SENATE SÉNAT

CANADA

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OFFICIAL REPORT
(HANSARD)

Thursday, June 5, 2014

The Honourable NOËL A. KINSELLA
Speaker

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

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

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# THE SENATE

**Thursday, June 5, 2014**

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

Prayers.

## NEW BRUNSWICK—FALLEN RCMP OFFICERS

SILENT TRIBUTE

**The Hon. the Speaker:** Honourable senators, before we proceed, I would ask senators to rise to observe one minute of silence in memory of the three Royal Canadian Mounted Police officers serving in Moncton, New Brunswick, whose tragic deaths occurred last night in the line of duty.

*Honourable senators then stood in silent tribute.*

# SENATORS' STATEMENTS

## FALLEN RCMP OFFICERS

**Hon. Vernon White:** Honourable senators, I would like to offer my condolences to the families of those slain in New Brunswick and, of course, to the community members impacted last night. As well, I would like to pass on my condolences to those who serve each and every one of us at the national, provincial and municipal levels and in the military as police and peace officers across this nation and beyond.

The brotherhood of policing is often referred to as a strong family. That's true, but they also hurt as a family when someone is taken away, such as these three have been.

My thoughts and prayers go to all who will be impacted by this horrific criminal act — the families, the friends, the co-workers and the community members in Moncton.

**Hon. Rose-May Poirier:** Honourable senators, it is with a heavy heart and a troubled mind that I rise today to commemorate the victims of yesterday's tragic shooting in Moncton.

Yesterday a young man from the area shot and killed three RCMP officers and injured two more officers. These horrible and violent crimes also jeopardized the security of our communities. For a respectful, pleasant and tight-knit community such as Moncton, these violent acts are upsetting and troubling for all residents. I would also like to recognize the citizens of Moncton for their cooperation with the police force, allowing them to do their work professionally in order to protect the community.

In a peaceful and respectful society like ours, we sometimes take for granted the incredible courageous sacrifice our men in uniform make to maintain the peace and the security in our lives. We cannot ever thank and recognize enough the work and the dedication of our honourable police officers. They risk their lives every day to ensure the safety of our communities.

To all fallen, past and current members of our law enforcement in Canada: You have our utmost gratitude, respect and support for the remarkable work that you do in keeping our lives safe.

[*Translation*]

Honourable senators, I am from Saint-Louis-de-Kent and am very familiar with the Moncton area. This community is known for its fortitude. I am confident that the people there will overcome this tragedy by leaning on one another and drawing on their courage and strength of character. We support the RCMP's efforts to find the person responsible for these acts and restore peace and tranquility to the area.

Honourable senators, this is a very sad time for the people of Moncton, New Brunswick and Canada. Please join me in extending our condolences to the families of the fallen and injured police officers. You are in our thoughts and prayers at this difficult time.

[*English*]

**Hon. James S. Cowan (Leader of the Opposition):** Honourable senators, I wish to associate those of us on this side with the words of Senator Poirier and Senator White on the tragic events in Moncton. Our hopes and our prayers are with the families of the fallen and with the community as well, which is obviously grief-stricken by this horrific event.

## D-DAY

SEVENTIETH ANNIVERSARY

**Hon. James S. Cowan (Leader of the Opposition):** Honourable senators, 70 years ago tomorrow, Prime Minister Winston Churchill rose in the British House of Commons and said:

> [D]uring the night and the early hours of this morning, the first of the series of landings in force upon the European Continent has taken place. In this case the liberating assault fell upon the coast of France. An immense armada of upwards of 4,000 ships, together with several thousand smaller craft, crossed the Channel. Massed airborne landings have been successfully effected behind the enemy lines, and landings on the beaches are proceeding at various points at the present time. . . . Reports are coming in in rapid succession. So far the commanders who are engaged

> report that everything is proceeding according to plan. And what a plan! This vast operation is undoubtedly the most complicated and difficult that has ever taken place.

Those are the words of Prime Minister Churchill.

On June 6, 1944, more than 24,000 Canadians — some still in their teens — took part in the Allied invasion of Normandy. This number included 14,000 soldiers who took Juno Beach under heavy fire and another 450 who dropped behind enemy lines by parachute and glider. The units came from across the country: the North Nova Scotia Highlanders; the Régiment de la Chaudière; the Queen's Own Rifles from Ontario; the Royal Winnipeg Rifles; and the Canadian Scottish from Victoria, to name but a few. Ten thousand sailors supported the invasion from the ships of the Royal Canadian Navy, which included the destroyers HMCS *Sioux* and *Algonquin*. Lancaster bombers and Spitfire fighters from the Royal Canadian Air Force flew overhead.

So began the liberation of Western Europe from the nightmare that was the Nazi occupation. It is so easy to look back and see the past in light of what we know came after — to see the victory of the Allied invasion as somehow assured. But success was far from certain; the challenges faced by the united Allied forces were immense. As Churchill, that great war historian as well as leader, said, the D-Day operation was undoubtedly the most complicated and difficult ever mounted.

Victory did not come without a price: 340 Canadians died on the first day of that invasion alone. More than 45,000 Canadians gave their lives in World War II. Faced with such large numbers, one can forget that the real tragedy of war is always individual. Each young man who fell left behind family, friends and, too often, young children whose lives would never again be whole.

In Parliament, the Memorial Chamber within the Peace Tower is a solemn space where all Canadians may come to remember the sacrifices that our shared values have required from time to time. There are housed the Books of Remembrance, which contain the names of all Canadians who died in the service of their country to the present day. Each day, at 11 o'clock, the pages of the Books are turned so that each page of each Book appears at least once in the course of a year.

These remind us that the fight for freedom, justice and peace is not over; it continues to be waged and our brave men and women in uniform continue to stand ready to give the ultimate sacrifice in that battle.

• (1340)

A number of our World War II veterans — those who can still travel — have returned to France to commemorate the seventieth anniversary of D-Day. The ceremonies will be attended by Queen Elizabeth, President Barack Obama, many European leaders and our own Prime Minister. But whether they are there this week or at home with their loved ones, the memories are powerful.

Bill McGowan of Manitoba landed in Normandy on June 7 with the Fort Garry Horse. He is now 90 years old. He can't travel to France for the commemoration, but he doesn't need to be there to know how it feels. In his words:

> You can't believe the emotion that there is with the French people today. The kids, they climb all over you. They want to touch you. They still celebrate in the villages the day they were liberated by the Canadian Army.

The French people are forever thankful.

Bill McGowan and his comrades-in-arms have left an indelible imprint upon Europe and indeed the world. Who can contemplate what history would have been — what our own lives would have been — if the Allies had not won?

Canadians and the world will never forget what Bill and his fellow soldiers in the 3rd Canadian Infantry Division did on Juno Beach that day and the sacrifice they were prepared to make so that all of us could live in a better world.

**Hon. Senators:** Hear, hear!

## THE HONOURABLE WILLIAM HUNTER "BILL" MCKNIGHT, P.C.

### CONGRATULATIONS ON HONORARY DEGREE

**Hon. David Tkachuk:** Honourable senators, last night in Saskatoon a reception was held celebrating the honorary doctorate of laws that was conferred earlier that day by the University of Saskatchewan on the Honourable Bill McKnight, P.C.

Former minister in the governments of Prime Ministers Clark and Mulroney, Bill served his country as Minister of Indian Affairs and Northern Development, Minister of Labour, Minister Responsible for Canada Mortgage and Housing, Minister of Western Diversification, Minister of Agriculture, Minister of Mines and Resources and, during the first Gulf War, Minister of National Defence.

Bill was elected in 1979 and re-elected until his retirement from politics in 1993. He represented the Rosetown-Kindersley riding with pride and energy. In every portfolio he earned the respect of all who worked with him. He is an honorary chief of the Muskeg Lake Cree Nation and served as Saskatchewan Treaty Commissioner for five years, from 2007 until 2012.

Before becoming a member of Parliament, Bill was a successful farmer from Wartime, Saskatchewan. He never forgot his rural roots and his total lack of pretension endears him to all who have

been fortunate to meet him. He was highly regarded by two prime ministers who always gave him challenging portfolios. He and his wife Bev now live in the city of Saskatoon.

His distinguished service to his country, his province and his party has earned him this honorary degree. If I may, on behalf of the Senate of Canada, say congratulations to him and thank you.

## THE HONOURABLE WILFRED P. MOORE

### CONGRATULATIONS ON HONORARY DEGREE

**Hon. Terry M. Mercer:** Honourable senators, as a graduate and proud supporter of Saint Mary's University in Halifax, I would like to take a few moments to recognize one Santamarian's hard work and dedication, Senator Wilfred P. Moore.

Since graduating in 1964 with a Bachelor of Commerce degree, Senator Moore continues to remain active and invested in the university and his community. Senator Moore was awarded an Honorary Doctorate of Laws degree in October 2007 by Saint Mary's in recognition of his hard work and success.

But the dedication to Saint Mary's did not end there. In 2009, Senator Moore established an endowment at the school, creating the "Senator Wilfred P. Moore Bursary." This awards first-year students attending the Sobey School of Business a $1,000 bursary.

Senator Moore has not only invested his time and money in Saint Mary's, but also in Halifax, itself.

From being an alderman on Halifax City Council to serving as deputy mayor, Senator Moore has invested in the city for a long time now. For example, he was a founding director and chairman of the Halifax Metro Centre and was voluntary chairman of the Bluenose II Preservation Trust Society.

Last month, Senator Moore was awarded another honorary degree, this time from the Nova Scotia College of Art & Design. NSCAD, as it is known, is an internationally recognized university of the visual arts and Canada's premiere art and design university.

Senator Moore helped create the NSCAD Community Studio Residency in Lunenburg, Nova Scotia, which has entered its eighth year. This allows recent NSCAD graduates to develop their skills in their own studio space. Most importantly, many former students have stayed to live and work in Lunenburg because of this program, which has also become a model for similar programs across the province.

Honourable senators, throughout all of Willie's hard work at Saint Mary's, NSCAD and indeed the City of Halifax, he hopes that others will follow in his footsteps upon graduation and someday give back to their schools and to their communities. It is, after all, the strength of those experiences that helped them reach their goals in the first place.

I encourage us all to be as active and invested in our schools and communities. Thank you, Willie, for helping to teach and mould the young minds of tomorrow and congratulations on another well-deserved honour.

**Hon. Senators:** Hear, hear!

## THE HONOURABLE ALEX B. CAMPBELL

**Hon. Catherine S. Callbeck:** Honourable senators, this past week the Prince Edward Island Museum and Heritage Foundation launched a biography of that province's longest-serving premier, the Honourable Alex B. Campbell.

Mr. Campbell became premier in 1966 and was re-elected in 1970, 1974 and 1978. He is one of the most important public figures in the history of the province, not simply because of his long service but also because, under his government, some of the most far-reaching reforms were undertaken which helped to transform the province and its people.

The Campbell government accelerated the growth and development of the primary industries of agriculture, forestry, fisheries and tourism. It diversified the economy, attracting many new industries. It established the University of Prince Edward Island and Holland College, consolidated schools, and opened up many new opportunities for young Islanders. The new Queen Elizabeth Hospital was initiated and major changes were made in the way social programs were developed and delivered. There were major investments in infrastructure and housing, along with many other long-overdue initiatives that helped to address the problems of regional disparity and narrow the income gap between Islanders and other Canadians. The Campbell government made much-needed investments and reforms that the province had never before experienced and which still resonate today.

Most appropriately, the book is entitled *Alex B. Campbell: The Prince Edward Island Premier Who Rocked The Cradle*.

I was privileged to serve in the Campbell government for four of those years as Minister of Health and Social Services. Much of my inspiration in public life came from working with Alex Campbell.

The biography was written by Wade MacLauchlan, president emeritus of the University of Prince Edward Island, following extensive research. It is both comprehensive and highly readable, telling us all about Alex Campbell and the period in which he was such a dominant figure.

I want to congratulate Wade MacLauchlan and the Prince Edward Island Museum and Heritage Foundation on the completion of this ambitious and highly worthy project.

[*Translation*]

# ROUTINE PROCEEDINGS

## CONFLICT OF INTEREST AND ETHICS COMMISSIONER

2013-14 REPORT TABLED

**The Hon. the Speaker:** Honourable senators, I have the honour to table, in both official languages, the 2013-14 report of the Conflict of Interest and Ethics Commissioner on her activities in relation to public office holders, pursuant to paragraph 90(1)(*b*) of the Parliament of Canada Act.

[*English*]

## INFORMATION COMMISSIONER

2013-14 ANNUAL REPORT TABLED

**The Hon. the Speaker:** Honourable senators, pursuant to section 38 of the Access to Information Act, I have the honour to table, in both official languages, the annual report of the Information Commissioner covering the period from April 1, 2013, to March 31, 2014.

## INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

FIFTH REPORT OF COMMITTEE PRESENTED

**Hon. Larry W. Smith,** member of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Thursday, June 5, 2014

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

FIFTH REPORT

Your Committee recommends that the following funds be released for fiscal year 2014-2015.

**Legal and Constitutional Affairs (Legislation)**

| | | |
|---|---|---|
| General Expenses | $ | 5,000 |
| Total | $ | 5,000 |

Respectfully submitted,

NOËL A. KINSELLA
*Chair*

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

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

• (1350)

## NATIONAL HEALTH AND FITNESS DAY BILL

TENTH REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE PRESENTED

**Hon. Kelvin Kenneth Ogilvie,** Chair of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Thursday, June 5, 2014

The Standing Senate Committee on Social Affairs, Science and Technology has the honour to present its

TENTH REPORT

Your committee, to which was referred Bill S-211, An Act to establish a national day to promote health and fitness for all Canadians, has, in obedience to the order of reference of Tuesday, May 6, 2014, examined the said bill and now reports the same without amendment.

Respectfully submitted,

KELVIN K. OGILVIE
*Chair*

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

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

[*Translation*]

## TRANSPORT AND COMMUNICATIONS

BUDGET AND AUTHORIZATION TO TRAVEL—STUDY ON THE CHALLENGES FACED BY THE CANADIAN BROADCASTING CORPORATION—SIXTH REPORT OF COMMITTEE PRESENTED

**Hon. Dennis Dawson,** Chair of the Standing Senate Committee on Transport and Communications, presented the following report:

Thursday, June 5, 2014

The Standing Senate Committee on Transport and Communications has the honour to present its

SIXTH REPORT

Your committee, which was authorized by the Senate on Monday, December 9, 2013, to study the challenges faced by the Canadian Broadcasting Corporation in relation to the changing environment of broadcasting and communications, respectfully requests funds for the fiscal year ending March 31, 2015, and further requests, for the purpose of such study, that it be empowered to travel outside Canada.

Pursuant to Chapter 3:06, section 2(1)(*c*) of the *Senate Administrative Rules*, the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that committee are appended to this report.

Respectfully submitted,

DENNIS DAWSON
*Chair*

(*For text of budget, see today's* Journals of the Senate*, Appendix A, p. 924*.)

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

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

[*English*]

## NATIONAL SECURITY AND DEFENCE

BUDGET AND AUTHORIZATION TO ENGAGE SERVICES AND TRAVEL—STUDY ON THE MEDICAL, SOCIAL, AND OPERATIONAL IMPACTS OF MENTAL HEALTH ISSUES AFFECTING SERVING AND RETIRED MEMBERS OF THE CANADIAN ARMED FORCES AND THE SERVICES AND BENEFITS PROVIDED TO MEMBERS AND THEIR FAMILIES—NINTH REPORT OF COMMITTEE PRESENTED

**Hon. Roméo Antonius Dallaire,** Deputy Chair of the Standing Senate Committee on National Security and Defence, presented the following report:

Thursday, June 5, 2014

The Standing Senate Committee on National Security and Defence has the honour to present its

NINTH REPORT

Your committee, which was authorized by the Senate on Wednesday, April 9, 2014 to study mental health issues affecting serving and retired members of the Canadian Armed Forces, respectfully request funds for the fiscal year ending March 31, 2015 and requests, for the purpose of such study, that it be empowered:

(*a*) to engage the services of such counsel, technical, clerical and other personnel as may be necessary; and

(*b*) to travel inside Canada.

Pursuant to Chapter 3:06, section 2(1)(c) of the *Senate Administrative Rules*, the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that committee are appended to this report.

Respectfully submitted,

ROMÉO A. DALLAIRE
*Deputy Chair*

(*For text of budget, see today's* Journals of the Senate*, Appendix B, p. 938*.)

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

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

## CANADA NATIONAL PARKS ACT

BILL TO AMEND—ELEVENTH REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE PRESENTED

**Hon. Kelvin Kenneth Ogilvie,** Chair of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Thursday, June 5, 2014

The Standing Senate Committee on Social Affairs, Science and Technology has the honour to present its

ELEVENTH REPORT

Your committee, to which was referred Bill S-5, An Act to amend the Canada National Parks Act (Nááts'ihch'oh National Park Reserve of Canada), has, in obedience to the order of reference of Wednesday, May 28, 2014, examined the said bill and now reports the same without amendment but with an observation which is appended to this report

Respectfully submitted,

KELVIN K. OGILVIE
*Chair*

(*For text of observation, see today's* Journals of the Senate*, p. 916*.)

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

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

## CANADA ELECTIONS ACT

### BILL TO AMEND—TENTH REPORT OF LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE PRESENTED

**Hon. Bob Runciman,** Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, June 5, 2014

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

TENTH REPORT

Your committee, to which was referred Bill C-23, An Act to amend the Canada Elections Act and other Acts and to make consequential amendments to certain Acts, has, in obedience to the order of reference of Thursday, May 29, 2014, examined the said bill and now reports the same without amendment.

Respectfully submitted,

BOB RUNCIMAN
*Chair*

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

**Some Hon. Senators:** Never.

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

## ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

### COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

**Hon. Yonah Martin (Deputy Leader of the Government):** Honourable senators, with leave of the Senate and notwithstanding rule 5-5(a), I move:

That the Standing Senate Committee on Energy, the Environment and Natural Resources have the power to sit on Tuesday, June 10, 2014, even though the Senate may then be sitting, with the application of rule 12-18(1) being suspended in relation thereto.

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

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** Senator Fraser, on a question.

**Hon. Joan Fraser (Deputy Leader of the Opposition):** We were pleased to give leave for this motion to be brought forward, but for the record I wonder if the Deputy Leader of the Government would explain briefly why.

**Senator Martin:** It was at the request of the chair of the committee. I understand that there is an important witness. Given the work to be done at the committee and anticipating that next week may be much busier, he had asked that the motion be given notice today so that they can sit if the Senate is then sitting.

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

**Hon. Senators:** Agreed.

(Motion agreed to.)

## CORRECTIONS AND CONDITIONAL RELEASE ACT

### BILL TO AMEND—FIRST READING

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons with Bill C-479, An Act to amend the Corrections and Conditional Release Act (fairness for victims).

(Bill read first time.)

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

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

• (1400)

[*Translation*]

## RWANDA
## CENTRAL AFRICAN REPUBLIC

### NOTICE OF INQUIRY

**Hon. Roméo Antonius Dallaire:** Honourable senators, I give notice that, two days hence:

I will call the attention of the Senate to the clear and present links between the genocide in Rwanda and the crisis in the Central African Republic today.

[*English*]

# QUESTION PERIOD

## FOREIGN AFFAIRS

### CENTRAL AFRICAN REPUBLIC— UNITED NATIONS MISSION

**Hon. Mobina S. B. Jaffer:** My question is for the Leader of the Government in the Senate. David Stewart from my home city of Vancouver, British Columbia, submitted this question to the Liberal Senate Forum, and I ask it on his behalf. I would like to quote his words directly:

> There is an ethno-religious cleansing occurring right now in Central African Republic. Whether or not it qualifies as genocide is entirely inconsequential. The facts are simple: for months and months, the violence has been brutal, savage, and relentless. Many have been slaughtered. Armed militias have recruited thousands of children as soldiers and sex slaves. Schools across the country remain closed, nourishment is scarce, and preventable diseases run rampant. As we commemorate the 20th anniversary of the Rwandan genocide, one cannot help but recognize the many similarities between the two crises. In 1994, Canada refused the request made by the UN Secretary General to send further reinforcements — ultimately abandoning General Roméo Dallaire and his small contingent of soldiers. Given that there is no strategic benefit to intervention (geopolitical or otherwise), the response of the international community has been minimal. There are no surprises here; this remote region of Africa has been neglected for more than a century. However, Canada is uniquely positioned to play a pivotal role in averting what is likely to develop into a mass atrocity. Our voice is respected, and seen as largely neutral. We belong to La francophonie without the colonial history. Our troops are highly qualified; we have the necessary skills and equipment. And we have the experience. Despite this, as it stands now, Canada has failed to make more than a token contribution. Simply put, humanitarian aid is not going to stop the killings and disarm the militias. Peacekeeping efforts need to be ramped up considerably. There are currently 8,000 soldiers on the ground, which, on a per capita basis, pales in comparison to the number of peacekeepers sent to Bosnia and Kosovo. The UN has estimated that it requires a minimum of 12,000 soldiers in order to adequately fulfill its mandate. Canada has the capability to narrow this gap significantly. Have we already forgotten the lessons of Rwanda? We made an explicit promise — 'Never Again'. Inaction is entirely immoral, and will likely have devastating consequences. We cannot remain indifferent; we have a responsibility to protect. So, I ask of the Leader of the Government in the Senate: Is our government prepared to defend our country's peacekeeping legacy and abide by the world's moral code by contributing much needed soldiers to the UN mission in Central African Republic?

So the question he has is: Is our government prepared to defend our country's peacekeeping legacy and abide by the world's moral code by contributing much-needed soldiers to the UN mission in the Central African Republic?

[*Translation*]

**Hon. Claude Carignan (Leader of the Government):** I wasn't sure anymore whether we were on Senators' Statements or Question Period. As I have said a number of times, Canada is deeply concerned about the deteriorating security and humanitarian situation in the Central African Republic and about reports of people being targeted because of their religion

Over the past two years, Canada has provided over $23 million to help meet the widespread humanitarian need and $5 million to support efforts by the African Union and France to restore security in the country. Canada is the ninth-largest donor to the UN peacekeeping budget, and it supports the efforts of the United Nations, France and the African Union in this crisis.

As I have already said in response to this question, Canada will continue to closely monitor the situation in the Central African Republic and remains very concerned about what is currently going on in that country.

As for the question specifically on soldiers, as a government we have a responsibility and an obligation to carefully consider our options together with our allies and to make decisions that are in the interest of Canadians. We will continue to provide humanitarian and development assistance to the Central African Republic in order to address the growing humanitarian crisis in that country.

[*English*]

**Senator Jaffer:** Leader, last week, I had the honour to hear the United Nations High Commissioner for Refugees speak at the lecture series at the delegation centre of the Aga Khan Foundation Canada Delegation. The High Commissioner said that he has been to many conflict areas in the world while he has been the High Commissioner for Refugees. He has never seen the situation as bad as it is in the Central African Republic.

Leader, we have sent our peacekeepers to many regions where the situation is dire. As you heard from the questioner, humanitarian aid will not stop the killing. Are we going to be involved in this La francophonie country, or are we going to sit back and see this tragedy continue?

[*Translation*]

**Senator Carignan:** Senator, as I said, through the United Nations, Canada is working with its allies to address the deepening crisis in the Central African Republic. Once again, our government is very serious about its obligations to Canadians, our soldiers and their families, and we will not send

troops into a dangerous situation without carefully evaluating the issue and our options. That's what Canadians expect from a responsible government.

Canada continues to do its part. Once again, we have provided over $23 million in assistance to help meet the widespread humanitarian need in the Central African Republic and $5 million to support efforts by the African Union and France to restore security in the country.

[*English*]

**Senator Jaffer:** Leader, I am very disappointed in the answer you've given that we will look after Canadian interests. The last time I checked, the last time I heard from Canadians, Canadians didn't say that Canadian interests stopped at our boundaries. Canadians are proud of their peacekeeping history and proud of being there to protect people around the world.

Leader, I want to hear from you: Have we forgotten our history of being peacekeepers? Are we now only offering protection within our boundaries?

[*Translation*]

**Senator Carignan:** I think that Canada's efforts are continuing in the tradition of Canadian aid from the beginning and that Canada's involvement should be highlighted. I think you should highlight this significant humanitarian support. As you know, we support the UN and its peacekeeping force. We are the ninth-largest donor country, and we will continue to support the efforts of the United Nations, France and the African Union in this matter.

[*English*]

**Hon. Joan Fraser (Deputy Leader of the Opposition):** This will not take long. The leader's answers remind me of the occasion when I think it might have been Churchill listened to comparable remarks from a minister and said, "The government is obviously very concerned — deeply concerned — concerned enough to take all possible steps, short of actual action."

• (1410)

Leader, this is actually a question I'd like you to take as notice and provide a statistical answer: How many peacekeeping troops has Canada assigned abroad since 2006?

**Senator Mercer:** You don't have to take that as notice; it's easy.

[*Translation*]

**Senator Carignan:** I imagine your research services are not as good as they used to be since that spat with your friends on the other side. I will take your question as notice and provide you with a response.

**Hon. Roméo Antonius Dallaire:** I'm wondering if you should be joking about such a serious issue. You probably feel that your job is simply to give an easy answer. I'm not going to go so far as to use the word "insulting," but that falls far short of what your role should be. We don't find it funny that thousands of people are dying and we could be doing something about it.

Today you said that the government decided that it wouldn't send any Canadian troops through the UN for this mission. It took a few tries, but that's what you said. That means that military personnel advised the government that we shouldn't invest our resources in this mission, which is the sort of mission we committed to when we accepted the responsibility to protect.

Right now, out of 109,000 peacekeepers, Canada has 43. We aren't ranked ninth among countries that are contributing financially, we are ranked 175th. We're closing in on a decade of abandonment. Your government has abandoned the United Nations and peacekeeping.

Are you able to tell us whether the Department of National Defence recommended that the government not get involved in the Central African Republic?

**Senator Carignan:** First, I would like to point out that everyone is familiar with my jokes and my sense of humour. I was talking about research services, not peacekeepers.

Second, I would ask you to be careful in your comments because you are one of the people who have criticized my answers the most in this chamber. I have always tried to be as respectful as possible in my answers, and I don't think you can reproach me for being disrespectful.

Finally, I want to repeat what I said so that you do not take my words out of context or draw the wrong conclusions. I will therefore repeat the exact words I used: We will not send troops into a dangerous situation without carefully evaluating the issue and our options. That's what Canadians expect from a responsible government.

That is my answer.

[*English*]

**Senator Dallaire:** There's an old army expression: If you can't take a joke, don't join.

I return to the question at hand. In the assessment that the Canadian government is taking in regard to the deployment of our forces to reinforce the UN's specific request for Canadian capabilities to be the backbone of that mission versus the ex-colonial power, did the government receive specific military analysis as to our capability of deploying and utilizing forces in that mission?

[*Translation*]

**Senator Carignan:** Senator, you know full well that I cannot answer questions on security, but I want to reiterate that we will not send troops into a dangerous situation without carefully evaluating the issue and our options. I imagine that you are able to understand why this type of analysis is needed.

**Senator Dallaire:** I have one final supplementary question. Are you able to tell us what options the government is currently studying? You have said this a number of times. Can we, as parliamentarians, know the options that the Canadian government is studying?

**Senator Carignan:** I think I have already indicated the various actions that have been taken and can be taken in this matter. I believe I have been clear about the funding for humanitarian needs, the funding to support efforts by the African Union and France to restore security in the country and the funding for the UN peacekeeping budget to support the efforts of the UN.

When I say that we will not send troops into a dangerous situation without carefully studying and evaluating the issue, I think that gives you an idea of the fairly broad range of options examined.

## VISITORS IN THE GALLERY

**The Hon. the Speaker:** I wish to draw to your attention the presence in our gallery of Joel Lafond, Houssemedine Dhoui, Abdellah Bezzahou and Beydi Traoré, representatives of the Association étudiante de l'Université de Saint-Boniface in Manitoba. They are the guests of the Honourable Senator Chaput.

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

**Hon. Senators:** Hear, hear!

[*English*]

## FOREIGN AFFAIRS

### CENTRAL AFRICAN REPUBLIC— UNITED NATIONS MISSION

**Hon. Terry M. Mercer:** Honourable senators, I'm on a different question but I can't help but comment on the Leader of the Government's lack of answers to the very serious questions about the situation in Africa. He's quick to send CF-18s to Europe and make a commitment to send some troops to Europe. I guess if there are votes in it we'll do it; if there are no votes in it, we're not going to do it. That seems to be the answer to the question.

In the fall of 2011 —

**Some Hon. Senators:** Oh, oh!

**Senator Mercer:** What's the matter — a little sensitive over there? Well, the people are sensitive to your inaction on helping the people of Africa. That's the issue there.

## ENVIRONMENT

### IMPACT ON EAST COAST OF GROUNDED SHIP

**Hon. Terry M. Mercer:** Mr. Speaker, in the fall of 2011 Senator Cordy and I asked Senator LeBreton about the MV *Miner*, the ship that went aground off the coast of Cape Breton on Scatarie Island. The federal government, while cleaning up the oil and dirty water, absolved itself of any further support of this environmental disaster and stated that it was the provincial government's responsibility to salvage the ship.

Almost three years later a Nova Scotia company, R J MacIsaac Construction of Antigonish, was finally awarded an $11.9 million contract to clean up the MV *Miner* shipwreck last week. I congratulate the leadership of Premier Stephen McNeil and his Minister of Transport, Geoff MacLellan, for getting this done.

What bothers me is that the federal government continues to absolve itself of any responsibility in this matter. Will the federal government and the Minister of Transport commit to help the Province of Nova Scotia pay for this removal?

[*Translation*]

**Hon. Claude Carignan (Leader of the Government):** Senator, as you know, our government established an expert panel on tanker safety in order to review safety systems. We also adopted new measures that are part of our commitment to establish a world-class tanker safety system and to provide protection.

• (1420)

[*English*]

**Senator Mercer:** You obviously didn't get the right note on the MV *Miner* because that has nothing to do with the issue at hand.

Honourable senators, the federal government was responsible for issuing permits for the towing of the ship from Montreal. That process failed and the ship went aground on Scatarie Island. It is a threat to the fishing industry in Cape Breton and to all kinds of marine, local plant and animal life. It is highly unfair that we Nova Scotian taxpayers are footing the bill for a problem that essentially was created by the federal government. The last leader told us she would pass along a request for a review of the regulations surrounding the transport of salvage vehicles through federal waters. Could the current leader tell us if the ministry is indeed reviewing these regulations?

[*Translation*]

**Senator Carignan:** Excuse me, senator, with all the commotion, I was having a hard time hearing the translation. Could you please repeat your question?

[*English*]

**Senator Mercer:** I will repeat it.

Honourable senators, the federal government was responsible for issuing permits for the towing of the ship from Montreal. The process failed and the ship went aground at Scatarie Island. It is a threat to the fishing industry of Cape Breton and to all kinds of marine, local plant and animal life. It is highly unfair that we Nova Scotian taxpayers are footing the bill for a problem that essentially was created by the federal government.

The last leader told us she would pass along a request for a review of regulations surrounding the transport of salvage vessels through federal waters. Could the current led leader tell us if the ministry is indeed reviewing these regulations?

[*Translation*]

**Senator Carignan:** That is clearer now. The MV *Miner* belongs to Arvina Navigation. The owner is responsible for the ship. As you know, the ship is not obstructing navigation and contains no pollutants. If the MV *Miner* were to become a hazard to navigation, the appropriate departments of the Government of Canada would act swiftly and decisively to solve the problem.

[*English*]

**Senator Mercer:** Honourable senators, I know why I had to repeat the question: He needed time to find the note that the PMO gave him to answer a question on the MV *Miner*.

The application process for the movement of a vessel is a federal responsibility. The awarding of a permit is a federal responsibility. The regulations for moving a vessel through federal waters is also a federal responsibility. What am I missing here? Why is the federal government not aiding the Province of Nova Scotia in paying for the cleanup of this vessel?

[*Translation*]

**Senator Carignan:** Thank you for your question. Your questions are much clearer when you read them than when you try to improvise. As I said, the appropriate departments will act swiftly, if need be.

[*English*]

**Hon. Jane Cordy:** I, too, would like to congratulate the Minister of Transportation, Geoff MacLellan, and Premier Stephen McNeil because they're doing the right thing in the case of the MV *Miner*. Last summer, Progressive Conservative MLA Alfie MacLeod worked with Minister Raitt, but he got no results from the federal minister. Fortunately, the Liberals were elected last fall in Nova Scotia and one of the first things they did was fulfill their promise that they would deal with the MV *Miner*. As Senator Mercer said, I did ask questions about this about a year ago.

Minister Raitt, who grew up in Cape Breton, wrote a letter on Tuesday, June 3, 2014, to the Halifax *Chronicle Herald*. I'll quote from the letter:

> . . . I want to state that I've continuously monitored the ongoing concern related to the MV *Miner*.



It's great that she has shown concern, but there has been no action by the minister. As Senator Fraser said earlier, I guess that all the steps short of action were taken. A letter to the newspaper lets people think that you're greatly concerned but, honourable senators, you have to provide action on the file. That's unfortunate because this is of great worry to the people of Nova Scotia, particularly the people of Cape Breton. Scatarie Island is a provincially protected wilderness area where the ship is wrecked. It's also a great lobster fishing area. Yet, the federal minister has sent a letter, a PR exercise that really doesn't say anything except to express concern. The people of Nova Scotia need more than words of concern from the minister.

I go back to Senator Mercer's questions about the regulations. I raised this issue with Senator LeBreton about a year ago. The Main-à-Dieu Community Development Association also raised the issue about a year ago. The words they used were "demonstrable negligence" by the federal Department of Transport. Senator Mercer said the federal government allowed the licence to be given for the towing of the *MV Miner* during storm season, no less. No one is greatly surprised if the chance of the wreckage of any ship being towed would be greater if the licence is given during storm season.

I go back to Senator Mercer's question: Will the government look at these federal regulations? You said earlier when you were listing things that the federal government has done that there was a panel on ship safety. One would have to think that if the MV *Miner* broke away while being towed during storm season after being given the licence to do so by the federal Department of Transport that in fact this panel that you spoke about on ship safety would indeed want to review the case of the MV *Miner*.

I asked in this chamber about a year ago and am asking again today whether Transport Canada will look at these regulations to determine when they're licensing the towing of a ship that it be done to ensure the safety of both vessels. In the case of the MV *Miner*, all of these okays were given by the federal government, and yet it is the Government of Nova Scotia, the taxpayers of Nova Scotia, who are stuck with the tab to take care of the situation caused by the federal Department of Transport.

[*Translation*]

**Senator Carignan:** I don't know if there was a question there, but as I already explained to Senator Mercer, the MV *Miner* belongs to Arvina Navigation. The company is responsible for the ship. As I said, the ship is not obstructing navigation. You can reassure people that the ship contains no pollutants and that if the ship were to become a hazard to navigation, the appropriate departments of the Government of Canada would act swiftly and decisively.

[*English*]

**Senator Cordy:** I asked the question one year ago: Will the federal government look at the federal licensing procedures? I believe they have to be reviewed and strengthened to prevent such tragedies as the MV *Miner* breaking away while being towed. Permission for the towing was granted by the federal government. Is a review of the federal licensing procedures taking place?

[*Translation*]

**Senator Carignan:** As you know, we are always concerned with safety. Therefore, we are always studying and looking at the possibilities. Just now, I gave the example of tanker safety, which we are looking at with an expert panel on tanker safety in order to review the safety system and identify the areas that need to be improved.

In the situation we discussed earlier, the ship is not obstructing navigation. It does not contain any pollutants, and if it becomes a hazard, the government will take the appropriate action.

• (1430)

## NATIONAL DEFENCE

### OFFICIAL LANGUAGES REVIEW

**Hon. Maria Chaput:** Honourable senators, my question is for the Leader of the Government in the Senate.

The Department of National Defence and the Canadian Armed Forces have decided to review the language designation of all of the country's transport and rescue units. Right now, it is hard to say what impact that will have on Winnipeg's 435 Squadron.

Why did the government wait so long to announce the suspension of plans for a francophone unit in Winnipeg, which was promised in 2012? Why did the government wait so long to suspend this project?

**Hon. Claude Carignan (Leader of the Government):** Honourable senator, that is a very specific and technical question. I will have to get back to you with a specific answer.

**Senator Chaput:** I would also like you to get more information about when this review will be finished and who will have access to the results.

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[*English*]

# ORDERS OF THE DAY

## ECONOMIC ACTION PLAN 2014 BILL, NO. 1

### FOURTH REPORT OF BANKING, TRADE AND COMMERCE COMMITTEE ON SUBJECT MATTER—DEBATE CONTINUED

On the Order:

> Resuming debate on the consideration of the fourth report of the Standing Senate Committee on Banking, Trade and Commerce (Subject matter of Bill C-31 (Parts 2, 3 and 4 and Divisions 2, 3, 4, 8, 13, 14, 19, 22, 24 and 25 of Part 6)), tabled in the Senate on May 29, 2014.

**Hon. Céline Hervieux-Payette:** Honourable senators, I'd just like to congratulate Senator Bellemare for the extensive research done on the question of trademarks and, of course, on the other question related to demutualization.

I will start with trademarks for the simple reason that we have so many important players on the Canadian scene who are opposing — and it is not my habit to use this phrase — the sneaky way it was done. The government pretends there was some consultation, but there was never any consultation about abandoning the Canadian system. I agree with Senator Bellemare. We don't disagree that we will add to the previous system, the fact that we have the Madrid Protocol that has existed for several years.

[*Translation*]

We have the Singapore Treaty and the Nice Agreement. These measures will obviously be implemented. However, make no mistake, there will be costs associated with this.

[*English*]

There was no consultation and, of course, we changed the system fundamentally. It's not a mere procedure or technocratic thing. It is a fundamental thing. It is a fundamental thing and something that the Americans have refused to abandon even though they have been part of all of the treaties and the different accords with other countries on this particular subject.

They signed what I agreed with Senator Bellemare about, which Canada can sign so that we have global access with our trademarks and don't have to register country by country, but we know that there are very few companies in Canada that can take advantage of that. Maybe you have the Bombardiers of this world and a few other mega corporations, but small corporations will always want to register for a limited territory because there is a cost to that. For the medium- and small-sized companies and, in light of the future proposed trade accord with the European Union, I think it's important that, if we ever have easier access to the European market, this question be dealt with properly.

While negotiating the EU trade agreement, there was a side agreement, which was, of course, to join all of these treaties, but there was no consultation about removing the actual system in Canada that protects trademarks of Canadian companies. This is fundamentally flawed, and I would like to give you an overview of the companies that actually have written and are forcefully saying that they disagree with that.

We have l'Association canadienne des annonceurs. We have Air Canada; AstraZeneca, which is a very large pharmaceutical company; Blue-Zone Technologies; the Brandt Group of Companies, which specializes in trademarks; the Canadian Franchise Association; l'Institut canadien de plomberie et de chauffage; and Credit Union Central of Canada.

[*Translation*]

We also have Giant Tiger, which, as anyone who shops knows, carries a wide variety of merchandise.

[*English*]

There are: Guspro; Blademaster; Irving, a small company from the Maritimes, if I remember; the Japan Automobile Manufacturers Association of Canada; and the Winnipeg Airports Authority.

So, of all of the players, plus of all the experts in the sector, there is not one voice in Canada saying that they agree with this removal of the procedure that we have now. I think there is a saying in English, "If it ain't broke, then don't fix it." Actually, we are fixing something that is not broken and that has served Canada well.

I was personally involved in the trademark war with the United States. I can tell you that you'd better have very deep pockets because my company, at the time, was making several hundred million dollars and it decided not to fight this question in the United States tribunal for the simple reason that it's millions of dollars that you need to launch a fight on trademarks. It's not a small thing, and it's a very important thing because sometimes it's part of the assets of the company and very often, like Coca-Cola, a very important asset.

Some technocrats came to us because, of course, they are forced to come to tell us what the minister told them, that it was just a form and we are removing red tape. There is not one specialist who qualifies that as red tape. They all that say this is something that will infringe upon the IP rights, and this is something that really will be very negative for Canadian companies.

[*Translation*]

I will therefore continue to focus on this and ask questions because my colleagues, Senator Maltais and Senator Verner, have also said that we should move away from these issues.

I would like to quote an excerpt from what Sobeys Inc. said in its submission.

[*English*]

It states, "This change means that Sobeys will face significant additional costs and uncertainties in attempting to clear new marks for use in Canada, as it will have to look beyond the trademark register and potentially conduct additional inquiries at considerable additional expense." Those who know about the margin in the food industry should know that a 1 per cent profit is a big profit, so just don't underestimate how much it's going to damage that company.

Then we have Kellogg's Canada. They say, "The proposed change to the Trade-marks Act also has the distinct potential to open the door to trademark trafficking." This is what most of the experts are saying. It's going to be a business. You register a trademark, but, in the past when you registered, you had to use it. Now, you could hold the title of that trademark and do nothing with it, and then trade it and sell it at a big price.

Then I have PepsiCo Canada. They say, "Since our company respects others' rights to marks, we will be put to the additional cost of trying to investigate whether those holding paper rights have a real right, that is, a right through use."

> The costs of investigating the state of the marketplace are high. This ultimately affects our ability to clear and develop new brands in the Canadian market.

• (1440)

We're talking about multinationals, of course originating from the United States, so they know what they're talking about. They know they are well served by adhering both to the international treaties and keeping the system of registering.

Then we have Irving, as I say, certainly a significant enterprise in Canada. They say, "We believe that this particular change is not good for business in Canada and we respectfully request you to reconsider its adoption."

I don't think these people came to the government, gave their opinion on that change, which as I say was just inserted in the budget bill to make sure nobody would make any changes. I urge my colleagues from the other side to continue to plead with their leadership to at least remove that section from Bill C-31 and have a comprehensive discussion in Canada with those who are affected.

Of course I don't think we need, with the slow growth in Canada, to lose some money that will be totally inefficiently invested. If you have to pay more for something that already exists, it doesn't make sense that we will force companies to do a lot of research worldwide with all these treaties and at the same time have to pay a lot more.

For those of you coming from Quebec, I have to tell you that in Europe they use the civil law. They have a different regime than we have in Canada, which is common law, the same as in the U.S. That's why the U.S. has kept its register in use. It's for the simple reason that in the common law people will not be protected as in the civil law. Why is it mixed up? It's only Quebec right now where we have the civil law regime, as compared to the rest of the country.

I'm here as a Quebecer, and I know Senator Maltais shares my view on this. It is important to make sure we protect our companies and our trademarks. Senator Bellemare went into detail to explain how the system is now and would be later. I subscribe totally to what she has said.

Second, I will have just a few words, certainly not because it's not as important but because Senator Bellemare did her work fabulously. She was talking about demutualization. It is very strange that we would put in the budget bill a section that would address the problem of one single company, with the result that

we would not even know what the minister will do because there are no indications in the bill on what grounds the minister will in fact protect the two types of mutual members.

As far as I'm concerned, when you have over $1 billion that you want to distribute, you come to the Banking Committee and say, "We would like to expand and that's why we have to demutualize."

I can tell you that a lot of companies in Canada can demutualize with $1 billion in their bank account, because it's even more than $1 billion. Right now the real reason is to distribute what was accumulated over decades. There are mainly people in the agricultural sector, even though I know I have some colleagues who are also insured by Economical.

We know how people in the agricultural world are prudent. We know how they have to be very careful. The crops are not always the best, and they put their savings in that company, but only 943 people will receive the $1 billion. There is not one word in the law that could prevent the 1 million subscribers to that insurance company to share the $1 billion.

I just ask colleagues to do like Senator Bellemare is recommending, and my other friends from Quebec. We have to remove that from the bill. We have to know what the substance is. We have to have the specific principle under which the minister will legislate. What we are being told is that he's going to make regulations, but regulations need to have articles in the bill to enable them to have the guidelines for the distribution. There is nothing.

My big worry, knowing our Canadian legal system, is that there will be a fight between the 940 and the rest of the 1 million subscribers. They will end up in court. They will go to the Supreme Court, spend millions of dollars, so thank you to the lawyers, but it will take maybe 10 years to get there. Why are we not taking our responsibility? Why is the minister not addressing this question by hearing about all stakeholders and making sure that when you put something in the budget you are at least fair to the people? This section of the bill is very unfair.

As far as I'm concerned, to legislate something that will end up before the tribunal is a lack of responsibility by the legislators. We are the legislators. We should make sure that there are some provisions in the bill, and they are not there. Let's say, "Have a second try, remove that section from Bill C-31."

I have interrogated the minister, but I never got an answer. He was a newly-minted minister, had probably not studied the bill in depth, so I gave him a little benefit of the doubt. But benefit of the doubt, after hearing all the testimony, doesn't exist anymore. I think now the minister should repeal the section on trademark and the one on demutualization.

**Hon. Percy E. Downe:** Honourable senators, I would like to make a few remarks.

I thank senators for raising this issue of demutualization because it's a concern not only for that one company discussed earlier, but it's a concern for a number of companies.

I received a letter, for example, from the PEI Mutual Insurance Company. They wrote me that they were formed 130 years ago and that there are 60-plus other Canadian property mutual insurance companies, many of whom were formed 100 to 175 years ago. They were originally founded, as in the case of the PEI Mutual, mostly by farmers, as farmers at the time — and to this day I still hear from farmers — were unable to find insurance or could not find insurance at a good and fair price. In fact, a large portion of mutual insurance companies were in the same position.

Since their formation, the policyholders of these companies, called mutual policyholders, have controlled the development of their company. Every year, when a profit is generated, the members elect a board of directors of the PEI Mutual Insurance Company and decide if the profit will be reimbursed as a premium refund or put into a surplus of the company to ensure its survival and growth over future generations.

The surplus enjoyed by mutual insurers today is an accumulation of those allocations of profits of surplus. Yesterday it was alluded to as intergenerational theft. In the case of this company, farmers and their descendants, long-deceased, left part of their profits in the company that will now, under this legislation, be distributed to the current policyholders. The intent was to keep the company and to keep it strong.

In Division 14 of Part 6 of Bill C-31, it's stated that the Minister of Finance introduced proposed changes to provide a framework under which demutualization regulation for property and mutual insurance will be developed.

• (1450)

The PEI company strongly believes that the proposed changes in the bill have some major shortcomings, and they list them: that it does not require all policyholders of a mutual insurance company, be they considered mutual policyholders or not, to have the right to vote on a demutualized proposal; and any proposal should be subject to supermajority quorum and approval of the shareholders. It does not recognize that the surplus of a mutual insurance company built over many generations is a common good and is indivisible. It is repugnant that current policyholders may receive this surplus directly or indirectly, which they have not earned, and it opens the possibility of deferring to the courts to address issues that should be solved by the elected officials of the company, who are required to put in place proper policy through legislation and make decisions in the public interest.

I have relayed these concerns directly to the Minister of Finance in a letter, and I just wanted to add the voice of the PEI Mutual Insurance Company because this is a problem that's not unique to one company; it's a problem across Canada, mainly affecting, in the case of Prince Edward Island, rural farmers.

[*Translation*]

**Hon. Pierrette Ringuette:** Honourable senators, after taking part in the pre-study of Bill C-31 as a member of the Standing Senate Committee on Banking, Trade and Commerce, I would be remiss if I did not add my voice to those of two other members of the committee, Senators Bellemare and Hervieux-Payette.

First of all, we must recognize that when this chamber agrees to conduct a pre-study of a bill, it is indeed to make sure that the findings from that pre-study are sent to the other place so that they can review problem areas before they proceed with third reading of the bill and the bill is referred to the Senate.

This year, we are once again dealing with an omnibus bill that contains a bit of everything, including the demutualization of one single company, Economical Mutual, which currently holds reserves of more than $1.2 billion. The witness representing Economical Mutual who appeared before the Banking, Trade and Commerce Committee shared with us one of the reasons for the demutualization: getting bank loans. The witness actually said that to the committee members, most of whom have been members of the committee for years and are therefore familiar with banking matters. You will understand that the statement left us in some doubt about the subsequent statements we heard.

Like my colleagues, I would like to say that the trademark item in Bill C-31 ought not to have been included because it is an omnibus bill and the trademark issue is about how trademarks will be dealt with once we have signed the agreement with the European Union. Reports in the papers today say that the Prime Minister of Canada had to do some lobbying with certain European leaders in an attempt to move the free trade agreement with the European Union forward. We are therefore a long way away from an actual agreement, a signed agreement, an agreement that has been ratified by both houses of Parliament. So what is all this hurry in dealing with the trademark issue in anticipation of a free trade agreement that does not even exist at the moment?

Wouldn't we have been better off using all of this time to consult all of the Canadian organizations that want to maintain our existing trademark recognition process and to make a comparison with the situation in the United States?

Honourable senators, I am very nervous about these two parts of the omnibus bill. I am somewhat satisfied with the pre-study, and I hope that the people in charge here in the Senate will convey our comments to those in charge in the other place. I am pleased to see that Senator Carignan is here. I hope that this whole process will be carried out with a sense of respect for Canada's many mutual companies, as well as all of the Canadian businesses that make decisions about operations in Canada, the United States and the European Union based on our current trademark system. These two divisions must be taken out of Bill C-31 before it proceeds to third reading in the other place.

Honourable senators, I hope that we can formulate the message as notice that we have completed yet another pre-study of yet another omnibus bill that should not exist.

I support some of the measures in the omnibus bill, but to some extent, our ability to take a second look at the provisions in Bill C-31 is being taken away.

I hope that the other place will benefit from the work that various Senate committees have done on Bill C-31, and I hope that clauses in Bill C-31 will be fixed before it comes back to us.

[ Senator Ringuette ]

**Hon. Diane Bellemare:** Honourable senators, I would like to provide some more information.

**Hon. Leo Housakos (The Hon. the Acting Speaker):** Senator Bellemare's time is up, but she may ask Senator Ringuette a question if she likes.

**Senator Bellemare:** Thank you. I have a question for Senator Ringuette.

**The Hon. the Acting Speaker:** Would the Honourable Senator Ringuette agree to take a question?

**Senator Ringuette:** Absolutely.

**Senator Bellemare:** Isn't it true that, in light of the testimony regarding Division 25 on trademarks, we could respond to this opposition simply by deleting four clauses from the bill that have to do with sections 16, 30 and 40 of the current Trade-marks Act?

• (1500)

As those people came to tell us, it is those clauses, related to administrative changes, that have a major legal impact.

Isn't it true that they came and told us that we were also opening a constitutional Pandora's box, since by removing the declaration on the use of a trademark we would be doing away with the justification for having trademark registration come under federal jurisdiction? Isn't it true that if we eliminate that provision, it can be argued in the Supreme Court that trademark is a provincial jurisdiction? In a previous ruling, the Supreme Court held that it was a federal responsibility because trademark registration was based on the goodwill attached to the brand. If that were no longer the case, the provinces could get involved and there would be chaos in Canada. Isn't that right, Senator Ringuette?

**Senator Ringuette:** I would like to thank Senator Bellemare for her excellent question. No, this was not scripted. My comments are sincere, especially with respect to the quality of the senator's question.

Yes, Senator Bellemare, there is a risk of chaos, not just economic chaos, but constitutional and legal chaos as well. It would certainly be a financial boon for those in the legal field, but I don't think they have had to look for work in the past few years.

You are basically right. In the past two weeks, I have received a lot of letters, and I suppose you have too, from leading companies and associations of manufacturers, exporters and others who are sharing their concerns with the Minister of Finance. They have shared their comments with us, and in this chamber, we are adding our voices to theirs to send a message to the Minister of Finance and ask him to make the necessary changes.

Our Canadian businesses have had to deal with a very difficult economic situation in recent years. Please, let's be more vigilant so

that they don't have to deal with situations that will create chaos here for most of them, as Senator Bellemare said.

Thank you for your question, senator.

(On motion of Senator Martin, debate adjourned.)

[*English*]

## VISITOR IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I draw your attention to a special guest in the Governor General's gallery. We have with us this afternoon His Excellency Luo Zhaohui, the new Ambassador Extraordinary and Plenipotentiary of the People's Republic of China.

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

**Hon. Senators:** Hear, hear!

## ADJOURNMENT

MOTION ADOPTED

**Hon. Yonah Martin (Deputy Leader of the Government),** pursuant to notice of June 4, 2014, moved:

> That when the Senate next adjourns after the adoption of this motion, it do stand adjourned until Tuesday, June 10, 2014 at 2 p.m.

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

**Hon. Senators:** Agreed.

(Motion agreed to.)

## CRIMINAL CODE

BILL TO AMEND—THIRD READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Dagenais, seconded by the Honourable Senator Maltais, for the third reading of Bill C-444, An Act to amend the Criminal Code (personating peace officer or public officer).

**Hon. Larry W. Campbell:** Honourable senators, I rise to speak at third reading of Bill C-444. In quoting the famous orator here, Senator Baker, I'll be brief.

I've read all of Senator Dagenais' comments, and we concur with almost everything that he said.

**Some Hon. Senators:** Almost.

**Senator Campbell:** You can't have everything.

Sometimes a bill is more symbolic than actual, and we believe in this case that this is, in fact, a very symbolic bill. However, we believe it is also a symbol to those people in Canada who are victims and demonstrates that we care, that we are still watching and intend on punishing those who are breaking the law by breaking our trust. Impersonating a police officer is and always will be a serious offence, and for this reason we support Bill C-444.

**Hon. Senators:** Hear, hear.

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

**Hon. Senators:** Agreed.

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

[*Translation*]

## INTELLIGENCE AND SECURITY COMMITTEE OF PARLIAMENT BILL

SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Segal, seconded by the Honourable Senator Greene, for the second reading of Bill S-220, An Act to establish the Intelligence and Security Committee of Parliament.

**Hon. Roméo Antonius Dallaire:** Honourable senators, unfortunately, I am not going to follow Senator Campbell's lead. I would like to be able to say that I am going to be brief, but I am incapable of that. I will try to add some clarification to the speech that Senator Segal made on Bill S-220 a week or so ago.

• (1510)

[*English*]

Bill S-220 proposes to establish the intelligence and security committee of Parliament. As Senator Segal has demonstrated, the call for parliamentary intelligence oversight is not new. Indeed, I have raised the question in this chamber many times before. Precisely a year ago I introduced a motion on this very matter. Yet, Canada continues to lack a crucial mechanism for oversight of security and defence, and that oversight is particularly lacking by the elected people of this country and those who support them — that is to say, the parliamentarians.

The lack of parliamentary national security oversight, a committee, is a democracy lacking certain legitimacy. The complexity of modern terrorism threats and the rise of domestic extremism and radicalization, even in Canada, require a more advanced cooperative and technologically driven approach to national security than at any other time in our country's history.

Since 9/11, international and domestic threats have continued to evolve at a hurried pace.

The Soviet era dangers of nuclear strikes and conventional warfare, essentially in Europe, have been replaced by the threat of unsuspected attacks on major transportation infrastructure or homemade bombs targeting innocent civilians, including dirty tactical nuclear bombs.

Cyberwarfare is a whole new warfare. This is not simply another dimension we are looking at in how we use technology. Cyberwarfare is a whole new warfare. It is not as if we have a whole bunch of tanks facing a whole bunch of other tanks and millions of people in uniform facing each other and, one day when the politicians say so, they beat each other up and the one left standing wins. That's gone.

We have entered an era where cyberattacks are the actual format of war. The reason it is so critical is that it involves every element of every citizen who can fiddle with a keyboard.

It's no longer a war between professionals in a far off place; it is a war right in your home. It is a war right in the rooms of our children, and it is a war that has an impact on everything we're doing. Even your car and the computer in your car can be fiddled with, and we can have a whole bunch of cars creating accidents without their drivers wanting to do so, and that's simple in this era.

This increasingly present threat with, on top of that, cyberespionage, which is a neat term for saying "hacking at a higher level," now forms a crucial component of Canada's security and intelligence activities and concern.

[*Translation*]

Successive Canadian governments have worked very hard to counter these evolving threats, but the fact remains that when it comes to security, Canada is lagging behind most of its main allies in parliamentary oversight of security and intelligence activities.

Canada currently has six main security and intelligence agencies. However, no mechanism is in place to enable parliamentarians to thoroughly review the activities of those agencies in the classified settings where they are required to operate.

Parliamentarians have no access to confidential and high-level information about national security institutions and policies. However, they approve billion-dollar budgets and they pass bills that affect civil liberties, without ever knowing the full story.

Actually, none of us really know what is being done in terms of security and intelligence, nor do we know how the funds are being used. We in Parliament have no in-depth knowledge of our country's security system. Our knowledge is superficial, and we insist on having tools that can affect our individual rights without really knowing to what extent we can control those tools.

Right now, only the ministers responsible for national security, intelligence and defence operations can oversee the activities of our security and intelligence agencies. In addition, only a committee made up of senior ministers and the Prime Minister examines national security issues. This is not real transparency for the country and its representatives. This decision-making structure in our system of governance is lacking one fundamental feature: parliamentarians, whose role is precisely to oversee the executive and to support it in carrying out its responsibilities.

But we cannot do that if we don't know what is going on. Why, then, is the lack of parliamentary oversight problematic? What are the challenges we face? First, this means that Parliament cannot effectively do its job, which is to hold the government to account for national security activities.

That is our job, but we are unable to do it. This is a growing problem, at a time when intelligence-gathering techniques, including wiretapping and the collection of metadata, are becoming increasingly sophisticated and intruding significantly into our personal and private lives.

Second, if parliamentarians had the authority to review the activities of security agencies and analyze how they operate, the resources they have and maybe even their needs, they could use their own knowledge to advise the government. Not all parliamentarians are incompetent idiots. They could take an informed look at the classified information.

I have to say that when I was a senior officer in the Canadian Forces, I had more access rights than I do as a legislator. It is like being caught between two worlds. When you listen to the generals and the heads of the various security agencies, you hear a superficial account that concerns policies and management. Certain points are sometimes debated when it appears that an offence could be committed.

We ask them what they need, but their answer always seems to be restricted by the lack of a security clearance. They cannot give us the underlying argument and the reason for their approach. Since they cannot give us that information, we cannot do our job, which is to report to the executive branch through the legislative branch.

• (1520)

Wouldn't it make sense for the people in charge of drafting legislation on security and defence to have access to the information that is essential to the laws they are drafting? In order to be able to oversee security and intelligence activities and the fight against terrorism, parliamentarians have to have proper information.

I didn't say everyone. I am talking about a group of people carefully selected through a process that is clearly set out in the bill and might call on us to take on this role, which would allow us to make decisions knowing that our people have been informed and have had the opportunity to participate.

With their varied backgrounds, members of Parliament and senators could recommend directions to take and even raise questions and concerns that the ministers might not even consider and might not have wanted to think about. At least, by having the mandate and ability to read these classified documents, parliamentarians could fulfil their role and feel that they are doing so ethically and responsibly.

We hope that we make the right decisions and that the executive also makes the right decisions. However, parliamentarians' job is not to hope that others will do their jobs properly, but to hold them to account to make sure they do their jobs properly.

[*English*]

We continue to hear calls for parliamentary oversight of intelligence agencies. This is not new. From the McDonald Commission, of 1981; to the Interim Committee of Parliamentarians on National Security, in 2004; to Bill C-81, in 2005; to Bill C-551, last November; and now to Senator Segal's Bill S-220, all of these legislative attempts bear the same product in mind: the creation of a national security committee of parliamentarians, that is, all parties from both houses.

Rather than limit briefings of national importance solely to ministers, Senator Segal's proposed committee would be multi-partisan in nature, composed of both senators and MPs. These parliamentarians would receive security briefings and intelligence information from Canadian security entities.

The committee could call witnesses and seek documents without the current need for ministerial consent or, in some cases, actually get documents only through access to information — and that's not the most effective way of getting it. Committee members would be sworn to secrecy, with an oath lasting for life. Such a committee has existed in the United States Senate since 1976, in the United Kingdom since 1994.

In the U.K. example after which Senator Segal's bill is modelled — and it's an excellent model if I may say so — there has never been a leak. But look at what we've seen over the last years in regard to our security agencies and the leaks that have come out. I repeat: There has never been a leak by parliamentarians. That has been a firm assessment done by international agencies.

The G7, NATO, the Five Eyes as we know them — Canada, U.S., U.K., Australia and that little island called New Zealand that likes to keep in touch with us; wonderful people — all of these countries have parliamentary oversight capability. I mentioned Canada. Well, in the Five Eyes there are only four. I'm not saying we want so many eyes, but I am trying to raise the point that amongst all our colleagues, which we use so often as examples of why we should be doing things — we talk about our allies right, left and centre — they know what's going on. Their parliamentarians are engaged. We hope we know what's going on.

The special committees in these countries have been created to give depth and input and to allow parliamentarians oversight and accountability. There's an interesting word, "accountability." I think that's the second word we got in 2006 in Bill C-2, "accountability."

Why is accountability such a difficulty when we want to hold the executive accountable? What has created this difference? Who has brought about that impasse between the legislators and the executive? Why is the executive in an ivory tower versus being on the ground floor with us, or at least why can we not know what they're doing in the ivory tower and have an input in that? We are speaking of a whole new era of security, of incredibly complex systems sometimes of such a nature and speed that those who are doing the job are training on the job, too. In so doing, they are prone to making some mistakes.

One would think that maybe the executive might want someone to take a second look at it, to participate in knowing what is going on, and, by so doing, give confidence and accountability to the executive so that in the matter of security they're not standing alone and taking all the heat because we know what's going on. We're engaged and we think they're doing it right or they're not, and hopefully we can influence them. These committees report annually on these agencies, and in Germany they even review their budget. I would argue that's what we're looking at also.

Last year alone, in Canada, the Auditor General found $3.1 billion in anti-terrorism funding unaccounted for. We were told it was spent appropriately, but we are not too sure on what. I'd love to go to see my wife with something like that!

With parliamentary oversight, the committee would be able to review the effectiveness of our anti-terror and security forces, for example, allowing for a more consultative process between these agencies and parliamentarians, permitting us to review the budgetary process and the allocations and even influence it if they need more capability.

The proposed committee would review the legislative regulatory policy and administrative framework of our intelligence and national security capabilities in this country. It does not make sense that parliamentarians — or at least some of them — do not have access to materials that would better help to legislate on matters of national security for which the government is held accountable but for which those who are on the floor, in the weeds and in the trenches, have absolutely no information in order to support the executive, reinforce the executive and hold the executive accountable.

What do we hear in the defence community? Let's start with the Defence Committee, the committee responsible for security, picking up anti-terrorism and, of course, defence. How are we ensuring that the legislative branch has the ability to monitor and provide oversight as well as provide advice to the executive? The true nature of the threat is never presented. How do we hold them accountable? Do we have the right policy framework if we don't even know what the threat is? Witnesses are limited in what they can tell us. I sit on these committees and I study these bills. I remember a time not so long ago when I had better access than I have ever had when I'm sitting there. How, then, can we not insist

that at least some parliamentarians have oversight on how the executive handles these problems and how these ministers, who are so significant to our security, meet their challenges?

While there are a number of current oversight mechanisms such as the Security and Intelligence Review Committee, the Commissioners for both CSEC and public complaints against the RCMP, none of these agencies are publicly accountable in the way parliamentarians are. Furthermore, these agencies are usually tasked with oversight of just one aspect or simply the institution for which they have a responsibility. The cooperation and communication between these organizations is really overseen only by the government, if in fact they're doing that, meaning that there is no accountability ensuring that we get the whole picture. We've got a bunch of silos out there.

• (1530)

Both the watchdogs monitoring CSIS and CSEC have been outspoken over the challenges they face, limited to gathering and tracking intelligence in silos, conducting their work in isolation, with little allowance for communication and cooperation across the agencies.

Furthermore, our current limited oversight monitors are only retroactive and are complaints driven in nature. The aim of intelligence is to be anticipatory, to have foresight, to try to get a feel for what's coming down the road, and in so doing, prevent our being at risk. It is interesting that even the police have introduced intelligence-based policing in order to prevent crimes from happening, but they have extraordinary oversight by the people at the municipal and provincial levels.

In 2012 the role of the inspector general, an intermediary between CSIS and the Minister of Public Safety, was eliminated. All of these duties were passed along to a small organization, significantly increasing their responsibilities to the extent that they're being overwhelmed.

A parliamentary committee, rather, would be forward-thinking and would be able to grasp the big picture, provide full-time legislative oversight and open channels of communication between the agencies. We can be that collating capability that is essential to ensure that all these people are working together, not at cross-purposes and against each other. It would provide service heads with insight into how legislators could react to challenges and choices ahead. We can give them a heads-up.

With the level of uncertainty facing our security agencies, we need well-coordinated parliamentary oversight to assist those agencies in establishing, being held accountable for and coordinating their efforts. It is not by their nature to do that. They don't even trust each other with their sources. In fact, they guard their sources against each other.

When I commanded the Quebec area and we looked at some of the threats to the massive hydro requirements, I met with the RCMP, provincial police, municipal police and also the regional policing capabilities. I was astounded that every one of them had a different threat assessment and that they hadn't exchanged that assessment amongst each other because, as they said, they didn't want to put at risk their sources.

Another reason for parliamentary oversight is the need for public accountability, of course. Indeed, the actions of the Communications Security Establishment, the Canadian Security Intelligence Service and the RCMP have been under intense scrutiny for months. We're picking up the stuff on the margins.

In the case of CSEC, we continue to see revelations about the agency's actions, whether it be monitoring data at airports or the use of email and full metadata to map communications within the Brazilian mines and energy industry. That's a new angle. Maybe there's a threat there; I don't know. Maybe it's because somebody has found something that we'll need later and they don't want to tell us about it.

National oversight would further ensure that democratic principles and Charter rights are respected. That, colleagues, can't be one to be omitted — "democratic principles and Charter rights are respected." Every individual citizen has the sovereignty of being an individual human within the citizenry, and how is that protected? Who is protecting that under the executive in order to hold them accountable?

Right now, we aren't, in matters of security and intelligence. Most recently, Major-General John Adams (Retired), former CSEC chief, expressed his concerns about the agency's counter-espionage campaign launched following 9/11. The campaign, prompted by persistent foreign spying threats, was so aggressive that it had to be shut down before it was exposed to allegations of wrongful domestic surveillance. The program sought to collect and analyze Canadian communications metadata in the hopes of leading to foreign hackers but was ordered to halt due to privacy concerns. CSEC now grapples with what constitutes lawful and unlawful surveillance in the Internet age in isolation.

Without active review by legislators, who are rarely apprised of CSEC operations to start with, the agency is left to chart its own legal course as surveillance capabilities grow more and more powerful. And how are they working with the other ones? Yes, they speak of committees, but to what extent and to what level are those committees empowered to actually take decisions and exchange that information?

Security agencies are then taken into the grey area when it comes to privacy concerns. Intelligence security agents continue to struggle to adapt their practices to meet particularly these new cyberera challenges. It's a new war. Are they ready to handle it? What are the proactive tools to defend us, or are we trying to catch up? We don't know, because we're never told that.

Thus, there is all the more reason for legislative oversight. Indeed, the Ontario Privacy Commissioner, Dr. Ann Cavoukian, endorses the need for parliamentary oversight in order to protect our most important freedoms and rights. It is a very interesting position, particularly because a lot of the threats over the last years were in Ontario. I don't even want to bring you back to the October Crisis of 1970 and our inability to handle something even

that unsophisticated, and how we were overwhelmed because we really didn't have any capability to handle a threat in-house in our country.

This is Senator Segal's bill before his retirement. The senator and I have championed this issue time and time again. Oversight is essential as parliamentarians are continuously kept in the dark about the intelligence and security matters of our country that are becoming more and more intrusive, more and more powerful, and more and more prone to mistakes, that overwhelmingly go beyond their boundaries and put at risk Canadians and their civil liberties and human rights.

Honourable senators, I recommend that we move this potential legislation to committee so that we can proceed with the necessary work of dissecting it and proving that it is essential to our needs and that it will protect the rights of individuals for the security of the whole.

(On motion of Senator Marshall, debate adjourned.)

## BUSINESS OF THE SENATE

**Hon. Yonah Martin (Deputy Leader of the Government):** Your Honour, if I may ask leave of the Senate to request a change in order of business.

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

**Hon. Senators:** Agreed.

**Senator Martin:** Thank you.

Honourable senators, I request a change in the order of items being called. If I may request that No. 8, under Commons Public Bills, second reading of Bill C-279, be called next.

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

**Hon. Senators:** Agreed.

## CANADIAN HUMAN RIGHTS ACT CRIMINAL CODE

### BILL TO AMEND—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Mitchell, seconded by the Honourable Senator Dyck, for the second reading of Bill C-279, An Act to amend the Canadian Human Rights Act and the Criminal Code (gender identity).

**Hon. Donald Neil Plett:** Thank you, senators, and thank you, Senator Mercer, for agreeing to this. I appreciate that. I really do need to thank Senator Jaffer, though. I think she had more to do with it than you did. And Senator Fraser, thank you very much.

Honourable senators, in January of 2012, two women — a survivor of domestic violence from Ontario, and a deaf and homeless woman from Quebec — sought solace at the Fred Victor women's shelter in Toronto. The shelter prides itself in serving as a safe place for women with extremely difficult histories.

• (1540)

After going to sleep one night in this new-found haven, these two women were awoken by a man sexually assaulting them — a convicted rapist. You are probably wondering how this could possibly happen. How did this man sneak into a highly secure shelter and gain access to these women's bedrooms?

Honourable senators, the fact of the matter is, because of a law in Ontario nicknamed "Toby's Law," no sneaking was required. A convicted sex offender named Christopher Hambrook was given access to a women's shelter, and even women's bedrooms, because he falsely claimed to be transgender. Hambrook called himself Jessica and was invited in to sleep at the shelter and, in fact, in a bedroom with two women. Requiring no documentation and no background check, he simply said, "I'm Jessica," and, because of Toby's Law in Ontario, he was welcomed into a shelter full of vulnerable women — and welcomed with open arms. Toby's Law in Ontario makes it illegal to discriminate on gender identity. This exists in three provinces in our country and now has the risk of being enacted federally.

Honourable senators, I am asking you to please consider the safety of women and children and vote against Bill C-279. Senator Mitchell pointed out, when he reintroduced this bill at second reading, that it is a rare opportunity to be able to speak at second reading on a bill on two separate occasions. Since my last second reading speech on this issue, I have had the opportunity to meet and sit down with some members of the trans community, all of whom have been actively involved in organizations, such as Gender Mosaic, which seek to advance trans rights in Canada.

This was a valuable experience and I believe I have a better insight into the issues faced by the trans community. I believe we need to bring forward a targeted approach to specific issues faced by the community and not to enact a law that breaks down gender distinctions in all aspects of society.

The consequences of this have been seen in other jurisdictions and I believe it is our role as legislators, as the chamber of sober second thought, to have an evidence-based, common sense approach to ensuring protection for all Canadians.

Bill C-279 amends the Human Rights Act to include gender identity as a prohibited ground of discrimination. It also amends the Criminal Code to include gender identity as a distinguishing characteristic protected under section 318, and as an aggravating circumstance to be taken into consideration under section 718.2 at the time of sentencing.

I should make it clear that I am in support of the amendments to the Criminal Code and that, when it comes to hate crimes and genocide, I believe it should be considered an aggravating factor if you have specifically targeted an individual because of their gender identity. For that matter, I also believe that the word "sex" should be included in section 318 to specifically address gender-based violence. It has been addressed before in this chamber by our colleague Senator Nancy Ruth.

The amendment to the Human Rights Act in Bill C-279 is where we run into problems. We need to begin by clarifying the terms "transgender" and "gender identity." In speaking to many about this legislation, there seems to be a great deal of confusion about what it means to be transgendered, who will be covered under this bill, and what the consequences are likely to be, whether intended or unintended.

The general understanding of transgender is a person who feels that he or she was born the wrong gender and wishes to change genders by undergoing sexual reassignment surgery, hormone therapy, a combination of both, or just simply contemplating undergoing such changes. However, what I just described refers to transsexualism, the far end of the transgender spectrum, and a small fraction of who will be covered under this bill.

As the outreach coordinator for Gender Mosaic told me, "transgender" is an umbrella term that encompasses a range of gender identities, with transsexual at the far end and cross-dressing at the other end. Under this umbrella we have terms such as "gender fluid," which describes a person who identifies male at certain times and female at other times. Speaking with some members of the community, I understand that sometimes this is a result of feeling masculine or feminine on a particular day. Other times they feel as the opposite gender based on convenience, for example, based on family and work schedules. Gender fluidity is in fact very common in the trans community.

The last time we debated in this the chamber I asked Senator Mitchell about an individual who had written to me explaining his experience as a gender fluid, believing at the time this was a rare occurrence. This particular person identifies as a male when he feels masculine and a woman when he feels feminine. Senator Mitchell said that gender fluidity would fall under gender expression, which has been removed from this bill. Gender fluidity is in fact a characteristic that falls under gender identity.

The bill's author, Randall Garrison, a NDP member in the other place, confirmed that the scope and definition of gender identity would be determined by the Human Rights Commission. Australia's Human Rights Commission was left with the same task, and not only included "gender fluid" as a term of gender identity, but also included "androgynous," "agender," a "drag queen," a "drag king," "genderqueer," "intergender," "neutrois," "pansexual," "pangendered," a "third gender" and a "third sex." Other human rights commissions have also included gender fluid in this definition. The inclusion of gender fluidity in the scope of what is in this bill in its current form was also confirmed by advocates of the bill from the trans community. I wanted to make that correction for the record.

Honourable senators, as some of you may know, transsexual cases before the Canadian Human Rights Tribunal have been fought and won on the basis of "sex" or "disability." In fact, in 2009 the tribunal said that there is no longer any doubt that discrimination based on transsexualism is discrimination based on sex or gender, as well as discrimination based on disability.

Bill C-279 will not just add further protection for these individuals, but will in fact expand the scope to all of the various terms of gender identity, which does extend to gender fluidity and cross-dressing.

I believe that it is our obligation to look at the specific issues faced by the trans community and to consider an incremental and targeted approach to rectifying these issues, while remaining mindful of where the breakdown of gender distinctions can be problematic. The best way to predict the implications of a law is to look at other states and jurisdictions where the same law has been enacted. I will provide examples of the major problems jurisdictions have already experienced with this law before suggesting what I believe to be viable and conscientious alternatives.

I will begin with the State of Massachusetts, one of the first states to put into place the gender identity law. Following the implementation of this law, the Massachusetts Department of Education added provisions that they argued were in line with this concept. The Department of Education has taken it upon themselves to allow students to be one gender at school, including the child's dress and choice of name, while remaining another gender at home. This is done not only without the approval of the parents but, in fact, the teacher is legally prohibited from disclosing to the parents that their child identifies as another gender at school. The parents are completely kept in the dark. No documentation is required; all that the child must say is that he or she feels like a boy or a girl.

• (1550)

I will quote from the Massachusetts Department of Elementary and Secondary Education's guidelines:

> A student who says she is a girl and wishes to be regarded that way throughout the school day . . . should be respected and treated like a girl.

This allows a biological male-transgender female to have full access to a female washroom or change room and play on women's sports teams, which includes playing against biological females.

Another state to put this legislation into place was Washington. I have mentioned this particular incident a few times throughout these debates, but because I find it particularly offensive, I will do so again. Senator Mitchell pointed out that this was a story reported by Fox News, as if that discredits the facts. However, he should know that the same story was reported by a variety of American news sources and that the merits of the case were confirmed by The Evergreen State College in Olympia, Washington, where the incident took place.

The college shares a locker room with a high school and a children's swim academy. The women's locker is used by little girls as young as six. One mother reported that her daughter was very upset because she was changing in the locker room with a biological male who was exposing himself. When one swim coach

found the same individual, who claimed to be transgender, sprawled out nude in a sauna, she asked him to leave immediately. The college then had to apologize to the individual and has yet to change their policy; meaning, biological males are permitted access to female locker rooms and vice versa.

According to ABC News, a spokesperson for the college stated:

> The college has to follow state law. The college cannot discriminate based on the basis of gender identity. Gender identity is one of the protected things in discrimination law in this state.

So even though women and young girls expressed extreme discomfort with the situation, the college's hands are tied. This law prevents them from making what is, in my opinion, an appropriate solution.

In California, the third state to implement the gender identity law, they are having some major issues in the high schools. California school boards have interpreted this law to mean that students can use the change rooms and bathrooms of their choice and play on the sports teams of their choice. The criteria: Students must say they feel more comfortable identifying as a member of the opposite sex. After this law was enacted, the media reported that a high school student who is a biological male-transgender female was playing on the female baseball team at a high school in California. The student says he feels female, but when pressed about why he does not present himself female off the team, he said he could not afford a female wardrobe or the makeup.

Ontario is one of the four provinces in Canada that has explicit gender identity laws, and we have seen some of the most serious issues occur in this very province. If we can prevent the other provinces in Canada from being subject to this dangerous law, we would be doing this country a great service. In fact, defeating this bill would allow for these four provinces to repeal the law if they so choose.

Here are a few of the issues we have faced in Ontario since this law was enacted: First, I recently heard from a 16-year-old girl who talked about an experience she had while shopping at a Victoria's Secrets store in Ontario. There was a man lingering around the change room, which obviously made her and the rest of her female shoppers very uncomfortable. A staff member asked him to leave, and he said he did not have to leave because he self-identified as a female, so by law, he is permitted to be there. Again the law in Ontario tied the hands of the staff in preventing them from acting appropriately to protect their customers.

Another incident that occurred in Ontario recently is one that I already spoke about in this chamber. This is where television stations would say, "Children, turn the television off." A senior citizen complained to an ethics columnist at the *Toronto Star* regarding her recent experience in a Toronto YMCA change room. To refresh your memories, I will quote from QMI Agency, journalist Christina Blizzard's article:

> A recent letter to an ethics columnist in the Toronto Star from an older woman complained she had to share a gym changeroom recently with a man who claimed to be transgendered and was therefore entitled to use the women's changeroom.
>
> The "woman" had a penis. The penis had an erection and the person it was attached to asked her if she "came here often."

The Human Rights Commission supports the right of the biological male to use the change room of his choice. I will quote Blizzard again:

> At the same time, we have women-only swim times at an aquatic centre in Regent Park in order to accommodate certain religious and cultural minorities for whom communal bathing is a no-no. And the OHRC supports that.
>
> It begs the question: If a transgendered woman with a penis busts a female Islamic swim class in downtown Toronto, whose human rights take precedence?

Blizzard wanted to ask this question to the Ontario Human Rights Commissioner, but she was declined an interview.

The most disturbing issue is the incident I raised earlier: The case of Christopher Hambrook. This is troubling, because it is proof that Hambrook knew of this ridiculous law in Ontario and took advantage of it to prey on the most vulnerable women in our society.

A psychiatric assessment confirmed that Hambrook was not transgendered, but the shelter's hands were tied. Had they denied him access to the shelter, they could have found themselves facing discrimination charges. Their hands were tied.

As one Ontarian recently wrote to me: "These were the types of concerns that were raised with the Ontario legislature prior to enacting this law."

As Blizzard stated:

> Women have a right to protection.
>
> This is a bad law that allows heterosexual predators access to women in their most personal moments.

In response to this case, the Ontario Human Rights Commission said:

> Unwanted sexual behaviour is unacceptable. Sexual harassment is unlawful under the Human Rights Code and sexual assault is unlawful under the Criminal Code. Under human rights law, everyone has the right to use facilities based on their lived gender identity.

Ironically, the Ontario Human Rights Code highlights indecent exposure as one of the most serious forms of harassment, yet permits biological males to have access to female change rooms. I would say that is hypocrisy that knows no bounds.

Senator Mitchell dismissed the concern of granting predators access, stating:

> We only need to consider that any such activity, as is contemplated in this bathroom defence, or bathroom concern, would be so clearly criminal that no court would absolve it on this basis.

The problem with this argument, of course, is that any criminal proceedings would take place after the fact — after we have allowed biological males and potential predators into the washrooms, change rooms and shelters. I am not sure how comforting it would be to any sexual assault victim in the Toronto shelter to hear us say, "Don't worry; it won't hold up in court," especially when we are not taking action to prevent predators from gaining access in the future.

As I said, we need to be conscientious of where the breakdown of gender distinctions is problematic and where it is a non-issue. For example, is ensuring that a person is not discriminated against based on gender identity an issue when it comes to employment or housing? No, I do not believe it is.

• (1600)

What about ensuring a person is not discriminated against based on gender identity when it comes to the use of change rooms, washrooms and sports teams? I would argue yes, it is a major problem.

The evidence speaks for itself. That is because these particular aspects of our society are not separated based on gender; they are separated based on sex, based on anatomical and physiological differences.

Sports and bathrooms, for example, were never separated by a difference in internal feelings. This is why we need a complex approach to this very complex issue. This is not a one-size-fits-all scenario.

The United States, for example, recently passed the Employment Non-Discrimination Act. This specifically addresses the underemployment of the transgender community. This does not break down all of society's gender distinctions, but rather provides a solution to an identified problem.

When it comes to the bathroom issue, one transgender female who appeared before the Standing Committee on Justice and Human Rights discussed the need for having gender-neutral bathrooms, stating that passing this bill would lead to mandates that all public establishments must have a male, female and gender-neutral bathroom.

I agree that requiring a family or a gender-neutral bathroom could be a potential solution, but what happens in the meantime? What rights do young women and girls have to their privacy and feelings of safety while we wait to see whether this provision happens? To solve the bathroom issue, why not bring in a bill that will make a mandatory gender-neutral bathroom explicit?

Honourable senators, I have received numerous emails from young people across the country who are concerned about this issue. I will not read all of them, but I will share a few of their thoughts with you. I think it is important that young people take an interest and get involved in the democratic process and I believe their voices need to be heard.

A high school student named William says, "I know that most of the members in the Senate and House of Commons have children. Please stop and think about your children," — and, I will add, and our grandchildren — "and their safety when they use public washrooms or change rooms."

Another high school student named John wrote to me and said, "If one has already had a procedure done, then all power to you, use the bathroom that you intend using. But, to have the use of the other gender's facilities based on a claim of identifying with that gender is simply not good enough." He continued, "It must be hard to struggle with sexual identity, but if these people haven't had the change, they should not be allowed in the opposite gender's bathroom for fear of assault of any kind."

And last, a high school student named Kassie wrote to me and said, "This bill is absolutely ridiculous. It does not represent the rights of the majority or my right to privacy. If this bill passes, it will jeopardize my safety as a young woman." She continued, "As a Canadian citizen, I have the right to feel safe."

When Senator Mitchell says we should fast-forward through the barriers because this is going to happen someday anyway, he needs to keep in mind this is not granting women the right to vote. This is not about marriage equality. This breaks down all the elements of society that are separated by gender or by sex.

We have seen the major problems that have happened in other jurisdictions that have left legislators, private businesses, schools and school boards with their hands tied. This was considered to be progress, which makes it inherently difficult to take a step back. If you do, you are seen as bigoted, intolerant and narrow-minded.

Progress for me does not include keeping parents in the dark about their children's struggles. It does not include jeopardizing women's rights to privacy or feelings of safety. It does not include granting men access to women's bathrooms, change rooms, shelters and sports teams. Progress is about acknowledging when there are problems in our society, whether they are faced by the collective or by a specific group, and looking at a specific solution to these problems. This is not it. Let's take a step back and look at a meaningful and reasonable way to invoke change for this vulnerable population.

The case of Christopher Hambrook happened in a women's shelter in Ontario, but the truth is it could have happened in Manitoba, Nova Scotia or the Northwest Territories, as these two provinces and territory also have this dangerous law in place. This cannot be overturned in any of these provinces if this law is enacted federally. With that said, there are nine provinces and territories that are not currently subject to this provision. Let's not force this poorly thought-out legislation upon them.

Senators from Alberta, British Columbia, New Brunswick, Newfoundland and Labrador, Prince Edward Island, Quebec, Nunavut, and Yukon, you have the opportunity to uphold the protection that currently exists for women and children in your provinces and territories by voting against Bill C-279.

Honourable senators, I ask you to use common sense and do the right thing. Thank you.

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

**Some Hon. Senators:** Agreed.

**Senator Plett:** On division.

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

REFERRED TO COMMITTEE

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

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

## CRIMINAL CODE

BILL TO AMEND—SECOND READING—
DEBATE ADJOURNED

**Hon. Mobina S. B. Jaffer** moved second reading of Bill S-214, An Act to amend the Criminal Code (exception to mandatory minimum sentences for manslaughter and criminal negligence causing death).

She said: Honourable senators, I rise today to speak on amending the Criminal Code to remove the mandatory minimum sentence for cases of manslaughter with a firearm committed by a battered women. Amending the Criminal Code will address the seriousness and reality of abuse and psychological illnesses, and will allow mitigating factors to be considered upon sentencing.

I would like to share with you the story of Leslie Morgan Steiner, a woman with a Bachelor of Arts in English from Harvard College and an MBA in marketing from Wharton Business School, and whom most would consider an unlikely target for domestic violence.

Ms. Steiner described her love story as "a psychological trap disguised as love."

**Senator Cordy:** Mr. Speaker, I'm unable to hear. Senator Jaffer is almost right next to me and I can't hear her speaking.

**The Hon. the Speaker** *pro tempore*: Honourable senators, if you could just be polite to those who are speaking. If you have a conversation, you can take it into the reading room or outside, but please, let's listen to Senator Jaffer. I know it's Thursday and we all want to leave, but we have to go through the Order Paper.

Senator Jaffer, you have the floor.

**Senator Jaffer:** Thank you, Mr. Speaker.

Ms. Steiner described her love story as "a psychological trap disguised as love." She met Conor at the age of 22 and, in hindsight, discovered the steps in any domestic violence relationship: charming the victim, isolating them, and then introducing the threat of violence.

• (1610)

In the beginning of their relationship, Conor idolized Ms. Steiner. He loved everything about her, that she was smart and passionate. He believed in her and, in her words, "he created a magical atmosphere of trust between us by confessing his secret, which was that, as a very young boy starting at age four, he had been savagely and repeatedly physically abused by his stepfather. He had spent almost 20 years rebuilding his life." Like most domestic abuse relationships, there were no hints of violence, control issues or anger in Conor. She confessed: "If you had told me that this smart, funny, sensitive man who adored me would one day dictate whether or not I wore makeup, how short my skirts were, where I lived, what jobs I took, who my friends were and where I spent Christmas, I would have laughed at you."

Yet, this was the man that held a gun to her head and threatened to end her life time and time again.

Conor first physically attacked Ms. Steiner five days before their wedding. Her frustration grew as she tried to finish a freelance writing assignment. Conor used her anger as an excuse to put ". . . both of his hands around my neck and to squeeze so tightly that I couldn't breathe or scream. And he used the chokehold to hit my head repeatedly against the wall." Five days later she made a commitment to be his wife.

For the next two and a half years of their marriage, Conor beat her once or twice a week. Why did she stay? She never thought of herself as a battered woman. Instead, she felt like a strong woman in love with a deeply troubled man, who needed her to help him face his demons. When asked why she didn't walk out, Ms. Steiner said, "We victims know something you usually don't: It is incredibly dangerous to leave an abuser because the final step in the domestic violence pattern is to kill her."

Luckily, Ms. Steiner's story did not end this way. It took one final sadistic beating that broke her silence, at which point she told everyone she knew, neighbours, friends, family, the police, and even total strangers, to escape her helpless situation. One

piece of advice she gives is to recognize the early signs of violence and conscientiously intervene, de-escalate it, and show victims a way to leave the marriage.

Honourable senators, I want to re-emphasize Ms. Steiner's advice to show victims a way to leave the relationship. Many battered women feel that there are no options; and one in five homicides in Canada involves the killing of an intimate partner. Women are eight times more likely to experience violence in a relationship than men. The current sentence for manslaughter in the context of spousal homicide with a firearm is minimum four years to life imprisonment. Yet, the sentence for manslaughter by strangulation is two years less one day; stabbing and poisoning carry a lesser sentence than shooting; criminal negligence causing death has no minimum sentence and neither does manslaughter by way of a vehicle.

Honourable senators, we need to consider the choice of means of crime for both men and women: 40 per cent of men use a firearm; 25 per cent stab; and 35 per cent commit crime through other means, with significantly higher use of hands, feet and choking as opposed to using a firearm. There is a disparate effect between male and female offenders since women are more likely to shoot intimate partners than men, and this can be attributed to sheer strength. Therefore, women are disproportionally affected by mandatory minimum sentences in this case. The so-called choice of weapon is not really a choice. In most cases, a physically and psychologically abused woman cannot beat, choke or strangle her husband, yet for using a firearm, mandatory minimum sentences state that she deserves greater punishment than a man for committing a crime with the same result.

In its 1987 report, the Canadian Sentencing Commission recommended the abolition of all mandatory sentences of imprisonment, with the exception of the sentence for murder. The commission reported:

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

This brings us to the principle of proportionality. A fundamental principle of sentencing is that a sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender. In the case of Battered Woman Syndrome, mandatory minimum sentencing prevents the opportunity to determine if the circumstances leading to the criminal offence affect the degree of responsibility and thus if the punishment fits the crime. Mandatory minimum sentences contravene proportionality and violate the legal rights constitutionally enshrined in the Canadian Charter of Rights and Freedoms under section 12 in which everyone has the right not to be subjected to cruel and unusual treatment or punishment.

Other jurisdictions have opted for a more flexible, judge-determined sentencing scheme. For example, in 2002 the State of Michigan made amendments to mandatory sentencing laws, including the creation of provisions that permit courts to consider mitigating factors, also known as an escape clause. Escape clauses can also be found in British, Australian and South African legislation. In Canada, an escape clause was provided in criminal legislation in 2012 in Bill C-10, the Safe Streets and Communities Act, in subsections 10(4) and 10(5). Subsection 10(4) states:

> A court sentencing a person who is convicted of an offence under this Part may delay sentencing to enable the offender
>
> (*a*) to participate in a drug treatment court program approved by the Attorney General;
>
> (*b*) to attend a treatment program under subsection 720(2) of the Criminal Code.

Subsection 10(5) states:

> If the offender successfully completes a program under subsection (4), the court is not required to impose the minimum punishment for the offence for which the person was convicted.

This goes to show that flexibility and considering mitigating factors is not new to the Canadian justice system.

As any psychological illness is complex, it is important to understand the multiple facets of Battered Woman Syndrome in order to make this amendment. Battered Woman Syndrome is a physical and psychological condition of a person who has suffered usually persistent emotional, physical, or sexual abuse from another person. As Ms. Steiner shared in her story, people often wonder why battered women cannot simply leave. It is important to recognize that repeated cycles of violence and reconciliation can result in beliefs and attitudes that deeply impact rational thought processes.

Honourable senators, as a young lawyer, I often did, and I still do, deal with women who have been brutally assaulted. I never understood in my younger days why a woman would return to that relationship. A very senior social worker sat me down and explained to me the complexity of why a woman goes back. She told me, and this still puzzles me, that a woman on average returns 40 times to the relationship before she finally leaves the relationship or she is killed.

Honourable senators, I respectfully say that I know of what I speak. In my legal career, I have lost seven clients to violence against women after I won the case and thought I had done everything that I could do as a lawyer, but I was ignorant about the complexities of relationships. I learned a very hard lesson.

Examples of these beliefs and attitudes are as follows: The abused thinks that the violence was his or her fault. The abused person has an inability to place the responsibility for the violence

elsewhere. The abused person fears for his or her life and/or the lives of his or her children, if present, and the abused person has the irrational belief that the abuser is omnipresent and omniscient.

• (1620)

Within domestic violence situations, Battered Woman Syndrome develops in response to a three-stage cycle. First, tension builds in the relationship. Second, the abusive partner releases the tension through violence, while blaming the victim for having caused the violence. Third, the violent partner makes gestures of contrition. However, the partner does not find solutions to avoid another phase of tension, and the cycle repeats itself.

The repetition of violence, despite the abuser's attempts to rectify the situation, results in an abused partner feeling at fault for not preventing the ongoing violence. This self-blame and helplessness often results in depression and feelings of passivity, making it difficult for the abused partner to marshal the resources and support system needed to leave. However, leaving the situation does not mean that the violence will stop.

Most men who batter are terrified at the thought of separation, and they continue to stalk or harass their victims even after the women leave. In fact, a battered woman's life may be in more danger after she leaves than while living with her abuser.

In criminal law, the self-defence argument has effectively precluded women who killed their abusive partners from successfully pleading self-defence due to the "reasonable man" standard. This argument has hinged on considering what the "reasonable man" would have done in the same circumstances. In other words, was the use of deadly force reasonable? However, the assumed case applied in criminal courts understood the "reasonable man" standard to involve two parties relatively equal in size and strength.

The "reasonable man" standard imposes a double bind on abused women. That is, if the abused woman never fought back in the past, the courts have trouble seeing her actions as those of a reasonable person, and if she attempted to fight back, the courts treated that as evidence that rebutted the battered woman claim.

The legal use of Battered Woman Syndrome is important to ensure that justice is served for both men and women. Expert evidence on the syndrome is used for the purpose of counteracting the assumption that the woman's actions were unreasonable. An expert may be able to explain that battered women feel that the only way to ensure another violent encounter does not occur is by using lethal force because they feel their lives are in imminent danger.

There are many far-reaching mental health consequences of this syndrome. Depression, anxiety and sleeping and eating disorders are common long-term consequences of prolonged violence. Suicide and suicidal behaviour may be induced, and symptoms of post-traumatic stress disorder may also prevail. Symptoms like low self-esteem and isolation also ensue from the direct personal experience of a series of violent acts by an intimate partner.

Treatments for Battered Woman Syndrome vary and are very time and resource intensive. There are three common models. The first is known as the Duluth model, a 12- to 26-week psycho-educational intervention program based on feminist and cognitive behaviour principles. This type of intervention can be in the form of a psycho-therapeutic group program in which women can better understand how the violence they have experienced has impacted their lives and what they can do about it.

A second model consists of a combination of treatments for domestic violence and mental health problems. These programs require greater resources and are lengthy, from between 36 to 52 weeks.

The third model is a mental health treatment program, which can take place in various settings, such as battered women shelters, community health centres or clinics, hospitals and prisons. The most important facet of these programs is that they give an abused woman the ability to leave their relationship.

According to an in-depth study completed by Correctional Service Canada in November 2007, many incarcerated women revealed considerable abuse during their childhood and adolescence. Approximately 76 per cent had experienced emotional abuse; 77.2 per cent had experienced physical abuse; and 70.6 per cent experienced their first episode of abuse between the ages of 5 and 15 years. Three quarters of the women revealed that the abuse was long-term or severe.

In Canada, there were 738 spousal homicides between 2000 and 2009. Although the perpetrators were predominantly male, it is interesting to note the method used to commit spousal homicide. A clinical review of coroners' files containing all cases of spousal homicide in Quebec over a 20 year period was carried out. Of the female perpetrators, 52.4 per cent used a knife; 35.7 used a firearm; 4.8 per cent used strangulation; and 2.4 per cent used a blunt instrument. Of the male perpetrators, 34.6 per cent used a knife; 28.9 per cent used a firearm; 15.8 per cent used strangulation; 6.4 per cent used a blunt instrument; and 2.6 per cent beat their victim to death. It is evident from this data that more men than women are using their physical strength to commit crime, and more women than men use firearms to commit spousal homicide.

Honourable senators, in order to understand the purpose of this amendment, it is important to revisit the details of Battered Woman Syndrome jurisprudence. A well-known case, *R. v. Lavallee*, from 1990, concerns the defence of self-defence in relation to Battered Woman Syndrome. Lyn Lavallee was charged with murder after she shot her boyfriend in the back of the head with a .303-calibre rifle. The shooting occurred after an argument between the couple in which Lavallee was beaten and her life threatened. The evidence presented showed that Lavallee had been a victim of physical abuse and was fearful for her life. She was acquitted at trial by a jury, but the verdict was overturned by the Court of Appeal.

On appeal at the Supreme Court, the court concluded that the expert evidence on the dynamics of abusive relationships describing the phenomenon and characteristics of Battered Woman Syndrome can provide a framework in which the jury can meaningfully assess whether the woman's response was reasonable, and the acquittal was restored.

Eight years later, the Supreme Court affirmed that expert evidence on Battered Woman Syndrome is related to self-defence and dismissed the appeal for the case of *R. v. Malott*. Ann Malott shot her common-law spouse of 19 years with a .22-calibre pistol and shot and stabbed Mr. Malott's girlfriend, who survived.

Evidence showed that Ms. Malott was physically, sexually, psychologically and emotionally abused. During the trial, expert evidence showed she was suffering from Battered Woman Syndrome, but she was still found guilty of second-degree murder and attempted murder. Due to the severity of the syndrome, the jury recommended that she should receive the minimum sentence.

In the case of *R. v. Ryan*, Nicole Ryan was the victim of a violent, abusive and controlling husband and believed that her life and her daughter's life were in danger. She tried to hire a hitman to kill her husband and agreed to pay him $25,000 but was speaking to an undercover RCMP officer. She was arrested and charged, under the Criminal Code, with counselling the commission of an offence not committed.

The trial judge accepted Ms. Ryan's evidence that the sole reason for her actions was intense and reasonable fear arising from her husband's threats of death and serious bodily harm to herself and their daughter. The Court of Appeal upheld her acquittal.

The treatment of those convicted and sent to jail who suffer from mental illnesses like Battered Woman Syndrome has been investigated time and again. Correctional Investigator Howard Sapers pointed out an alarming sign that Canada's prisons have adopted the wrong approach to mentally ill inmates; it has built its first padded cell.

According to Sapers' eighth annual report, the federal prison population is growing because more visible minorities, Aboriginal people and women are entering the system than ever before. In fact, over the last five years the number of female inmates has increased by 40 per cent.

• (1630)

Sapers' concern is mirrored by Nicole Loreto, a social worker with the Royal Ottawa Hospital, who said:

> An offender with a physical ailment would be treated in a hospital, but a person with mental illness remains in a prison and we think, why don't they have fundamentally the same right to treatment?

Honourable senators, it is our duty to ensure that everyone has the same fundamental rights, and the purpose of amending the Criminal Code to remove the mandatory minimum sentence for cases of manslaughter with a firearm committed by battered women does just that. Mandatory minimum sentencing applies a one-size-fits-all method to our judicial system. Honourable senators, this is just wrong.

[ Senator Jaffer ]

The Honourable Federal Judge John Martin could not have described the effects of mandatory minimum sentences on judicial discretion better. He said, "Mandatory minimums are over-inclusive, they're unfair, and they can even be draconian."

Honourable senators, I strongly hold the view that psychological and social circumstances of victims of domestic abuse are often of such complexity that the imposition of an appropriate and just sentence requires individualized consideration and reviewing mitigating factors, rather than the blunt application of mandatory minimums.

Honourable senators, I urge you to support this amendment.

(On motion of Senator Martin, debate adjourned.)

[*Translation*]

## STUDY ON SERVICES AND BENEFITS FOR MEMBERS AND VETERANS OF ARMED FORCES AND CURRENT AND FORMER MEMBERS OF THE RCMP, COMMEMORATIVE ACTIVITIES AND CHARTER

### EIGHTH REPORT OF NATIONAL SECURITY AND DEFENCE COMMITTEE ADOPTED

The Senate proceeded to consideration of the eighth report (interim) of the Standing Senate Committee on National Security and Defence, entitled: *The Transition to Civilian Life of Veterans*, tabled in the Senate on June 4, 2014.

**Hon. Roméo Antonius Dallaire** moved the adoption of the report.

He said: Honourable senators, I would like to talk about the adoption of our report on our study of veterans' transition to civilian life.

[*English*]

This report started in the fall of 2011 with members of the Subcommittee of Veterans Affairs and of the Standing Senate Committee on National Security and Defence agreeing to undertake a study on the transition to civilian life of veterans.

The purpose of the study was to look at initiatives taken by the public and private sectors to promote the meaningful employment of members released from the Canadian Armed Forces and veterans during and after their transition into civilian life.

In the course of its study the subcommittee held 17 meetings on the topic and heard testimony from 44 different witnesses, including representatives of the Armed Forces, various federal departments and agencies, as well as several non-governmental organizations and, in particular, private sector employers.

The report discusses some of the challenges and issues identified by witnesses and offers suggestions in the form of 14 recommendations as to the possible ways of improving the transition to civilian life and the process by which the veterans can do so in the most effective manner possible.

Recommendations are grouped in six areas. There is the need for research on how can we integrate wounded veterans into a work environment by which they can find gainful and responsible employment for them and their families. Options are needed to strengthen DND's transition programs and services, for some, if not injured, don't go through Veterans Affairs but right from DND to civilian life. Although DND and the Canadian Armed Forces have a transition program, it has never really been put to the full test, apart from some very minor capabilities.

Options are needed to strengthen Veterans Affairs' transition programs and services. Veterans Affairs has instituted, since the New Veterans Charter, new methodologies, but there is a problem with quality control and application across the country that requires taking a look at and improvement.

Ways to improve the transition of ill and injured military personnel to civilian life is a dominant requirement. That means making the employer also accommodating to an injured veteran and, in fact, seeking to employ an injured veteran for the credibility of their workforce and demonstrating that the workforce is sensitive to those who have served and been injured in so doing.

Reinforcement of the bridge between the military and private sector and other non-government transition initiatives are required. There are a number of companies and outfits that do transition work. The problem is the organizations are not at ease with working with them. Some of them are quite innovative and will take an injured veteran, look at what they can do, go to industry, look at what's open and will assist the individual and the company for up to two years to work out the kinks in order to maximize the operational effectiveness of both.

The last area is the option to enhance private sector employment opportunities for veterans. I would like simply to indicate here that we did not go along with providing tax benefits to industry. It was debated quite extensively. I would argue that it's worthwhile going without that for now to see to what extent industry is prepared, on their own, to realize the quality of the people they can get coming out of the Armed Forces and also how they can participate in ensuring that we continue to get good-quality people in the forces. They will know that should they ever be injured, or injured to such an extent that they can't work, their spouse will be taken care of in an employment capacity and they won't become dependent, but in fact they will become value-added elements to both the company and to society.

This isn't bad, and I recommend that you approve it. You might look at the picture and see soldiers going into a Chinook aircraft, and the impression is they're going back into operational theatre. In fact, this is the picture of the last soldiers leaving Afghanistan, going back home to lick their wounds and prepare for another life.

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

**Hon. Senators:** Agreed.

(Motion agreed to and report adopted.)

• (1640)

## THE SENATE

### ORIGINS, HISTORY AND EVOLUTION—INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Nolin, calling the attention of the Senate to its roots, the history of its origins and its evolution.

**Hon. Scott Tannas:** Colleagues, I apologize; this item is at day 15. I very much want to participate in this inquiry. However, I have some research that is not complete, so I would ask for additional time, please.

(On motion of Senator Tannas, debate adjourned.)

### INVESTIGATIVE ROLE—INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Nolin, calling the attention of the Senate to its investigative role.

**Hon. Joan Fraser (Deputy Leader of the Opposition):** Colleagues, I think we have all been congratulating Senator Nolin for his series of inquiries, but I want to particularly congratulate him for this one.

The Senate's investigative role is not widely understood but is terribly important. If you just think about the subjects that in this chamber or its committees have studied that have had profound influence on the development and evolution of Canadian society, you would be humbled at what our predecessors, not to mention some of our present colleagues, have achieved.

I feel particularly humbled about this topic because, of course, Senator Nolin himself embodies some of those great achievements. His extraordinary chairmanship of the study on drugs really set a new standard for the work that we can do.

To do justice to the subject, therefore, I need to take more time, and I move the adjournment for the balance of my time.

(On motion of Senator Fraser, debate adjourned.)

[*Translation*]

## BUSINESS OF THE SENATE

### TRAGEDY IN MONCTON, NEW BRUNSWICK

**Hon. Fernand Robichaud:** Honourable senators, I know this is not on the Order Paper, but I simply wanted to say that the situation in Moncton has not been resolved, and the city is in a state of siege. I hope that there will be no further loss of life and that this situation will be resolved as quickly as possible. I believe I speak for everyone in this chamber when I say that our thoughts are with the families in Moncton and the greater Moncton community.

Thank you.

(The Senate adjourned until Tuesday, June 10, 2014, at 2 p.m.)

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