to promote Canada.

I would say to honourable senators that the worldwide economic condition certainly has had an impact. Prince Edward Island is a good case in point. It welcomes many tourists from Japan. After the tsunami and the earthquake hit Japan, there was a major fallback of people travelling from Japan to either the United States or Canada.

I would suggest to Senator Callbeck that tourism numbers, and people who choose to come to Canada, are affected significantly more by what is going on in their own countries than by budgetary cuts at the Canadian Tourism Commission.

[Translation]

DELAYED ANSWER TO ORAL QUESTION

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, I have the honour to table the answer to the oral question asked by the Honourable Senator Charette-Poulin on February 6 and 7, 2013, concerning the Parliamentary Budget Officer.

LIBRARY OF PARLIAMENT

PARLIAMENTARY BUDGET OFFICER— TERMS OF REFERENCE—SELECTION PROCESS

(Response to question raised by Hon. Marie-P. Charette-Poulin on February 6 and 7, 2013)

On March 7, 2013, the Library of Parliament posted the notice of vacancy and selection process for a new Parliamentary Budget Officer.

The steps involved in recruiting the next Parliamentary Budget Officer are similar to those in other Governor in Council selection processes: advertising the position and soliciting qualified candidates, assessing the relative merits of candidates and identifying those most fit for the job, and submitting the recommended names for consideration by the Governor in Council.

As set out in the *Parliament of Canada Act*, the Parliamentary Librarian is responsible for forming and chairing a committee to provide the names of three candidates for a Parliamentary Budget Officer position to

the Leader of the Government in the House of Commons, for consideration by the Governor in Council.

In accordance with the Act, the Library of Parliament is implementing a national executive search for the next Parliamentary Budget Officer. The notice of vacancy and selection criteria are posted on the Library of Parliament website at:

<http://www.parl.gc.ca/EmploymentOpportunities/Details.aspx?Institution=3&Language=E>

Consultations have been carried out with a number of stakeholders, including the chairs of the parliamentary committees directly supported by the Parliamentary Budget Officer. These consultations will help ensure that different political perspectives are taken in account during the selection process.

The specific timing of when a new Parliamentary Budget Officer will be in place will ultimately depend on variables such as the effort it takes to recruit and assess candidates. In the interim, the Parliamentary Librarian, Sonia L'Heureux, will be the Parliamentary Budget Officer effective March 25, 2013, until a new Parliamentary Budget Officer is appointed.

• (1450)

[English]

SPEAKER'S RULING

The Hon. the Speaker: Honourable senators, on Thursday, February 14, Senator Tardif rose on a point of order to object to a statement made earlier in the sitting by Senator Boisvenu. According to the Deputy Leader of the Opposition, the statement made by Senator Boisvenu was inappropriate under the terms of rule 4-2(6), which explains that "Matters raised during Senators' Statements shall not be subject to debate." Senator Tardif sought guidance on the proper content and use of statements.

[Translation]

In the exchanges that followed involving Senator Carignan and Senator Cowan, it is clear that there are at least two alternative views about the nature and character of statements. According to Senator Carignan, the purpose of rule 4-2(6) is to prohibit any debate arising from a statement whether or not there is agreement about the point of view expressed in the statement. From Senator Cowan's perspective, however, the nature of the subject matter should have a role in determining whether it is appropriate as a statement or whether it should be presented in the form of an inquiry or motion.

[English]

I want to thank honourable senators for raising this matter. I have considered the possibility of guidelines, as Senator Tardif and others requested.

There have been a number of rulings in recent years that suggest there is some confusion with the current operation of the rules. In reality, the practice of having Senators' Statements has been a

feature of the daily sitting since 1991. The rules governing statements have remained fundamentally the same, even with a recent revision of the *Rules of the Senate*. The criteria used to determine the subject matter of a statement are not particularly restrictive. The only clear limitation is that the subject of a statement shall not relate to an Order of the Day. This is explained in rule 4-2(5)(b). This rule, and rule 4-2(5)(a), also propose that statements should relate to matters of public interest that a senator believes should be brought to the immediate attention of the Senate. What “immediate attention” means is somewhat difficult to determine precisely. A qualification is raised in rule 4-2(5)(b), when it suggests that no alternative means be available for bringing the matter to the attention of the Senate. As Senator Cowan pointed out, the subject matter of a statement could be presented in the form of a motion or inquiry. While this would certainly open up the matter to debate, it would also require notice of either one or two days. If the matter is urgent and immediate, this delay might be unacceptable.

[Translation]

As currently written, the Rules do not provide the Speaker with guidance to determine whether the subject matter of a statement is of such a nature that only through a statement can it be brought to the immediate attention of the Senate. Nor do I believe the Senate would want the Speaker to exercise such authority. This is better left to the judgment of individual senators and to the Senate as a whole. If there is need to refine the rules with respect to Senators’ Statements, this is best left to the Standing Committee on Rules, Procedures and the Rights of Parliament. The committee can recommend through a report to the Senate any changes that could better clarify the criteria for determining any further limitations on the subject matter of statements. It would then be up to the Senate to decide whether to accept any recommendations to the rules respecting Senators’ Statements.

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, pursuant to rule 4-13(3), I would like to inform the Senate that, when we proceed to government business, the Senate will address the items in the following order: one, committee of the whole; two, Motion No. 62; and three, other items as they appear on the Order Paper.

[English]

The Hon. the Speaker: Honourable senators, I will leave the chair for the Senate to resolve itself into a Committee of the Whole to hear from Mr. Graham Fraser respecting his appointment as Commissioner of Official Languages. There will be a short pause for necessary installations before the committee starts.

[The Hon. the Speaker]

COMMISSIONER OF OFFICIAL LANGUAGES

GRAHAM FRASER RECEIVED IN COMMITTEE OF THE WHOLE

On the Order:

The Senate in Committee of the Whole in order to receive Mr. Graham Fraser respecting his appointment as Commissioner of Official Languages.

(The Senate was accordingly adjourned during pleasure and put into Committee of the Whole, the Honourable Senator Comeau in the chair.)

The Chair: Honourable senators, rule 12-32(3)(b) outlines procedures in a Committee of the Whole. In particular, under the revised rules, “Senators need not stand or be in their assigned place to speak.”

Honourable senators, the Committee of the Whole is meeting pursuant to an order adopted by the Senate yesterday to hear from Mr. Graham Fraser respecting his appointment as Commissioner of Official Languages. Pursuant to the order, the appearance will last a maximum of one hour.

[Translation]

I now ask the witness to enter.

Honourable senators, the Senate is resolved into a Committee of the Whole to hear from Graham Fraser concerning his appointment as Commissioner of Official Languages.

Mr. Fraser, I would like to thank you for being with us. I invite you to make your opening remarks, which will be followed by questions from the senators.

Welcome, Mr. Fraser.

[English]

Graham Fraser, Commissioner of Official Languages, Office of the Commissioner of Official Languages of Canada: Thank you, Mr. Chair. Good afternoon, honourable senators and ladies and gentlemen.

Thank you for considering the certificate of nomination extending my term as Commissioner of Official Languages. The past six years have been marked by important events, including regular meetings with members of the Standing Senate Committee on Official Languages. I hope I will have the privilege of continuing this relationship for another three years.

[Translation]

I would like to underscore the commitment and professionalism shown by the senior management and employees at the Office of the Commissioner during the past few years.

You have no doubt gotten to know some of the members of my executive committee who regularly accompany me to meetings with your Standing Committee on Official Languages and other committees.

[English]

However, today it is only you and me — just like our meeting in 2006, the purpose of which was to consider my application for the position of commissioner. You will no doubt remember that, on that occasion, I repeated the question posed by the Laurendeau-Dunton commission 50 years ago this year.

[Translation]

Can English-speaking and French-speaking Canadians live together, and do they want to do so? If the answer to this question is still yes, then a results-based official languages policy must be implemented. This is what I said to you six years ago, and I still believe it to be true.

[English]

The government must continue to make choices and take actions that will allow Canadians to obtain services in both official languages, allow public servants to work in the official language of their choice, allow official language communities to fully contribute to Canadian society and allow people in every part of the country to learn Canada's two official languages.

• (1500)

[Translation]

I am also judged by the results I obtain as a deputy head. Canadians who file complaints expect effective resolution within a reasonable timeframe. Our interventions with federal institutions must be judicious and lead to lasting changes.

[English]

Our partners in official language communities and bilingualism promotion groups count on our support. Our promotional campaigns must reach their target audience. Moreover, the organization must be well-managed and must ensure respect for employees and citizens, who fund the organization.

[Translation]

The Office of the Commissioner will continue to modernize itself. We are moving ahead with the implementation of new information management systems that will allow Canadians to file a complaint online, and we are now present on social media such as Facebook and Twitter.

[English]

We now have a facilitated complaint process that is used to handle more than 60 per cent of the complaints we receive. Moreover, we will soon be under the same roof as Elections Canada, the Office of the Privacy Commissioner and the Office of

the Information Commissioner. This proximity to other agents of Parliament will strengthen our independence and eventually will allow us to share some services.

[Translation]

These administrative changes will allow the Office of the Commissioner to tackle upcoming challenges more effectively. I am thinking not only about the program that, I hope, will replace the Roadmap for Linguistic Duality, but also about the many upcoming important anniversaries and events during which Canada's linguistic duality will play a starring role.

[English]

My staff has worked closely with the organizers of the 2013 Canada Games in Sherbrooke, Quebec. They are already cooperating with the organizers of the 2015 Pan-American Games in Toronto. This is to ensure that we apply the lessons learned during the 2010 Olympic Games in Vancouver.

[Translation]

Celebrations in 2017 for the 150th anniversary of Confederation will include the inauguration of the new Canadian Museum of History, and will be preceded by many commemorative events, for example, for both world wars and for the 200th anniversary of the birth of John A. Macdonald. These anniversaries serve as the backdrop for a national conversation about our common history and our values.

[English]

We need to highlight these historic moments, while recognizing that they were, at the time, a source of bitter and polarizing debate. It would be counterproductive to try to mask the disagreements, because we still feel the after effects today.

[Translation]

Since it was elected, the Parti Québécois government has been concerned about forces that are endangering the status of French. These dangers are very real. In the scientific, international trade and entertainment communities, the dominance of English often reduces the space that francophones have to express themselves. However, these dangers do not come from Quebec's English-speaking communities or from federal institutions. This is a message that I will continue to spread.

[English]

This is only a glimpse of the work of the office of the commissioner and the federal government must do over the next few years. Also on the agenda are: the vitality of official language communities; issues related to immigration, which is the past, the present and the future of our country; access to justice in both official languages; and the critical need to improve access to French language learning.

We also need to keep an eye on the changes within the federal public service both in terms of services and in terms of language of work and support for official language communities.

[Translation]

The Office of the Commissioner will examine these issues as part of four main priorities. First, we will promote linguistic duality in Canadian society, specifically by encouraging the government to play a more visible role in and improve access to second-language learning. Second, we will ensure that language rights are protected, specifically by monitoring the impact of budget cuts and the use of 2011 census data to determine the language designation of federal offices, while continuing to monitor federal institution performance.

[English]

Third, enhance official language community vitality, particularly with respect to immigration; and, fourth, ensure sound management of the office of the commissioner during a period of change.

To meet its objectives, the office of the commissioner will continue to use every tool at its disposal: the work it does with parliamentarians; studies; audits; investigations; meetings with the heads of institutions; promotion and information initiatives; and, of course, legal remedies.

[Translation]

We will also continue our work with federal institutions and linguistic minorities and majorities, while providing advice in the areas of health and education, the private sector and the media, as needed.

With your permission, I will continue to be a cheerleader and a nag.

Thank you for your attention. I would now like to take the remaining time to answer any questions you may have.

The Chair: Thank you, Mr. Fraser. We will now move on to questions. I have Senators Chaput, Mockler, Tardif, Kinsella, Nolin, and Carignan on my list, and there will probably be others, including Senator Joyal.

I would ask Senator Chaput to begin.

Senator Chaput: Good afternoon and welcome, Mr. Fraser. It is always a pleasure to see you and even more so today because the purpose of this Committee of the Whole is to confirm your appointment as Commissioner.

First, I would like to thank and congratulate the federal government for recommending that your term as Official Languages Commissioner be extended. It is very much appreciated.

Mr. Fraser, thank you for agreeing to consider this extension. As you know, these are great responsibilities and hard work, but they contribute to our country's unity and linguistic duality. Therefore, I thank you for considering this position again.

I listened carefully to your speech and I was struck by the following comment. You said "... a results-based official languages policy must be implemented. This is what I said to you six years ago, and I still believe it to be true."

[Mr. Fraser]

I was struck by these words because, in my opinion Mr. Fraser, we all believe in a results-oriented policy. That is what makes the difference between success and failure.

I also sincerely believe that Canada's anglophones and francophones want to live together and can do so. A better understanding of our respective realities will help that harmony and unity. And your work surely contributes to that.

My question is: You were the commissioner when the first Roadmap was introduced by this government in 2008. Therefore, you were able to follow it from the beginning to the end. During the assessment of that roadmap, you explained that the government had made it the cornerstone of its efforts to support the development of official language communities and to promote linguistic duality in Canada. You then pointed out that only 14 federal institutions were engaged in that roadmap, even though Part VII of the Official Languages Act applies to all federal institutions. You recommended that the next roadmap be broader in scope to include all federal institutions.

Mr. Fraser, do you see the Roadmap as a support program to Part VII? What distinction do you make between the Roadmap's objectives and the government's other obligations in terms of availability of services and communications in both official languages? I would like you to clarify this aspect.

Mr. Fraser: Thank you very much for your comments, honourable senator. Before answering your question I want to point out how much I appreciate the cooperation that we have with the Standing Senate Committee on Official Languages, and the work that you do. You have produced very important reports that I really appreciate. The cooperation that we were able to establish has been successful.

Now I will answer your question. In my opinion, the Roadmap was essentially developed with Part VII in mind. For those who were not here at the time, in 2005, Parliament voted to strengthen Part VII of the act to ensure that every federal institution has an obligation to take positive measures to promote the development of official language minority communities.

• (1510)

That served as formal recognition of the obligation of all federal institutions to foster those relationships and take positive measures.

That was a major step forward in recognizing the importance of that obligation because the law does not state what constitutes a positive measure. Many institutions had a major learning curve, and some institutions thought that because the roadmap applied to them, Part VII did not. That is not the case. All federal institutions are subject to this requirement, but the important thing about the roadmap is that programs were implemented to support and foster community vitality. By simply explaining that respecting the obligations in Part IV of the act to serve the public in both official languages does not qualify as a positive measure, we have achieved a lot of success, especially with regard to health

networks and some justice measures. It is our job to explain that, but the Treasury Board and Canadian Heritage have a part to play too. The obligations in Part VII go beyond that basic obligation.

Senator Mockler: I would like to raise a few points. Mr. Fraser, I congratulate you on completing your first term and on agreeing to renew your mandate. I admire your leadership and your open-mindedness in carrying out your duties as Canada's Commissioner of Official Languages.

I listened closely as you were talking about allowing people from every part of the country to learn both official languages. I have three questions. My first point is related to the question that I asked you on October 24, 2011, when we were talking about francophones and anglophones learning a second language. At the time, I said that Prime Minister Stephen Harper was unilingual, but that he learned to speak the second language. I asked you if there was any way to say just how bilingual he was. In reply, you said:

He is not unilingual at all. He is very bilingual.

In reference to Prime Minister Stephen Harper.

Do you stand by those comments today?

Mr. Fraser: Absolutely, and I am not the only one who feels that way.

I recently heard journalist and commentator Chantal Hébert say that for the first time in history, we have an anglophone prime minister who is more comfortable in French than the Premier of Quebec is in English.

Not only is the Prime Minister bilingual, but he has also mastered the nuances of French.

Senator Mockler: I want to talk about the Roadmap for Canada's Linguistic Duality 2008-2013: Acting for the Future.

I think that this plan no doubt managed to modernize and help strengthen linguistic communities in our great country for many Canadians, from east to west, from north to south. I do not want to list every single project in the Roadmap for Canada's Linguistic Duality, but I have no doubt that you will follow it very closely as you did during your first mandate.

As you know, New Brunswick is the country's only officially bilingual province and the only one to have enshrined the equality of both linguistic communities in the Canadian Constitution. How do you think New Brunswick influences the Canadian mosaic in terms of promoting and protecting of our two official languages?

Mr. Fraser: There are two aspects to that. Enshrining section 16.1 of the charter — which was initiated by New Brunswick when it came to Ottawa to bilaterally negotiate this recognition of the province's bilingualism — was a move that recognized not only the province's bilingualism but also the individual and collective rights of the people of New Brunswick. This was extremely important. This is one section of the charter that explicitly recognizes the collective rights of a community. It

was a very important gesture to legally enshrine the status of anglophone and francophone communities.

I also believe that it is one element that contributes, if I can say that, to the variety of language regimes in Canada. It is the only officially bilingual province. One province declared itself officially unilingual in French, and then there are provinces such as Ontario, Nova Scotia, and Prince Edward Island, which have French-language service laws. The Ontario law is important in that it recognizes the importance of providing services in both official languages. In the other provinces, statutes vary. There is currently a case before the courts involving British Columbia's French school board and its right to have a case heard before the British Columbia courts in French.

That is in contrast to Ontario, New Brunswick and even Quebec, where the right to have a case heard before the courts in French is clear.

The system of language regimes in Canada is skewed and, in terms of bilingualism, New Brunswick plays a very important role.

Senator Mockler: I am sure that you know this, but I would like to mention that the Minister of Canadian Heritage, the Honourable James Moore, has just concluded a pan-Canadian consultation on the Roadmap for Canada's Linguistic Duality that Prime Minister Harper's government passed in 2008 and that will end in 2013.

• (1520)

I hope the government of Prime Minister Stephen Harper will renew this great initiative and will continue with a second phase of the roadmap. If that happens, since the roadmap will be completed this year, what do you think of the impact of that government initiative on minority linguistic communities?

Would you be prepared to say that this renewal and this second phase of the roadmap are necessary to continue with the development of various sectors, including immigration, education, culture and justice?

The Chair: In order to abide by the rules of the Committee of the Whole, you have about 40 seconds.

Mr. Fraser: Thank you. I am not going to repeat myself. I already affirmed the importance of renewing the roadmap. I think it is extremely important and I am eagerly awaiting tomorrow's budget to see a sign of this renewal. In 2008, there was none, but a renewal did take place in June. It is the final outcome that matters.

Senator Tardif: I want to congratulate you and to thank you for all your work and dedication over the past six years.

Mr. Fraser: Thank you very much.

Senator Tardif: In your opening remarks, you indicated that part of the work you want to do over the next six years relates to access to justice in both official languages.

Mr. Fraser: Yes.

Senator Tardif: Given your research and observations, could you tell us more about the importance of access to justice in French for minority francophone communities?

Mr. Fraser: It is extremely important. The Supreme Court pointed it out in *Beaulac*, which clearly underscored the importance of access to justice for criminal cases.

We are currently fine-tuning a study on linguistic capacity in federal courts across the country. This is a joint study conducted with my counterparts from New Brunswick, Commissioner Michel Carrier, and from Ontario, François Boileau. Together with the chief justices of six provinces, we examined the true capacity and the criteria used to determine whether a judge is bilingual or able to hear a case in both official languages, in French in particular, or in English in Quebec.

I gave a preview of that study at the winter meeting of the Canadian Bar Association in Mont-Tremblant, about a month ago. We are going to make the final presentation of that report at the CBA meeting in Saskatoon, next August. I hope the report will provide better answers to your questions on the actual capacity of the justice system.

Senator Tardif: I am very pleased to know that this study was undertaken and that the findings will soon be released. This lack of capacity is, of course, frequently brought up when discussing the appointment of bilingual judges to the Supreme Court.

I would like to hear your thoughts on this, because it has to do with the whole issue of access to justice in French. Two bills were put forward: one on the bilingualism of Supreme Court justices and the other on the language requirements for officers of Parliament. Could you give us your take on this issue?

Mr. Fraser: I testified a number of times before House of Commons and Senate committees with regard to the bill that required Supreme Court judges to be bilingual, which died on the Order Paper. I still think that the right to be heard by Supreme Court judges in the lawyer's language of choice is an extremely important right. I think that there are many reasons, including the accused's right to be heard in the language of his choice, but I would also like to point out that 30 per cent of appeals from the provinces come from Quebec. These cases were heard in French and so the documentation is available only in French. A judge who is not able to read all the supporting documents has to depend on his clerk's analysis — a one-and-a-half-page summary of a large number of documents.

I also note that the requirements for a Supreme Court judge were not as high as the requirements for public servants with supervisory duties. Judges were required to be only passively bilingual or have the ability to understand the language, rather than to have the mastery of oral interaction that is usually required of public servants who supervise employees with the right to work in French. I explained these arguments in much greater detail when I testified in committee and they are available.

With regard to officers of Parliament, I am pleased to see that the government supported this initiative. It is important that the individuals who hold these positions personify the role to some

extent. I am not the chair of an official languages commission; I am the Commissioner of Official Languages, and parliamentarians expect to be able to speak to me in French or in English, and rightly so. The same goes for all other commissioners, whether it be the Privacy Commissioner, the Information Commissioner or the Auditor General.

We received complaints regarding the appointment of the Auditor General. We conducted an investigation and published a preliminary report, and now we are examining the Privy Council's response. I cannot get into the details of this complaint since we have not yet had the opportunity to consider the Privy Council's response in order to prepare our final report. Nevertheless, I am pleased that the government has decided to support this bill on the importance of having officers of Parliament who are able to converse or communicate with parliamentarians in the parliamentarian's language of choice.

[English]

Senator Kinsella: I would like to explore two different avenues. First, as a senator for the province of New Brunswick, I was very pleased to hear you make mention of Michel Carrier, who I have watched over a significant period of time. His dedication to the promotion and protection of official languages in our province has been stellar as, of course, is the pioneering work of Mr. Justice Bastarache.

In terms of your new mandate, mention has been made of language rights — described in a variety of ways since the time of the Charter — and the pioneering work of individuals such as former Senators Louis J. Robichaud and Jean-Maurice Simard. Their efforts had a concrete effect in terms of amendment to the Constitution bilaterally, giving a constitutional basis to the reality of two official language communities in my province.

What do you see in your new mandate on the programmatic side for the promotion and protection of our official languages? If you want to give special focus to my province, that would be appreciated. That said, even in a kind of a general way, how is it different from the remarkable work that you and your colleagues at the commission achieved during your last mandate?

• (1530)

Mr. Fraser: Thank you for the question, senator. Just before I plunge into the answer, let me reiterate the deep respect and affection I have for Michel A. Carrier, who was my counterpart when I started, became a colleague and is now a friend. I went to New Brunswick for an event to mark the anniversary of section 16.1 and also to sign basically an agreement of understanding with his office so that we will collaborate more closely. It was actually a recognition of what had already become a way of working that we had, but I hope it will live on with his successor.

He has been asked by the premier to stay on until his successor is chosen. I was very glad to hear that because, as I said to Senator Tardif, we are working together now on this study of the bilingual capacity of the court system.

Looking ahead, there are a number of streams we are looking at. One is that we have already introduced service standards to improve our ability to respond officially to complaints. We have

reduced to half the length of time it takes us to respond to complaints, and I am hoping that we can improve that, while recognizing that we get complaints under Part VII of the act, which are often more complex and, as a result, take more time.

There are also two other elements. There are a number of major events being planned over the next three years, reaching 2017 and the one-hundred-and-fiftieth anniversary of Confederation as a kind of climax. As I mentioned in my remarks, I will be following very closely — part cheerleading, part nagging — the preparations for those commemorations to ensure that the various plans take into account the history of linguistic duality in the country.

One thing we did after the Olympics was prepare a handbook for organizers of major sporting events. We will do a similar thing for organizers of historic commemorations, so that those organizers will have a checklist. The organizers of the Canada Games told us they found the checklist we had in that handbook to be extremely helpful. The person who was responsible for official languages said he had it pinned on the bulletin board by his desk so that he could keep it constantly in mind.

It is one of the tools we have developed as a way of making it easier for people who have these responsibilities to keep in mind the importance of both official languages.

There are the commemorative events — the First World War, the Second World War, the two-hundredth anniversary of the birth of John A. Macdonald — leading up to a climax in 2017 and the opening of the Canadian Museum of History. I have already had a very positive conversation with Mark O'Neill, the CEO of the museum, and I have been very impressed by the reports I have had of the consultations that were organized across the country to hear from Canadians about what they want to see in the museum.

There are also major sporting events, such as the Canada Games in Sherbrooke this summer and the Pan-American Games in Toronto. We have already been collaborating with both of those organizations.

Another thing that is not so much brand new but that I am hoping to build on is the importance of post-secondary institutions offering second language learning opportunities. We did a study on that; we continue to keep it up to date. We have an interactive map on our website so that students who have come out of immersion or out of core French and want to maintain or improve their French can, with a few clicks, find out what the language-learning opportunities are at the universities they are thinking of applying to.

I have used that report to organize follow-up round tables in Atlantic Canada and Saskatchewan. We are hoping to do more. I also use it as part of my planning for trips across the country. I have met with university presidents to talk about the importance of second language learning and their responsibility to Canada's largest employer, which is the federal government, to produce graduates who have been able to master both official languages before graduation.

Senator Kinsella: I will use the remaining time allowed to me before our distinguished chair cuts me off in revenge for the times that I, as Speaker, have cut him off.

I have reflected on the nature of linguistic rights in Canada for some time. In my judgment, they do not fall under the category of the self-executory rights. Freedom of the press will be there if there is no interference with it. The right to life is enjoyed unless someone interferes with one's freedom. Many rights, such as the right to work, do not mean much if you do not have an organized economy, for instance. The right to education does not mean much if you do not have a school system.

It seems to me, as I experience in my own province, that language rights are very much programmatic rights, that there have to be concrete programs of society, of state, or the rights will not have much flesh to them.

To the extent that that is true, would you explain to the honourable senators your relationship with Parliament, because it will be Parliament that has to release public funds and programs in order to put flesh on the bones of linguistic rights, not only nationally but also provincially. Will you speak about the relationship with Parliament and parliamentarians, in your experience as an agent of Parliament?

Mr. Fraser: I thought your preamble was going in a slightly different direction, and I am not sure I can fully answer your question about my relationship with Parliament in the few seconds that remain. I and my office are available to all parliamentarians, either individually or collectively, — whether in committee or when individuals come before me.

In the context of my annual report, I also do a tour to meet with cabinet ministers, deputy ministers and the Prime Minister to give them a heads-up on the recommendations that I am coming forward with, so that they are not taken by surprise when the report lands on their desks and is tabled in the house.

However, I think there is a longer response, and I would be happy to answer in more detail if someone wants to come back to the question of the role of agents of Parliament.

[Translation]

Senator Joyal: Mr. Fraser, thank you for agreeing to extend your mandate. I am pleased that you agreed to the extension, but concerned that you have been reappointed for only three years.

Under the Official Languages Act, you are appointed for a lengthy term in order to ensure continuity of your role. Had the government proposed renewing your mandate for a period of time equivalent to a regular mandate, I would have thought that this continuity would have been guaranteed.

Renewing your mandate for just three years breaks the continuity of your role, which is inconsistent with the original mandate provided by the law. Did you ask for a term of three years or was it imposed?

• (1540)

Mr. Fraser: I am the one who suggested it. The possibility of asking me to extend my mandate was explored. First of all, I was not asking for an extension. However, I did indicate that, if asked, I would agree to it.

My reasoning was this: one year would be too short and two years would take me to the middle of the next election campaign; therefore, three years seemed to me to be an appropriate amount of time, especially since my colleague, Jennifer Stoddart, the Privacy Commissioner, was given a three-year extension. The Auditor General's mandate is for 10 years. Furthermore, since this requires some energy, I thought that after 10 years, that would probably be enough.

Seriously though, I thought I could continue at the same pace as I am working right now for another three years. That seemed appropriate to me.

It was not a condition; it was a suggestion on my part, and it was accepted.

Senator Joyal: In your opening remarks, you said you were worried about the impact of budget cuts on service delivery in French. Yesterday, when you appeared before the other place, you mentioned the impact of budget cuts on the language of work.

Mr. Fraser: Yes.

Senator Joyal: You also mentioned, according to today's newspapers, that this could have a significant impact on access to documents in French; in other words, it could mean that fewer documents will be available in both official languages, which will affect public servants' ability to work in the language of their choice.

What other information do you need in order to decide to conduct a full investigation?

Mr. Fraser: I am reluctant to give a direct answer because I already met with the union president who raised this issue in the first place, and I made that commitment before this issue made its way into the papers. Right now I am trying to get information and better understand the situation.

I think what we need to understand with translation is that people often get messages — sometimes even non-verbal messages — implying that it would be preferable for a document to be written in English rather than in the language of the employee's choice. Something I often notice with language of work is that there is pressure that can be implicit and not necessarily explicit. Being a minority in a workplace is difficult and there is a lot of pressure. No one wants to be the person who holds up a meeting insisting on their right to speak their language of choice if there are members of the group who do not properly understand that language. The opposite happens in Quebec, where English-speaking federal public servants tend to speak French at meetings and write their documents in French because they want to stick with what the majority is doing. This detracts from creating a workplace that supports both official languages.

I am not prepared to say that it is the big bad public service making cuts and forcing this issue, but I think there are a number of factors that make people hesitate to exercise their right to work in French.

Senator Joyal: Have you taken a stance on the concerns expressed by certain groups in Quebec regarding the economic and public sectors that are subject to federal laws and, therefore, are covered by Canada's Official Languages Act but not by the Charter of the French Language?

I am sure you are aware of this debate. People in certain groups are of the opinion, for example, that banks in Quebec — which are under federal jurisdiction — should be subject to the Charter of the French Language. Have you taken a public stance on this issue?

Mr. Fraser: No, and I will tell you why. We looked at the situation and the bill that was introduced in the House by the official opposition. We determined that there was a legal void as well as the possibility that certain businesses, such as Air Canada, would be subject to two conflicting language regimes. We saw some technical problems with the law as well. We took a break from examining the bill when we learned that the government was going to commission a study on the situation.

The government just recently presented its study, which was undertaken by three deputy ministers. I took a quick look at it, but we have not studied it closely enough to be able to form an opinion on it.

Senator Joyal: Do you intend to take a stance so that we can read your official position in the next report you present to Parliament?

Mr. Fraser: I can tell you that the analysis will not be ready for the next annual report. March 31 is fast approaching and we have not made a final decision about what will be happening with our study of the report.

Senator Nolin: It is a pleasure to see you again, Mr. Fraser. I join my colleagues in commending you, and I wish to congratulate you on your new appointment, although it is shorter than we would have liked. However, I have heard your response and I accept it.

Some of my colleagues have covered the issues that I had in mind. One of them — and I will give you the opportunity to delve further into the issue raised by the Speaker of the Senate, Senator Kinsella — concerns the independence of officers or agents of Parliament. Excuse my hesitation, but I was trying to use the expression that is most respectful of the privileges of Parliament, but that describes your role and that of your colleagues who are agents of Parliament.

I would first like to hear what you have to say about your independence in terms of managing your organization and your budgetary independence from the federal administration.

Mr. Fraser: That is an extremely important issue for my colleagues and me. We have had a number of discussions with Treasury Board to ensure independence.

At the same time, our employees are public servants and they have the rights and privileges of public service employees. We are not a separate employer for the purposes of labour-management negotiations, for example, unlike the Auditor General, who is a separate employer and can establish rates of pay in negotiations with his employees.

• (1550)

Our employees have the same classifications and the same rates of pay as other bargaining units. It is important to keep in mind that these positions were created, I think, because parliamentarians decided that some Canadian values transcended partisan debate and the government of the day. We are responsible for reporting to Parliament on how well federal institutions are complying with our laws. Each agent of Parliament is responsible for a different law. We report to different ministers and committees. We have signing ministers who table our reports in Parliament, but we do not report to those ministers.

That means that, unlike a deputy minister or the director of an agency who reports to a minister, there is no approval process for my statements, reports and inquiries. That independence is crucial to our ability to honestly speak the truth as we see it to power. That may be a cliché, but that is kind of why our independence was defined.

I know that there has been some debate in the Senate about using the term “agent” rather than “officer.” In preparing for today’s meeting, I checked the dictionary. I did not have *Le Petit Robert* in front of me, so I checked *The New Shorter Oxford English Dictionary* in English.

[English]

The new *Shorter Oxford English Dictionary* defines “agent” as a person or thing which produces an effect; the cause of a natural force or effect on matter.

[Translation]

That is more or less how I see our role as an agent. Unlike officers of the Senate or the House who work for you and support you in carrying out your duties, I am responsible for producing an effect on federal institutions, and that is why we carry out inquiries, audits and studies and report to Parliament about the effect of our actions and whether federal institutions are abiding by the will of Parliament as expressed in the Official Languages Act.

Senator Nolin: What about your budgetary independence?

Mr. Fraser: Our budget was prepared and so far it has remained very stable.

Senator Nolin: Let me interrupt you. Why are you touching wood?

Mr. Fraser: Tomorrow is budget day.

Senator Nolin: I understand, but that is where the whole nature of independence lies. That is precisely why I am asking that question. In my opinion, there should be an authority monitoring

your budget, and Parliament should be that authority. We are talking about who should monitor your budget in Parliament, but it is not the executive branch that should control your budget. That is why I am concerned when I see you touch wood.

Mr. Fraser: We had a pilot project. A parliamentary panel was set up to hear any additional funding requests from agents of Parliament, precisely to ensure that our independence is not affected by government decisions. The pilot project is now finished. It was not renewed. The parliamentary panel no longer exists. So, we are still somewhat in the dark regarding our additional funding requests. There is currently no structure in place, no means. We had this process for about five years. I would appear before that panel when a request for additional funding was made to meet new obligations relating to access to information, and to the internal audit requirement. These two reforms were introduced about seven years ago. Additional funding was provided under these structures, and I had to appear before this parliamentary panel to ask for that funding.

Senator Nolin: As I understand, you prepare your budget and you submit it to the Treasury Board.

Mr. Fraser: Yes.

Senator Nolin: So now you are simply touching wood and waiting.

Mr. Fraser: It was established several years ago, and based on projections, funding has been stable.

The Chair: Honourable senators, the committee has now been sitting for one hour. Pursuant to the order adopted by the Senate, I must interrupt the proceedings so that the committee can report to the Senate.

Thank you, Mr. Fraser, for agreeing to your appointment. Of course, a decision will be made in the near future, but we wish to thank you for accepting the appointment.

Mr. Fraser: Thank you, Mr. Chair.

The Chair: Honourable senators, is it agreed that I report to the Senate that the witness has been heard?

Hon. Senators: Agreed.

[English]

The Hon. the Speaker: Honourable senators, there being no strangers in the house, the sitting is resumed.

REPORT OF COMMITTEE OF THE WHOLE

Hon. Gerald J. Comeau: Honourable senators, the Committee of the Whole, authorized by the Senate to hear from Mr. Graham Fraser respecting his appointment as Commissioner of Official Languages, reports that it has heard from the said witness.

[Translation]

MOTION TO APPROVE APPOINTMENT ADOPTED

Hon. Claude Carignan (Deputy Leader of the Government)
pursuant to notice of March 19, 2013, moved:

That, in accordance with section 49 of the Official Languages Act, R.S.C. 1985, chapter 31 (4th Supp.), the Senate approve the appointment of Graham Fraser as Commissioner of Official Languages.

(Motion agreed to.)

[English]

FIRST NATIONS FINANCIAL TRANSPARENCY BILL

THIRD READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Patterson, seconded by the Honourable Senator Wallace, for the third reading of Bill C-27, An Act to enhance the financial accountability and transparency of First Nations.

Hon. Lillian Eva Dyck: Honourable senators, I rise today to speak to Bill C-27, the First Nations Financial Transparency Bill. This bill seeks to require First Nation governments to make public their audited consolidated financial statements annually and require that a schedule of chief and council salaries and expenses also be made public through posting both documents on the Internet.

• (1600)

Transparency and accountability through proactive disclosure are important goals for all governments, including First Nation governments, and these are goals that everyone supports. However, from what the witnesses told us at the committee hearings, the passage of Bill C-27 will neither enhance nor provide support for First Nation governments to achieve either of these important goals.

Honourable senators, Aboriginal Affairs and Northern Development Canada, AANDC, and the minister would have us believe that passing Bill C-27 will clamp down on the few First Nations who are perceived as corrupt and who refuse to comply with requests from their band members to see the financial statements that their band sends to AANDC. Instead of believing the unfounded rhetoric that enacting Bill C-27 will clamp down on corrupt First Nations and help their frustrated band members, consider these four facts, which the minister and AANDC did not make clear and did not seem to want us to know during committee study of the bill.

Fact 1: Aboriginal Affairs can already release a band's financial information to its band members. Under existing administrative policies, even those included in the national funding agreements, which are legal contracts, this is doable. One can only wonder why the department does not, especially since refusing to do so only creates more frustration for band members.

Fact 2: Aboriginal Affairs under existing rules cannot release the confidential financial information of a First Nation to the general public. Thus, Aboriginal Affairs cannot release confidential information such as names and information on own-source revenues to the public, such as to the Canadian Taxpayers Federation.

Fact 3: By voting to pass Bill C-27, we will be eliminating the freedom of First Nations to make their own decisions with respect to public disclosure of their private financial information. Under the existing rules and regulations, First Nation bands have a choice. They, not Aboriginal Affairs, get to decide whether or not to release their confidential financial information to the general public.

Fact 4: Enacting Bill C-27 will not clamp down on the few non-compliant First Nations because the bill legislates the same policies and regulations, the exact same tools that Aboriginal Affairs already has. If AANDC cannot make a non-compliant First Nation comply now, it still will not be able to do so because Bill C-27 does not contain any new remedies to do that. Clearly, Bill C-27 is all smoke and mirrors, meant to fool us and the Canadian public.

The government cannot justify eliminating the privacy rights of all First Nation bands using the excuse of protecting and helping band members from a few First Nations because they know that Aboriginal Affairs is partly responsible for creating the problem. Even without Bill C-27, Aboriginal Affairs could help band members by giving them their band's financial information, but they do not. Instead of actually helping frustrated band members, the government seems to have used them as an excuse to put forth this bill.

If that is not bad enough, the government is providing false hope to band members from the few allegedly corrupt First Nations. Aboriginal Affairs knows this bill will not make these non-compliant First Nation leaders comply. There are no new remedies in the bill to do that.

One can only conclude that either the people at Aboriginal Affairs are trying to fool us or they have a hidden agenda. Neither conclusion is flattering. The minister ought to have taken swift action to withdraw Bill C-27 and sit down with First Nation leaders and band members to come up with a piece of legislation that would have actually worked in the manner that everyone wants and will applaud.

Honourable senators, in the end, Bill C-27 will be like the long-gun registry legislation, which did not work and which was recently repealed by this government. It, too, was meant to clamp down on a small subset of gun owners, but instead it punished and angered law-abiding long gun owners such as farmers and hunters. In fact, hunters who deliberately refused to comply were not even prosecuted.

The same fate is in store for Bill C-27. It is meant to target a small subset of First Nation bands, but it too will be ineffective. Similarly, Bill C-27 will penalize and anger law-abiding First Nation bands, the vast majority who, like the hunters, are doing nothing wrong. Perhaps after the bill is enacted they too will refuse to comply. Perhaps they all should refuse to comply.

I know that the government intends to push Bill C-27 through the Senate so that it is passed by the end of March. Honourable senators opposite form the majority in the Senate, but I ask honourable senators to sit back and take a sober second long pause before rushing to pass this bill by voting along party lines.

Honourable senators, those are the essence of my arguments as to why Bill C-27 should have been withdrawn to allow for consultation and revision and should now be defeated at third reading.

I will now go into great detail using quotations from the Aboriginal Peoples Committee hearings. Fact 1, honourable senators will recall, was that Aboriginal Affairs can already release this information to band members under existing rules; this is doable. One can only wonder why the department does not, especially since refusing to do so only creates more frustration for band members.

As outlined in the legislative summary on Bill C-27 prepared by the Library of Parliament, under the *Year-end Financial Reporting Handbook*, First Nations must submit to AANDC annual audited consolidated financial statements for the public funds provided to them. These include salaries, honoraria and travel expenses for all elected, appointed and senior unelected band officials. The latter includes unelected positions such as those of executive director, band manager, senior program director, and manager. First Nations are also required to release these statements to their membership. In particular, section 6.4.1 requires First Nations to disclose, both to their members and to Aboriginal Affairs, “compensation earned or accrued by elected and appointed officials and by unelected senior officials; and section 6.4.2 stipulates that the amounts of remuneration paid, earned or accrued by elected and appointed officials to be disclosed “must be from all sources within the recipient’s financial reporting entity including amounts from, but not limited to, economic development and other types of business corporations.”

Additionally, Aboriginal Affairs can also release the information to band members through the comprehensive funding agreements, such as in 2010 and 2011, that all First Nations signed. In particular, section 3.1 provides that council must make available the consolidated audited financial statements, including the auditor’s report, to First Nation members upon their request. Section 4.4 provides that where a council fails to make its audited financial statement available to its members, the minister may do so.

It should be noted that because of the *Sawridge* decision, these financial statements are not confidential vis-à-vis the members of the First Nations band, and band members can review their own band’s financial statements under the Indian Bands Revenue Moneys Regulations. As such, the government may disclose financial statements to band members.

• (1610)

Mr. Bradley Regehr, from the Canadian Bar Association, stated before the committee:

It is fairly easy in that the minister can provide that information directly to the member, and my understanding is that they do that under the current contribution

agreements.... The minister can already provide that information to the member who is not receiving it directly from the First Nation.

In response to my question about the differences between the bill and current policies, he said:

One difference is that if the First Nations do not comply with the legislation, the federal government can apply to a superior court for an order compelling them to do so, as can any member.

He said:

Under the bill, they would have to go to a superior court. I just do not understand the point of it. The minister can already provide that information to the member who is not receiving it directly from the First Nation. If the First Nation is refusing to do that, the minister already has remedies under the contribution agreements — imposing conditions, clawing back funding, appointing third-party managers or co-managers. I hate to phrase it this way, but what is the point?

At committee, we heard from three band members from three reserves where the leadership refuses to give them the financial information they are supposed to provide to their members. The members’ stories were heartbreaking. We could feel their anger and their frustration, and we were impressed by their courage to stand up despite intimidation and fear of backlash. I have great sympathy and empathy for the band members who appeared as witnesses; and, of course, we all want to help them. However, enacting Bill C-27 will not help them. The remedies in the bill to make their leadership provide financial information to them are already in place in departmental policies and regulations. As I will outline later, these policies are also part of the legally binding contract — the funding agreement entered into by the band and Canada.

In response to my comment that Aboriginal Affairs and Northern Development Canada can release financial information to band members, Ms. Phyllis Sutherland, from the Peguis Accountability Coalition, said:

That is true, and I do not know how to correct that. The minister puts these rules in place and then does not follow through with them, either, so we are left in the same predicament. It is very frustrating. We brought these concerns up time and time again.

Mr. Michael Benedict, from the Coalition of Abenaki Citizens for a Just, Transparent and Accountable Abenaki Government, said:

Aboriginal Affairs and Northern Development Canada, formerly known as INAC, has a track record of wilfully turning away from clear abuses of financial, electoral and environmental mismanagement amongst First Nation governments, despite cries for help by the latter’s citizens,...

He also said:

... requests for information to Aboriginal Affairs and Northern Development Canada by First Nations citizens about their respective First Nation are generally redirected to that First Nation government, which has refused information in the first place, even if that information is supposed to be legally and publicly available.

Ms. Beverly Brown, from the Squamish First Nation, said:

I also requested that information from the B.C. region AANDC and received no response. I was stonewalled and told to go back to chief and council for that information.

Mr. Colin Craig, from the Canadian Taxpayers Federation, said:

The feedback that we have heard overwhelmingly from many different band members is they cannot get it from their communities, so then they go to the federal government. In the past, they have been denied the information from local Aboriginal and Northern Affairs offices. They have been told, "No, no, go get this from your band," so they are getting caught in a loop.

Honourable senators, it is clear from these statements that Aboriginal Affairs and Northern Development Canada is creating or exacerbating the problem by not releasing a band's financial information to its members.

The second fact is that Aboriginal Affairs, under existing rules, cannot release the confidential financial information of a First Nation to the general public. Thus, Aboriginal Affairs and Northern Development Canada cannot release confidential information, such as names and information on own-source revenues, to the public or public groups, such as the Canadian Taxpayers Federation.

Under the court ruling in *Sutherland*, 1994, the Federal Court ruled that the names of persons who had provided credit to or received a loan from a First Nations band and the job descriptions or salaries of certain band positions are "personal information" as defined under the Privacy Act. As such, access to information requests for chief and council salaries and remuneration under the Access to Information Act prohibit the government from disclosing such information.

Under the court ruling in *Montana*, the Federal Court held that First Nations' financial statements are confidential information within the meaning of section 20(1)(b) of the Access to Information Act and, therefore, are not subject to public disclosure by the government.

Former Minister of Aboriginal Affairs and Northern Development John Duncan appeared before the committee and said:

The other thing we have to recognize is that the Privacy Act currently prohibits the department from publishing or from divulging chief and council member salaries and remuneration. The effect of Bill C-27 is that that would then give us the legal authority to do so,...

What the minister did not make clear was that he can release this information to band members but not to the general public.

In committee, the Canadian Taxpayers Federation stated:

We are routinely copied on requests to the federal government in cases where band members cannot get the information locally.

This is rather strange. Why does the department do that? They know that the Canadian Taxpayers Federation is a public body and cannot get information on chief and council salaries because of the Privacy Act; and they know that the band member can. The situation is illogical. The department is creating more frustration for band members by sending them to a public body that they know cannot help them.

The third fact is that by enacting Bill C-27, the Conservatives will be eliminating the freedom of First Nations to make their own decisions with respect to public disclosure of their private financial information. Under the existing rules and regulations, First Nation bands have a choice: They, not Aboriginal Affairs and Northern Development Canada, get to decide whether to release their confidential information to the general public.

Section 7 of the Year-end Financial Reporting Handbook states:

7.2 Background

The Government of Canada acknowledges and respects the confidentiality of the Recipient's consolidated audited financial statements.

...

7.3 Disclosure with Consolidated Financial Statements

If a recipient prefers full disclosure to the public of its consolidated financial statements prepared in accordance with the Year-End Financial Reporting Handbook (YEFRH) instead of preparing a separate financial schedule as outlined in 7.4, then the recipient must accompany its financial statements with a signed Band Council Resolution, Chief's Resolution or other similar document authorizing the Government of Canada to disclose the information to the general public.

The information requirements set out in Sections 6.2, 6.3, 6.4 and 6.5 of the YEFRH are not mandatory for public disclosure using this option. The choice to omit this information must be identified through the signed Band Council Resolution, Chief's Resolution or other similar document that is submitted to INAC.

The fourth fact is that enacting Bill C-27 will not clamp down on the few non-compliant First Nations because it legislates the same policies and regulations — the exact same tools that

AANDC already has. If Aboriginal Affairs cannot make a non-compliant First Nation comply now, it still will not be able to do so because Bill C-27 does not contain any new remedies to do that.

• (1620)

At a departmental technical briefing for our committee members on February 5, it was revealed through questioning that there are no different remedies in the bill. Witnesses who appeared at the committee confirmed this fact.

Michael McKinney, from the Sawridge First Nation, emphatically told the committee that there are no new tools for compliance in Bill C-27. He said:

The regulations, as well as the handbook for accounting for First Nations, require not only the posting of the information but also the provision of the financial information to the minister or the department. The consequence, currently, is that if a First Nation does not provide appropriate audit requirements, the government will refuse to provide funds. I do not know how this bill changes that, other than this bill now makes it public to the whole world and provides for a court order, which is likely possible under the regulations in any event. If there is a regulation that you are not complying with, someone can go to court and seek... some kind of order requiring you to comply. I do not see how this bill fixes that problem. If someone does not want to follow the law, they are not going to follow the law.

This sentiment was reiterated by the Assembly of First Nations, where Jody Wilson-Raybould said:

In its current form, Bill C-27 will do little to practically support true First Nations' accountability or nation rebuilding and will simply further impose federal rules upon our governments.

The bill's sponsor, Senator Patterson, during clause-by-clause consideration of the bill, stated:

We are not talking about some radical imposition of new reporting or new disclosure requirements. They are already there....

It is not much different from what is in place now.

Honourable senators, as I said at the beginning of my speech, Bill C-27 is all smoke and mirrors, meant to fool us and the Canadian public.

The government cannot justify eliminating the privacy rights of all First Nation bands, using the excuse of protecting and helping band members from a few First Nations, because they know that Aboriginal Affairs is partly responsible for creating the problem. Even without Bill C-27, Aboriginal Affairs and Northern Development Canada could help band members by giving them their band's financial information, but they do not. Instead of actually helping frustrated band members, the government seems to have used them as an excuse to put forth this bill.

If that is not bad enough, the government is providing false hope to band members from the few allegedly corrupt First Nations. Aboriginal Affairs and Northern Development knows this bill will not make those noncompliant First Nation leaders comply. There are no new remedies in this bill.

As I said before, honourable senators, in the end, Bill C-27 will be like the long-gun registry legislation that did not work and that was recently repealed by this government. It was meant to clampdown on a small subset of gun owners, but, instead, it punished and angered law-abiding long-gun owners, such as farmers and hunters. In fact, hunters who deliberately refused to comply were not prosecuted.

As I said before, the same fate is in store for Bill C-27. It is meant to target a small subset of First Nation bands, but it, too, will be ineffective. Similarly, Bill C-27 will penalize and anger law-abiding First Nation bands, the vast majority of which, like the hunters, are doing nothing wrong. Perhaps after the bill is enacted, they, too, will refuse to comply. Perhaps they all should refuse to comply.

The point that I am trying to make, honourable senators, is that this bill is a toothless tiger. It does not have the teeth — the enforcement power — to make those few-and-far-between chiefs who refuse to release financial information to their band members do so because the same ineffective remedies are used.

Importantly, however, the minister and the department never voluntarily pointed that out and, if that is not bad enough, they never admitted that they can, in fact, without passing the bill, provide to the band members the financial information that they want from their chief. Let me repeat that. They never admitted that the minister can provide a copy of the financial information that the band submits to the department. The department can do this already because of the 2006 *Sawridge* decision.

Let me repeat that again. If a band member cannot get the band's financial information from their chief and council, the minister can give them a copy. Yet, band members told us that the department would not do so. Who is the guilty party here — the chief and council, the minister, or both? Obviously, it is both, but it is the minister and the department who created the problem by not enforcing their own rules which require chief and council to give copies of their financial information to their band members. The minister and the department have exacerbated the problem by not giving the information to the band members.

Honourable senators opposite, either you do not understand or you are wilfully ignoring the fact that you are holding out a promise of false hope to the band members who appeared before us as witnesses. They do not want our pity; that would be insulting. They want action. They want their problems to be solved. This bill will not help them. You know it will not. You are misleading them. You are giving them false hope simply to justify your own agenda of legislating away the free choice of First Nations to decide for themselves whether or not to release their financial information to the general public and not just to their own members.

Honourable senators, how can we, in good conscience, legislate away the free choice of First Nation bands whether or not to release their schedules of salaries and expenses and their audited

consolidated financial statements, including confidential information protected by the Privacy Act, to the public at large? We ourselves do not have to release the dollar value of our salaries from all sources, nor do we have to release any details of our expenses to the public.

To his credit, the sponsor of the bill stated in a news release that he would release the details of his living expenses if the rules of the Senate were revised to make that a requirement. That is all well and good but, as senators, we have a choice and we get to devise our own set of rules. We can choose to release the details of our expenses, and we can decide among ourselves whether or not to make that a rule. On the contrary, this government and we, as senators, are imposing Bill C-27 on First Nations without their input and consent and, worse yet, we will be eliminating their freedom to choose to release their financial information to the public.

Honourable senators, it is pure hypocrisy for us, as senators, to impose upon First Nation bands a standard of transparency and accountability higher than that to which we ourselves are held.

Honourable senators, let me give you an analogy that might make it clear to you why this bill should have been at least withdrawn at committee for consultation or should even be defeated now.

Currently, the media are having a field day insinuating that all of us — all senators — are filling our pockets with taxpayers' money by being reimbursed for inappropriate expense claims. While a few senators are alleged to have made inappropriate expense claims, the media has portrayed us all as living high off the hog, and all of us are seen as being corrupt. This over-generalization has even fuelled the calls for Senate reform and Senate abolition. Just because there have been a few senators undergoing investigation of their expense claims, all of us are seen to be guilty of bilking the system and the ensuing public outcry has essentially demanded that we all be terminated. This certainly is not a reasonable or fair demand. Surely only those senators who are found to be guilty of wrongdoing should be subject to punishment or penalties. Surely those of us who have done nothing wrong should not be penalized.

Under the current circumstances, we, as individuals, are experiencing what is happening to First Nation chiefs.

• (1630)

While there are a few chiefs who are alleged to be corrupt and who appear to be collecting exorbitant salaries, these allegations have been generalized to the unwarranted conclusion that all chiefs are corrupt, just like we senators are all seen as being corrupt.

In Bill C-27, because it is assumed that all chiefs are corrupt, all chiefs will be forced to disclose their schedule of salaries and financial statements to the public at large. The more appropriate response should have been to target those few chiefs who have been found guilty of financial wrongdoing.

Do honourable senators opposite understand this analogy? I sincerely hope so. Please take it to heart and mind, and reconsider how to vote when it comes to passing this bill.

[Senator Dyck]

There is no doubt that this bill is ill-conceived. Terry Goodtrack from the Aboriginal Financial Officers Association of Canada and Bradley Regehr from the Canadian Bar Association were crystal clear in their opposition to this bill. Furthermore, Harold Calla from the First Nations Financial Management Board stated that the bill should be subject to the applicable privacy laws. It is important to note that the First Nations chiefs who appeared as witnesses, and the Assembly of First Nations, were opposed.

At committee, our side introduced a motion to withdraw Bill C-27, to consult and accommodate First Nations, but the side opposite voted it down. That was somewhat surprising. It was as if the chiefs' protest on the Hill in December — the Idle No More protests and Chief Spence's hunger strike — and the recommitment to the respectful Crown-First Nations relationship on January 11 did not happen.

Furthermore, at committee we were told by the Grand Chief of the Treaty 6 Confederacy that they had requested urgent action from the United Nations Committee on the Elimination of Racial Discrimination to combat the "tsunami of legislation" affecting First Nations.

For all of these reasons, Conservative senators on the Standing Senate Committee on Aboriginal Peoples should have voted to withdraw Bill C-27 so that First Nations could have had a chance to be consulted. Instead, they voted to send Bill C-27 unchanged to this chamber for third reading.

For the record, I will repeat the comments I made on March 6 on my motion to withdraw Bill C-27 at committee:

Yesterday at our committee meeting, Regional Chief Jody Wilson-Raybould of the British Columbia Assembly of First Nations, supported withdrawal of Bill C-27. I will quote from the transcript. She stated:

... I want to make it clear that the Assembly of First Nations and First Nations' governments had no involvement in the development of this bill. There are obligations on Canada for consultation, and it is unfortunate that we do not have a clear process or agreed to mechanism to ensure First Nations' involvement. The AFN welcomes calls from honourable senators and previous witnesses for this bill to be withdrawn. In its current form, Bill C-27 will do little to practically support true First Nations accountability or nation rebuilding and will simply further impose federal rules upon our governments. In addition, there is the real potential for legal challenge if Canada continues to impose legislation on First Nations without meaningful consultation.

It will not increase accountability and transparency. This bill has been considered quite substantially. There is an opportunity with the new Minister of Aboriginal Affairs, Minister Valcourt, to reflect on the evidence before the committees and to reflect on Bill C-27 and consider, given all the policy discussions and rationales, whether or not the purpose of Bill C-27 is in fact actually achieved. I think that is an opportunity for the new minister.

Continuing with what I said at committee:

I agree that Minister Valcourt should be given the opportunity to review the deliberations that have taken place in this committee and come to his own conclusions about the important issues of consultation and effectiveness of the bill. In addition, last week the Grand Chief of the Confederacy of Treaty 6 Nations said:

We have just returned from Geneva where we made two urgent action appeals before the UN Committee on the Elimination of Racial Discrimination. One appeal was to complain about the current tsunami of legislation that has been launched contrary to our treaty relationship and in fact causing great damage to that relationship. As treaty peoples we have the right to be involved in decisions related to our rights, especially as it relates to decisions on our lands and resources.

We believe this committee should obtain legal advice from Parliament's own legal advisors as to whether Parliament has satisfied its own obligations to ensure that Bill C-27, if passed, will not interfere with the inherent right, guaranteed by treaty, of First Nations self-government. It cannot rely upon the government lawyers to provide this advice.

Later, I said:

Recently, when sections of the budget implementation Bill C-45 were in front of this very same committee, our committee unanimously agreed that simply sending a letter to First Nations after the legislation had been tabled did not meet any requirement for consultation. I will read from the observation that we unanimously supported less than four months ago. Our committee observed:

The committee further notes with extreme concern that the Minister of Aboriginal Affairs and Northern Development sent a letter informing First Nation Chiefs and Councils of these amendments only after the bill had been introduced. This, in the opinion of your committee, is insulting to First Nations and is unacceptable. The committee is very concerned that the manner in which these amendments were introduced represents a missed opportunity to meaningfully engage with First Nations people and to achieve consensus on an issue of importance to all First Nations with reserve lands governed by the Indian Act.

Honourable senators, if we are parliamentarians of our word, we cannot let this insulting and unacceptable pattern of non-consultation continue. It is clear from the testimony from witnesses that First Nations were not consulted on Bill C-27. This committee has worked to achieve great things for First Nations people over the years; and there is some precedent on the issue of withdrawal due to lack of consultation. Some honourable senators will remember that when the first iteration of Bill S-11, the safe drinking

water for First Nations, was introduced, this committee passed a motion to withdraw the bill so that consultation with First Nations could be achieved.

That motion was introduced by Senator Dallaire, who used to sit on this committee. The motion passed with support from both sides.

Therefore, I urge all honourable senators to be consistent with our past actions of withdrawing Bill S-11 and our strong words in our Bill C-45 observations regarding lack of consultation. I ask for your support to pass my motion to withdraw Bill C-27 so that Minister Valcourt can study what our witnesses have recommended and undertake any necessary actions deemed appropriate in the spirit of this year's recently renewed Crown First Nation relationship. By passing this motion, we will provide Minister Valcourt and the department the opportunity to meaningfully engage with First Nations people and to achieve consensus on the issue of importance to all First Nations with reserve lands governed by the Indian Act.

Honourable senators, as I stated yesterday during debate, First Nations peoples are concerned about the implementation of Bill C-27 on April 1 of this year. Aboriginal Affairs officials have the 2013-14 funding agreements and amending agreements in hand and are asking First Nations to sign on, but First Nation bands are concerned about being asked to comply with legislation into which they have had no input: Bill C-38, Bill C-45 and now Bill C-27.

Senator Patterson confirmed yesterday that if we pass this bill by the end of March, it will come into effect on April 1, 2013. First Nations will have this bill imposed upon them without their consent and without being consulted. There is no reason to impose this bill on the vast majority of First Nations. They have done nothing wrong, just like most, if not all, of us senators.

• (1640)

Honourable senators, if you look at the 2012-13 funding agreement that I referred to yesterday, you will see all the policies that a First Nation has to comply with in order to get and maintain band funding. Under section 6, there are numerous policies to provide transparency and redress, and to provide disclosure of financial information, including personal information, to band members.

Honourable senators, this bill is ill-conceived, ill-informed and unnecessary. The funding agreement process wherein Aboriginal Affairs exerts overwhelming power contains all the provisions necessary for a First Nation band to be accountable to its members. Furthermore, these agreements are not just administrative; they are legal contracts that require bands to be accountable and transparent to the members. If they contravene these provisions, Aboriginal Affairs can take remedial action. It is listed in the contract and it can even terminate all funding, as listed in the contract, the same remedy included in clause 13 of Bill C-27.

As I stated yesterday, over the last few weeks officials from Aboriginal Affairs were criss-crossing the country with the 2013-14 funding agreements and the 2013-14 amending agreements.

However, this year there is a heightened, significant concern about the imposition of unwanted legislation through signing these agreements.

Yesterday, for example, a news article stated:

One of the poorest aboriginal communities in Canada is considering signing a \$16 million funding agreement with Ottawa despite worries the document will compromise their rights.

The Burnt Church First Nation in New Brunswick will hold a meeting tomorrow to discuss entering into an annual funding agreement with Aboriginal Affairs despite having reservations about major changes to the agreement.

The community is worried the document could compromise their treaty rights and jeopardize an upcoming lawsuit against the federal government, a community official said.

“On Friday we voted pretty well unanimously not to sign it, but after a few days of letting it sink in I’m almost certain that some of the council and the chief — they see it and we’ve got a gun to our head and what do we do? It’s almost no choice,” he said, adding the federal government is “basically saying to us, ‘sign the agreement or your people are going to starve.’”

Bartibogue [a councilor of that First Nation] said meetings with regional Aboriginal Affairs officials Friday were unsuccessful and the community’s attempt to sign the agreement under duress — as a way to protest the contents of the document — were shot down.

Bartibogue said the community voiced their concerns to Aboriginal Affairs Minister Bernard Valcourt during a meeting in Miramichi, N.B., on March 13 — two days after the group received the document and two days before the deadline to sign. He said leaders complained about a lack of consultation on the changes and asked for an explanation on why the agreement appeared to hold them to welfare changes they opposed in Bill C-38.

Valcourt told the community not to worry, Bartibogue said, and assured the community that the agreement would not negatively affect their case.

He said officials threatened to impose third-party management on the First Nation if they didn’t sign the agreement.

Bartibogue said at least five other First Nations groups in New Brunswick and several in western Canada may also be holding off on signing agreements over similar changes to their contracts.

“It’s not just us, but it’s across the country,” Bartibogue said. “They changed it so drastically.”

“They are talking about a new funding agreement that is not going to work for the people.”

Honourable senators, there can be no worse time than now to be imposing yet another unwanted, unnecessary bill on First Nations.

MOTION IN AMENDMENT

Hon. Lillian Eva Dyck: Honourable senators, therefore, I move:

That Bill C-27 be not now read a third time but be read a third time this day six months hence.

Some Hon. Senators: Hear, hear.

(On motion of Senator Chaput, debate adjourned.)

[*Translation*]

ALLOTMENT OF TIME—NOTICE OF MOTION

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, I spoke with the Deputy Leader of the Opposition about the time that should be allocated for this debate and, considering how important it is that the bill be enacted before March 31 so that it can be applied immediately to the accounting practices of First Nations groups, we tried to reach an agreement on the amount of time to be allocated to this debate, and we were unable to do so.

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

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

[*English*]

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, we are now out of government business. It being past 4 p.m. and pursuant to the order adopted by the Senate on October 18, 2011, I declare the Senate continued until Thursday, March 21, 2013, at 1:30 p.m., the Senate so decreeing.

(The Senate adjourned until Thursday, March 21, 2013, at 1:30 p.m.)

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