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OFFICIAL REPORT
(HANSARD)

Thursday, November 17, 2016

The Honourable GEORGE J. FUREY
Speaker

CONTENTS

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

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THE SENATE

Thursday, November 17, 2016

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

Prayers.

SENATORS' STATEMENTS

INDEPENDENT ADVISORY BOARD FOR SENATE APPOINTMENTS

Hon. Douglas Black: Honourable senators, as has been noted so many times before, as we know from our experience as senators, Canada is well served by the Senate and the dedication to Canada shown by us all.

Whether we have arrived here as appointees recognizing community, business or political accomplishments, or whether we have arrived here as elected senators, this chamber is dedicated to excellence, and the newest senators being sworn in underline this excellence.

Leading Canadians in the arts, business and community action — I am very proud to be able to call you all my colleagues.

Today I rise to publicly recognize and thank the permanent members of the Independent Advisory Board for Senate Appointments, the group who review all the Senate nominations and applications.

While we may choose to disagree with the process, we can all agree that the individuals who undertook this daunting and important task deserve our thanks. I acknowledge Huguette Labelle, Daniel Jutras and my friend Indira Samarasekera.

Let me quickly give the highlights of their significant careers.

Huguette Labelle holds a PhD in education from the University of Ottawa and has honorary degrees from 12 Canadian universities and the University of Notre Dame in the United States. She's a Companion of the Order of Canada and a recipient of the Order of Ontario, the Vanier Medal of the Institute of Public Administration of Canada and other distinguished awards.

Daniel Jutras is a distinguished legal scholar in Canada. He has been a professor of law at McGill for years, and he has served as the private secretary and personal legal adviser to the Chief Justice of Canada, the Right Honourable Beverley McLachlin.

Finally, Indira Samarasekera. She served as the twelfth president and vice-chancellor of the University of Alberta until 2015, a term of 10 years. She serves on the board of a major Canadian bank and other Canadian firms. She's on the board of the Asia Pacific Foundation of Canada, the Rideau Hall Foundation, the Perimeter Institute for Theoretical Physics and the Outstanding CEO of the Year program. She is one of Canada's most distinguished metallurgical engineers, and for this contribution to Canada she received the Order of Canada in 2002.

I would ask all senators to join me in offering our appreciation and our thanks for the dedication to this institution and to Canada shown by these three outstanding Canadians.

MYANMAR

ROHINGYA MUSLIMS

Hon. Salma Ataullahjan: Honourable senators, I rise today to speak to you about the plight of the Rohingya minority living in Myanmar, also known as Burma. The Rohingya have been part of the Myanmar landscape for centuries, where they lived in peaceful coexistence with the Buddhist population until a citizenship law in 1982 made them stateless.

More than one million Rohingya Muslims live in Rakhine state, where tensions have been simmering yet again between the Buddhist and Muslim populations after an attack last month which killed nine police officers was blamed on the Rohingya.

Since then, soldiers have closed down parts of the state and have prohibited independent observers, aid workers and foreign reporters from entering the area. This is of great concern.

In recent weeks, hundreds of Rohingya, including children, have been attempting to flee the current military crackdown by crossing the border into Bangladesh.

On November 13, Human Rights Watch referenced a Reuters report which published interviews with Rohingya women who allege that Myanmar soldiers raped them.

Witnesses have reported that some of those attempting to escape have been shot and killed and that hundreds of Rohingya homes have been burnt to the ground.

Through satellite imaging, Human Rights Watch has been able to identify 430 destroyed buildings in three separate districts, but they believe that the number is higher, although they cannot confirm that due to trees obstructing the imaging in certain areas.

As you know, I have spoken about the plight of the Muslim population in Myanmar on several occasions. I recall just last year when haunting images surfaced of hundreds of Rohingya people on fishing boats, attempting to escape Myanmar by sea to Malaysia.

The ongoing persecution of the Rohingya in Myanmar is a topic that is not spoken about enough on the global stage, notwithstanding that the United Nations has referred to the Rohingya as one of the most persecuted minorities in the world.

A vital part of our role as senators is to speak out against human rights violations both at home and abroad. It is imperative that we give a voice to those who are unable to speak for themselves.

It is for this reason that I remain committed to speaking out in this honourable chamber about the ongoing plight of the Rohingya. Moreover, I call on all parties to bring an immediate end to this current state of violence. Thank you.

THE LATE WILLIAM J. ROUÉ

Hon. Wilfred P. Moore: Honourable senators, I rise to pay tribute to William J. Roué, Canada's premier naval architect, late of Dartmouth, Nova Scotia.

On Thursday, October 26, 2016, I had the pleasure of attending the ceremony at the Canadian Museum of History for the announcement of its acquisition of the William J. Roué collection of artifacts, documents and designs and the establishment of an exhibit of the same. It was a proud day for his descendants.

William J. Roué was born in Halifax in 1879. At four years of age he was already building toy boats, and by 13 was an able skipper. At 16 years of age he had designed a motor boat, Plan Number 1.

In 1907, he was approached by the Vice-Commodore of the Royal Nova Scotia Yacht Squadron in Halifax to design for him a larger boat. Thus Roué designed his first yacht, the *Babette,* which was launched in 1909 and was still sailing in 1970 out of Long Island, New York. Today she is on display at the Maritime Museum of the Atlantic in Halifax.

After this success his career was under way, and over the next decade he would create 14 more yacht designs, doing so by blueprint, which was then a pioneering concept in North American naval architecture.

In 1920 Bill Roué was chosen to design a vessel for the Bluenose Schooner Company to compete for the International Fishermen's Trophy, which was awarded to the fastest fishing vessel in the North Atlantic. His first design was turned down, as it was longer than requested. With three weeks to go before the deadline to start building, his new design was accepted. It was Roué's Plan Number 17, which bore the name *Bluenose*.

This most famous and successful of all schooner designs not only went on to win the International Fishermen's Trophy five times but did so as a working schooner. She held the record for the largest catch of fish landed in Lunenburg, a true high liner.

We should keep in mind the fact that the *Bluenose* did not race for Lunenburg, nor did she race for Nova Scotia; she raced for Canada. That's why she was the subject of a Canadian stamp in 1929, commonly referred to as the most beautiful stamp by collectors, and that's why she has been on the reverse side of our 10-cent coin since 1937.

For Bill Roué, his career in naval architecture would span many years and over 200 designs, including a type of barge which was used to ferry troops and supplies into Normandy on D-Day.

According to his great granddaughter, Joan Roué, "It has been stated that naval architects must be 75 per cent artist and 25 per cent engineer, and every design, no matter how large or small, must be an inspiration and a labour of love. I wonder if they were describing my great-grandfather and his work when these comments were made."

• (1340)

So for all of this, William J. Roué and his legacy deserve the national recognition and the status which will come with the establishment of the exhibit in his name, which is scheduled to open at the Canadian Museum of History on July 1, 2017.

[*Translation*]

BUSINESS OF THE SENATE

The Hon. the Speaker: I apologize. We are having problems with the interpretation system.

[*English*]

We could just suspend for a couple minutes. Is it agreed, honourable senators?

Hon. Senators: Agreed.

(The sitting of the Senate was suspended.)

(The sitting of the Senate was resumed.)

The Hon. the Speaker: Honourable senators, I call us to order again. It appears that our technical difficulties have been dealt with, and we're back in business.

[*Translation*]

ROUTINE PROCEEDINGS

BUDGET IMPLEMENTATION BILL, 2016, NO. 2

NOTICE OF MOTION TO AUTHORIZE CERTAIN COMMITTEES TO STUDY SUBJECT MATTER

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate): Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

> That, in accordance with rule 10-11(1), the Standing Senate Committee on National Finance be authorized to examine the subject matter of all of Bill C-29, A second Act to implement certain provisions of the budget tabled in Parliament on March 22, 2016 and other measures, introduced in the House of Commons on October 25, 2016, in advance of the said bill coming before the Senate;

That the Standing Senate Committee on National Finance be authorized to meet for the purposes of its study of the subject matter of Bill C-29 even though the Senate may then be sitting, with the application of rule 12-18(1) being suspended in relation thereto;

That, in addition, and notwithstanding any normal practice:

1. The following committees be separately authorized to examine the subject matter of the following elements contained in Bill C-29 in advance of it coming before the Senate:

   (a) the Standing Senate Committee on Social Affairs, Science and Technology: those elements contained in Divisions 1 and 2 of Part 4; and

   (b) the Standing Senate Committee on Banking, Trade and Commerce: those elements contained in Divisions 3, 4, 5, 6 and 7 of Part 4;

2. The various committees listed in point one that are authorized to examine the subject matter of particular elements of Bill C-29 be authorized to meet for the purposes of their studies of those elements even though the Senate may then be sitting, with the application of rule 12-18(1) being suspended in relation thereto;

3. The various committees listed in point one that are authorized to examine the subject matter of particular elements of Bill C-29 submit their final reports to the Senate no later than December 6, 2016;

4. As the reports from the various committees authorized to examine the subject matter of particular elements of Bill C-29 are tabled in the Senate, they be placed on the Orders of the Day for consideration at the next sitting; and

5. The Standing Senate Committee on National Finance be simultaneously authorized to take any reports tabled under point four into consideration during its study of the subject matter of all of Bill C-29.

• (1350)

[*English*]

THE SENATE

NOTICE OF MOTION TO AFFECT QUESTION PERIOD ON NOVEMBER 23, 2016

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate): Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That, in order to allow the Senate to receive a Minister of the Crown during Question Period as authorized by the Senate on December 10, 2015, and notwithstanding rule 4-7, when the Senate sits on Wednesday, November 23, 2016, Question Period shall begin at 3:30 p.m., with any proceedings then before the Senate being interrupted until the end of Question Period, which shall last a maximum of 40 minutes;

That, if a standing vote would conflict with the holding of Question Period at 3:30 p.m. on that day, the vote be postponed until immediately after the conclusion of Question Period;

That, if the bells are ringing for a vote at 3:30 p.m. on that day, they be interrupted for Question Period at that time, and resume thereafter for the balance of any time remaining; and

That, if the Senate concludes its business before 3:30 p.m. on that day, the sitting be suspended until that time for the purpose of holding Question Period.

PARLAMERICAS

ANNUAL GATHERING ON CLIMATE CHANGE, AUGUST 3-5, 2016—REPORT TABLED

Hon. Tobias C. Enverga, Jr.: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the ParlAmericas respecting its participation at the ParlAmericas' Annual Gathering on Climate Change, "Parliamentary Action to Stop Climate Change", held in Panama City, Panama, from August 3 to 5, 2016.

[*Translation*]

QUESTION PERIOD

INTERNATIONAL TRADE

TRADE NEGOTIATIONS

Hon. Claude Carignan (Leader of the Opposition): Thank you, Mr. Speaker. My question is for the Leader of the Government in the Senate.

I would like to talk again about NAFTA, an issue that was raised in Question Period yesterday by a few of our colleagues. Yesterday evening, a former senator for Pennsylvania, Rick Santorum, gave a speech to the Canadian American Business Council here in Ottawa. Mr. Santorum ran against Trump for the Republican nomination but then endorsed him during the campaign. He spoke about trade matters with Mr. Trump this week. In an interview with the *National Post*, he confirmed that when Mr. Trump says he will rip up NAFTA, he is thinking of Mexico and not Canada. That was obvious, judging from some of the comments the president-elect has made in recent months.

The agreement's negotiator, Derek Burney, commented on the position of the Trudeau government, which said that it was open to negotiations even before receiving a request from the other parties. This is what Burney had to say: "Naive would be a polite term."

In this morning's *La Presse*, Lysiane Gagnon described Prime Minister Justin Trudeau's strategy in the following terms:

> In other words, he is the poker play who shows his hand at the start of the game; the owner who says he is ready to lower his price even before receiving an offer; the little red riding hood who invites the big bad wolf to gobble her up; or the gentle Care Bear who gets lovey-dovey with the grizzly about to pounce.

Why was the Liberal government so quick to put Canada's largest trading relationship at risk by putting NAFTA on the table before anyone even asked?

[*English*]

Hon. Peter Harder (Government Representative in the Senate): Again, I thank the honourable senator for his question and his ongoing interest in the NAFTA and, more broadly, trade agreements.

Let me repeat what I said yesterday: Notwithstanding the comments or advice from others, it is the view of the Government of Canada that we must engage with the new administration, once they take office, and do so in a fashion that advances Canada's interests with respect to the NAFTA, with respect to our ongoing defence, security and other relationships that are so crucial for our bilateral and our multilateral engagement, and that is the spirit in which the Prime Minister intends on preparing this administration for an administration that is yet to take office.

[*Translation*]

Senator Carignan: I would like to come back to a comment made by our ambassador in Washington, something that was also raised in Question Period yesterday regarding NAFTA. It was reported that Canada's Ambassador to the United States, David MacNaughton, said that he would like to see a free trade deal reached on softwood lumber. Is that the ambassador's personal opinion or is that the government's position?

[*English*]

Senator Harder: Our ambassador in Washington is an experienced official with a reputation that precedes him in this important role, and I would expect the ambassador to be making his comments in his role as ambassador.

OFFICIAL LANGUAGES

RESEARCH FUNDING FOR LINGUISTIC MINORITIES

Hon. Joan Fraser: Thank you, Your Honour. My question is for the Leader of the Government in the Senate. My question has to do with federal funding on research for language minorities.

On Monday, the Official Languages Committee heard an interesting presentation from Professor Lorraine O'Donnell, who is the only full-time person employed by the Quebec English-Speaking Communities Research Network.

That institute, which has, in addition to Professor O'Donnell, one part-time coordinator, is the only university-based unit devoted to research on Quebec's English-speaking communities.

Its funding from Canadian Heritage in the last package was a two-year grant of $190,000, which is not much money.

Professor O'Donnell mentioned that there are over 20 similar educational networking and research organizations serving francophone official language minority communities across Canada, and that at least one of these has more than a dozen staff members.

Twenty to one is an interesting ratio when one recalls that there are about as many English-speaking Quebecers as there are French-speaking Canadians outside Quebec.

So my question to the government is: Will you please provide for the Senate the amount of funding that Canadian Heritage provides for these more than 20 research institutes outside Quebec?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for her question and her ongoing interest in this matter, and I would be happy to provide that information.

Senator Fraser: While you are at it, institutes of this nature also get project funding, sometimes from Canadian Heritage, sometimes from other departments. It may take longer to get the answer to this question, so two answers would be fine, first to my first question and then to my supplementary, but it would be very interesting to know what projects have been funded over the past three years in the various research institutions to which I have referred.

While I'm on my feet, let me thank the Leader of the Government in the Senate for his continuing dedication to obtaining answers to questions put by senators. The answers are not always as useful as one might wish, but that's not his fault. It's a phenomenon of government.

Senator Plett: He's giving the answers.

Senator Harder: I thank the honourable senator for what I think is her compliment. I suspect the oral answers are not much better.

I will be happy to seek that information and report.

• (1400)

THE SENATE

ANSWERS TO WRITTEN QUESTIONS

Hon. Percy E. Downe: Honourable senators, Senator Harder's speedy answers to the written questions I've filed are very much appreciated.

Having said that, there are two or three outstanding. I'm just wondering, particularly on the sale of overseas official residences, does he have a time frame of when I could expect to receive those answers?

Hon. Peter Harder (Government Representative in the Senate): I will seek an answer to that and report back to the honourable senator privately, if not on the floor of the Senate, whatever is most efficient.

HEALTH

COMBATTING OPIOID USE

Hon. Yonah Martin (Deputy Leader of the Opposition): Honourable senators, I have a question for the Leader of the Government in the Senate, an urgent matter, leader, a matter of life and death.

People are dying across our country due to opioid overdosing, many linked to the painkiller fentanyl, which I know we are all aware of. Overnight Monday, there were 11 drug overdoses in Vancouver's Downtown Eastside, with the painkilling opioid as the main suspect. In Delta, just a short drive from Vancouver, in September there were nine overdoses of young people in 20 minutes, and just yesterday three more lives were cut short in Winnipeg. Add to that 332 dead in B.C., 193 in Alberta, 21 in Saskatchewan, 162 in Ontario, 4 in P.E.I., 5 in Newfoundland and Labrador, and those are just in the provinces that keep fentanyl-related death statistics. I'm sure there are many more.

Premier Christy Clark of B.C. has called on the federal government for support during this crisis. One of the immediate needs, something the premier has been calling for since July of this year, is support from the Canada Border Services Agency to stop the drug before it gets onto the streets.

Leader, obviously protecting Canadians and saving lives should be the top priority for any government, including this government that you represent here in this chamber. When will the Trudeau government authorize the CBSA to open all suspect packages, not just those that are more than 30 grams, and provide our agents with the proper safety equipment, like naloxone, to ensure they can effectively carry out their duties as our citizens' first line of defence to combat this crisis?

Hon. Peter Harder (Government Representative in the Senate): Again, I want to thank the honourable senator for her question and for the work of many senators — particularly Senator White — with respect to opioids. I know that other senators are very involved in this as well.

This is a high priority for the Minister of Health, who has spoken publicly and in the other chamber about this. I hope this is a subject that we can address next week with ministerial questions, because this is an urgent matter, one that transcends any side in this chamber or otherwise.

The minister has undertaken a number of initiatives, including supporting an amendment to a private member's bill with respect to fentanyl. There are other measures that she and the government are contemplating, and I will, with respect to the specific question on the Canada Border Services Agency, inquire and report back.

Senator Martin: I know that the minister has stated that she's giving attention to this issue, but I guess my fear is that any repeal of an existing bill or an amendment to a bill, as we know, can take months. Sometimes it's very quick — it could be several months — but it is still months and not weeks or days. While we are facing these high numbers in the death toll, there is just a great urgency.

I am glad to know that Minister Philpott will be in our chamber next week, but I would urge the leader to also ask the minister and the government about the more immediate, short-term measures versus the long-term ones.

Senator Harder: I will indeed.

THE SENATE

COMMITTEE REVIEW OF CANADA PROMPT PAYMENT BILL

Hon. Donald Neil Plett: Honourable senators, if I could, let me take a quick moment. I wasn't in the chamber yesterday or the day before, and I would like to offer my congratulations and welcome to all of the new senators that have been appointed to this chamber, specifically my colleagues from Manitoba. I look forward to working with you. I notice by the seating chart that one of them is on our side of the chamber, so I certainly appreciate that.

My question, however, is for the Leader of the Government in the Senate. Leader, as I said, I wasn't here yesterday and the day before, and the reason is because I was attending the annual general meeting of the Mechanical Contractors Association of Canada. At that annual meeting, the main topic was not being paid on time.

Now, leader, you have been very supportive of my initiative here, as have many others. This is a non-partisan issue, as was explained. There were 270 delegates. They unanimously said this was the number one issue for them. There were Liberal, NDP and Conservative members present.

Leader, this bill has been stalled in the Senate since April 19, a non-partisan piece of legislation that affects every contractor in our country. It is now again stalled. It is adjourned. The President of the Mechanical Contractors Association and the past president, Mr. Del Pawliuk from Ontario, and Mr. Gaetan Beaulieu from New Brunswick, along with 270 delegates, unanimously said, "Senator, please ask this question: When will this legislation go to committee?"

Leader, can you promise this chamber that you will do everything in your power to make sure this comes out of adjournment and is sent to the Banking Committee or to a committee where it can be studied in its entirety?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question. As he well knows, I have worked as best I can to advance this bill. As all senators

will know, this is not government legislation, and I would not want to aggrandize my role to appropriate responsibility for government legislation.

But I will use the offices that I have to encourage this bill and other bills to be considered appropriately and on their merits by the Senate in the process that advances our consideration. Even where we differ, we should at least advance our differences so that the full Senate can adjudicate the legislation as it moves forward.

Senator Plett: Well, let me echo at least in part what Senator Fraser said: You do give some good answers, and you give some other answers.

I would like something a little more affirmative than that, but, Senator Harder, I will count on you, and the contractors of our country will count on you and on this chamber to move this good piece of legislation through here as quickly as possible. Thank you.

Senator Harder: Let me just reiterate, particularly for new senators, that Senate public bills, which are sponsored by individual senators, are proceeded with and dealt with outside the ambit of the Government Representative.

I want to assure my honourable colleague across the way that I will seek to advance this bill, as other bills, appropriately and will work to see, where possible, how government support for Senate public bills can be achieved because that is advantageous in the consideration, particularly in the other place.

I don't mean to at all diminish my interest in this bill but simply to recognize that my authority, such as it is, deals with government legislation.

Senator Plett: Ask your whip.

ROLE OF GOVERNMENT REPRESENTATIVE

Hon. Denise Batters: Honourable senators, my question is for the Leader of the Government in the Senate.

Senator Harder, when Prime Minister Trudeau appointed you as Leader of the Government in the Senate, you were sworn in as a Privy Councillor. When you attended the Senate's Internal Economy Committee meeting on April 14 to request a significant budget increase for your office, you told us this about one of your important duties:

> . . . I am invited, as appropriate, to cabinet committees. Obviously, "appropriate" would be interpreted as where the work of the Senate is important and the voices of the Senate's concerns are important to be conveyed directly. I have already attended such committees and look forward to continuing as appropriate and as invited.

So, Senator Harder, from April 14, 2016, to today, how many times have you attended cabinet committees?

Hon. Peter Harder (Government Representative in the Senate): As appropriate and as invited.

Senator Plett: How many times? A number.

Senator Tkachuk: That's not an answer.

• (1410)

Senator Batters: Actually, Senator Harder, my question was from this past April 14 to today — so this is a question in the past, not in the future — how many times have you attended cabinet committees?

Senator Tkachuk: You brought it up. Answer the question.

Senator Harder: As appropriate and as invited.

Senator Tkachuk: Oh, come on.

Senator Batters: Senator Harder, that answer does not respond to the question.

Senator Plett: That's right.

Senator Batters: I'm talking about the last seven months in time. From April 14 to today, how many times have you attended cabinet committees? Can you please provide us with that information in a timely manner?

Senator Harder: I have already responded.

Senator Tkachuk: So he never attended any.

CITIZENSHIP AND IMMIGRATION

TEMPORARY FOREIGN WORKER PROGRAM

Hon. Don Meredith: The Minister of Employment appeared before us on Tuesday. I was on the list but wasn't able to ask my question of her, and I wonder if the Government Representative in the Senate would undertake to inquire of this information with respect to temporary foreign workers. We heard how important they are to Canada's various sectors with respect to the tourism sector. Senator Nancy Green Raine and I had a quick chat with the minister after. However, there are also issues with this program when it comes to the seasonal horticultural workers and their well-being.

Leader, are you aware of initiatives the government is undertaking to ensure the safety of those individuals who come to this country to work on our farms, to work in our hotels, to ensure that they have the proper accommodations, the proper health care, as well as in times of injury?

I relate, leader, to the situation of Sheldon McKenzie, someone from the Caribbean who was injured and wanted to be shipped back to the Caribbean. It was the intervention of his family that prevented him. Mr. McKenzie eventually died of a brain injury suffered from an injury on a farm that he was working on.

The well-being of these individuals is of great concern to me, as well as to members of this chamber. Could the representative let me know what the government is doing to ensure that they are safe and that they are protected while they are here working for us and supporting our industries?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for this question and for his ongoing interest in this subject in particular. As he knows from our private conversations, it's a program that I have had some acquaintance with, coming from the Niagara Peninsula in the farming sector, which is celebrating 50 years of this program. I do know that the minister, in answering a question related to this earlier this week, spoke of the need to ensure the appropriate protections, both worker safety and environmental and living conditions for these workers. I would be happy to further advance the question that you've asked, which you were unable to ask when the minister was here, and provide a more fulsome response.

Senator Meredith: Could the leader undertake as well to inquire of the Minister of Immigration, Refugees and Citizenship? A lot of these workers have been coming here for decades with respect to a pathway to citizenship or permanent residency. Perhaps the leader could undertake to see what the government is doing in that regard.

They pay taxes. They have been great contributors to this country, and I think it's a way to ensure that they remain contributors to this country by providing them permanent residency or a pathway to citizenship.

Senator Harder: I will do so.

[*Translation*]

PRIVY COUNCIL

SECURITY AND STORAGE OF CLASSIFIED DOCUMENTS

Hon. Paul E. McIntyre: First of all, I want to congratulate all the new senators on their appointments.

[*English*]

My question is for the Leader of the Government in the Senate. In the past year, there have been more than 10,000 incidents of classified or secured documents left unsecured or improperly stored. Obviously this is proving to be a serious problem, not just within departments or agencies but also within ministers' offices.

Could the Leader of the Government in the Senate tell us if remedial security training for the proper handling of documents will be provided across these departments and agencies, and particularly for ministerial staff?

Hon. Peter Harder (Government Representative in the Senate): I would be happy to provide that assurance and take the question as an opportunity for me to ensure that that is the case. This is a serious matter of concern, obviously, to ministers and ministerial staff, and it's not out of our recent memory where that lesson has been hard learned.

Senator McIntyre: Thank you for the answer.

We do not know if any of these occurrences of unsecured or improperly stored documents led to any security or privacy breaches. Since the government leader is going to look into this, could you also let us know whether or not this was the case, and if so, how serious was the breach?

Senator Harder: I will add that to my inquiry.

[*Translation*]

FOREIGN AFFAIRS

UNITED NATIONS RELIEF AND WORKS AGENCY— STATUS OF HAMAS

Hon. Thanh Hai Ngo: In 2010, the previous Conservative government withdrew its permanent funding to the United Nations Relief and Works Agency, or UNRWA, because of serious concerns over reports that the agency had ties to Hamas, an organization that remains listed as a terrorist entity in Canada. Hamas has been known to use UNRWA schools to store weapons used to attack Israel. In fact, last year the United Nations suspended a number of the agency's staff who had promoted anti-Israel and anti-Semitic violence on social media.

The Minister of International Development announced this week that Canada had restored $25 million in funding to the agency. My question for the Leader of the Government in the Senate is this: what assurance can the Liberal government give us that Canada's contribution will not be handed over to Hamas, either directly or indirectly?

[*English*]

Hon. Peter Harder (Government Representative in the Senate): Again, I thank the honourable senator for his question. I want to reiterate that UNRWA's work has been one that Canada over a number of years has contributed to. The issues that the honourable senator has raised have been important. It is the view of the Government of Canada that UNRWA has satisfied the Government of Canada and that it is appropriate for the federal government to contribute again to this important work, and I can assure the honourable senators that the announcement would have been made with appropriate consultation.

Senator Ngo: The press release yesterday from Minister Bibeau states:

> A proportion of Canadian funding will also be used to expand training for staff on the proper and neutral use of social media.

It is shocking that the Government of Canada has to include such a provision in its funding. We are talking about the staff of United Nations agencies. The need to include such a requirement in its funding should have set off alarm bells within the Government of Canada. Why?

Senator Harder: It is the view of the Government of Canada that the training is entirely appropriate and one that can provide additional assurances to all Canadians that these funds are being appropriately expended.

Senator Ngo: Does the Leader of the Government have plans to remove Hamas from the list of terrorist entities as provided under the Anti-Terrorism Act?

Senator Harder: I will take that under advisement. I assume it's not a request that they do so.

FINANCE

FINANCIAL LITERACY

Hon. Tobias C. Enverga, Jr.: My question is for the Leader of the Government in the Senate.

In 2012, the previous Conservative government designated the month of November as Financial Literacy Month. This month is an important tool to help promote financial literacy amongst Canadians so that they have the skills needed to make financial choices that will benefit them and their families.

Last year, the previous Conservative government introduced the National Strategy for Financial Literacy. This strategy states:

> It sets out goals and priorities to help Canadians better manage their finances and make appropriate decisions as their needs and circumstances change.

Could the Leader of the Government in the Senate tell honourable senators if the Liberal government supports this strategy? If so, how has this government worked to implement the National Strategy for Financial Literacy over the past year?

• (1420)

Hon. Peter Harder (Government Representative in the Senate): I will inquire.

Senator Enverga: I have a supplementary question, if I may, please.

The National Strategy for Financial Literacy places a particular emphasis on financial literacy skills for seniors. The financial abuse of seniors is unfortunately one of the most common forms of elder abuse in Canada.

Could the Leader of the Government in the Senate also tell us what initiatives the Liberal government has taken to address financial literacy and fraud prevention among seniors in particular?

Senator Harder: I will add that to my inquiry.

Senator Enverga: Thank you.

[*Translation*]

FOREIGN AFFAIRS

CUBA

Hon. Claude Carignan (Leader of the Opposition): My question is for the Leader of the Government in the Senate and it has to do with Prime Minister Trudeau's visit to Cuba, where he met with students and activists, as well as President Raul Castro. In Cuba, a certain state of affairs and rule of law are still very present. There are still political prisoners and journalists who are imprisoned because of their opinions. The press is still state-controlled and Internet access is censored. Many activists groups have spoken out about the situation in Cuba.

Prime Minister Trudeau, unlike President Obama, did not speak out against these human rights violations at all. Why did Prime Minister Trudeau, unlike President Obama, fail to speak out about the current state of affairs and human rights violations in Cuba?

[*English*]

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question. The Prime Minister and the Government of Canada place great emphasis on this trip the Prime Minister is undertaking to our partners in the hemisphere. As the senator is aware, this involves two bilateral visits and then a third country, which is hosting the Asia-Pacific Economic Cooperation Summit. The visit to Cuba is at an interesting time in Cuba's evolution.

I would expect that the nature of the visit is similar to the one that former Ambassador Entwistle described as a shot in the arm for reform in Cuba, and the expectation of the Government of Canada is that Cuba's evolving entry into global economic and social systems will continue.

I have no particular insight into the private conversations that the Prime Minister had, but I can only imagine that they covered a wide range of issues of bilateral interest between Canada and Cuba.

[*Translation*]

DISTINGUISHED VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, I draw your attention to the presence in the gallery of our former colleague, the Honourable Maria Chaput.

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

Hon. Senators: Hear, hear!

[*English*]

ORDERS OF THE DAY

INDIAN ACT

BILL TO AMEND—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Lankin, P.C., seconded by the Honourable Senator Petitclerc, for the second reading of Bill S-3, An Act to

amend the Indian Act (elimination of sex-based inequities in registration).

Hon. Dennis Glen Patterson: Honourable senators, having just arrived back from committee travel today, duty travel, I'd like to take this opportunity to welcome our new colleagues in the Senate. I look forward to working with you.

Honourable senators, I rise before you today to speak to Bill S-3, an Act to amend the Indian Act (elimination of sex-based inequities in registration).

Colleagues, when I think about the various policies and legislation that led us to this bill, I think about the deep-rooted and complex inequities enshrined in the Indian Act that this bill begins to address, and I cannot help but reflect upon the famous lines from a poem called *Marmion* by Sir Walter Scott. "O, what a tangled web we weave . . . ."

As Senator Lankin quite correctly pointed out in introducing this bill, it seeks to undo the remaining gender-based inequities with regard to — and I too don't mean this in the pejorative sense — Indian registration. In principle, of course, this is the right thing to do. Who could be against gender equity?

This bill is a narrow and direct response to the decision passed down by the Quebec Superior Court on August 3, 2015. The Honourable Chantal Masse found that, despite efforts in 1985 and 2010 to address it, "sex discrimination, though more subtle than before, persists."

In that decision, the court ruled that paragraphs 6(1)(a), (c) and (f), as well as subsection 6(2) of the Indian Act, infringe upon the Charter of Rights and Freedoms section that pertains to equality, equal protection and benefit under the law. It suspended its decision until February 3, 2017, giving Parliament time to address the issues affecting grandchildren and cousins under the act.

Given that decision, the bill before us today does propose an amendment to the Indian Act that removes the discrimination facing matrilineal entitlement, ensuring that cousins would be equally entitled to have and pass on their status, regardless of the gender of their grandparent. It also seeks to address issues regarding siblings. An Indian woman born out of wedlock would not be able to pass on their status to their children unless the father of those children was also a status Indian. However, her brother, also born out of wedlock, would have no difficulty or caveats when passing his status on to his children.

In her decision, Justice Masse also encouraged the government to look beyond these two specific circumstances, which were brought to light by litigants Stéphane Descheneaux, Tammy Yantha, and Susan Yantha. In that spirit, the government has also introduced a clause that seeks to address the issue of omitted minors who lost their status between September 4, 1951, and April 17, 1985, due to their mother marrying a non-Indian.

Despite being reinstated under Bill C-31 in 1985, they are not able to pass their status on to their children. This bill would allow the children of an omitted minor to be eligible for status.

Should these changes be passed by Parliament, it is estimated that between 28,000 and 35,000 individuals will become newly eligible for Indian registration and, consequently, become entitled to programs such as INAC's post-secondary education program and Health Canada's non-insured health benefits, and it would entitle them to certain treaty rights such as treaty annuity payments, and Aboriginal rights such as hunting and fishing. Membership in a band or First Nation also provides entitlement to specific Aboriginal and treaty rights, such as the ability to vote or run in elections for chief and council, to vote in community referenda, to reside on-reserve, to share in band monies, to own or inherit property on-reserve, and to access reserve-based programs and services.

Despite some concerns for the First Nations' ability to administer this influx in citizenship and band membership, I am told that current trends based on the last 20 years of data collection show that there has not been a significant change in the on-reserve population following inclusive amendments like those passed in 1985 and 2010.

This data, referred to by department officials as "the churn," has revealed a natural and consistent ebb and flow to band membership living on-reserve. Growth in reserve populations arising from increased entitlements is possibly restrained, I think, by acute housing shortages in most reserves. However, this question of an individual First Nation's readiness and capacity to address this large change is something I would like to examine closely during the committee's study.

It also raises the question of the department's capacity to handle such an influx. There have been reports from stakeholders I have spoken with that there remains a backlog of those entitled to register, as their eligibility is vetted by the registrar's office.

• (1430)

Currently, the Government of Canada maintains exclusive authority over determining eligibility for Indian registration.

Band membership is a bit more complicated. There are three separate regimes: Section 10 First Nations that have control over their own membership, provided they meet certain statutory requirements and they are complicit with the Charter; Section 11 First Nations' band lists maintained by the Indian Registrar — this same office administers rules for entitlement to membership; and, finally, self-governing First Nations that exercise jurisdiction over citizenship outside of the Indian Act.

According to the department, "out of 618 First Nation communities, 229, or 37 per cent, determine their own membership and 350, or 57 per cent, remain under federal rules for membership pursuant to section 11 of the Indian Act." The additional 6 per cent, or 39 First Nations, are self-governing.

Now, I have a law degree, colleagues, from a fine law school in Halifax, Nova Scotia, and I must admit that even I find this system convoluted. In examining this bill, the previous bills that have targetted sex-based discrimination, and the act itself, I am struck by the simplicity and the clarity afforded to Inuit in Canada. In the process established by Inuit land claim agreements, Inuit are in charge of defining their membership, administering their registers and coordinating their benefits. And all it takes is one parent to be a beneficiary for the child to be

approved as a beneficiary. I myself have three children who are beneficiaries of the Nunavut land claim, based on that simple principle.

With Bill S-3, we have an attempt to address gender-based inequities, but I believe, honourable senators, it is important to note that many issues of discrimination remain. This bill serves to highlight one of them. Several of these clauses, such as those pertaining to siblings and omitted minors, include the express provision that these amendments only apply to those born before 1985.

Experts such as Stewart Clatworthy, a demographer who has studied the demographic implications of amendments to Indian registration since the 1985 amendments, has spoken of the issue of the "second generation cut-off rule." He has projected that, based on current legislation, in about 100 years no new child will be entitled to have their name added to the Indian Register. Justice Masse states in her ruling that "if more people registered under 6(1), this evolution would be slightly slower, but because of the nature of the mechanism in subsection 6(1), there will eventually be no more children born with an entitlement to be entered in the Register."

The government has said that these amendments, which do nothing to end the discrimination based on age, were introduced due to a two-staged approach: stage one will seek to amend the act in very specific ways, dealing only with the issues identified in the ruling and with the issue of omitted minors. This stage consisted of what government officials called "information sessions" with various organizations and First Nations, where officials explained the two-stage process and the amendments that we have before us today to groups ranging from 50 to 150 participants of varied demographics.

Stage two will build on the extensive work done by the previous government. In a similar fashion, the government responded directly to issues identified by the *McIvor* case in British Columbia, passing Bill C-3, Gender Equity in Indian Registration Act in 2010. After the bill received Royal Assent, the department, then Aboriginal Affairs and Northern Development, launched an Exploratory Process on Indian Registration, Band Membership, and Citizenship that lasted from 2011 to 2012.

Twenty national and regional indigenous organizations across the country were given proposal-based funding by the federal government to lead a variety of activities that took place in every province and territory, except Nunavut where, as I mentioned earlier, a comprehensive land claims agreement gives Inuit full control over their membership. That funding then flowed to affiliate organizations, for a total of 55 national, regional and local organizations leading activities under this initiative.

I am told that over 35,000 First Nations and Metis individuals participated. Seven themes emerged over the course of this initiative: First Nations' conceptual thinking on registration, membership, citizenship and its practical application; First Nations' views and perspectives on identity, belonging, citizenship and nationhood; the legal recognition and exercise of First Nations jurisdiction over citizenship; First Nations' criteria for citizenship determination; the impacts of the Indian Act on First Nations identity and citizenship; Metis perspectives on citizenship, nationhood, dual legal status and multiple identities; and, finally, impressions on the exploratory process and moving forward on reform.

Recommendations for the Government of Canada as well as for First Nations Governments, and First Nations and Metis leadership and constituencies were brought forward.

Despite such a worthwhile initiative being completed, and a promise by this new government to build upon that good work, First Nations do not stand on the cusp of enjoying the freedom to control their membership, and I would suggest that it would not be practical to expect that the complexities surrounding membership and citizenship will be solved in the near future.

Participants of the exploratory process made it quite clear that they did not consider the process to qualify as adequate consultation and that they saw it as part of a much larger, lengthier process.

Honourable senators, I do support this legislation. It will, of course, require scrutiny at committee. Justice Masse says in her decision that "it goes without saying that the issue of the costs that more inclusive provisions would incur is one element among many that Parliament may consider," and she is right. I believe that any responsible government at any level should know what the potential impacts of their policies would be — ethically, socially and financially. And I feel that consideration of this bill cannot occur without also contributing, to some extent, to the debate of the government's planned stage two that will have to answer challenging and complex questions such as: What is government's continued role in determining who is and who is not entitled to status?

Colleagues, we cannot here and now address the other inequities enshrined in the Indian Act, but we can take this step to remove the residual gender-based inequities. So I would respectfully ask you to support sending this bill to committee for further study.

Hon. Sandra Lovelace Nicholas: Will the senator answer a question?

Senator Patterson: Gladly.

Senator Lovelace Nicholas: Honourable senator, do you find it odd that the bill was introduced in the Senate where it is not a money bill? As you know, there will be about 30,000 people wanting to register as status Indians and there are poor communities so where is the funding going to come from to have these people get housing, education and other services?

Senator Patterson: I would like to thank the honourable senator for the question and repeat Senator Fraser's tribute to Senator Lovelace Nicholas for initiating the examination of gender-based inequity years ago in Canada, in New Brunswick, and the work is certainly still not done.

No longer being a part of the government caucus in the Senate, I hesitate to answer about why the bill was introduced in the Senate. Perhaps that's better left to the Government Representative in the Senate.

I would observe, as I said in my speech, we're all under a tight time frame imposed by the Quebec court to have Parliament address this inequity by February 3. I think that may be part of the government strategy in having this government bill and it's a government bill, not a private member's bill, introduced in the Senate.

We should move to address it expeditiously. As I said in my speech, we should examine the financial implications and we should not forget the other immense social issues that affect First Nations.

• (1440)

I agree with the honourable senator. Education and housing should not be overlooked just because we're tinkering with the gender-based inequities in the Indian Act.

Senator Lovelace Nicholas: I have been in contact with New Brunswick chiefs, and they haven't been consulted at all. They're not taking part in this process. It concerns me, because we're going to have people that want to register in our communities.

Why do they insist on not consulting and continuing with this bill?

Senator Patterson: Let's make sure that we ask the minister and the officials representing the department who will appear before our committee those very questions. I encourage the honourable senator to be the one to ask those questions, as she can do so with real legitimacy.

Hon. Frances Lankin: I also would like to pay tribute to Senator Lovelace Nicholas for her leadership role with respect to this file that goes back so long. It was so personal to her and created such an opportunity for so many other members of indigenous communities and for women and their children. We appreciate her role.

Hon. Senators: Hear, hear!

Senator Lankin: Before I ask my question, I want to say, Senator Patterson, that I appreciate your knowledge on this file as well, and, in particular, your bringing the perspective of what has happened with respect to Nunavut and a very different approach that has been taken.

The key question in phase two of this bill and what will follow is the question of why Canada still holds a responsibility for determining who obtains status or not, and what the possibility of devolution of that is right across this country. I appreciate your perspective there.

I do want to say that the Department of Health has an appropriation that's been set aside for Canada's obligation for health care with respect to new registrants that might come forward. With respect to education, it is a requirement under the legislation already.

The question still is very valid when it comes to on-reserve social supports and services, housing and provisions of support of that nature.

In asking the question of the department, I am told that they are going to be working with band leaderships, monitoring this situation and bringing forward a response. I think it is the exact kind of information we need to seek from the minister and her officials when we are at committee.

Senator, when you spoke about the result of the land claims process in Nunavut and the fact that there is complete control over the registration process, membership process, at this point in time, I wonder if you could expand for us how that has been welcomed and received within the communities and if there have been any administrative issues or issues of concern.

There are those who raise concerns about a similar devolution in other communities across Canada. I think we can look to the example that you are aware of and the example the peoples of Nunavut have set for us to understand what might be possible as we move forward.

Senator Patterson: I thank the honourable senator for the question.

I can speak only for the Nunavut land claim, with which I'm most familiar. There hasn't been a hiccup, an issue or a problem since 1993, since the land claim was finalized. I have not been aware, I should say, of any issues.

The responsibility of Nunavut Tunngavik Incorporated to enrol members is taken seriously by them. They reach out to members, beneficiaries, all across the country. They seek them out and find them.

On occasion, they have offered Inuit status, if we can call it that, to long-standing members of the community who may not have very much or any Inuit blood, which is their right to do and which is a great honour that has been conferred on very few people.

It is working great. The Inuit are keenly aware that recklessly expanding their membership would have financial implications for the money that they hold in trust on behalf of their members.

It is working out very well. Like many other things we do in the North, including how we deal with the environmental and regulatory approval of development projects, we have a lot to teach the rest of the country about how things could be done better.

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

Hon. Senators: Question.

The Hon. the Speaker: It was moved by the Honourable Senator Lankin, seconded by the Honourable Senator Petitclerc, that Bill S-3, An Act to amend the Indian Act (elimination of sex-based inequities in registration), be read the second time.

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: All those in favour of the motion will signify by saying "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: Those opposed to the motion will signify by saying "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the "yeas" have it.

And two honourable senators having risen:

The Hon. the Speaker: Is there an agreement on the bell?

Senator Plett: Fifteen minutes.

The Hon. the Speaker: It will be a 15-minute bell. Honourable senators, the vote will take place at 3:01.

Call in the senators.

• (1500)

The Hon. the Speaker: Honourable senators, the question is as follows:

> It was moved by the Honourable Senator Lankin, seconded by the Honourable Senator Petitclerc, that Bill S-3 be read a second time.

All those in favour of the motion will please rise.

Motion agreed to and bill read second time on the following division:

YEAS
THE HONOURABLE SENATORS

Andreychuk
Ataullahjan
Baker
Batters
Bellemare
Beyak
Boisvenu
Boniface
Bovey
Campbell
Carignan
Cools
Cormier
Dagenais
Dean
Downe
Doyle
Duffy
Enverga
Fraser
Frum
Gagné
Greene
Griffin
Harder
Hartling
Housakos
Joyal
Kenny
Lang
Lankin
Lovelace Nicholas
MacDonald
Manning
Marshall
Martin
Marwah
McCoy
McIntyre
Meredith
Mitchell
Moore
Nancy Ruth
Ngo
Ogilvie
Oh
Pate
Patterson
Petitclerc
Plett
Pratte
Raine
Ringuette
Runciman
Seidman
Sinclair
Smith
Stewart Olsen
Tardif
Tkachuk
Wallace
Wallin
Wells
Wetston
Woo—65

NAYS
THE HONOURABLE SENATORS

Nil

ABSTENTIONS
THE HONOURABLE SENATOR

Eaton—1

The Hon. the Speaker: When shall this bill be read a third time?

REFERRED TO COMMITTEE

Hon. Frances Lankin: Honourable senators, I move that the bill be referred to the Standing Senate Committee on Aboriginal Peoples.

(On motion of Senator Lankin, bill referred to the Standing Senate Committee on Aboriginal Peoples.)

• (1510)

[*Translation*]

THE SENATE

MOTION TO AFFECT QUESTION PERIOD ON NOVEMBER 22, 2016, WITHDRAWN

On Government Business, Motions, Order No. 47, by the Honourable Diane Bellemare:

> That, in order to allow the Senate to receive a Minister of the Crown during Question Period as authorized by the Senate on December 10, 2015, and notwithstanding rule 4-7, when the Senate sits on Tuesday, November 22, 2016, Question Period shall begin at 3:30 p.m., with any proceedings then before the Senate being interrupted until the end of Question Period, which shall last a maximum of 40 minutes;
>
> That, if a standing vote would conflict with the holding of Question Period at 3:30 p.m. on that day, the vote be postponed until immediately after the conclusion of Question Period;

That, if the bells are ringing for a vote at 3:30 p.m. on that day, they be interrupted for Question Period at that time, and resume thereafter for the balance of any time remaining; and

That, if the Senate concludes its business before 3:30 p.m. on that day, the sitting be suspended until that time for the purpose of holding Question Period.

(Motion withdrawn.)

ADJOURNMENT

MOTION ADOPTED

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate), pursuant to notice of November 16, 2016, moved:

That, when the Senate next adjourns after the adoption of this motion, it do stand adjourned until Tuesday, November 22, 2016 at 2 p.m.

She said: Honourable senators, I would like to take this opportunity to announce that, starting next week, the government does not expect to suspend the rules between now and December 23 except with respect to the timing of Monday sittings. As you know, the rules provide for Monday to Friday sittings. However, I want to assure you that we will do everything we can to accommodate committees on Mondays and deal with items on the agenda.

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

Hon. Senators: Yes.

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

Hon. Senators: Agreed.

(Motion agreed to.)

[*English*]

OFFICIAL LANGUAGES ACT

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Chaput, seconded by the Honourable Senator Moore, for the second reading of Bill S-209, An Act to amend the Official Languages Act (communications with and services to the public).

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

Hon. Senators: Question.

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

Hon. Senators: Agreed.

(Motion agreed to and bill read second time.)

REFERRED TO COMMITTEE

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

(On motion of Senator Gagné, bill referred to the Standing Senate Committee on Official Languages.)

JUSTICE FOR VICTIMS OF CORRUPT FOREIGN OFFICIALS BILL (SERGEI MAGNITSKY LAW)

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Andreychuk, seconded by the Honourable Senator Tkachuk, for the second reading of Bill S-226, An Act to provide for the taking of restrictive measures in respect of foreign nationals responsible for gross violations of internationally recognized human rights and to make related amendments to the Special Economic Measures Act and the Immigration and Refugee Protection Act.

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

Hon. Senators: Question.

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

Hon. Senators: Agreed.

(Motion agreed to and bill read second time.)

REFERRED TO COMMITTEE

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

(On motion of Senator Andreychuk, bill referred to the Standing Senate Committee on Foreign Affairs and International Trade.)

ABORIGINAL LANGUAGES OF CANADA BILL

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Joyal, P.C., seconded by the Honourable Senator Eggleton, P.C., for the second reading of Bill S-212, An Act

for the advancement of the aboriginal languages of Canada and to recognize and respect aboriginal language rights.

Hon. Murray Sinclair: Honourable senators, I rise to add some comments with regard to Bill S-212, which calls upon the government to take steps to address the status and restoration of indigenous languages in Canada.

I want to first of all congratulate our colleague Senator Joyal for reintroducing this bill, as he has in the past, and for his comments at the beginning.

I want to begin my remarks by asking you to think of the answer to this question: "Who are you?" It's not a rhetorical question. It's a question which asks you to contemplate the fundamental question of your identity and character. To be able to answer that, you need to know where you and your ancestors came from, what you stood for, your personal and collective history, what your influences have been, what your ambitions have been and are, and what your purpose in life is.

It's not a tough call for most of us because we have been informed and educated about those things within our families and in our institutions since the day we were born. Our answers to those questions and the ambitions they have provided to us, combined with the opportunities and the choices we have faced and made, have led us to this very place. Yet, while we are all senators, that is not who we are. It is what we do. We are all unique from each other, but we are confident of one thing, though, that we each know who we are. We are strong in our sense of self. We have an identity we believe in and which we know will sustain us throughout all of our challenges. We are what and who we want to be.

Language and culture are keys to personal identity. Personal identity is key to a sense of self-worth, and spiritual and mental wellness hinge on one's sense of self-worth.

Everyone wants to feel worthy and to belong to something valid. Education is the key by which we make our society and our membership within it seem valid.

Identity also gives one a sense of being valued and worthy if one's language and culture are considered valuable and worthy. If the language you speak and the culture you follow are denigrated or otherwise portrayed as unworthy of respect from your neighbours, disrespect is reciprocated and tension between you is inevitable.

That has significant implications for indigenous and non-indigenous people in Canada. From the time of Confederation until the end of the 20th century, a period of about 125 years, Canada did all that it could to eliminate Aboriginal cultures and Aboriginal languages. Through the use of law approved and passed by our senatorial ancestors, among others, cultural practices were outlawed and access to justice was denied to anyone who wanted to do anything about it.

Undoubtedly, residential schools were the single most significant attack on indigenous languages and cultures. One hundred and fifty thousand children were forcibly removed from their families under threat of prosecution for those parents who resisted and were placed in institutions for the sole purpose of indoctrinating them into Canadian society.

Prime Minister Sir John A. Macdonald not only believed that Aboriginal people who practised their culture and languages were savages but that they needed to have those cultures and languages stripped away. In 1883, in Parliament, he stated:

> When the school is on the reserve, the child lives with its parents, who are savages, and though he may learn to read and write, his habits and training and mode of thought are Indian. He is simple a savage who can read and write.
>
> It has been strongly impressed upon myself, as head of the Department, that Indian children should be withdrawn as much as possible from the parental influence, and the only way to do that would be to put them in central training industrial schools where they will acquire the habits and modes of thought of white men.

He made this statement at a time when federal government representatives had already entered into treaties with First Nations leaders and would continue to enter into other treaties within which promises were made by the government, among other things, to build schools on reserves, such as the provision you find in Treaty 1. That treaty says:

> And further, Her Majesty agrees to maintain a school on each reserve hereby made whenever the Indians of the reserve should desire it.

• (1520)

It would be fair to say that the federal government representatives were less than forthright and even deceptive in their dealings with First Nation leaders on the issue of schools and education during those treaty negotiations.

In a study of the impact of residential schools, the Assembly of First Nations noted in 1994 that:

> . . . language is necessary to define and maintain a world view. For this reason, some First Nation elders to this day will say that knowing or learning the native language is basic to any deep understanding of a First Nation way of life, to being a First Nation person. For them, a First Nation world is quite simply not possible without its own language. For them, the impact of residential school silencing their language is equivalent to a residential school silencing their world.

The Royal Commission on Aboriginal Peoples in its report in 1996 similarly noted the connection between Aboriginal languages and what it called a "distinctive world view, rooted in the stories of ancestors and the environment." The royal commission added that Aboriginal languages are a "tangible emblem of group identity" that can provide "the individual a sense of security and continuity with the past. . . . maintenance of the language and group identity has both a social-emotional and a spiritual purpose."

Residential schools were a systematic, government—sponsored attempt to destroy Aboriginal cultures and languages and to assimilate Aboriginal peoples so that they no longer existed as distinct peoples.

English and, to a far lesser degree, French were the only languages permitted to be used in those schools. Students were physically punished, often severely, for speaking their own languages.

Rights to culture and language and the need for remedies for their loss have been recognized now in international law. They are specifically acknowledged in the United Nations Declaration on the Rights of Indigenous Peoples, which acknowledged the critical state of Aboriginal languages generally.

Article 8.1 of the declaration recognizes that:

> Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.

Article 8.2 provides that:

> States shall provide effective mechanisms for prevention of and redress for . . . Any form of forced assimilation or integration.

The declaration also includes specific recognition of the right to revitalize and transmit Aboriginal languages in Article 13.1, which recognizes that:

> Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons.

We see further similar provisions in Articles 14.1, 14.3 and 16.

The attempt to assimilate students by denying them access to and respect for their languages and cultures often meant that the students became estranged from their families, from their communities and even from themselves. Some survivors refused to teach their own children their Aboriginal languages and cultures because of the negative stigma that had come to be associated with them during their school years.

My grandmother, for example, who raised me and my siblings from the time that I was an infant, could speak Ojibway and Cree, as well as French and English. She taught all of those languages to me as a young boy, but she insisted that we only speak English once I started school. I always wondered why she did that and came to some understanding when one survivor told us during our hearings of the Truth and Reconciliation Commission that he had a similar experience. When he asked his mother why she had never taught him the language, she told him simply, "Because I wanted to save your life."

In the Catholic school where she had been raised, she was taught that if she continued to practise her culture and to speak her language, she would end up in purgatory or in hell, places of eternal damnation. She simply wanted her children to have a chance at eternal life in heaven, so she refused to teach them their language.

This, I believe, was my deeply Catholic grandmother's motivation as well. But whatever the cause or motivation, the lack of transmission of language has contributed significantly to the fragile state of Aboriginal languages and culture in Canada today.

Many of the almost 90 surviving Aboriginal languages in Canada are under serious threat of extinction. In the 2011 Census, only 14.5 per cent of the Aboriginal population of Canada reported that their first language learned was an Aboriginal language. In the previous 2006 Census, 18 per cent of those who identified as Aboriginal reported an Aboriginal language as their first language learned. And a decade earlier, in the 1996 Census, the figure was 26 per cent. This indicates a drop in language use and transmission of nearly 50 per cent in the 15 years since the last residential schools were closed.

There are, however, variations among the Aboriginal populations: 63.7 per cent of Inuit speak their language compared to 22.4 per cent of First Nations people and only 2.5 per cent of Metis people.

Some languages are close to extinction because they have only a few remaining speakers of the great-grandparent generation. UNESCO says that 36 per cent of Canada's Aboriginal languages are being critically endangered in the sense that they are only used by the great-grandparent generation. They say 18 per cent are severely endangered in the sense that they are used by the grandparent generation, and 16 per cent are definitely endangered in the sense that they are used by the parental and the two previous generations combined.

The remaining languages are all vulnerable. If the preservation of Aboriginal languages does not become a priority both for governments and for Aboriginal communities, then what the residential schools failed to accomplish will come about through a process of systematic neglect.

In interpreting Aboriginal and treaty rights under section 35(1) of the Constitution Act, 1982, the Supreme Court of Canada has stressed the relation of those rights to the preservation of distinct Aboriginal cultures. The preservation of Aboriginal languages is essential to identity and, given its past treatment, must be recognized as a legal right in Canada.

In the report of the Truth and Reconciliation Commission, various calls to action were put forward to establish that point. Call to Action 13, for example, reads:

> We call upon the federal government to acknowledge that Aboriginal rights include Aboriginal language rights.

At a time when government funding is most needed to protect Aboriginal languages and culture, Canada has not upheld commitments it previously made to fund such programs.

In 2002, the federal government under Prime Minister Chrétien promised that $160 million would be set aside for the creation of a centre for Aboriginal languages and culture and a national

language strategy. But in 2006, the government retreated from that commitment, pledging instead to spend only $5 million per year in permanent funding for the Aboriginal Languages Initiative, which had been started in 1998. The ALI is a program of government-administered heritage subsidies. It is not based on the notion of a respectful nation-to-nation relationship between Canada and Aboriginal peoples. Nor does it provide Aboriginal people with the opportunity to make decisions for themselves about how to allocate scarce resources and how to administer programs.

Other than ALI, the only significant programs for language preservation are the Canada Territorial Language Accords, with a $4.1 million budget, which support territorial government-directed Aboriginal language services, which support as well community projects in Nunavut and the Northwest Territories. In Yukon, language revitalization and preservation projects there are supported through transfer agreements, with 10 of the 11 self-governing Yukon First Nations becoming eligible.

• (1530)

The combined total annual federal budget for those Aboriginal languages programs in Canada, therefore, was $9.1 million when that is factored in.

Compare that to the official languages program for English and French in Canada which has in recent years been allotted funding as follows: in 2012-13, $353.3 million; in 2013-14, $348.2 million; in 2014-15, $348.2 million.

The Hon. the Speaker: Excuse me, Senator Sinclair, your time has expired. Are you asking for more time?

Senator Sinclair: Five more minutes.

Hon. Senators: Agreed.

Senator Sinclair: The commitment to French language retention and services is commendable, and I do not want to be taken as criticizing the amount or suggesting it be reduced. Rather I point out for comparison that the resources committed to Aboriginal language programs are far less than what has been committed to French, even in areas where French speakers number less than Aboriginal language speakers. For example, the federal government provides support to the small minority of francophones in Nunavut in the amount of approximately $4,000 per individual annually. In contrast, the funding to support Inuit language initiatives in Nunavut is estimated at $44 per Inuk per year.

In the report of the TRC, we put forward a call to action dealing with the need for legislation. We also saw the need for an official with authority to promote Aboriginal languages and to monitor and report upon federal government funding support.

In addition to promoting the use of Aboriginal languages, that official, we felt, would also educate non-Aboriginal Canadians about the richness and value of Aboriginal languages and how strengthening those languages can enhance Canada's international reputation.

As I said at the outset, cultural and language revival are keys for Aboriginal youth in their search for identity, and it is a legitimate cause of complaint for survivors of residential schools and other forms of cultural suppression. Cultural and language revival are a binding force for the Aboriginal community. However, while there is a significant role for government to play in that revival, in the final analysis cultural and language revival are the responsibility of the communities that want them.

There is no getting away from the very simple fact that if you want your culture, you must live it; if you want your language, you must speak it.

I have some concerns about this bill, though I support it. In this respect I am not convinced it goes far enough. I don't think it goes as far as it could or should. I am nonetheless prepared to support the bill going on to committee in order to see if the committee members will support amendments to the bill, which I intend to propose, that I believe will make the bill stronger and consistent both with the TRC's calls to action as well as the principles espoused in the United Nations Declaration on the Rights of Indigenous Peoples.

I encourage all of you to show Canada, as well as the indigenous peoples in Canada living with the legacy of residential schools, that the Senate of Canada as an institution is prepared to support this bill as an act of reconciliation.

(On motion of Senator Patterson, debate adjourned.)

BUSINESS OF THE SENATE

Hon. A. Raynell Andreychuk: Your Honour, with leave and indulgence of the honourable senators, I would ask that Motion No. 129 be brought forward at this time.

Hon. Joan Fraser: Why is this request being made?

Senator Andreychuk: For a very personal reason. I have to leave early today, and I don't want to stop other debate. The motion is time sensitive, so I wanted to ensure that we dealt with it. I appreciate that it is unusual, but I'm asking for the indulgence of the Senate.

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

Hon. Senators: Agreed.

FOREIGN AFFAIRS AND INTERNATIONAL TRADE

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Leave having been given to proceed to Motions, Order No. 129:

Hon. A. Raynell Andreychuk, pursuant to notice of November 16, 2016, moved:

> That the Standing Senate Committee on Foreign Affairs and International Trade have the power to meet on Tuesday, November 22, 2016, at 4 p.m., even though the

Senate may then be sitting, and that rule 12-18(1) be suspended in relation thereto.

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

Hon. Senators: Agreed.

(Motion agreed to.)

CONTROLLED DRUGS AND SUBSTANCES ACT

BILL TO AMEND—SECOND READING—
DEBATE ADJOURNED

Hon. Larry W. Campbell moved second reading of Bill C-224, An Act to amend the Controlled Drugs and Substances Act (assistance — drug overdose).

He said: Honourable senators, I would like to start out by commending Ron McKinnon, the Member of Parliament for Coquitlam—Port Coquitlam, for bringing forward this bill in the other place. Quite simply, there is an opioid crisis in Canada. I don't think that I have to go into any great detail. We read it every day in the newspapers. We see it in our communities and we talk to our friends.

I have intimate knowledge of this area because I was a coroner for 20 years. For 20 years I investigated the deaths of people who were suffering from addiction. On a number of occasions I knew that this did not take place in isolation, that somebody was present when this overdose took place. Because of our law, usually the person who was injecting with the deceased would either have a criminal record, would be carrying their own personal drugs or would have shot up with them and been subject to arrest by the police.

This amendment will take care of that by changing the Controlled Drugs and Substances Act to provide an exemption from prosecution for those who report a drug overdose.

I should stress that this does not give immunity to anyone for serious offences covered under the Controlled Drugs and Substances Act, such as possession for the purpose or production, just to name a couple.

According to a recent study by the Waterloo Region Crime Prevention Council, people experiencing or witnessing an overdose are often afraid to call 911 for fear of prosecution.

I was once in a place where people were injecting. I was actually giving a talk when somebody overdosed. They opened the back door, called 911, and put them outside in the alley and waited for the ambulance to arrive. This does not happen in isolation. This happens every single day where there are injections going on.

This is the biggest reason why people don't call, and it is the biggest reason why people die alone in every single city in this country.

This type of legislation is not a new concept. A number of other jurisdictions have versions of Good Samaritan laws — 37 U.S. states and the District of Columbia.

Last Monday, there were 28 overdoses at Insite in Vancouver. There were no deaths because medical help was immediate. But on that same day, there were 11 other overdoses in the Downtown Eastside that luckily were also saved.

Over 600 people have died in British Columbia this year and thousands across Canada. In the 1990s we called it an epidemic when 250 people died in British Columbia. This is way beyond an epidemic. It is staggering. In the other place, this bill received unanimous consent, and I'm hopeful it will have the same effect here.

• (1540)

Strides have been made in Canada in the area of addictions: removing naloxone from the list of prescription drugs. Naloxone, for those not familiar with it, is a drug that you inject into somebody who has overdosed, and it basically surrounds the opioid molecules. I have seen people I thought were dead come back to life. But it lasts about a half an hour, and you have to get them to hospital. Thanks to Senator White, six essential ingredients of fentanyl are now controlled substances. Tomorrow for the first time, to my knowledge, here in Ottawa there will be an opioid summit that will discuss all of these issues.

Obviously, these are all steps in the right direction, but this bill stands to garner immediate, positive results. It will save lives. I am hopeful we can send this bill to the Legal and Constitutional Affairs Committee swiftly for rigorous and thorough study.

It is necessary to point out that, unlike every other bill that is before us, people's lives actually depend on this in the immediate and near future. Each day people are dying, and we can help stop that.

Thank you.

Hon. Senators: Hear, hear!

(On motion of Senator Plett, debate adjourned.)

SENATE MODERNIZATION

FIRST REPORT OF SPECIAL COMMITTEE—
DEBATE CONTINUED

On the Order:

> Resuming debate on the consideration of the first report (interim) of the Special Senate Committee on Senate Modernization, entitled: *Senate Modernization: Moving Forward*, deposited with the Clerk of the Senate on October 4, 2016.

Hon. George Baker: Honourable senators, I will be using just a short period of the 15 minutes, and I won't be speaking a second time, as I indicated to the committee that organized the speaking.

I will be very brief on this particular motion. I would like to put on the record — very briefly — my thoughts concerning what has been said by Senator Cowan and Senator Carignan regarding this particular matter in their motion.

First of all, before I address the subjects that I want to put on the record, I must say that Senator Cowan's statement that Senator Harder is "radical" and "slyly subversive" is, senators, to say the least, a bit of an overstatement. That's like me calling Senator Plett "a meek little lamb."

The two subjects, however, that I would like to address concern both Senator Carignan's and Senator Cowan's opinions concerning Senator Harder's opinion on what the Senate should be.

Let me quote what Senator Cowan said. He said Senator Harder. . . actually tried to rewrite history as he described bringing the Senate, in his words:

> . . . closer to the non-partisan and complementary body that the framers had envisaged and the Supreme Court endorsed.

Senator Cowan said:

> Quite simply, that's not true. We can certainly have a debate about what this chamber should be in the future, but let's have that debate without misrepresenting the Senate's origins or what the Supreme Court of Canada said.
>
> The Leader of the Opposition, my friend Senator Carignan . . . .

And he went on to describe Senator Carignan's similar opinion.

Who is correct here? Is Senator Harder incorrect when he stated that he wanted to bring the Senate closer to the non-partisan and complementary body that the framers had envisioned and the Supreme Court endorsed? Is that correct?

Well, I have here the judgment of the Supreme Court of Canada that they are quoting from. What does it say?

Let's go first of all to the headnote. The headnote brings out the most important part of the judgment first. Here is what the headnote says, under "Held":

> The Constitution Act, 1867 contemplates a specific structure for the federal Parliament, "similar in Principle to that of the United Kingdom."

It continues:

> The framers sought to endow the Senate with independence from the electoral process to which members of the House of Commons were subject, in order to remove Senators from a partisan political arena that required unremitting consideration of short-term political objectives.
>
> . . . the choice of executive appointment for Senators was also intended to ensure that the Senate would be a *complementary* legislative body, rather than a . . . rival of the House of Commons in the legislative process.

Now, that sounds to me that Senator Harder is absolutely correct, but let us go to the judgment of the Supreme Court of Canada to see exactly what they said. When you read the headnote, it is usually written by an academic who describes — and I'm looking here. Somebody wishes to examine what the Supreme Court of Canada says about the Senate and the role of the Senate, if you go to paragraphs 57 and 58.

Here is what it says, just briefly:

> As this court wrote in the *Upper House Reference*, "[i]n creating the Senate in the manner provided in the Act, it is clear that the intention was to make the Senate a thoroughly independent body which could canvass dispassionately the measures of the House of Commons." . . . The framers sought to endow the Senate with independence from the electoral process to which members of the House of Commons were subject, in order to remove Senators from a partisan political arena that required unremitting consideration of short-term political objectives.
>
> . . . the choice of executive appointment for Senators was also intended to ensure that the Senate would be a *complementary* legislative body . . . .

That's what the Supreme Court of Canada said. That's the first issue.

Senator Tkachuk: Could they have been wrong?

Senator Baker: The senator asks, "Could they have been wrong?" Well, they are the highest court in the land as far as the law is concerned. This is the highest court in the land right here, because what the Senate decides is not appealable to a court.

Let us go to the second issue. The second issue concerns the secrecy of meetings. Senator Harder has invited us all to a meeting.

I was in the House of Commons for 29 years. I have been here for 14 years. The rules in the House of Commons provide for in camera meetings to decide things prior to something going public. I think the Senate rules also provide for that, and they do provide for that.

You go to a committee meeting and you are then to decide what your report is to the Senate and back to the government, in camera.

If you go to a committee of the Senate and you wish to attach observations — in private, each member, no matter who you are, expresses an opinion — it shouldn't be public; and you come to a resolution, a final decision, on behalf of everybody.

So an in camera meeting is important. After all, as has been pointed out, Senator Harder attends certain meetings of cabinet where legislation is involved. He's not a regular cabinet member. He doesn't attend all the committees of cabinet, as some of us have had the opportunity to do in past lives. But it is important that Senator Harder be able to discuss things with members of the Senate, and I will tell you why.

The most important, I would say, piece of legislation that is before the House of Commons today is in committee, and it's a Senate bill. It passed in this house. It went to the House of

Commons with the support of Senator Harder, and the government turned around and said, "We totally support this legislation from the Senate." And you know whose bill it is; it's Senator Cowan's bill.

• (1550)

Much has been said about fentanyl here today. Senator Campbell is absolutely correct about fentanyl.

Some of you know Senator White. He was a big chief of police for Ottawa and a deputy commissioner of the RCMP, but I knew him as a street cop in Newfoundland. He served in all the northern territories of Canada and he knows the dangers of illegal drugs.

Honourable senators, the precursors for fentanyl — one of the most dangerous drugs that can be made — are legal in Canada. Imagine that. When the statistics on the deaths caused by fentanyl came out in May of this year, Senator White sat in his office, backed up by Senator Moore here, who seconded the bill. He created a list of three and he brought it to our committee in the form of a bill.

One day Senator Harder came to committee and sat down next to me. I asked what he was doing there. "Oh," he said, "I'm coordinating things with the Department of Health and the Department of Justice to get this through and to add three more substances as precursors," as Senator Campbell correctly pointed out. Imagine.

Then representatives of the Department of Health and the Department of Justice came to committee. Then just a week ago the minister made a public statement to say that those regulations can be done through order-in-council; in other words, to stop what's now legal, to make illegal the importation of the precursors and put it in Schedule 1 of the Precursor Control Regulations, part of the Controlled Drugs and Substances Act, which they should be.

And today, through order-in-council — and if the minister is going to attend the Senate the question should be asked because this was a Senate initiative — it will finally be made illegal so that people cannot make fentanyl in some basement somewhere and sell it on the street where it's killing people.

That was a Senate initiative; that was Senator White; that was Senator Moore; and that, more importantly, the work of the man who represents the government in the Senate — Senator Harder.

Let me say in conclusion, as senators who were presented with a very difficult job to do — in this case Senator Harder and Senator Bellemare — in uncharted waters, I believe they have done a magnificent job in their respective positions. And I want to assure Senator Harder that I for one will be attending his meeting when it's called next week.

Hon. Senators: Hear, hear!

Hon. Joan Fraser: Would Senator Baker take a question?

Senator Baker: Absolutely.

[Senator Baker]

Senator Fraser: Could you explain your understanding of the purpose of this meeting?

I will have a follow-up question, depending on your answer.

Senator Baker: I read the email, which of course you read as well, and the purpose of the meeting was to discuss legislation that's facing the Senate. That's my understanding at present. I hope that was what you took away from the email; is that correct?

Senator Fraser: Yes. I had assumed that the purpose of the meeting was to have a discussion and reach some common agreement among senators about the best way forward. We all know we're getting close to the Christmas rush, and we're all familiar with the Christmas rush and all that entails.

I was, therefore, taken aback this afternoon when Senator Bellemare told us — that is before this meeting to discuss how we're going to do it — that the government was no longer going to give leave to suspend the rules about sittings and that we will be sitting for however long on Mondays and Fridays. That would have seemed to me to be one of the prime elements on which one would hope to have a broad discussion to reach some consensus.

What is your reaction to these two elements that to me seem contradictory?

Senator Baker: Let me answer that, honourable senators. Usually people complain when they're not invited to a meeting.

Senator Runciman is sitting there. He has an important bill that we passed in this chamber.

Senator Sinclair is a former judge, and I'm glad we have Senator Wetston here now — a remarkable man with over 200 judgments in the mid-1990s. I recall them well. He is a remarkable gentleman of a superior court, and Senator Andreychuk as well.

Our Speaker, as a trial lawyer at all levels, would know that superior court judges have — provincial court judges don't have — a certain power to make decisions that aren't in the rules. They have inherent jurisdiction. Senator Harder has assumed his new jurisdiction.

We've passed the bill of Senator Runciman, and we have other senators with bills, such as Senator Dyck. And I'm glad that Senator Sinclair, when the debate was on, raised the matter of prosecutorial discretion.

Senator Runciman's bill was brought into this chamber because the criminal record of a violent offender was not produced at his bail hearing. He was released and he killed a couple of cops. He killed two people, to my recollection. His bill would say, "Let's have the criminal record in." Senator Sinclair was absolutely correct. When this bill becomes law, people who would interpret the bill will look at whether it interferes in any way — and it shouldn't — with prosecutorial discretion, but it requires, as all judges know, the criminal record to be a normal part of the record prior to bail.

We should be encouraging meetings with Senator Harder to do due diligence with the Government of Canada and say, "What about these Senate bills?" Now, I am not an advocate of the

Senate initiating legislation. We're not elected. But when the government does not do something, and it's badly needed, as Senator Runciman's bill points out, then we should be using every opportunity we can to impress upon the government leader in the Senate our views on senators' bills that are absolutely necessary. That's why, senators, I would encourage all senators to attend the meeting.

Hon. Anne C. Cools: I have a question, if the senator has time, which I would love to have answered.

The Hon. the Speaker: Senator Baker's time has expired. Senator Cools would like to ask a question. Is the honourable senator asking for more time?

Senator Baker: Yes.

The Hon. the Speaker: Is it agreed?

Hon. Senators: Agreed.

Senator Cools: Perhaps next time Senator Baker could make it clear to the house that the decision in the Supreme Court case in the instance of the *Senate Reference* was not a judgment or ruling; it was an opinion. As we know, a government can bring certain legal questions before the court according to the Supreme Court Act for opinions, but it remains an opinion. It is a good opinion, by the way, and a healthy opinion.

In respect of Senator Harder, I think it is fair to say that all of us here have great respect for Senator Harder. We have known him for many years. I certainly hold him in very high regard.

• (1600)

But like many, Senator Baker, I continue to be concerned that the government has not seen fit to make Senator Harder a member of the cabinet, a Crown minister. After all, the Senate is supposed to have a minister of the Crown leading in the houses. That is the system.

I am just wondering, Senator Baker, if I were to move a motion, an address to His Excellency the Governor General, to appoint Senator Harder to be a member of government so he can properly defend the government's business in this place, would you be prepared to second it?

Senator Baker: First of all, in answer to the first part of your question in which you said the Supreme Court of Canada offered an opinion, when you read paragraph 58 of the Supreme Court of Canada judgment — I've always liked this paragraph — it outlines what the duty of the Senate is.

Senator Cools: We know.

Senator Baker: It is not, as Senator Carignan suggested to those new members appointed, to defeat government legislation.

Senator Cools: We are agreed.

Senator Baker: Our function is never to go against the wishes of the people. We are an appointed body.

The Supreme Court of Canada judgment, it was an opinion, of course. It's a reference.

Senator Cools: It is a reference.

Senator Baker: It contains vital information to remind us exactly what our limit is, what the bar is on amendments.

I believe that we do have a responsibility in certain circumstances, such as where an individual senator feels that it would be against the conscience of the community, that a particular bill could not be demonstrably justified in a free and democratic society, that they have a right and a duty, then, to speak against that bill.

That's on the first part of the question. My time has run out on the second part, but I hope you'll appreciate my comments on the first part.

Hon. André Pratte: Honourable senators, I am struck by the fact that Tuesday's debate, and again today, on this report is not really about the report itself but about Senator Harder's ideas relative to what the Senate should look like in the future, 10 or 20 years from now.

I don't intend to defend Senator Harder's views. He's perfectly capable of doing that himself. Besides, I disagree with him on some of the fundamental issues: the regional caucuses, for instance.

The point I want to make is that Senator Harder's proposals are not part of the Modernization Committee's first report, nor is there anything even barely resembling his ideas in the committee's recommendations. Those recommendations are short-term, practical suggestions that aim to adjust our practices to the new context in which we find ourselves today: a Canadian public that is deeply unsatisfied with our institution, and a Senate composition that is very different from what it was less than a year ago.

Unless we choose to remain immobile even when Canadians and circumstances urgently demand change, we have to act expeditiously on those recommendations. The worst we could do would be to let our disagreements on the long-term vision of the Senate delay the necessary immediate changes.

[*Translation*]

I would like to remind you that there is nothing radical and certainly nothing subversive about the recommendations set out in the first report of the Special Senate Committee on Senate Modernization. The most important recommendations have to do with recognizing the principle of proportionality in committee membership and redefining the concept of "caucus". Whether we are for or against those changes, I can't imagine anyone would seriously claim that they are a threat to the institution.

The committee's report was released on October 4. That was a month and a half ago, and nothing has been done. If everyone agrees with the changes, which seek to allow non-affiliated senators to take their rightful place, what could possibly explain this inertia?

[*English*]

Senator Cowan said that his ". . . differences with the Government Representative in the Senate are not related to the issue of accommodating or providing resources to the independent senators." Senator Cowan won enthusiastic applause from a large part of this chamber on Tuesday.

So let's do it. Let's accommodate and provide resources to the independent senators.

As for the long-term vision of the Senate, I acknowledge the differences of opinion are profound. I, for one, cherish tradition. I'm not fond of drastic changes. I listen very carefully to the arguments of those who defend the continued presence of political parties in the Senate, in particular those who argue in favour of the necessity of an official opposition.

But history teaches us a lesson. Those who resist fair, moderate change often bring upon themselves more radical change.

We also know that difficult debates can degenerate, so let us undertake to discuss facts rather than ascribe intentions, debate arguments instead of imagining plots.

We wisely set up a process, a special committee to study the modernization of the Senate. After tabling its first report, the committee has now begun its study of the long-term changes to the Senate. There is no reason to think that the committee, which has shown much wisdom up until now, will abandon that virtue now.

I have every confidence that the committee will debate those difficult issues at length and come back to us in due time with thoughtful recommendations.

In the meantime, let us move forward swiftly with the recommendations that are in front of us now. Second, let's debate forcefully, as we should, and respectfully, as we must, so that in the end, we can all remain united, colleagues and proud members of the 21st century Senate of Canada.

(On motion of Senator Martin, for Senator McInnis, debate adjourned.)

• (1610)

THE SENATE

MOTION TO URGE THE GOVERNMENT TO TAKE THE STEPS NECESSARY TO DE-ESCALATE TENSIONS AND RESTORE PEACE AND STABILITY IN THE SOUTH CHINA SEA—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Ngo, seconded by the Honourable Senator Cowan:

That the Senate note with concern the escalating and hostile behaviour exhibited by the People's Republic of China in the South China Sea and consequently urge the Government of Canada to encourage all parties involved, and in particular the People's Republic of China, to:

(*a*) recognize and uphold the rights of freedom of navigation and overflight as enshrined in customary international law and in the United Nations Convention on the Law of the Sea;

(*b*) cease all activities that would complicate or escalate the disputes, such as the construction of artificial islands, land reclamation, and further militarization of the region;

(*c*) abide by all previous multilateral efforts to resolve the disputes and commit to the successful implementation of a binding Code of Conduct in the South China Sea;

(*d*) commit to finding a peaceful and diplomatic solution to the disputes in line with the provisions of the UN Convention on the Law of the Sea and respect the settlements reached through international arbitration; and

(*e*) strengthen efforts to significantly reduce the environmental impacts of the disputes upon the fragile ecosystem of the South China Sea;

That the Senate also urge the Government of Canada to support its regional partners and allies and to take additional steps necessary to de-escalate tensions and restore the peace and stability of the region; and

That a message be sent to the House of Commons to acquaint it with the foregoing.

Hon. Anne C. Cools: Honourable senators, I rise today to speak to Senator Ngo's Motion No. 92 on the People's Republic of China and the South China Sea conflict. This odd motion speaks directly to three distinct groups, the Senate, the Government of Canada and the People's Republic of China. It asks the Senate to note with concern China's "escalating and hostile behaviour" in the South China Sea, but the Senate has no evidence of such alleged escalating hostile behaviour. Having no evidence or knowledge of such hostility, the Senate can neither note nor be concerned with it. This motion seeks the People's Republic of China's obedience, and orders this sovereign nation, China, to perform specific actions as dictated in its sections (a), (b), (c), (d) and (e), which, if adopted, would become Senate orders, subject to the Senate's curial coercive powers, called contempt of Parliament. Let us understand, whenever we adopt a motion, it is an order of the Senate, and that means anybody who disobeys it can be called here and summoned under contempt of Parliament powers.

In fact, this motion is a Senate directive to the Government of Canada, whoever that is, to correct the People's Republic of China's "escalating and hostile behaviour" in the South China Sea. Colleagues, this motion is a serious motion and it demands our full attention and study.

This motion, however well intended, is inflammatory and provocative. It is also a slander and calumny against the People's Republic of China and its sovereign, President Xi Jingping, with whom Canada has strong and successful diplomatic and trade relations. Today I uphold Prime Minister Trudeau the elder's magnificent and fruitful efforts for lasting and cordial diplomatic relations with China. Trudeau the elder's memorable efforts

towards healthy foreign relations and robust international dialogue were legendary. I note that calumny and slander of a sovereign foreign country is not a legitimate subject for a Senate motion. To disrespect or diminish foreign heads of state and foreign nations is unhealthy, and injurious to Canada's international and foreign relations, which relations are constitutionally the relations between sovereigns, in this case, between President Xi Jinping the sovereign of the People's Republic of China, and our sovereign Queen Elizabeth II, through the person of the Governor General of Canada.

Colleagues, the Senate knows little of the "escalating and hostile behaviour exhibited by the People's Republic of China in the South China Sea," and the motion's sponsor has presented absolutely no evidence here to support his sharp accusations against China's sovereign president. This is not helpful to the Senate's debate and decision. This motion urges, really commands, the Government of Canada, not a person capable of action, to encourage China to take specific actions "to de-escalate tensions and restore the peace and stability of the region," the South China Sea. These are complex actions that only human persons can perform, but the Government of Canada is not one. It's not a human person. I repeat, government actions are ever the actions of those members of the government called ministers of the Crown. These are the people with the proper credentials to do these things.

Senator Ngo's motion reads:

> That the Senate note with concern the escalating and hostile behaviour exhibited by the People's Republic of China in the South China Sea and consequently urge the Government of Canada to encourage all parties involved, and in particular the People's Republic of China, to:
>
> (*a*) recognize and uphold the rights of freedom of navigation and overflight as enshrined in customary international law and in the United Nations Convention on the Law of the Sea.
>
> (*b*) cease all activities that would complicate or escalate the disputes, such as the construction of artificial islands, lands reclamation, and further militarization of the region.
>
> (*c*) abide by all previous multilateral efforts to resolve the disputes and commit to the successful implementation of a binding Code of Conduct in the South China Sea.
>
> (*d*) commit to finding a peaceful and diplomatic solution to the disputes in line with the provisions of the UN Convention of the Law of the Sea and respecting the settlements reached through international arbitration; and
>
> (*e*) strengthen efforts to significantly reduce the environmental impacts of the disputes upon the fragile ecosystem of the South China Sea;
>
> That the Senate also urge the Government of Canada to support its regional partners and allies to take additional steps necessary to de-escalate tensions and restore the peace and stability of the region; and
>
> That a message be sent to the House of Commons to acquaint it with the foregoing.

Honourable senators, I repeat the Government of Canada only acts through the agency of Crown ministers. I also note that the Senate need not send a message to the House of Commons because, like the Senate, the commons has a domestic, but no foreign, jurisdiction. This motion's claim of China's "escalating and hostile behaviour" raises complex foreign matters, of which none is within the Senate constitutional ken to decide. The Constitution Act, 1867 section 91 grants to our sovereign, the Queen, with the advice and consent of the Senate and the House of Commons, the powers to make laws for the peace, order and good Government of Canada, but not for the world nor for the Government of China. Our Parliament houses have no constitutional powers in foreign affairs, other than the control of the public purse in foreign affairs spending. I have often noted here this fact of the Senate's lack of foreign jurisdiction. This motion before us is not about the peace, order and good government of Canada. It is about the Government of China and its foreign relations in the South China Sea. This motion refuses to accept the limits to our constitutional powers in foreign affairs. This refusal should concern us. We must debate such refusal that clearly trenches on the bailiwick of our Minister of Foreign Affairs Minister, and obstructs the minister's work, and the fair and just resolution to the South China Sea conflict.

Honourable senators, this motion will compel and propel the Senate into a foreign affairs role that is the exclusive ken of the Crown, the Sovereign Queen Elizabeth II, through her responsible Canadian Foreign Affairs Minister, the Honourable Stéphane Dion. Foreign affairs and international relations are conducted largely under the Royal Prerogative law, the *lex prerogativa*, exercised in Her Majesty's name, by the Governor General. Joseph Chitty, an authority on this *lex*, wrote on the Crown's pre-eminence in foreign affairs. In his 1820 book, *A Treatise on the Law of the Prerogatives of the Crown*, he says at page 6:

> With respect to foreign states and affairs, the whole majesty and power of his dominions are placed in the hands of the King, who as representative of his subjects possess discretionary and unlimited powers. And they are discretionary and unlimited. In this capacity His Majesty has the sole right to send ambassadors and other foreign ministers and officers abroad, to dictate their instructions, and prescribe rules of conduct and negotiation, (a) His Majesty alone can legally make treaties, leagues and alliances with foreign states; grant letters of marque and reprisals, and safe conduct; declare war or make peace. As a depository of the strength of his subjects, and as manager of their wars, the King is the generallismo of all land and naval forces: his Majesty alone can levy troops, equip fleets, and build fortresses.

This remains the state of the law today.

Honourable senators, Her Majesty Queen Elizabeth II is both the enacting and actuating power in our constitution. All Senate advice for action by Her Majesty's Canadian ministers should proceed here in the proper parliamentary form, which is called the "address." The address is the long-established proceeding and form by which the houses communicate with their sovereign or her ministers, loosely called "the government." Parliament's two houses speak to each other by message, but they speak to Her

Majesty, Her Majesty's ministers and the Governor General by "address." Erskine May's *Treatise on the Law, Privileges, Proceedings and Usage of Parliament* explains the term "address." Headed "Communications to the Crown Originating in Parliament" meaning in the houses, May's 22nd edition states at page 606:

> An address to Her Majesty is the form ordinarily employed by both Houses of Parliament for making their desires and opinions known to the Crown as well as for the purpose of acknowledging communications proceeding from the Crown. In the House of Commons the procedure upon a motion for an Address is the same as upon an ordinary substantive motion.

• (1620)

May adds, at page 607:

> Addresses have comprised every matter of foreign or domestic policy; the administration of justice; the expression of congratulation or condolence; . . . and, in short, representations upon all points connected with the government and welfare of the country; . . .

Honourable senators, clearly the motion before us is not Senate advice on the government and welfare of the country, Canada. If adopted, this motion will become an order of this Senate to our foreign minister, described as the Government of Canada, asking them to judge and to correct:

> . . . the escalating and hostile behaviour exhibited by the Peoples Republic of China in the South China Sea . . .

This is a hostile motion.

Foreign relations are the exclusive ken of Her Majesty's Canadian responsible foreign minister, Stéphane Dion. This motion would superintend, correct, and lead the minister in its direction. Minister Dion is the captain of the foreign affairs ship of state. Senators should not support this motion's attempt to reset the minister's course on the South China Sea conflict. I ask senators to think about this. This motion attempts to propel, to compel the minister in the motion's direction. That is not right.

As I said, senators should not support this motion because it is redirecting and resetting the minister's course.

Honourable senators, this motion seems to rely on the flawed notion that Minister Dion is incorrect and must be put right by this Senate motion, to compel and commit him to a better position and action. But Minister Dion is the lead on this file and he speaks for Canada, not this motion. We must be clear on that.

On April 11, 2016, at their Hiroshima, Japan meeting, Minister Dion and the G7 foreign ministers released a joint statement, titled "G7 Foreign Ministers' Statement on Maritime Security." Paragraphs 1 and 5 read partly:

> Free, open and stable seas are a cornerstone for peace, stability and prosperity of the international community. Recognizing the importance of the oceans, we, the Foreign Ministers of Canada, France, Germany, Italy, Japan, the United Kingdom, the United States of America and High Representative of the European Union, reaffirm our commitment to further international cooperation on maritime security and safety. . . .
>
> We are concerned about the situation in the East and South China Seas, and emphasize the fundamental importance of peaceful management and settlement of disputes. We express our strong opposition to any intimidating, coercive or provocative unilateral actions that could alter the status quo and increase tensions, . . .

Honourable senators, Minister Dion and the G7 foreign ministers were clear. Later, on July 21, 2016, in Ottawa, Minister Dion issued his Canadian statement on South China Sea Arbitration. It reads:

> International law provides the foundation upon which peaceful relations among states are built, and promoting the development and use of international law to resolve difficult problems underpins Canadian foreign policy.
>
> On July 12, 2016, the tribunal constituted under the United Nations Convention on the Law of the Sea rendered a decision in the matter of the South China Sea Arbitration, which is binding on the parties to it.
>
> Whether one agrees or not with the ruling, Canada believes that the parties should comply with it. All parties should seize this opportunity as a stepping stone to renewed efforts to peacefully manage and resolve their disputes, in accordance with international law.
>
> We are deeply concerned about regional tensions that have been escalating for a number of years and have the potential to undermine peace and stability.
>
> It is essential that all states in the region exercise restraint and avoid coercion and actions that will escalate tension.
>
> All claimants must refrain from land reclamation, militarization and other actions that can undermine regional security and stability. Actions that could jeopardize freedom of navigation and overflight exercised in accordance with international law, maritime security and international trade must also be avoided.
>
> We urge all claimants to restore trust and confidence, including through the full and effective implementation of the Declaration on the Conduct of the Parties in the South China Sea, and the expeditious negotiation of a binding Code of Conduct.
>
> Canada is committed to the maintenance of international law and to an international rules-based order for the oceans and seas, as well as to the peaceful management and settlements of disputes. Canada therefore stands ready to contribute to initiatives that build confidence and help restore trust in the region.

The Hon. the Speaker *pro tempore*: Senator Cools, are you asking for more time?

Senator Cools: Yes, I am; thank you.

The Hon. the Speaker *pro tempore*: Agreed, honourable senators, five minutes?

Hon. Senators: Agreed.

Senator Cools: Honourable senators, this odd motion invokes a non-existent Senate power to supervise and direct Minister Dion in his duties that he has ably performed without Senate prompting. Diplomacy and foreign affairs are the exclusive ken of the foreign minister, who, speaking for Canada in two separate statements, has articulated Canada's position that the parties to the South China Sea dispute should settle their differences peacefully, while accepting each nation's sovereignty. I repeat Minister Dion's clear words of his July statement:

> Canada therefore stands ready to contribute to initiatives that build confidence and help restore trust in the region.

Honourable senators, diplomacy and foreign relations are the foreign minister's constitutional purview. The upper house, the Senate, must uphold the Constitution and must entrust to his leadership the resolution of these weighty and difficult foreign affairs matters. The Senate may support, and even advise the minister, but it cannot displace or replace him. The Senate presently has no knowledge of the South China Sea dispute, nor has any evidence been put before it. This motion asks the Senate, absent evidence and study, to adopt a certain position on a certain foreign conflict. But the Senate has no knowledge or evidence before it, and only knows this motion's unstudied claims. Senators should take a serious and second look at the validity of this motion.

I thank you senators, very deeply, from the bottom of my heart for your attention.

I have been around here long enough to see certain motions come forward to this place that are adopted without proper study and with the terrible result of putting Canada's diplomatic relations with many countries at risk, and I think that the Senate should not put itself in that position.

I also urge senators to give this matter the attention it deserves. It is a very serious matter, and it could have terrible consequences for Canada's diplomatic relations with China.

Hon. Peter Harder (Government Representative in the Senate): Honourable senators, I rise as Government Representative to speak on Motion 92, which is in Senator Ngo's name, concerning the South China Sea.

The South China Sea, as we all know, is one of the world's busiest commercial shipping arteries with more than $5 trillion in trade passing through it annually. Much of Canada's trade with Southeast Asia, Hong Kong, India and the Middle East passes through those waters. Asia's rising economic power will increase the significance of the South China Sea as a trade route over time.

The Government of Canada is concerned by the tensions associated with territorial and maritime disputes in the South China Sea. In this context, Canada has also had an interest in promoting respect for international law and rules-based order. The government is monitoring the situation closely and regularly consults with our allies and international partners on developments in the South China Sea.

The Government of Canada has noted the actions of some of the South China Sea claimants as having raised tensions and eroded trust. These actions include large-scale land reclamation, the construction of artificial islands in disputed areas, the construction of military facilities and deployment of military assets on previously uninhabited features, as well as the use of coercion in attempts at settling maritime or territorial disputes.

All of these recent actions are in violation of the spirit of the Declaration of Conduct of Parties in the South China Sea, which was signed between member states of the Association of Southeast Asian Nations, so-called ASEAN, and China in 2002.

• (1630)

Honourable senators, the Government of Canada followed closely the Philippines versus China arbitration case since it was initiated by the Philippines in early 2013.

Following the July 12, 2016, ruling, Canadian officials have conducted a careful analysis of the judgment. Subsequently, on July 21, 2016, the Minister of Foreign Affairs issued a statement on the South China Sea arbitration.

The statement underlined several key principles, and I would like to list them: first, the importance of international law as providing the foundation upon which peaceful relations among states are built; second, the need to avoid actions that could jeopardize freedom of navigation and overflight exercised in accordance with international law, maritime security and international trade; third, that the ruling should be complied with, whether one agrees with it or not; and fourth, that all parties should seize this opportunity as a steppingstone to renewed efforts to peacefully manage and resolve their disputes in accordance with international law.

In a speech given by the Honourable Senator Martin on June 7 as part of the debate on this motion, Senator Martin suggested that Canada could urge compliance with international law in light of the important role that Canada played in building the rules-based international system.

I can report that the statement made by the Minister of Foreign Affairs indeed reiterates Canada's commitment to the maintenance of a rules-based international order and respect for international law as the basis upon which peaceful relations amongst states is built.

Honourable senators, on September 20, Canada again expressed concern about the South China Sea dispute when the Minister of Foreign Affairs joined his G7 counterparts in issuing a G7 Foreign Ministers' Statement on Recent Developments in Asia. This statement expressed a unified G7 position on threats to the rules-based international order emanating from North Korea and expressed concern about the developments in East and Southeast China seas.

The People's Republic of China has maintained its long-held decision that it would not accept the legitimacy of the international tribunal and that it would not be bound by the

ruling. Since the ruling, the Prime Minister and the Minister of Foreign Affairs have both raised the importance of the rule of law in international institutions with their Chinese counterparts.

Recently, and since this motion was first tabled, there have been a number of potentially positive developments with respect to the South China Sea. China and Philippines have mutually agreed to restart bilateral talks with respect to their maritime and territorial disputes. Two other claimants, Malaysia and Vietnam, have each engaged bilaterally with China with a view to managing their disputes peacefully. China and ASEAN have also reportedly restored positive momentum in negotiations aimed at developing a binding code of conduct in the South China Sea. Canada is supportive of bilateral dialogues in the region that contribute constructively toward a peaceful resolution.

Canada is committed to the maintenance of an international rules-based order for the oceans and seas, as well as to the peaceful management and settlement of disputes. Canada stands ready to contribute to initiatives that build confidence and help to restore trust in the region.

Throughout the 1990s and until 2006, the Government of Canada actively supported in funding Track II diplomacy, including participation by experts in informal, non-governmental and unofficial meetings on Asian security issues. For example, in the 1990s Canada co-funded and actively participated in the Indonesian-led informal process called "Managing Potential Conflicts in the South China Sea."

The Canadian Law of the Sea experts who were involved for 10 years in this process paved the way for ASEAN to initiate dialogue with China that culminated in the signing of the Declaration of Conduct between China and the ASEAN in 2002. Despite being non-binding, this declaration constitutes an important instrument between China and the ASEAN with respect to the South China Sea. It is considered the starting point from which a future binding South China Sea code of conduct could be developed.

Canadian officials are actively exploring ways that Canada could play a constructive role in initiatives that contribute to peace and security in the South China Sea and help to restore trust in the region. As announced by the Minister of Foreign Affairs on the margins of the ASEAN-Canada Post-Ministerial Conference and the ASEAN Regional Forum, the so-called ARF, Canada will co-chair in Ottawa next year the ARF Inter-sessional Support Group Meeting on Confidence Building Measures and Preventive Diplomacy. This is yet another example of an initiative where Canada can play a leadership role in restoring eroded peace.

Honourable senators, Canada could contribute actively in regional fora in which high-level discussions on regional security issues take place. As an Asia-Pacific middle power committed to multilateralism, Canada will play a constructive role in international affairs, where our leadership can make a real difference in consultation with allies, partners and other interested states.

It is the view of the Government of Canada that international law provides the foundation upon which peaceful relations among states are built. Given the context of my remarks, I will therefore support the motion of Senator Ngo.

[Senator Harder]

Hon. Senators: Hear, hear!

(On motion of Senator Oh, debate adjourned.)

MOTION TO ENCOURAGE THE GOVERNMENT TO MAKE PROVISION IN THE BUDGET FOR THE CREATION OF THE CANADIAN INFRASTRUCTURE OVERSIGHT AND BEST PRACTICES COUNCIL—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Bellemare, seconded by the Honourable Senator Enverga:
>
> That the Senate — in order to ensure transparency in the awarding of public funds and foster efficiency in infrastructure projects in the larger context of economic diversification and movement toward a greener economy, all while avoiding undue intervention in the federal-provincial division of powers — encourage the government to make provision in the budget for the creation of the Canadian Infrastructure Oversight and Best Practices Council, made up of experts in infrastructure projects from the provinces and territories, whose principal roles would be to:
>
> 1. collect information on federally funded infrastructure projects;
> 2. study the costs and benefits of federally funded infrastructure projects;
> 3. identify procurements best practices and of risk sharing;
> 4. promote these best practices among governments; and
> 5. promote project managers skills development; and
>
> That a message be sent to the House of Commons to acquaint that House with the above.

Hon. Salma Ataullahjan: Honourable senators, I wish to adjourn this item for the balance of my time.

(On motion of Senator Ataullahjan, debate adjourned.)

TRANS CANADA TRAIL

HISTORY, BENEFITS AND CHALLENGES—INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Tardif, calling the attention of the Senate to the Trans Canada Trail — its history, benefits and the challenges it is faced with as it approaches its 25th anniversary.

Hon. Grant Mitchell: Honourable senators, I'm not prepared to speak yet, so I wish to adjourn for the balance of my time, please.

(On motion of Senator Mitchell, debate adjourned.)

• (1640)

NATIONAL FINANCE

OR COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY OF THE DESIGN AND DELIVERY OF THE FEDERAL GOVERNMENT'S MULTI-BILLION DOLLAR INFRASTRUCTURE FUNDING PROGRAM

Hon. Larry W. Smith, pursuant to notice of November 15, 2016, moved:

> That, notwithstanding the order of the Senate adopted on Tuesday, February 23, 2016, the date for the final report of the Standing Senate Committee on National Finance in relation to its study on the design and delivery of the federal government's multi-billion dollar infrastructure program be extended from December 31, 2016 to June 30, 2018.

Hon. Joan Fraser: Question, your honour.

The Hon. the Speaker *pro tempore***:** Senator Smith would you take a question?

Senator Smith: Certainly.

Senator Fraser: I have no problem with extending deadlines. We do it all the time. But this is quite a long extension. Could you explain why?

Senator Smith: That's an excellent question. When the infrastructure program was announced, it was announced that it would be X billions of dollars over a period of time. Since that time we have come up with an infrastructure bank, we have come up with a future forecast of up to $180 billion.

One thing we learned when we started the process, and we have had many witnesses in front of us, is that this is not going to be an in and out. This is going to be something over time. If we're going to do our jobs properly, we need to monitor it, we need to track it, and we need to see not only what goes out the door but a work-in-progress, what's completed, number of lapses and money that's redirected so that we can see the benefits.

The government is really dedicating their platform to the success of infrastructure and job creation. We would like to try to track it. We know it's going to be more than one or two reports. We would like to be able to have this. We may ask for more extensions so that we can track this over a long period.

Hon. Percy E. Downe: Would Senator Smith take another question?

Senator Smith: Certainly, Senator Downe.

Senator Downe: Would it be the intention of your committee to look at federal transportation infrastructure funding? I notice the chair of the Prime Minister's economic advisory committee spoke at some length on a number of things, but he particularly mentioned how tolls are required for private investment in various projects.

Of course you know my long-standing interest regarding the difference between the new bridge proposed for Montreal, the new replacement bridge up to $5 billion that the government has announced — and not only are they paying for the bridge, they're going to pay for ongoing maintenance — and Prince Edward Islanders who are paying $46 to cross a bridge that's constitutionally required in the terms of our joining the federation, and there's no relief for that.

Will that be part of your discussion in the extended terms of reference?

Senator Smith: I would suggest, Senator Downe, that when we look at infrastructure banks, infrastructure banks will have relationships with major pension funds and private investment. For individuals and corporations who expect to have a certain return on investment, those projects will probably be tied also to transport.

The focus would be through the infrastructure program tied to the infrastructure bank, and then if we shoot to study outside areas such as transportation, which will form part of these infrastructure programs, those issues will come up. I'm sure that we will report it and that you will have tremendous direct feedback as to the benefits and the negative elements of tolls and private equity being returned to some of these investments.

The Hon. the Speaker: Are senators ready for the question? Is it your pleasure to adopt the motion?

Hon. Senators: Agreed.

(Motion agreed to.)

(The Senate adjourned until Tuesday, November 22, 2016, at 2 p.m.)

CONTENTS

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