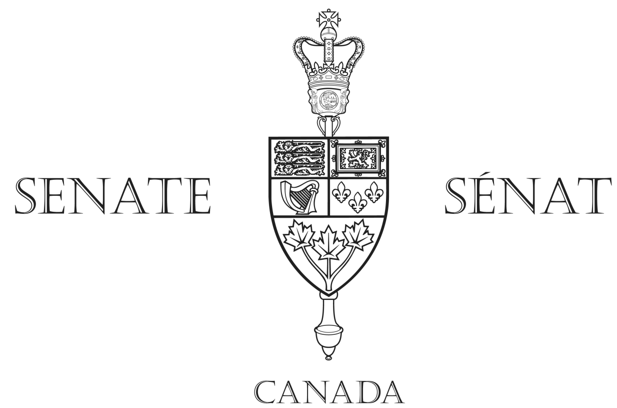

DEBATES OF THE SENATE

1st SESSION 42nd PARLIAMENT VOLUME 150 NUMBER 305

OFFICIAL REPORT
(HANSARD)

Tuesday, June 18, 2019

The Honourable GEORGE J. FUREY,
Speaker

CONTENTS

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

Debates Services: D'Arcy McPherson, National Press Building, Room 906, Tel. 613-995-5756
Publications Centre: Kim Laughren, National Press Building, Room 926, Tel. 343-550-5002

Published by the Senate
Available on the Internet: http://www.parl.gc.ca

THE SENATE

Tuesday, June 18, 2019

The Senate met at 2 p.m., the Speaker in the chair.

Prayers.

TRIBUTES TO DEPARTING PAGES

The Hon. the Speaker: Honourable senators, today we begin our proceedings by paying tribute to two of our pages.

Gabrielle Torrealba is proud to represent Cole Harbour, Nova Scotia. She recently completed her second year of a Bachelor's degree in Law and Psychology at Carleton University. Following completion of her degree, she intends to pursue a career in human rights law. She feels incredibly honoured and privileged to have served as a Senate page for the last two years and wishes to thank all those she has met in the Senate for making this an absolutely unforgettable experience. We thank you, Gabrielle.

Kimberly Burega just completed her Bachelor's degree in International Studies and Modern Languages at the University of Ottawa. Kim is excited to embark on her career in the public service as a junior policy analyst and has felt privileged to serve the Senate as a page. We thank you, Kim.

[*Translation*]

SENATORS' STATEMENTS

THE HONOURABLE PAUL MCINTYRE

Hon. Jean-Guy Dagenais: Honourable senators, he didn't want me to do this, but today I will be paying tribute to my friend, Senator Paul McIntyre.

When he was appointed to the Senate, we soon became friends. Sitting together on the Senate legal affairs and national defence committees, we quickly struck up a close bond. Of course a lawyer and a police officer would be a winning combination.

Senator McIntyre is a member of the Canadian Bar Association and the Law Society of New Brunswick. He has a bachelor of arts degree from the Université de Moncton and a master's in art history from the University of New Brunswick. He created the Alfred-Victoria DesRosiers Park and gifted it to the village of Balmoral. He is a member of several charities and promotes numerous sporting events in his community. I think his greatest achievement has been completing many national and international marathons, including the prestigious Boston Marathon.

But the main thing you should know about Senator McIntyre is that he is a poet. He won a national poetry contest on the Radio-Canada show *Jeunesse oblige*. He will soon be publishing a book of poetry that will reveal his romantic, tender side and express his love of life, with all its ups and downs.

My dear Paul, in retirement, you will have time, as all poets do, to meditate on love, the passage of time, nature and glory, all the classic lyrical themes that offer us a novel glimpse of the fantastic.

Although I am not nearly as gifted a poet as my friend, Senator McIntyre, I will conclude my tribute with a few lines of poetry.

> To friendship may we be inclined,
> For the true of heart and mind
> Cannot ever be outshined.
> Nothing can its worth defile,
> Nor could a deceitful guise
> Its true nature compromise.
> Only friendship can make wisdom smile.

Happy retirement, Paul.

Hon. Senators: Hear, hear!

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Patricia Tulasne and other members of the group Les Courageuses. They are the guests of the Honourable Senator Miville-Dechêne.

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

Hon. Senators: Hear, hear!

[*English*]

NATIONAL INQUIRY INTO MISSING AND MURDERED INDIGENOUS WOMEN AND GIRLS

Hon. Lillian Eva Dyck: Honourable senators, two weeks ago I attended the release of the final report of the National Inquiry into Missing and Murdered Indigenous Women and Girls entitled: *Reclaiming Power and Place*. Within its pages, thousands of stories from family members document the sad legacy of genocide against First Nations, Inuit and Metis women and girls and 2SLGBTQQIA people. I would like to speak to several of the National Inquiry's Calls for Justice.

Call for Justice 5.18 states:

> We call upon the federal government to consider violence against Indigenous women, girls, and 2SLGBTQQIA people as an aggravating factor at sentencing, and to amend the Criminal Code accordingly, with the passage and enactment of Bill S-215.

• (1410)

While this bill was defeated in the House of Commons in April, I am pleased to note the government has accepted my amendments to Bill C-75 and has amended one in such a way that the goals expressed by the national inquiry and my bill, Bill S-215, will be implemented.

Some Hon. Senators: Hear, hear.

Senator Dyck: Number 5.19 of the Calls for Justice calls upon the federal government “to include cases where there is a pattern of intimate partner violence and abuse as murder in the first degree under section 222 of the *Criminal Code*.”

I would like to note here that my research project with partners from the University of Saskatchewan has shown that charges laid in female homicides are more likely to be downgraded when the victim is Aboriginal. Furthermore, the time before parole is less for Aboriginal female homicide victims. These results support this Call for Justice.

Lastly, 5.24 and 5.25 of the Calls for Justice call for the implementation of effective data collection and research resources necessary for understanding the true scope of violence against Indigenous women, girls and 2SLGBTQQIA people. I fully support this call. Other than the study conducted by my research partners and me, so far there is no published data that identifies the indigeneity of both the perpetrators of violence and their female victims. We have shown that with Indigenous female homicide victims, 66 per cent of the perpetrators were also Indigenous. With non-Indigenous female homicides, 98 per cent of the perpetrators were also non-Indigenous. It is noteworthy that for the Indigenous female homicides, 32 per cent of the perpetrators were not known to them and the majority of these, 71 per cent, were non-Indigenous.

Honourable senators, with the final report from the national inquiry, we can — we must — develop a comprehensive, holistic national plan to end the violent over-victimization of Indigenous female and 2SLGBTQQIA people. Thank you. *Kinanaskomitin*.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of members of the Dene First Nations of Northern Manitoba. They are the guests of the Honourable Senator McCallum.

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

Hon. Senators: Hear, hear!

WOMEN IN POLITICS

Hon. Donna Dasko: Honourable senators, how do we increase the numbers of women in elected office? I think we can all agree that it is vitally important to encourage young women, such as the young women in our gallery today, to take an interest in politics and to see it as a worthy and rewarding career.

In early April, 338 young women aged 18 to 23, one from every federal riding across the country, came to Ottawa to take their seat in the House of Commons and participate in four days of learning about Parliament and public policy. They came here as part of Daughters of the Vote, a program created by the non-partisan NGO Equal Voice in 2017 to commemorate a century of voting rights achieved for many Canadian women. This year, for the first time, delegates were also welcomed and participated in the Senate chamber.

Now that I have secured a speaker’s spot — thank you — I especially want to thank Speaker Furey and Senate staff. I wish to thank Senate leaders Senators Bellemare, Day and Smith for their warm welcome to the delegates, and Senators Bernard, Dyck, Frum and Miville-Dechêne for serving on a lively panel, which was rated by delegates as among the best events of their Ottawa experience. I am grateful that all senators had the opportunity to meet delegates from their province, region and from across the country. I know that these young women went away with a sense of great opportunity and purpose.

As wonderful as these events are, honourable senators, we cannot wait until the next generation of women steps forward to change politics. We must elect more women now.

In a few short months a federal election will be held. Right now Canada ranks sixty-first in the world in terms of our representation of women in our House of Commons, with only 27 per cent of the house female. We must do better.

As honourable members in the other place prepare to hit the campaign trail, I am issuing a challenge this week to all party leaders in the House of Commons to nominate more women. I am not asking for a quota. I am simply asking them to pledge to do better, that is, to nominate more women this year than their party did last time. I hope other senators will join me in asking leaders to do more.

By taking this action, Canada’s political parties will be taking a big step toward increasing the number of women in our next Parliament. In fact, at this point, this is the only way we can make progress. The time for action is now.

I can’t wait to see our new House of Commons next fall with more women representing all parties, regions, and with diverse backgrounds.

Meegwetch and thank you.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Howard Liebman. He is the guest of the Honourable Senator Gold.

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

Hon. Senators: Hear, hear!

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Jimmy Durocher. He is the guest of the Honourable Senator Boyer.

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

Hon. Senators: Hear, hear!

SENATE COMMEMORATIVE MEDAL

Hon. David M. Wells: Honourable senators, I rise today to mark the official conclusion of the Senate Sesquicentennial Medal program. I will be sharing my time this afternoon with my friend and colleague Senator Serge Joyal, Co-Chair of the Advisory Working Group.

I am pleased to report that through this program, more than 1,216 Canadians and their families were given much-deserved recognition and a memory that will last a lifetime.

One of my recipients was at a loss for words when I offered him the medal, saying he was undeserving. I told him, “That is exactly why you are deserving.”

I presented a medal to a Deer Lake couple in their eighties who started a food bank in their basement. I presented the medal at a ceremony in their local church with hundreds of guests, including their family, church members and community. It was stated by some that it was like the whole community was the real recipient.

These are just two of the stories from my recipients. I am certain that each senator who participated in the program has their own.

Moments like these are part of what made the program such a success. The other part is how deserving the recipients truly are. I would like to commend all honourable senators for choosing exactly the type of people this program intended to recognize and celebrate.

The program’s objective since the beginning was to recognize Canadians who share the Senate’s goal of giving voice to people or issues that aren’t always front and centre. If you read through the newly published Senate Sesquicentennial Medal program book of recipients, colleagues, you will find over 1,200 Canadians who embody the characteristics of humility and compassion.

I would like to thank all participating senators and medal recipients; our communications team for their first-class work on this initiative; and the Clerk’s Office, who handled the program’s logistics.

I would also like to thank Senator Bovey, as well as former Senator Unger, and in particular, Senator Joyal, for their leadership. Thank you also to the Speaker and his team for the efforts that helped make this program a success.

Honourable senators, a little recognition goes a long way. Thank you for your participation in this important initiative.

[*Translation*]

Hon. Serge Joyal: Honourable senators, I am sharing my speaking time with Senator Wells to illustrate that the Senate 150th Anniversary Medal program was an initiative intended to transcend partisanship and personal ambitions.

The Senate medal was awarded to more than 1,200 Canadians from every province and territory, which is a true testament to the success of the program. The medal program was the best received among Canadians and the most widely appreciated across Canada.

It is easy to see why. The purpose of the program was to recognize men and women who dedicate themselves to improving daily life in their community without ever expecting anything in return. They do this out of conviction, generosity and patriotism to make Canada a better, more harmonious, fairer and more equal society.

I invite you to flip through the pages of this impressive book featuring the names of the 1,200 medal recipients, so you can appreciate all the types of volunteer work that earned them this recognition. None of them did this work to be honoured or recognized. They simply did it out of selflessness and the goodness of their hearts.

[*English*]

Thank you, Senator Wells, my dear friend; Senator Bovey; and former Senator Unger.

• (1420)

[*Translation*]

I too thank the members of the Internal Economy Committee and Senator Housakos, who was chair at the time, for their contribution to this initiative. The year marking the 150th anniversary of Canada was a great one.

Congratulations to these 1,200 Canadians. Canada is a better country because of you.

Hon. Senators: Hear, hear!

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of a group of students from the Saint-Joachim School in La Broquerie, Manitoba. They are the guests of the Honourable Senator Gagné.

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

Hon. Senators: Hear, hear!

TEACHERS

Hon. Raymonde Gagné: Honourable senators, I rise today with a sense of gratitude to pay tribute to teachers everywhere. As the school year draws to a close, I want to acknowledge their

boundless generosity and commend their exemplary work. Preparing our youth for the future and contributing to the development of Canadian society as a whole is no easy task.

Alas, summer vacation is right around the corner.

I want to share my sincere appreciation for all these professionals by telling you about the teachers of the Franco-Manitoban School Division, or FMSD, who play an important role in helping their students forge their francophone identities. Every school in the FMSD is concerned not only about the academic success of its students, but also about the personal and social development of each and every one of them, helping them build their identity, define themselves and see themselves as francophones. It is important to understand that choosing to teach at a French-language school in Manitoba carries additional responsibilities.

I am especially proud to acknowledge the dedication of the entire teaching staff in the presence of three of their own: Danya Audette, Mariette Beauchamp and André Mireault. Also with us today are Mr. Tétrault, a parent, and 42 grade seven and grade eight students from École Saint-Joachim in La Broquerie, Manitoba, which, in my opinion, is one of the most vibrant francophone communities in Manitoba.

I feel I must share with you the fact that I did indeed begin my career as a teacher and principal at La Broquerie. I could not have asked for a better way to launch my career in education.

In conclusion, I would like to thank all the teachers who see the future in every one of their students' eyes. Their vacation is well-deserved — very well-deserved, actually.

I would also like to mention the young francophones from École Saint-Joachim who came to learn about Parliament Hill and the rich Canadian heritage that our national capital has to offer. The Senate and the House of Commons are a concrete example of democracy in action. Five years from now, those young people will have the right to vote and the political power will be in their hands.

Thank you very much.

Hon. Senators: Hear, hear!

ROUTINE PROCEEDINGS

COMMISSIONER OF LOBBYING

LOBBYING ACT—2018-19 ANNUAL REPORT TABLED

The Hon. the Speaker: Honourable senators, I have the honour to table, in both official languages, the Annual Report of the Office of the Commissioner of Lobbying of Canada for the fiscal year ended March 31, 2019, pursuant to the *Lobbying Act*, R.S.C. 1985, c. 44(4th Supp.), s. 11.

[*English*]

ACCESS TO INFORMATION ACT AND PRIVACY ACT—
2018-19 ANNUAL REPORTS TABLED

The Hon. the Speaker: Honourable senators, I have the honour to table, in both official languages, the Annual Reports of the Office of the Commissioner of Lobbying of Canada for the period ended March 31, 2019, pursuant to the *Access to Information Act* and to the *Privacy Act*, R.S.C. 1985, c. A-1 and P-21, s. 72, and to the *Service Fees Act*, S.C. 2017, c. 20, sbs. 20.

[*Translation*]

INFORMATION COMMISSIONER

2018-19 ANNUAL REPORT TABLED

The Hon. the Speaker: Honourable senators, I have the honour to table, in both official languages, the Annual Report of the Information Commissioner of Canada for the period ended March 31, 2019, pursuant to the *Access to Information Act*, R.S.C., 1985, c. A-1, s. 38.

[*English*]

AUDITOR GENERAL

2018-19 ANNUAL REPORTS TABLED

The Hon. the Speaker: Honourable senators, I have the honour to table, in both official languages, the reports of the Office of the Auditor General of Canada for the fiscal year ended March 31, 2019, pursuant to the *Access to Information Act* and to the *Privacy Act*, R.S.C. 1985, c. A-1 and P-21, s. 72.

[*Translation*]

PARLIAMENTARY BUDGET OFFICER

FEDERAL PROGRAM SPENDING ON HOUSING AFFORDABILITY—
REPORT TABLED

The Hon. the Speaker: Honourable senators, I have the honour to table, in both official languages, the report of the Office of the Parliamentary Budget Officer, entitled *Federal Program Spending on Housing Affordability*, pursuant to the *Parliament of Canada Act*, R.S.C. 1985, c. P-1, sbs. 79.2(2).

BILL TO PROVIDE NO-COST, EXPEDITED RECORD SUSPENSIONS FOR SIMPLE POSSESSION OF CANNABIS

THIRTY-FIFTH REPORT OF LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE PRESENTED

Hon. Serge Joyal, Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Tuesday, June 18, 2019

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

THIRTY-FIFTH REPORT

Your committee, to which was referred Bill C-93, An Act to provide no-cost, expedited record suspensions for simple possession of cannabis, has, in obedience to the order of reference of Tuesday, June 11, 2019, examined the said bill and now reports the same without amendment but with certain observations, which are appended to this report.

Respectfully submitted,

SERGE JOYAL
Chair

(*For text of observations, see today's* Journals of the Senate*, p. 5076.*)

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

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

ADJOURNMENT

NOTICE OF MOTION

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, when the Senate next adjourns after the adoption of this motion, it do stand adjourned until Tuesday, September 17, 2019, at 2 p.m.

CANADIAN NATO PARLIAMENTARY ASSOCIATION

STANDING COMMITTEE MEETING, MARCH 23-24, 2018— REPORT TABLED

Hon. Joseph A. Day (Leader of the Senate Liberals): Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Delegation of the Canadian NATO Parliamentary Association respecting its participation at the Standing Committee Meeting, held in Vilnius, Lithuania, on March 23 and 24, 2018.

2018 SPRING SESSION, MAY 25-28, 2018—REPORT TABLED

Hon. Joseph A. Day (Leader of the Senate Liberals): Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Delegation of the Canadian NATO Parliamentary Association respecting its participation at the 2018 Spring Session of the NATO Parliamentary Assembly, held in Warsaw, Poland, from May 25 to 28, 2018.

[*English*]

COMMONWEALTH PARLIAMENTARY ASSOCIATION

BILATERAL VISIT TO NEW ZEALAND AND SAMOA, MARCH 1-10, 2019—REPORT TABLED

Hon. Terry M. Mercer (Deputy Leader of the Senate Liberals): Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Delegation of the Commonwealth Parliamentary Association respecting its bilateral visit to New Zealand and Samoa, held in Auckland and Wellington, New Zealand, and Apia, Samoa, from March 1 to 10, 2019.

INTERNATIONAL EXECUTIVE COMMITTEE MEETING, NOVEMBER 5-9, 2018—REPORT TABLED

Hon. Terry M. Mercer (Deputy Leader of the Senate Liberals): Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Delegation of the Commonwealth Parliamentary Association respecting its participation at the International Executive Committee meeting, held in London, United Kingdom, from November 5 to 9, 2018.

• (1430)

INTERNATIONAL EXECUTIVE COMMITTEE MEETING, MARCH 20-24, 2018—REPORT TABLED

Hon. Terry M. Mercer (Deputy Leader of the Senate Liberals): Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Delegation of the Commonwealth Parliamentary Association respecting its participation at the International Executive Committee meeting, held in Port Louis, Mauritius, from March 20 to 24, 2018.

FEDERAL PUBLIC SERVICE JOBS

NOTICE OF INQUIRY

Hon. Percy E. Downe: Honourable senators, I give notice that, two days hence:

(*a*) I will call the attention of the Senate to The importance of the federal government as Canada's largest single employer, with over 200,000 civilian employees;

(*b*) The fact that, although everyone understands that a significant portion of federal employees would be based in the nation's capital, in recent years a trend has developed whereby the distribution of jobs between Ottawa and the regions has become more and more disproportionate in favour of the National Capital Region;

(*c*) Historically, approximately one-third of federal government jobs were based in the National Capital Region. However, in recent years — under successive governments — that number has grown to almost 46% in the Ottawa region last year;

(*d*) This is illustrated by the fact that in the period 2008-2018, the federal public service experienced a net gain of 11,470 jobs. Of that number, the vast majority were in the National Capital Region, at the expense of the regions of Canada;

(*e*) The impact of this concentration is twofold. Firstly, in many ways federal public servants are the "face" of government to Canadians. A more equal dispersal of these employees across Canada would serve to make the federal government more visible. Decentralization brings government closer to the people it serves;

(*f*) But the more tangible and obvious benefit to regions by employment decentralization is economic. Just as the public has a right to expect ready access to those who provide public services, the various provinces and regions of Canada value the well-paid stable workforce that the federal public service represents. Such a workforce, largely immune to the boom and bust cycle of other industries, can provide a foundation upon which a healthy regional economy can build, as indeed, has been the case with the National Capital Region;

(*g*) The example of Veterans Affairs Canada (VAC) is proof of the beneficial impact of decentralization of government. VAC is the only department whose national headquarters is located outside the Ottawa region. The decision to move VAC to Charlottetown had a profound and lasting effect on PEI both economically and socially;

(*h*) The 1,230 VAC employees who currently work in Prince Edward Island, represents a steady payroll of some $90 million dollars, spent on cars, homes and the various goods and services associated with everyday life, a significant contribution to the Island economy;

(*i*) There is obviously more to a healthy economy than federal government jobs. Meaningful economic development can only come from a balanced economy that respects and welcomes the role of a robust private sector which invests the time and money necessary to create the jobs that will keep Canadians at home building their future. That having been said, a balanced economy also means there is an important role for Canada's largest single employer, the federal government, to play;

(*j*) There is also the positive social benefit to having government jobs distributed across Canada. In the case of Prince Edward Island, this can be seen in the remarkable growth in the use of the French language. According to Statistics Canada, after Quebec and New Brunswick, Prince Edward Islanders are third, among the provinces in their knowledge of both languages. There is no doubt that the historical presence and strength of the Island Acadian community assisted in that regard, but, the greatest single contribution to the growth of the French language in Prince Edward Island over the last forty years is the presence of Veterans Affairs;

(*k*) Resistance to moving jobs across Canada is best illustrated by the absence of the deputy minister of Veterans Affairs Canada from working full time in the National Headquarters in Charlottetown. The fact that the current holder of that office is the only deputy minister who, unlike many former VAC deputy ministers, does not live and work in the same province as that department's national headquarters causes a daily leadership vacuum in a department that has seen 23 ministers in 30 years; and

(*l*) Therefore, the Senate Chamber should examine and discuss the opportunities for decentralizing federal government jobs and services, and to urge the Government of Canada to restore the historical distribution of employment to one-third of jobs in the National Capital Region and two-thirds in the rest of the country, thereby contributing to the economic growth and stability of the regions of Canada.

QUESTION PERIOD

NATURAL RESOURCES

OIL AND GAS INDUSTRY

Hon. Larry W. Smith (Leader of the Opposition): Honourable senators, my question is for the Leader of the Government in the Senate. It deals with TMX, Bill C-69 and Bill C-48.

The Energy East Project, the Northern Gateway Pipelines Project, the Pacific NorthWest LNG Project and the Aurora LNG Project were all cancelled under this government's watch. Millions of dollars have been pumped into the country by foreign foundations seeking to destroy our energy sector, and this government has shown no concern whatsoever.

Energy workers, not just premiers, but actually workers on the ground have begged this government to listen to them. Thoughtful amendments were brought forward to Bill C-69. Minister McKenna dismissed them simply because the energy sector supports them.

Even with the expected approval of the Trans Mountain Expansion Project later today, why should Canadians who work in this sector have any confidence in this government going forward? If you don't have their back, why should they have yours?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question.

Let me simply assure the chamber and all senators that the government's policy for economic growth and for the environment and for the well-being of the country are well established. The bills to which he refers, certainly Bill C-69 and Bill C-48 and bills relating to decisions yet to be forthcoming with respect to TMX, are all part of the government's commitment to both an environmental assessment process that is fair, balanced and can actually render decisions that are implementable.

With respect to the TMX decision, I know the honourable senator is at the edge of his seat waiting for the government to make the announcement — many Canadians are. This is an important announcement. I, like the honourable senator, await that announcement with great interest.

I should also point out that this government has ensured priority is given to attracting foreign direct investments, and I was pleased to see the reporting of Canada regaining a top spot — second spot, actually — in terms of countries receiving direct foreign investment.

I would also point to the diversification of trade strategy which, of course, in an era in which Canada's dependence on one particular market, is one we ought to diversify. These strategies are all meant to complement one another, and I hope they find the support of the honourable gentleman opposite.

TRANS MOUNTAIN PIPELINE

Hon. Larry W. Smith (Leader of the Opposition): Thank you for your answer, government leader. Of course, what we're trying to do is give opportunity for a sector, one of our most important ones, to be able to diversify. Even if Trans Mountain goes through and they continue the construction of the adjacent pipeline, they still can't ship out of Burnaby because the port is not deep enough.

• (1440)

In recent days, Premier Legault of Quebec has clearly stated that his government is opposed to Bill C-69. This morning, the premier of Newfoundland and Labrador also reiterated his province's concerns about Bill C-69. Premier Ball indicated his province is still seeking amendments to this bill.

Senator Harder, even if your government gives final approval to the Trans Mountain expansion later today, as widely expected, Bill C-69 and Bill C-48 still cast a shadow over our energy sector.

Does your government understand the fear that Trans Mountain could be the last major project approved if Bill C-69 goes ahead in its current form?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question. I would simply reference the excellent speech — he's not here to hear the compliment so I can be more effusive than I otherwise would — of Senator Mitchell in speaking to the message yesterday. We will have robust debate here, I am sure, in the coming days. This Senate will make its decision with respect to the message from the other place.

Let me simply reiterate: It is the view of the Government of Canada that environmental assessment which is robust, has legitimacy, is seen to have the social licence and is appropriately conducted is an environmental assessment process that leads to projects that can be implemented.

SMALL BUSINESS AND EXPORT PROMOTION

CLEAN TECHNOLOGY VENTURE CAPITAL FUNDS

Hon. Leo Housakos: Honourable senators, my question is for the government leader in the Senate. It has to do with the management of taxpayers' funds, or in this particular case the mismanagement of taxpayers' funds.

Earlier this month, the Trudeau government's Minister of Small Business and Export Promotion announced a total of $50 million for three clean technology venture capital funds. In interviews with *The Globe and Mail*, two of the three firms which received this money, a substantial amount of money, said they did not need the funds.

Government leader, for example, the managing partner of one of the firms was asked whether they needed the money from the federal government and he replied to *The Globe and Mail*, "No, but it's great to have it."

Senator Harder, my question is simple: How does your government justify taking money from hard-working Canadian taxpayers only to give it to firms that claim they don't need it?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question. The Government of Canada is committed to accelerating the growth of funds available for clean technologies. That is why the minister made the announcement to which the honourable senator refers. This is all in an effort to accelerate the pace of accommodation and transition to a less carbon-intense economy.

Senator Housakos: Government leader, I suspect the minister made the announcement because the government wants to fill gaps where there are gaps and help achieve a certain goal, which clearly is not the case in this particular instance.

Senator Harder, about two and a half years ago, your government gave $373 million to Bombardier, absent hardly any details as to how or why this considerable amount of money was to be spent. Earlier this year, your government gave Loblaw $12 million from taxpayers to help the supermarket chain pay for new refrigerators — not a chain that's struggling in this country either. Now we see your government giving $50 million to some venture capital funds that say they don't really need it.

Senator Harder, it is evident that the Trudeau government has its priorities all messed up. You've made questionable corporate investments, all while burdening hard-working families with higher taxes. The Canadian government's mission is to serve its citizens and to fill gaps in industry. Why have the needs of average taxpayers never been top of mind for this Trudeau government?

Senator Harder: Let me first thank the honourable senator for his question but remind him that one of the first acts of this Parliament was to reduce taxes on the middle class and, yes, impose a higher burden on the upper class, upper-income taxpayers, and that the honourable senator voted against it.

INDIGENOUS AND NORTHERN AFFAIRS

LAND CLAIMS NEGOTIATIONS

Hon. Mary Jane McCallum: Honourable senators, my question is for the Leader of the Government in the Senate.

For 19 years, the Athabasca Denesuline and Ghotelnene K'odtineh Dene have been negotiating modern land claim agreements with the Government of Canada to recognize their rights related to land, harvesting and resource management in their traditional territory. After years of negotiations, in 2018 the federal government committed to conclude the land claims agreements on a nation-to-nation basis, with the goal of proceeding to a community ratification in the spring of 2019.

However, on June 12, 2019, only days ago, the government reversed this commitment, advising these groups that Canada would not be giving their negotiators the authority to initial the agreements. This came as a shock, since the negotiators were already in Yellowknife on this date to continue these meetings.

After the government's decision, the chief federal negotiator cancelled all scheduled meetings related to these negotiations. All further requests on behalf of these groups for subsequent meetings and clarification on this decision have been ignored.

Leader, I find this about-face very troubling. Throughout these negotiations, the Dene have relied on the assurances of Canada, in writing and in person, that it would proceed to initial the agreements notwithstanding ongoing consultations with Indigenous groups in the Northwest Territories, which began in December 2016. Canada and the Dene had a good faith understanding that further consultations with these groups would continue, including any necessary accommodations, but that those consultations would not affect Canada's commitment to initial the agreements prior to the federal election.

I am curious as to why, after nearly 20 years of negotiations, Canada has refused to initial these agreements? If you are unsure, could you please look into this matter and provide us with a written response?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for her question and I welcome, as all senators, her constituents to the gallery and to hear this question be placed directly.

I'm not informed on this matter and will make myself informed and respond, as the honourable senator has asked.

PUBLIC SERVICES AND PROCUREMENT

SERVICE CONTRACTS

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

Senator Harder, last week *Blacklock's Reporter* published articles two days apart. The first headline read, "Postmedia Awarded $5.5M." That was June 10. The next, on June 12 read, "$2M Windfall For The Globe." Both were reporting on untendered contracts. The first one to Postmedia was for communication research and the one to *The Globe and Mail* was for news clipping services and was more than double the amount for a previous contract.

Blacklock's Reporter also followed up by saying that records show that sole-source *The Globe and Mail* contract was among the $8.6 million in untendered fees awarded to publishers since February, prior to the cabinet's introduction of a media bailout. None of the contracts were put out to public bids.

Senator Harder, what are communication research services and why would the government be paying a private media corporation $5.5 million to provide them?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question. Let me say that I will make inquiries and respond appropriately. I'm unaware of the two contracts being cited.

Senator Tkachuk: *The Globe and Mail* contract is double the amount of a previous contract for the same service. Perhaps you could also find out what exactly is a news clipping service and what justifies doubling the amount of the contract in an election year?

Senator Harder: I will indeed do that.

[*Translation*]

PRIVY COUNCIL OFFICE

VICE-ADMIRAL MARK NORMAN

Hon. Jean-Guy Dagenais: My question is for the Leader of the Government in the Senate. Unfortunately for you, I am not going to wax poetic.

Your Prime Minister announced last week that he would issue a formal apology to Italian Canadians who were sent to Canadian internment camps during the Second World War. If his stage director calls for it, perhaps the Prime Minister will shed a tear at this event. One thing is certain, Justin Trudeau readily apologizes for others' mistakes while covering up his own and going back on his election promise to be transparent. He even had one of his ministers, Marc Garneau, apologize for his father's mistakes to those whose land was expropriated for Mirabel.

I would like to know if the Prime Minister intends to issue an official apology to Vice-Admiral Mark Norman for his unjustified suspension. We are still waiting for someone to explain why members of his staff and cabinet were involved in this matter.

• (1450)

[*English*]

Hon. Peter Harder (Government Representative in the Senate): My response will be less poetic. With respect to the preambles of the question, I will bring that to the attention of the appropriate personalities. As to the direct question, the honourable senator will know that the government has responded appropriately with respect to the Vice-Admiral Norman case.

CROWN-INDIGENOUS RELATIONS

ELIMINATION OF SEX-BASED INEQUITIES

Hon. Marilou McPhedran: Honourable senators, my question is to Senator Harder as the Government Representative in the Senate.

Last Friday in an invitational meeting, Minister Carolyn Bennett announced that indeed the government was going to implement and activate the relevant portions of the Bill S-3 amendments that came from this chamber, where a great deal of work and commitment, including from you, sir, was put into those amendments. That announcement has thus far, I believe, stayed private.

I wonder if you would be able to confirm for us on the record that the Bill S-3 amendments that will remove the 1951 cut-off and finally complete the process of eliminating sex-based inequities in the Indian Act will be done before this session of Parliament is terminated by the government.

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for the question. More importantly, I thank the honourable senator for working with many around this chamber to achieve what this chamber and Parliament was able to with respect to Bill S-3. She will know that the special ministerial representative report for the consultation process has been tabled. I can confirm that the minister has indicated that she will work to bring these provisions into force within the current mandate of this government.

[*Translation*]

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate): Honourable senators, pursuant to rule 4-13(3), I would like to inform the Senate that as we proceed with Government Business, the Senate will address the items in the following order: consideration of the messages from the House of Commons and third reading of bills in the order that they appear on the Order Paper with the exception of the message from the House of Commons on Bill C-69, which will be the last of these items called, followed by all remaining items in the order that they appear on the Order Paper.

[*English*]

NATIONAL SECURITY BILL, 2017

MESSAGE FROM COMMONS—MOTION FOR NON-INSISTENCE UPON SENATE AMENDMENTS—MOTION IN AMENDMENT—DEBATE

On the Order:

> Resuming debate on the motion of the Honourable Senator Harder, P.C., seconded by the Honourable Senator Bellemare:
>
> That the Senate do not insist on its amendments 1 and 2 to Bill C-59, An Act respecting national security matters, to which the House of Commons has disagreed; and
>
> That a message be sent to the House of Commons to acquaint that house accordingly.

Hon. Leo Housakos: Therefore, honourable senators, in amendment, I move:

> That the motion be not now adopted, but that it be amended:
>
> 1. by replacing the words “amendments 1 and 2” by the words “amendment 1”;
>
> 2. by deleting, in the English version, the word “and” at the end of the first paragraph; and
>
> 3. by replacing the second paragraph by the following:
>
> “That the Senate insist on its amendment 2, to which the House of Commons has disagreed;
>
> That, pursuant to rule 16-3, the Standing Senate Committee on National Security and Defence be charged with drawing up the reasons for the Senate’s insistence on its amendment;
>
> That the committee present its report with the reasons pursuant to this order no later than Friday, June 28, 2019; and
>
> That once the reasons for the insistence have been agreed to by the Senate, a message be sent to the House of Commons to acquaint that house accordingly.”.

The Hon. the Speaker: It is moved by the Honourable Senator Housakos, seconded by the Honourable Senator Smith, that the motion be not now be adopted — may I dispense?

Hon. Senators: Dispense.

The Hon. the Speaker: On debate?

Senator Housakos: Colleagues, I rise today to speak on the matter of the Government’s response to the amendments made by the Senate to Bill C-59, An Act respecting national security matters, and, of course, to move the amendment.

I want to begin by noting that what we have before us is an all too typical Government response to amendments made in the Senate.

The Senate made four amendments to Bill C-59. At least three of the four amendments reflected what the Senate Standing Committee on National Security and Defence heard from very informed witnesses in relation to this legislation.

But, as is typical, the Government has decided to only accept two of those amendments - specifically those which are the least disruptive to the Government’s core agenda when it comes to this bill.

One amendment was proposed by Senator Gold, the bill’s sponsor. When Senator Harder spoke on the Government’s response last week, he stated the following in relation to that amendment: He said:

> [The amendment adds] a blank schedule … in relation to Part 1.1 of Bill C-59, which enacts the avoiding complicity in mistreatment of foreign entities act. Adding this schedule corrects an important technical issue by allowing the Governor-in-Council to add departments or agencies in the future that may have to comply with the act.

In other words, it is an amendment which the Government itself proposed, to correct its own drafting error.

Not exactly earth shattering.

The other amendment is more substantive and was proposed by my colleague, Senator Dagenais. It will require a parliamentary review three years after receiving Royal Assent, rather than the original five. This is a more important amendment since hopefully there will be another government in power in three years which will be able to correct some of the weaknesses in this legislation.

The current government is, of course, hoping that it will still be in power in three years and then be able to simply ignore this provision.

I now come to the amendments that the government has chosen to reject. These are ones that, for lack of a better term, are seen to interfere with the bill as originally introduced in the Senate.

One was proposed by Senator McPhedran. While I may disagree with the objective of her amendment, it does reflect concerns some certain witnesses raised about the scope of the role of the new Intelligence Commissioner.

The Government has dismissed that amendment and I am sure that senators opposite can speak to their views on that rejection.

What concerns me more, however, is the government’s decision to also reject the amendment proposed by my colleague, Senator McIntyre. In my view, the rejection of this amendment directly contradicts the Government’s own very public pledge to fight the advocacy of terrorism and violence online.

Just a few weeks ago, Foreign Affairs Minister Freeland said the following at the United Nations:

> Today, hatred is increasingly spread through the internet; in online forums and on social media. We must be aware of this and work to stop it.

I would argue that the Government had its chance in relation to the amendment proposed to this legislation but now has effectively decided to do nothing.

To remind senators, what Bill C-59 does is to eliminate the offence of “advocating or promoting terrorism” and instead replace it with the offence of “counselling to commit” a terrorism offence.

The Government has argued that the current provision in the law is unusable and therefore replacing it with a more specific offence of counselling to commit a terrorism offence would lead to more charges that could be defended in court.

However, just in September of last year, the *Globe and Mail* reported that Crown prosecutors in Montreal were using the very provisions in the law, claimed by the Government to be "unusable" to remove terrorist propaganda from the internet.

Former Crown Attorney Scott Newark has said that the removal of the offence of advocacy and promotion of terrorism will:

> . . . likely reduce the ability of law enforcement to use the judicially authorized terrorism-propaganda 'takedown' tool.

When the Senate National Security and Defence Committee met to consider Bill C-59, this same concern was raised by witnesses appearing before the Committee.

Mr. Shimon Fogel, Chief Executive Officer, Centre for Israel and Jewish Affairs stated at committee:

> . . . we are deeply concerned by one key aspect of the bill: the amendment to the Criminal Code provision outlining what is now known as advocacy and promotion of terrorism. Bill C-59 will redefine this offence as counselling terrorism.

Mr. Fogel further stated that:

> As currently worded, the new offence would apply to 'every person who counsels another person to commit a terrorism offence'. This wording suggests that the offence exclusively pertains to one who counsels another specific individual.

Consistent with what witnesses said in the House Committee, Mr. Fogel cautioned that this gap could create a potential loophole in the law.

There was a risk that a defendant could counsel social media followers to commit acts of terrorism and then argue that they did not directly counsel a specific person. To address this gap, Mr. Fogel proposed an amendment to ensure that "terrorism counselling" would explicitly apply whether one counselled on a specific individual or whether one counselled broader audiences to commit acts of terrorism.

My colleague, Senator McIntyre, picked up on this very useful proposal and proposed an amendment to do just that. The amendment was supported by the majority of senators on the committee and was then ultimately passed by the Senate as a whole.

Now we have the Government's response.

Senator Harder said last week that the government is of the view that the amendment could have unintended consequences by creating inconsistencies in criminal law and that the text is inconsistent with the proposed counselling offence.

• (1500)

This was precisely the argument that was also made by Senator Gold, the bill's sponsor.

Senator Gold argued that the amendment was unnecessary because even under current law, counselling does not require an accused to know the identity of those he counsels.

That, evidently, is not self-evident, since, as former Crown Attorney Scott Newark stated, the removal of the offence of advocacy and promotion of terrorism will, in his words:

> . . . likely reduce the ability of law enforcement to use the judicially authorized terrorism propaganda "takedown" tool . . . .

Senator Gold also argued, just as the government through Senator Harder now argues, that the proposed amendment would confuse the current law in that the Criminal Code will now potentially have more than one definition of "counselling to commit" an offence.

This issue was referenced by my colleague Senator Frum when she spoke to this bill at third reading. She asked a very important question when she spoke:

> . . . if such a risk does exist, why would the government not amend potentially conflictual sections of the code to ensure the definitions are either broader or at least sufficiently consistent in the context of the specific offences to which they apply?

She asked why the government and its supporters consistently place their emphasis on finding reasons not to tighten the law, rather than actually looking for tools that will address real security and tighten public safety risks.

If the government wants to prioritize real or imagined constitutional risks and not strengthen the law, why then do government ministers stand up at the United Nations, as Minister Freeland did recently, to proclaim that they are committed to taking firm action to stop the online promotion of hate and violence? They clearly have no intention of making this a real priority, yet they never miss an opportunity to proclaim that they do, to pontificate, which this government so often does.

In my view, the Senate should clearly say to the government that its response on this amendment is unacceptable.

In today's world, the propagation of online terrorist propaganda is the fuel for terrorist attacks. It has fuelled attacks all over the world, including in Canada. I believe that we need to make combatting it a legislative priority. I only wish that the government shared this particular point of view.

To correct at least one flaw in this bill, I believe the Senate must insist on Senator McIntyre's amendments. I hope, colleagues, you will all support the amendment I put forward today. Thank you.

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

Hon. Senators: Question.

The Hon. the Speaker: It was moved by the Honourable Senator Housakos, seconded by the Honourable Senator Smith, that the motion be not now adopted but that it be amended by replacing — may I dispense?

Hon. Senators: Dispense.

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

Some Hon. Senators: No.

Some Hon. Senators: Yes.

The Hon. the Speaker: All those in favour of the motion will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: All those opposed to the motion will please say "nay."

Some Hon. Senators: Nay.

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

And two honourable senators having risen:

The Hon. the Speaker: Do we have an agreement on a bell?

Senator Plett: One hour.

The Hon. the Speaker: The vote will take place at 4:02 p.m.

Call in the senators.

• (1600)

Motion in amendment of the Honourable Senator Housakos negatived on the following division:

YEAS
THE HONOURABLE SENATORS

Andreychuk
Ataullahjan
Batters
Boisvenu
Carignan
Dagenais
Doyle
Eaton
Housakos
MacDonald
Manning
Marshall
McInnis
McIntyre
Mockler
Neufeld
Ngo
Oh
Patterson
Plett
Poirier
Richards
Seidman
Smith
Stewart Olsen
Tannas
Tkachuk
Wells
White—29

NAYS
THE HONOURABLE SENATORS

Anderson
Bellemare
Bernard
Black (*Alberta*)
Black (*Ontario*)
Boehm
Boniface
Bovey
Boyer
Busson
Campbell
Christmas
Cordy
Cormier
Coyle
Dalphond
Dasko
Dawson
Day
Deacon (*Nova Scotia*)
Deacon (*Ontario*)
Dean
Downe
Duncan
Dupuis
Galvez
Gold
Harder
Hartling
Joyal
Klyne
Kutcher
LaBoucane-Benson
Lankin
Lovelace Nicholas
Marwah
McCallum
McPhedran
Mégie
Mercer
Mitchell
Miville-Dechêne
Moncion
Munson
Pate
Petitclerc
Pratte
Ravalia
Ringuette
Saint-Germain

Dyck	Simons
Forest	Sinclair
Forest-Niesing	Verner
Francis	Woo—59
Gagné	

ABSTENTION
THE HONOURABLE SENATOR

Griffin—1

MESSAGE FROM COMMONS—MOTION FOR NON-INSISTENCE UPON SENATE AMENDMENTS ADOPTED

On the Order:

> Resuming debate on the motion of the Honourable Senator Harder, P.C., seconded by the Honourable Senator Bellemare:
>
> That the Senate do not insist on its amendments 1 and 2 to Bill C-59, An Act respecting national security matters, to which the House of Commons has disagreed; and
>
> That a message be sent to the House of Commons to acquaint that house accordingly.

The Hon. the Speaker: Resuming consideration of the message from the House of Commons on Bill C-59.

Are honourable senators ready for the question?

Some Hon. Senators: Question.

The Hon. the Speaker: It is moved by the Honourable Senator Harder, seconded by the Honourable Senator Bellemare, that the Senate do not insist on its amendments 1 and 2 to Bill C-59 —

May I dispense?

Some Hon. Senators: Dispense.

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

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

The Hon. the Speaker: All those in favour of the motion will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: All those opposed to the motion will please say "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: I see two honourable senators rising. Do we have an agreement on a bell?

Senator Plett: One hour.

The Hon. the Speaker: The vote will take place in one hour, at 5:09 p.m.

Call in the senators.

• (1710)

Motion agreed to on the following division:

YEAS
THE HONOURABLE SENATORS

Anderson	Griffin
Bellemare	Harder
Bernard	Hartling
Black (*Ontario*)	Joyal
Boehm	Klyne
Boniface	Kutcher
Bovey	LaBoucane-Benson
Boyer	Lankin
Busson	Lovelace Nicholas
Campbell	Marwah
Christmas	Massicotte
Cordy	McCallum
Cormier	McPhedran
Coyle	Mégie
Dalphond	Mercer
Dasko	Mitchell
Dawson	Miville-Dechêne
Day	Moncion
Deacon (*Nova Scotia*)	Munson
Deacon (*Ontario*)	Omidvar
Dean	Pate
Downe	Petitclerc
Duncan	Pratte
Dupuis	Ravalia
Dyck	Richards
Forest	Ringuette
Forest-Niesing	Saint-Germain
Francis	Simons
Furey	Verner
Gagné	Wallin
Galvez	White
Gold	Woo—64

NAYS
THE HONOURABLE SENATORS

Andreychuk	Mockler
Ataullahjan	Neufeld
Batters	Ngo
Boisvenu	Oh
Carignan	Patterson
Dagenais	Plett
Doyle	Poirier
Eaton	Seidman
Housakos	Smith
MacDonald	Stewart Olsen
Manning	Tannas
Marshall	Tkachuk
McInnis	Wells—27
McIntyre	

ABSTENTIONS
THE HONOURABLE SENATORS

Nil

[*Translation*]

ACCESS TO INFORMATION ACT
PRIVACY ACT

BILL TO AMEND—MESSAGE FROM COMMONS—CERTAIN SENATE AMENDMENTS CONCURRED IN, DISAGREEMENT WITH CERTAIN SENATE AMENDMENTS AND AMENDMENTS

The Hon. the Speaker: Honourable senators, I have the honour to inform the Senate that a message has been received from the House of Commons which reads as follows:

Tuesday, June 18, 2019

ORDERED,— That a Message be sent to the Senate to acquaint Their Honours that, in relation to Bill C-58, An Act to amend the Access to Information Act and the Privacy Act and to make consequential amendments to other Acts, the House:

agrees with amendments 1, 2, 4, 5(b), 6, 7, 8(b), 9, 10, 11, 13, 14(b), 15(a), (b) and (d), 16, 17, 18, 19 and 20 made by the Senate;

respectfully disagrees with amendments 3 and 12 because the amendments seek to legislate matters which are beyond the policy intent of the bill, whose purpose is to make targeted amendments to the Act, notably to authorize the Information Commissioner to make orders for the release of records or with respect to other matters relating to requests, and to create a new Part of the Act providing for the proactive publication of information or materials related to the Senate, the House of Commons, parliamentary entities, ministers' offices including the Prime Minister's Office, government institutions, and institutions that support superior courts;

as a consequence of Senate amendment 4, proposes to add the following amendment:

1. New clause 6.2, page 4: Add the following after line 4:

"6.2 The portion of section 7 of the Act before paragraph (a) is replaced by the following:

7 Where access to a record is requested under this Act, the head of the government institution to which the request is made shall, subject to sections 8 and 9, within 30 days after the request is received,".

proposes that amendment 5(a) be amended to read as follows:

"(a) on page 5, delete lines 31 to 36;

(a.1) on page 6, replace line 1 with the following:

"13 Section 30 of the Act is amended by adding the";";

as a consequence of Senate amendment 5(a), proposes to add the following amendments:

1. Clause 16, page 7: Replace line 37 with the following:

   "any of paragraphs 30(1)(a) to (e), the Commissioner".

2. Clause 19, page 11: Replace line 28 with the following:

   "any of paragraphs 30(1)(a) to (e) and who receives a re-".

proposes that amendment 8(a) be amended by deleting subsection (6);

proposes that amendment 14(a) be amended by replacing the text of the English version of the amendment with the following: "the publication may constitute a breach of parliamen-";

respectfully disagrees with amendment 15(c) because providing the Information Commissioner with oversight over proactive publication by institutions supporting Parliament and the courts has the potential to infringe parliamentary privilege and judicial independence.

ATTEST

Charles Robert
The Clerk of the House of Commons

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

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

[*English*]

FISHERIES ACT

BILL TO AMEND—MESSAGE FROM COMMONS—MOTION FOR CONCURRENCE IN COMMONS AMENDMENTS AND NON-INSISTENCE UPON SENATE AMENDMENTS—DEBATE

The Senate proceeded to consideration of the message from the House of Commons concerning Bill C-68, An Act to amend the Fisheries Act and other Acts in consequence

Monday, June 17, 2019

ORDERED,— That a Message be sent to the Senate to acquaint Their Honours that, in relation to Bill C-68, An Act to amend the Fisheries Act and other Acts in consequence, the House:

agrees with amendments 1(b), 1(c), 2, 4, 5, 6, 7, 8, 10, 12, 13, 14 and 15 made by the Senate;

respectfully disagrees with amendment 1(a) because it is contrary to the objective of the Act that its habitat provisions apply to all fish habitats throughout Canada;

proposes that amendment 3 be amended by deleting "guaranteed," and, in the English version, by replacing the word "in" with the word "by";

proposes that amendment 9 be amended by deleting section 35.11;

respectfully disagrees with amendment 11 because the amendment seeks to legislate in respect of third-party, or market-based, fish habitat banking, which is beyond the policy intent of the Bill that is to provide only for proponent-led fish habitat banking.

Hon. Peter Harder (Government Representative in the Senate) moved:

That, in relation to Bill C-68, An Act to amend the Fisheries Act and other Acts in consequence, the Senate:

(*a*) agree to the amendments made by the House of Commons to its amendments; and

(*b*) do not insist on its amendments to which the House of Commons has disagreed; and

That a message be sent to the House of Commons to acquaint that house accordingly.

He said: Honourable senators, I'm pleased today to speak to the message from the other place regarding Bill C-68. This government legislation will restore lost protections to fish and fish habitat, as well as incorporate modern safeguards into the Fisheries Act.

As many of you know, this bill will reinstate the prohibition against destroying fish by any means other than fishing and against works that result in the harmful alteration, disruption or destruction of fish habitat.

Regarding the message before us, the government has accepted a majority of the over 30 amendments made by the Senate. In addition, the government is respectfully declining three amendments while modifying one. In sending this message, Minister Wilkinson has asked me to thank honourable senators for their hard work on this bill, particularly the sponsor of the bill, Senator Christmas. The minister has also asked me to congratulate senators on this version of the bill's inclusion of Senate policies and responsiveness to Senate concerns.

Turning to specifics of the message, the first amendment the other place has declined is that made to the definition of "fish habitat" by Senator Poirier. The government's position is that the amendment made by Senator Poirier could narrow the scope of application of fish and fish habitat protection provisions and therefore go against the main objective of the bill, which is to increase protections.

The other two amendments that are being declined relate to third party habitat banking. These amendments were brought forward by Senator Wells. I would also like to note that these amendments were initially proposed by the Canadian Wildlife Federation, which has since written a letter to support the removal of the amendments at this time, as significant consultations would be required to implement this policy.

• (1720)

Finally, the government made a minor amendment to one of the three amendments from Senator Christmas to ensure that the language used is consistent with the rest of the bill.

I would also like to briefly speak to the amendments that the government has accepted. I spoke to these amendments in more detail both at second and third reading. Amendments to facilitate Bill S-203's ban on the captivity of whales and dolphins remain in the bill, as do amendments to implement the policy of Bill S-238 to ban shark finning and shark fin imports. The government knows that Canadians from coast to coast to coast are excited about these amendments to protect marine wildlife. Again, I would like to thank former Senator Moore, and Senator Sinclair and Senator MacDonald for their vision and hard work on these important policy areas.

As promised, Bill C-68 retains the repeal of section 2.2 regarding water flow and an overly broad definition of fish habitat, further to an amendment I moved at committee. This message also retains the amendments I made at committee in regard to designated projects — commitments which I made at second reading and spoke to at third reading debate. Senators, this is an important bill that Canadians across the country are

counting on us to pass to restore protections for fish and fish habitat. I ask all honourable senators to support this motion to concur with the message from the other place. Thank you.

Hon. David M. Wells: Honourable senators, I rise today to speak to the message from the other place on Bill C-68, An Act to amend the Fisheries Act and other Acts in consequence.

As colleagues may recall from speeches made in this chamber at third reading, the Senate made several positive changes to Bill C-68. I would like to again focus my remarks today on the habitat banking amendments we included in this bill with support across all caucuses and groups.

The amendments at committee and in this chamber included in Bill C-68 expanded habitat banking to third parties, introduced an offset payment system and ensured that habitat banking benefits remained local in comparison to a work, undertaking or activity.

These amendments were supported by First Nations, industry groups, ecology action groups, wetlands advocates, private sector firms, provincial government agencies, conservation authorities and municipalities, among others.

In fact, the only arguments I've heard against third party habitat restoration and conservation came from DFO officials. That is why it is disappointing to see that the government has removed all three of the Senate's habitat banking amendments. By removing the Senate's amendments, the government has chosen to exclude front-line stakeholders from doing the good work they do to protect and maintain our environment.

I'd like to address Senator Harder's remarks on the Canadian Wildlife Federation. They were the first ones to come to my office and lobby me to have third party habitat banking provisions written into amendments in this legislation. I agreed to do so. They laid out the case, and it was a good case. I don't take things just because people ask, but I give it consideration. I was very surprised when the executive director of the Canadian Wildlife Federation sent their letter to the chair of the committee, Senator Manning, withdrawing their support. I would like to read some of the email that Mr. Rick Bates sent me around that time:

> Senator Wells, I want to thank you so very much for all your work in getting amendments to Bill C-68 passed at committee. Over the past few days, there has been considerable communication with the minister's office staff and a conversation with the minister. He indicated that the government will not pass the bill with the amendments, and if our amendments proceed through Senate, they would be debated in the house. During which, the government would have to criticize third party habitat banking to a degree that it would be unlikely to come back while this government is in power.

Well, I can assure Mr. Bates, that's true. It goes on to say:

> I'm also concerned that it could affect other initiatives we have under way at DFO.

Colleagues, I spent some time at DFO as a senior political staffer. It's often been said that the minister doesn't run DFO but DFO runs the minister. It seems to be that in this case.

He goes on to say:

> If CWF backs away from supporting the amendments, we at least have a path forward to continue pushing for third party habitat banking.

I would say to Mr. Bates that his best opportunity for third party habitat banking provisions in the legislation would be Bill C-68. Of course, that opportunity is now lost.

Colleagues will also recall in my second reading speech — I believe it was my second reading speech — I said the Fisheries Act hasn't changed since 1867. Fisheries Act changes don't come easily. If Mr. Bates thinks they might be done very quickly, he may soon have another idea.

He said:

> If CWF backs away from supporting the amendments, we at least have a path forward to continue pushing for third party habitat banking.

Well, I don't think so.

> The house Fisheries and Oceans Committee has agreed to investigate third party habitat banking and there's additional work we can do on the issue of monetization of off-site credits.

Colleagues, I was invited to the house Fisheries and Oceans Committee last week and I presented. There were two other witnesses at that committee. None were in favour of dropping these amendments from Bill C-68. In fact, one gentleman was highly supportive and I'll note that in my prepared notes in a moment.

Then Mr. Bates references sending a note to the Senate Fisheries Committee clerk, which he did. He said:

> This is a difficult thing for me to do but, I guess, under pressure from the Department of Fisheries and Oceans minister's staff, maybe it wasn't so hard a thing to do.

The government claims that third party habitat banking is beyond the policy intent of the bill. Colleagues, habitat banking is whether a third party should be permitted to do so. Right now, habitat banking happens, but the question is whether a third party should be able to do it. We find ourselves in a position where a forestry or mining company that's doing some activity that may have a deleterious effect on the environment now has to do that mitigation. Colleagues, of course, this was always a requirement. But this is further work that wetlands groups, First Nations and community groups could do in other parts of the service area.

Colleagues, if an international best practice which has broad stakeholder support, like third party habitat banking, and has been proven to enhance both economic and ecological outcomes is inconsistent with the policy intent of the bill, the question must be asked: What is the policy intent of the bill?

Should the policy intent of the bill not be to develop the best solution available that protects the environment and benefits industry?

Unfortunately, it seems that the government's policy intent is to accept an ineffective half-solution that is, frankly, exclusionary and short-sighted. Third party habitat banking is the present and the future of fish and fish habitat conservation.

While we're talking about Bill C-68, it is fish and fish habitat, but wetlands protection also helps birds and other animals.

Canada had the opportunity with Bill C-68 to remain in line with the global trend, but now Canada will continue to lag.

As I said when I testified at the House of Commons Standing Committee of Fisheries and Oceans last week, the Fisheries Act is one of Canada's oldest pieces of legislation, brought into force right after Confederation. When this Act is changed, the process is lengthy, as we have seen with Bill C-68. I think we will all recognize and appreciate the complexities involved in establishing an effective third party habitat banking regime in Canada. Those complexities, though, are not legislative. They are regulatory.

The third party banking and offset payment amendments to Bill C-68 were simply enabling amendments. They would have only come into force upon proclamation of cabinet, not upon Royal Assent.

DFO and all the relevant agencies would have had more than enough time to consult widely and bring in a robust regulatory system. As Dr. Marian Weber, one of the witnesses I referred to and an adjunct professor at the University of Alberta, said at the house committee:

Enabling third party offsets is a critical element of successful offset program. Leaving this out of Bill C-68 could hamper the development of the necessary administrative infrastructure for a credible and efficient offset program for several years.

Colleagues, as is often the case, the details are in the regulations. We understand that there are complexities involved in implementing a third party habitat banking framework. But just because something is complex doesn't mean it can't or shouldn't be done. We pass complex legislation all the time.

• (1730)

Ontario Waterpower Association President Paul Norris stated at committee that:

> The OWA fully recognizes and appreciates the significant regulatory and policy work that is required to implement third party habitat banking and, in our view, it is well worth the effort.

Remember, colleagues, I said this would not come into force at Royal Assent. It would come in at the directive of cabinet, and that could be, obviously, some future cabinet after the groundwork is done.

The fact is, colleagues, we are not talking about a novel system. We are talking about a system that is employed, and employed effectively, by many jurisdictions around the world.

As pointed out in the House of Commons Fisheries and Oceans Committee by David Poulton, Principal at Poulton Environmental Strategies, enacting legislation in Australia, the United States and elsewhere is fairly simple. The actual habitat banking systems are designed through regulation, which includes extensive consultations, including with communities, environmental groups and First Nations.

Colleagues, despite my testimony at the House of Commons Fisheries and Oceans Committee and the testimony of my fellow witnesses there, the government was unwilling to reconsider its stance on third-party habitat banking and the accompanying offset payment regime. This was also despite the pleas from First Nations, environmental groups and communities.

Colleagues, when I answered the questions at the house committee, all of the MPs who sat on the committee when I was giving my responses and when Mr. Poulton and Dr. Weber were giving their responses, their heads were nodding. They recognized this was a good idea.

The government was similarly unwilling to reconsider the Senate's amendment to keep habitat banking benefits either "as close as practicable" or "within the same province" as a work, undertaking or activity. This amendment would have kept habitat banking benefits local in either a proponent-led or a third-party habitat banking system.

Instead, the government has chosen to leave open the possibility that a forestry or mining project, for instance near St. John's, Newfoundland and Labrador, can be offset by a proponent-led habitat bank in Victoria. You see the illogic in this. Colleagues, this is patently unfair and goes against fair practice and common sense.

Honourable senators, I am disappointed by the government's decision to remove these reasonable and widely supported amendments.

While this was the best time to commit to a good idea, I do hope that we will revisit this issue in a future Parliament before Canada falls further behind.

In closing, I want to once again thank Senators Griffin and Christmas for their leadership on these issues, and I want to thank all honourable senators for accepting the habitat banking amendments passed by the Standing Senate Committee on Fisheries and Oceans.

When a future government brings in a vigorous third-party habitat regime that leads to optimal and local economic and ecological outcomes, we can all look back and be proud of the Senate for its forward thinking and willingness to challenge half solutions when full solutions were available.

Thank you, colleagues, and I look forward to revisiting this at a future Parliament.

Hon. Rose-May Poirier: I have a question for Senator Wells, if he will accept a question.

Senator Wells: Certainly.

Senator Poirier: Thank you, Senator Wells. I fully understand that your amendments and also one of mine, as Senator Harder mentioned, were not accepted at the House of Commons. I just wanted you to help me understand.

We heard from the Saskatchewan Mining Association, Cameco and many different groups that they were highly recommending that we put this on the record and have the amendment brought forward.

To put it on the record, when we talk about water frequented by fish and the definition of fish habitat, and because the amendment was denied, can you explain to us the results that will have for our mining associations and our farmers across the country?

Senator Wells: Thank you, Senator Poirier. Of course, the question of water frequented by fish was not directly part of the habitat banking amendments. But I will say that it gives me great concern that one of the amendments that allowed flow into a farmer's field at certain times of the year will mean they are now going to be considered fish habitat. That would make it onerous on farmers across the Prairies and wherever farming happens, and where there's incidental and infrequent water flow, to be considered habitat banking.

I want to go back to another part of your question, Senator Poirier, regarding other groups that presented. I know that Serge Buy, Executive Director of the Canadian Ferry Association, was highly supportive of the third-party habitat banking amendments. He said, "We're a ferry association. We are the proponent, but we are not expert in habitat restoration, habitat mitigation."

They were fully prepared to perform mitigation, restoration, and part of a third-party habitat banking system where you could bring in a First Nations group who are expert in ecological redevelopment. You could bring in salmon federations. I know there are two or three in Newfoundland and Labrador that would be happy to be part of this system. There are community groups and wetlands and environment groups. Ducks Unlimited would love to be part of this. Unfortunately, colleagues, they are excluded from environmental protection remediation.

Senator Poirier: If I remember correctly, our committee also heard concerns about fish habitat in certain water flows, specifically with the farmers, again, and dugouts to feed animals. Do you remember any of our witnesses telling us that they had the problem of having fish, at any time, in this type of waterhole?

Senator Wells: Yes. In anecdotal evidence from farmers, we learned that from time to time, but very rarely, fish would inhabit temporary and small flood zones that would be associated with their farming activities.

Of course, all Canadians know that at certain times of the year we have significant flooding of areas that aren't normally inhabited by fish and where there's temporary water. That would encroach on their normal activities but wouldn't necessarily encroach on the common river system or water area. That gives great concern to farmers.

The Hon. the Speaker: Senator Griffin, do you wish to ask a question?

Hon. Diane F. Griffin: Yes.

The Hon. the Speaker: Senator Wells, your time has expired. Are you asking for five more minutes?

Senator Wells: I would ask for five more minutes.

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

Hon. Senators: Agreed.

Senator Griffin: Thank you, honourable senators.

My question is related to third-party habitat banking. Like you, I thought this was a terrific idea and supported it.

It's rather interesting what you read in your note, and I'm wondering if you have any more details as to what was meant by pushing for this could affect other activities or initiatives that the Canadian Wildlife Federation had with the Department of Fisheries and Oceans.

When I spoke with Mr. Bates of CWF, it was plain that the partnership was going to be jeopardized.

I have two questions for you. First, did you speak with Mr. Bates and get that same information? Second, with all your years working with DFO, have you ever run into this, where a partnership or an NGO was threatened in this way?

Senator Wells: It's not just my years at DFO, but I've been active in the fishing industry since the 1970s. I've seen coercion before. I'll again read from Mr. Bates' email. It might be helpful.

> . . . if our amendments proceed through [the] Senate they would be debated in the House, during which government would have to criticize third party habitat banking to a degree that would be unlikely to come back while this government is in power.

So it seems they would agree with third-party habitat banking. They don't want to criticize it. They just want it to slowly and quietly go away, whether it's the minister's office or DFO officials who aren't in favour.

We heard at committee that the only people around the room were the DFO officials who said, "Well, we haven't done this before. It would take a lot of work to get this done."

To your question, it says:

> I am also concerned it could affect other initiatives that we have underway with DFO.

Clearly to me, Senator Griffin, there's an implied threat. That gives me great concern that if it is the case, DFO officials could do a veiled or a direct threat to the Canadian Wildlife Federation that would cause the government to back away from what clearly is a good idea, supported by many groups.

• (1740)

That's the only contact I have had with Mr. Bates after his lengthy and positive presentation on third party habitat banking, which caused me to take up the cause, write and sell the amendments at the committee and be successful at that, as well as in the chamber. It gives me great concern that this was their fate and that their fate wasn't based on merit.

Hon. Leo Housakos: Would Senator Wells take another question?

Senator Wells: If I have time, yes.

The Hon. the Speaker: You have two minutes.

Senator Housakos: Senator Wells, what do you think are the reasons the government turned down these amendments regarding third party habitat banking; is it a simple case of it being too complicated for the government, or did they not take into consideration the fiscal challenges and costs for the industry, particularly across Atlantic Canada? Can you elaborate on what would be the direct impact on Atlantic Canada?

Senator Wells: Thank you, Senator Housakos, for your question. I can't assume their motives. I can only say what was said in testimony from DFO officials at a recent meeting we had when we discussed third party habitat banking. They said they hadn't done it before. But as you heard in my speech, it's being done in other jurisdictions of the world. It's not a new idea. It's a well-known and well-tried idea, where best practices are employed elsewhere.

To go to your question about what impact will it have in Atlantic Canada, of course, the impact will be right across the country. However, in Atlantic Canada, in the small rural communities where opportunities are few, community groups, groups that care about the environment, that want to do mitigation and want to be part of a third party habitat banking system, will now no longer be able to do this. It will be done by the mining and forestry companies that don't have experience in this area.

Hon. Fabian Manning: Honourable senators, I rise to speak to the message on Bill C-68 from the other place.

Bill C-68, An Act to amend the Fisheries Act and other Acts in consequence, is an important piece of legislation. I want to begin by once again thanking the committee for all the work it did on this piece of legislation, and all the time and effort that they put in.

The Fisheries Act, as others have stated, is one of the first pieces of legislation that Canada adopted almost 150 years ago. Many discussions have taken place over the years in relation to making changes and improving the act with changing times. As we all know, things that were in place 150 years ago are not in place today and the way of fishing and the laws used are much different. This was a great attempt to make some improvements to the bill and it was a worthwhile exercise in most cases.

During clause-by-clause consideration of Bill C-68, the Standing Committee on Fisheries and Oceans considered 50 amendments and adopted 35. Most of the ones adopted were put forward by the government itself. When these amendments were reported from the Senate to the House of Commons, there were 15 amendments.

I was somewhat surprised that Senator Harder's 10 amendments were accepted by the House of Commons. We weren't expecting all of the amendments from Senator Harder to be accepted in the other place. I suppose he has some good contacts over in that place. All of his amendments to the most of the bills usually get accepted. I thank him for the 10 amendments he put forward in Bill C-68 and I congratulate him on having those amended.

Some of the amendments Senator Harder put forward included amendments to Bill S-238, the importation and exportation of shark fins, and Bill S-203, ending the captivity of whales and dolphins. Senator Christmas' amendments, regarding the recognition of the rights of Indigenous people affirmed by section 35 of the Constitution Act, were also accepted. I want to thank Senator Christmas for his great input, as always, at the committee level.

Senator Poirier's amendment regarding the upstream water flow to a facility, which deleted the word "upstream," was also accepted the other place. However, unfortunately, senators, Senator Poirier's amendment, which deleted the words "water frequented by fish" from the definition of fish habitat, was rejected by the other place.

The Standing Committee on Fisheries and Oceans heard evidence from witnesses that by including “water frequented by fish” in the definition of fish habitat, it would result in locations that are not essential for fisheries life-cycle processes to become subject to the act.

According to stakeholders we heard from, such as the Saskatchewan Mining Association, the proposed addition of the term “water frequented by fish” into the definition of fish habitat significantly and unnecessarily broadens the scope of the act. The committee heard that similar to the definition of “water flow,” this proposal further jeopardizes years of jurisprudence and operational practices and would unnecessarily place further administrative, operational and financial burdens on industry, municipalities and the Department of Fisheries and Oceans.

Stakeholders, including Cameco and the Saskatchewan Mining Association, recommended that Bill C-68 be amended in subsection 1(5) to remove the addition of the phrase “water frequented by fish” from the definition of fish habitat. Specifically, Cameco suggested the Senate should:

> Amend subsection 1(5) of Bill C-68 to remove the addition of the phrase “water frequented by fish” from the definition of “fish habitat” and maintain the existing definition in subsection 2(1) of the Act.

Cameco’s brief submitted to the committee states that:

> . . .In doing so, locations that may only contain water for a brief period of time will be considered to be fish habitat.
>
> As an example, any work, activity or undertaking in a location that may only contain water for several days every few years could be subject to requirements of the Act. While fish may have the potential to frequent this area for a small period of time once every five years, the habitat is not essential for life-cycle processes.

The Canadian Cattlemen’s Association also said this was a concern for them. This amendment was accepted by the Standing Committee on Fisheries and Oceans and was passed by this chamber. It’s too bad that the government chose not to accept this amendment, which would streamline the regulatory process for our industry while still conserving the environment. I believe we’ve heard from other speakers on that today.

Senator Wells talked about the amendment on third party habitat banking, which was also rejected by the House of Commons. Senator Wells put forward the amendment on third party habitat banking and made a great case at the committee meeting and was passed by the committee. That amendment was brought back here to the Senate Chamber and passed by the chamber. The committee supported the amendment, as did this chamber, and went to the house but was turned down.

Before this amendment only proponents could offset the adverse effects on fish or fish habitat, whereas with this amendment it would have brought important third parties like conservation and Indigenous groups to offset adverse effects. I’m not going to repeat what Senator Wells explained a few moments ago in relation to the opportunity to offset the habitat banking.

I think the amendment made a lot of sense, which allowed stakeholders who know and specialize in conservation to be the ones at the fore of the habitat restoration. It would ultimately lead to additional biological protection. This is one of three amendments to the habitat banking regime agreed to by the committee and notably supported by Senators Christmas and Griffin. I thank them for their support on this amendment.

The second amendment on this issue relates to offset payments, which would allow DFO to collect an offset payment in lieu of establishing an offsetting habitat bank.

The third amendment, related to the third party habitat banking, maintains that habitat banking benefits should remain as close as practicable as a guiding principle, and if that is not practicable then the benefits should at least remain in the province where the work was carried out.

Senator Wells’ amendment on third party habitat banking provided needed balance for local fish populations, for industry and flexibility for the minister. The amendment was brought forward to Senator Wells by the Canadian Wildlife Federation. I too am somewhat disappointed by the fact that so much work and effort was put into the meetings with the Canadian Wildlife Federation in constructing the amendments to bring to the committee, the efforts that Senator Wells and others brought in explaining the amendments to the committee, seeking the support of the committee and the chamber, to find that at the end of the day the Canadian Wildlife Federation withdrew their support for the amendments.

We all know that on almost every piece of legislation that we’re dealing with here in the chamber we meet with different interest groups and people affected by the legislation. We take their concerns, we make a decision on whether we’re going to support their efforts, whether we’re going to support what they’re asking for in relation to a piece of legislation that we’re dealing with, and we construct amendments to bring forward at the committee level to address those concerns. This was something that the committee took very seriously on third party habitat banking and all the concerns that were out there now seem to be gone with the wind.

• (1750)

I’m concerned about the process and how that works. Certainly the time and effort that Senator Wells and the committee put into hearing these amendments and from different organizations that supported the amendments at the time, it makes one wonder about the process.

Honourable senators, I believe the government should have accepted the Senate amendments on third-party habitat banking. I think it would have brought great strength to the new Fisheries Act and provide an opportunity for the people in the industry to be involved in the processes going forward.

The Standing Committee on Fisheries and Oceans, in my view and in the view of many people, did thoughtful and diligent work on this bill. They put a lot of time into the bill. We heard from many witnesses across the country, people who are very directly involved in the fishing industry. For the Fisheries Act, as you touched on, we heard from the mining associations and the

captains' associations. When we're studying the Fisheries Act, and we're hearing from the captains' associations, some people may wonder why. The fact is parts of the bill had some major effects on the people who farm and mine in this country. The Fisheries Act overlays a lot of other industries that Canadians are making a living from, and the opportunity to hear from these organizations was something that we took very seriously.

I'm happy that we have some of our members who have been supported in some small way, but I thought we had put forward some solid amendments to the bill that would have improved it very much. On that side of it, I'm somewhat disappointed.

I want to conclude by saying that I believe the committee did some wonderful work on this bill. We were very patient with hearing from the witnesses across the country. I want to thank Senator Gold for his cooperation as vice-chair of the committee, working together on this bill and other bills such as Bill C-55 and others that we've worked on over the past year.

I want to thank all of the witnesses that came forward on the bill and put forward their case to make improvements to the bill and proposed amendments to us. People had a great opportunity, as I said in my opening remarks. This piece of legislation is 150 years old. We don't get the opportunity to bring forward recommendations, amendments and to make changes to a Fisheries Act all that often. This was a great opportunity to do that. There's no doubt we made some great strides, but I think we fell short in some parts.

I want to conclude by thanking the staff and all those involved in the process of dealing with Bill C-68. I hope that we have the opportunity to make improvements to a very important bill and in my view a very, very important industry in this country, the fisheries. I hope we have the opportunity to make some more improvements as time goes forward. Thank you, Your Honour.

Hon. Donald Neil Plett: I'm wondering whether Senator Manning would take a question.

Senator Manning: Yes.

Senator Plett: You mentioned stakeholders, including Cameco and the Saskatchewan Mining Association, recommended that Bill C-68 be amended. We've heard a lot of about it already, remove the addition of the phrase "water frequented by fish" from the definition of fish habitat. By including "water frequented by fish" in the definition of fish habitat, it would result in locations that are not essential for fisheries-lifecycle processes to become subject to the act.

Did anyone tell you why the government would want to reject that amendment?

Senator Manning: No, until today we heard Senator Harder put forward in his speech some of the concerns that were spoken about in relation to the consultation process that would have to take place. As committee members, we were not made aware of that at the time. As a matter of fact, we had several officials from the department who appeared at the committee during our amendment stage. Several of the amendments that were proposed by ourselves and others were brought forward. Many times Senator Gold would ask the officials what their thoughts were on the amendment that we had before us. We always got their frank opinion. Whether we agreed with their opinion, we received their opinion. We didn't have any indication at the committee level that there was a concern.

As a matter of fact, most of us felt at the committee that these were good, solid amendments that would improve the opportunity for habitat banking as an example and water that would be frequented by fish and the concerns that were around that. We didn't receive any concern at that point from department officials. I think it was after the fact, when we finished here in the chamber and we sent it over to the House for consideration, that those concerns were raised at that time. We didn't have any indication of that effect.

Senator Plett: One more question, Senator Manning. Can you tell us a little bit more what you heard from farming groups at the committee? Were the farming groups pretty much happy with what had happened? It sounds to me like the government still has a lot of work to do here in satisfying the needs of farmers in the Prairie provinces as well as other parts of the country. Have you heard from the farming groups? Are they content with what is being given to us?

Senator Manning: Thank you, Senator. In relation to the farming, I know there's a great deal of farming across the country and out West. Believe it or not, there are farms in Newfoundland and Labrador, maybe not as large and they don't produce as much product as some out West or in central Canada, but we have farmers in Newfoundland. Everybody doesn't fish. I just want to say, the concerns are real for the simple reason many times farmers have to create waterbodies on a piece of land.

The Hon. the Speaker: Sorry, Senator Manning, but your time is expired. Are you asking for five more minutes because I know there is at least one more question?

Senator Manning: Why not?

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

Senator Plett: Five minutes.

Senator Manning: Before I was interrupted, I was saying that the concern is that on many farms across the country, farmers have to create waterbodies of some sort. Sometimes we have dry seasons, such as we're experiencing in some parts of Canada at the present time. They have to find alternate sources of water and create their own. Sometimes that creation of water may last for only a few weeks, a few months, a year whatever the case may be.

I think the concern that was raised — it is true in this process — is that if a fish ends up in that body of water that's been created by a farmer, that it falls under the act and becomes an issue. Farmers expressed to us their concern with that part of the piece of legislation. They want protection in relation to how they would address the concerns of water on their land if they have to develop their own water habitat. Fish do swim, Your Honour, and whether they swim from one farm to the next, I'm not sure. I guess they need water to be able to do that. I don't think any of us could swim in fresh air. We would hope they

would find the way to address the concerns of farmers, the mining industry, every industry out there, including the fishing industry.

Bill C-68, in my view, takes in a lot of concerns from a lot of industries in the country, but it doesn't take everything into account. I just hope some day that I'm in the position to be able to send the amendments over to the House of Commons that had the same reaction in the House of Commons that Senator Harder's amendments do at the present time. I think that would be a great step forward, not only for the fishing industry, but for the mining, farming and every industry here, to have the input that Senator Harder has on the other place with their amendments. I think we could make a great deal of progress in all the bills that we face here. At the present time, they're not accepting our amendments. We fully understand the process here. I have been around now for over a quarter of a century in politics. Certainly my grey hair is starting to show, but I think, Your Honour, that we try our best.

• (1800)

Hon. Senators: Hear, hear!

The Hon. the Speaker: You have two minutes left, Senator Manning.

It is now 6 p.m. Pursuant to rule 3-3(1), I'm required to leave the chair and suspend the sitting until 8 p.m. unless it's agreed that we not see the clock. Is it agreed, honourable senators?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: I hear a "no." The sitting is suspended until 8 p.m.

(The sitting of the Senate was suspended.)

(The sitting of the Senate was resumed.)

• (2000)

[*Translation*]

APPROPRIATION BILL NO. 2, 2019-20

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-102, An Act for granting to Her Majesty certain sums of money for the federal public administration for the fiscal year ending March 31, 2020.

(Bill read first time.)

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

Hon. Peter Harder (Government Representative in the Senate): Honourable senators, with leave of the Senate and notwithstanding rule 5-6(1)(f), I move that the bill be placed on the Orders of the Day for second reading at the next sitting of the Senate.

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

Hon. Senators: Agreed.

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

CUSTOMS TARIFF AND THE CANADIAN INTERNATIONAL TRADE TRIBUNAL ACT

BILL TO AMEND—NATIONAL FINANCE COMMITTEE AUTHORIZED TO STUDY SUBJECT MATTER

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate): Honourable senators, with leave of the Senate and notwithstanding rules 5-5(a) and 5-5(d), I move:

> That, in accordance with rule 10-11(1), the Standing Senate Committee on National Finance be authorized to examine the subject matter of Bill C-101, An Act to amend the Customs Tariff and the Canadian International Trade Tribunal Act, introduced in the House of Commons on June 5, 2019, 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-101 even though the Senate may then be sitting, with the application of rule 12-18(1) being suspended in relation thereto; and
>
> That the committee submit its final report to the Senate no later than June 20, 2019.

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

Hon. Senators: Agreed.

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

Hon. Senators: Agreed.

(Motion agreed to.)

[*English*]

FISHERIES ACT

BILL TO AMEND—MESSAGE FROM COMMONS—MOTION FOR CONCURRENCE IN COMMONS AMENDMENTS AND NON-INSISTENCE UPON SENATE AMENDMENTS ADOPTED

On the Order:

> Resuming debate on the motion of the Honourable Senator Harder, P.C., seconded by the Honourable Senator Bellemare:
>
> That, in relation to Bill C-68, An Act to amend the Fisheries Act and other Acts in consequence, the Senate:
>
> (*a*) agree to the amendments made by the House of Commons to its amendments; and
>
> (*b*) do not insist on its amendments to which the House of Commons has disagreed; and
>
> That a message be sent to the House of Commons to acquaint that house accordingly.

The Hon. the Speaker: Senator Wallin, we have 1 minute and 43 seconds left of Senator Manning's time.

Hon. Pamela Wallin: Honourable senator, I'm surprised you were old enough to remember the constitutional debates when the then-Prime Minister talked about fish swimming.

I want to ask for your thoughts on what this means for farmers. We've talked about the mining industry, about Cameco and those issues. We have had situations during wet periods in Saskatchewan where farmland was literally flooded. It was not that they were digging dugouts for water supplies. They were flooded. With that came minnows and whatnot in ditches and very temporary basins of water on properties, at lakes, behind businesses, et cetera. Where are we on that issue with this bill?

The Hon. the Speaker: Sorry, Senator Manning, but your time has expired. Are you asking for five more minutes?

Senator Manning: Your Honour, how about half an hour?

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

Some Hon. Senators: No.

The Hon. the Speaker: I hear a "no." I'm sorry, Senator Manning.

Are honourable senators ready for the question?

Hon. Senators: Question.

The Hon. the Speaker: It was moved by the Honourable Senator Harder, seconded by the Honourable Senator Bellemare, that in relation to Bill C-68, An Act to amend the Fisheries Act and other Acts, the Senate — may I dispense?

Hon. Senators: Dispense.

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

Some Hon. Senators: Agreed.

An Hon. Senator: On division.

(Motion agreed to, on division.)

[*Translation*]

NATIONAL DEFENCE ACT

BILL TO AMEND—THIRD READING—DEBATE

On the Order:

> Resuming debate on the motion of the Honourable Senator Gold, seconded by the Honourable Senator Omidvar, for the third reading of Bill C-77, An Act to amend the National Defence Act and to make related and consequential amendments to other Acts.

Hon. Pierre-Hugues Boisvenu: Honourable senators, I wish to speak at third reading of Bill C-77, An Act to amend the National Defence Act and to make related and consequential amendments to other Acts, in order to propose an important amendment.

For years now, as you know, I have been speaking out in this chamber about that Canadian victims bill of rights for the military, which I think is essential and critically important.

Bill C-77 was touted as a major advance for victims' rights in the military justice system and was introduced in response to Justice Deschamps' inquiry shedding light on the situation of women who wanted to defend their country and enlist in the Canadian Armed Forces, which is still very much a man's world.

I am skeptical. The Standing Senate Committee on National Security and Defence heard from experts and victims, and it is clear that many of the witnesses were not happy with this bill. I will add that the victims we heard from in committee — and victims will be those most affected by Bill C-77 — were not very impressed by what the Minister of National Defence was proposing.

I repeat: no victims were ever consulted on this bill, and I think this is completely unacceptable.

Four years after taking power, with the sexual assault scandal rocking the Canadian army, the Liberal government introduces a bill that utterly disregards the needs of victims in the Canadian Army in 2019.

The needs of victims in the military justice system are not the same as the needs of civilian victims, and military authorities have much bigger and more important responsibilities. I have often said so, but the government seems incapable of understanding.

Victims of crime in the Canadian Armed Forces tend to be young women in their 20s. Some are even 16- or 17-year-old cadets. Essentially, they are young people in an environment where the hierarchy is omnipresent. As such, they are much more likely to be left to their own devices than civilians who report an attacker.

The Canadian Army is supposed to be the pride of our national institutions, yet, every month, Canadians hear stories of sexual assault perpetrated in the Canadian Armed Forces.

Just last week, the *Globe and Mail* once again reported on a study showing that sexual assault trials in the military justice system result in a very high acquittal rate, higher even than in the civilian justice system. That is very worrisome.

Worse still, we learned from a report by law professor Elaine Craig that individuals accused of violent sexual crimes are sometimes allowed to plead guilty to minor offences, so they get off with nothing more than a fine or reprimand. That is what the report says.

• (2010)

This in-depth study from Professor Craig found that since General Jonathan Vance, Chief of the Defence Staff, launched a zero-tolerance policy called Operation Honour in 2015 — so in the past four years — only one soldier has been convicted by a military judge of sexually assaulting a female member of the Canadian Armed Forces. This is not "zero tolerance" in the Armed Forces, but rather "zero charges."

I therefore must ask, what is the federal government proposing to ensure that the fundamental rights of victims are being recognized in the military justice system? The minister is bringing forward weak legislation relying on the benevolence of the minister and the chain of command. What is the government proposing for victims? The answer is highly debatable. The Defence Minister is proposing sections copied and pasted from the Canadian Victims Bill of Rights adopted in 2015. As senators know, in 2015, the Conservative government passed a victims bill of rights for civilian victims. Some 2,000 individuals and organizations from the civilian world were consulted on issues pertaining to the civilian justice system. It's important to remember that the reality of victims in the military justice system is completely different from that of victims in the civilian system. In the military justice system, the victim relies on the National Defence Act with respect to judges, programs, victims support and, in some cases, the detention of offenders.

Basically, the military system replaces what the federal and provincial governments do separately. The Minister of Defence presented us with provisions copied and pasted from the Canadian Victims Bill of Rights, as I said. If he was just going to copy the Canadian Victims Bill of Rights for civilians then why didn't he introduce the same bill on December 1, 2015? Why wait four years to introduce the same bill of rights that applies to civilians? Unfortunately, it gets worse. No victims were consulted when Bill C-77 was being drafted.

Those who currently have the fewest rights in the justice system are precisely those who were consulted the least about this bill. The department told us that it took into account the consultations held in 2015. That means that the 2015 consultations on the bill of rights for civilian victims were applied to the military justice system and it was assumed that civilian victims and military victims think and act the same way. That shows that the government is being very unrealistic about what is actually happening in the Armed Forces, and this is hurtful to victims. Marie-Claude Gagnon, a woman who was sexually assaulted while in the Canadian Army, founded a support group for military victims known as It's Just 700. She told us that this organization represents over 700 victims of criminal acts committed in the Canadian Armed Forces and that she was not even consulted. A victim who represents 700 victims of sexual assault was not consulted. One of the criticisms she shared with us pertained to training for the workers tasked with supporting victims in the Armed Forces. I would even say that one of her concerns stems from the lack of training for those who are supposed to help victims. It is important to understand that this soldier had to go through all the steps required to charge her assailant and so she knows what she is talking about.

In the civilian world, a professional must have highly specialized training to deal with victims. In the provinces and in the federal corrections service, there is a human rights component that people must receive training on. There is also the issue of trauma. Workers dealing with victims of trauma must be properly trained. The Federal Ombudsman for Victims of Crime pointed out in her submission that Bill C-77 should include a training strategy for key actors in the military justice system, whom the bill refers to as "military justice system participants."

In her submission to the House of Commons committee, the Ombudsman expressed the need to:

> 4. Require implementation of a training strategy, to be established and elaborated in regulations, for officials involved in the administration of the military justice system . . . .

Essentially, these are the people who are likely to come into contact with victims. People involved in the administration of the military justice system must be trained to deal with victims, from the immediate aftermath through to incarceration and parole.

Honourable senators, military victims must not be left to fend for themselves. They must be supported and looked after just as if they enjoyed the victims' rights afforded by a provincial jurisdiction. If you are a victim of an offence committed in Quebec and you meet with an officer of the Sûreté du Québec or an officer responsible for Quebec's victim compensation program, you will be dealing with an employee who has received appropriate and thorough training in victimology. Victims in the Canadian Army do not want to deal with military employees who have received just three days of training. They want to deal with officers who have been trained under a comprehensive strategy that outlines all the steps a victim must take in the military justice system.

That is why we must ensure that, in the military, personnel who are likely to come into contact with victims are well informed so as to better understand the special needs of victims. In fact, the needs of victims in the military world, where everyone is in close contact with one another, are different and more complex than in the civilian world. The Auditor General's report sounded the alarm on this in fall 2018.

In his report, the Auditor General stated the following:

> 5.21 . . . We also found that not all support service providers had sufficient training to adequately respond to victims.
>
> 5.86 We found that the policies, education, and training on inappropriate sexual behaviour were not adequate.
>
> 5.87 We found that the chain of command delivered briefings and training that did not increase members' understanding of how to respond to and support victims, but instead created confusion, frustration, fear, and less camaraderie.

There doesn't seem to be any strategy here, because the Auditor General informs us that the training did not meet its objective:

> 5.95 We found that during the audit period, the chain of command, who did not have subject matter expertise, delivered most of the education and training related to Operation HONOUR.

Superior officers are the ones giving training to people who provide support services to victims and those people have no training.

> We also found that the chain of command did not receive the training needed to deliver effective training to their members on inappropriate sexual behaviour.

I want you to understand that most of the crimes committed in the army are sexual assaults and, as the Auditor General said in 2018 — not in 2015 or in 2010, but in 2018 — the only training provided is absolutely insufficient for helping and supporting victims.

In short, the army is trying to give training, but the trainers do not have the appropriate expertise, which is rather worrisome for any future victims. I would like to once again point out that the federal government has exclusive jurisdiction over criminal law, whereas the provinces are responsible for administering justice, helping victims and, in many cases, providing correctional services. That is why, if the National Defence Act is to really take into account the specific needs of military victims, it must provide for training that is consistent with the reality experienced by military victims since the enactment of the Canadian Victims Bill of Rights in 2015.

In her submission, the Ombudsman pointed out the following:

> The federal government has instead provided support on CVBR-related training in other jurisdictions by doing things like providing funding under the Victims Fund for projects and activities that promote knowledge and support the implementation of the rights set out in the CVBR. For example, under the Victims Fund, funding has been made available to criminal justice professional organizations or associations to support the development and implementation of training for their criminal justice professional stakeholders on the *Victims Bill of Rights*.

• (2020)

If this is being done within the framework of the Canadian Victims Bill of Rights, we need to make sure that the National Defence Act also guarantees training and a strategy.

The Ombudsman even wrote the following:

> It could in fact be argued that the federal administration of military justice could become a model for ensuring that professionals who come into contact with victims are trained on victims' rights.

He continued as follows:

> This could be achieved, for example, by enshrining within the Declaration of Victims Rights a requirement for mandatory training for military justice personnel. In tandem, a training strategy would need to be developed to accompany the Declaration . . . .

Essentially, we need to make sure that the Minister of National Defence considers the wishes of victims of crime in the military. There must be proper training on victims' rights for the workers involved and, most importantly, there must be an ongoing training process. Training for these workers must not be enshrined in regulations; it must be enshrined in the act.

Thank you.

MOTION IN AMENDMENT NEGATIVED

Hon. Pierre-Hugues Boisvenu: Therefore, honourable senators, in amendment, I move:

That Bill C-77 be not now read a third time, but that it be amended:

(*a*) on page 81, by adding the following after line 39:

"Review — Training Strategy

67.1 (1) No later than the first anniversary of the day on which this subsection comes into force, the Minister must prepare and implement a training strategy for military justice system participants that includes information in respect of the provisions of this Act and the needs of victims, in particular vulnerable victims and victims of sexual assault.

(2) No later than two years after the anniversary of the day on which this subsection comes into force, the Minister shall cause a report to be tabled in each House of Parliament that sets out

(a) the strategy developed by the Minister under subsection (1); and

(b) how the strategy ensures that military justice system participants receive appropriate training to understand the needs of victims.

(3) In this section, *military justice system participant* includes a person who is

(a) a member of the military police within the meaning of subsection 2(1) of the *National Defence Act;*

(b) the Judge Advocate General;

(c) an officer or non-commissioned member who acts under the supervision of the Judge Advocate General; and

(d) a liaison officer named under subsection 71.16(1) of the *National Defence Act* as if section 7 of this Act were in force."; and

(*b*) on page 82, in clause 68, by replacing line 2 with the following:

"**this Act, other than sections 63 to 67.1, come into**".

The Hon. the Speaker: It was moved by the Honourable Senator Boisvenu, seconded by the Honourable Senator Marshall, that Bill C-77 be not now read a third time — May I dispense?

[*English*]

Are honourable senators ready for the question?

Some Hon. Senators: Question.

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

Some Hon. Senators: No.

Some Hon. Senators: Yes.

The Hon. the Speaker: All those in favour of the motion will please say, "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: All those opposed to the motion will please say, "nay."

Some Hon. Senators: Nay.

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

And two honourable senators having risen:

The Hon. the Speaker: I see two senators rising. Do we have agreement on a bell?

Senator Plett: One hour.

The Hon. the Speaker: The vote will take place at 9:23 p.m.

Call in the senators.

• (2120)

Motion in amendment of the Honourable Senator Boisvenu negatived on the following division:

YEAS
THE HONOURABLE SENATORS

Andreychuk
Ataullahjan
Batters
Boisvenu
Carignan
Dagenais
Doyle
Eaton
Housakos
MacDonald
Manning
Marshall
McInnis
McIntyre
Mockler
Neufeld
Ngo
Oh
Patterson
Plett
Poirier
Richards
Seidman
Smith
Stewart Olsen
Tannas
Tkachuk
Verner
Wallin
Wells
White—31

NAYS
THE HONOURABLE SENATORS

Anderson
Bellemare
Bernard
Black (*Ontario*)
Boehm
Boniface
Bovey
Boyer
Busson
Campbell
Cordy
Cormier
Coyle
Dalphond
Day
Deacon (*Nova Scotia*)
Deacon (*Ontario*)
Downe
Duncan
Dupuis
Dyck
Forest
Forest-Niesing
Francis
Gagné
Galvez
Gold
Griffin
Harder
Hartling
Klyne
Kutcher
LaBoucane-Benson
Lankin
Lovelace Nicholas
Marwah
Massicotte
McCallum
McPhedran
Mégie
Mercer
Mitchell
Miville-Dechêne
Moncion
Munson
Omidvar
Pate
Petitclerc
Pratte
Ravalia
Ringuette
Saint-Germain
Simons
Sinclair
Woo—55

ABSTENTIONS
THE HONOURABLE SENATORS

Nil

• (2130)

[*Translation*]

OIL TANKER MORATORIUM BILL

MESSAGE FROM COMMONS—SENATE AMENDMENT CONCURRED IN AND AMENDMENTS

The Hon. the Speaker: Honourable senators, I have the honour to inform the Senate that a message has been received from the House of Commons which reads as follows:

Tuesday, June 18, 2019

ORDERED,— That a message be sent to the Senate to acquaint Their Honours that, in relation to Bill C-48, An Act respecting the regulation of vessels that transport crude oil or persistent oil to or from ports or marine installations located along British Columbia's north coast, the House:

agrees with amendment 1 made by the Senate;

proposes that, as a consequence of Senate amendment 1, the following amendment be added:

"1. Clause 2, page 1: Add the following after line 15:

Indigenous peoples of Canada has the meaning assigned by the definition aboriginal peoples of Canada in subsection 35(2) of the Constitution Act, 1982. (peuples autochtones du Canada)";

proposes that amendment 2 be amended by replacing the text of the amendment with the following:

"32 (1) During the fifth year after the day on which this section comes into force, a review of the provisions and operation of this Act must be undertaken by any committee of the Senate, of the House of Commons or of both Houses of Parliament that is designated or established for that purpose, including a review of the impact of this Act on the environment, on social and economic conditions and on the Indigenous peoples of Canada.

(2) The committee referred to in subsection (1) must submit a report of the results of the review to the Senate, the House of Commons or both Houses of Parliament, as the case may be, on any of the first 15 days on which the Senate or the House of Commons, as the case may be, is sitting after the report is completed.”.

ATTEST

Charles Robert
The Clerk of the House of Commons

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

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

NATIONAL DEFENCE ACT

BILL TO AMEND—THIRD READING—DEBATE

On the Order:

Resuming debate on the motion of the Honourable Senator Gold, seconded by the Honourable Senator Omidvar, for the third reading of Bill C-77, An Act to amend the National Defence Act and to make related and consequential amendments to other Acts.

Hon. Jean-Guy Dagenais: Honourable senators, I rise to speak to Bill C-77, An Act to amend the National Defence Act and to make related and consequential amendments to other Acts. The bill before us today has been touted as a major step forward for victims of crime. According to testimony at the Standing Senate Committee on National Security and Defence, victims expressed a strong need to address several gaps in this bill. Upon hearing victims of crime testify before the committee, it became clear that this bill is not satisfactory to them. For example, we heard from Marie-Claude Gagnon, a former member of the armed forces and founder of It’s Just 700, a group of victims dedicated to members of the Canadian military who survived sexual trauma in the Canadian army. She talked to us about the Auditor General’s Report 5, *Inappropriate Sexual Behaviour—Canadian Armed Forces*, which came out in the fall of 2018. Ms. Gagnon noted that:

> . . . in 21 of the 52 [sexual assault] cases, the file showed that the victim experienced fear, distress, discomfort, a lack of support, reprisals or blame, including from the victim’s commanding officer, senior leaders, instructors and colleagues.

Honourable senators, does this bill uphold principles like courtesy and respect for victims? Does this bill encourage victims to report their abuser? Unfortunately, the answer is no. That is why, in her submission on Bill C-77, the Federal Ombudsman for Victims of Crime presented some recommendations for amending the bill. One of her recommendations was about adding a preamble to the bill.

As my colleague Senator Boisvenu pointed out during his comments on the bill before the Standing Senate Committee on National Security and Defence, this amendment from the Federal Ombudsman for Victims of Crime seeks to clarify some potential ambiguities in terms of the bill’s implementation. According to the ombudsman’s submission, which was tabled in the House of Commons, such a preamble exists in the Canadian Victims Bill of Rights.

The ombudsman recommends that a preamble contain references to the 2003 Canadian Statement of Basic Principles of Justice for Victims of Crime. The ombudsman noted the following, and I quote:

> The Statement, which was endorsed by Federal, Provincial and Territorial Ministers Responsible for Justice in 1988 and modernized in 2003, helps to guide the development of policies, programs, and legislation related to victims of crime. It is intended to promote fair treatment of victims . . . .

In its current form, Bill C-77 does not include a general preamble recognizing the fundamental principles for the treatment of victims contained in the Canadian Statement of Basic Principles of Justice for Victims of Crime, 2003, namely that offences are harmful to victims and the broader military community, that it is important that victims’ rights be considered throughout the military justice system, and that victims deserve to be treated with courtesy, compassion, respect and dignity in the military justice system. As I mentioned, this is a recommendation made by the Federal Ombudsman for Victims of Crime, and I believe it should be reflected in the bill.

According to her, the legislation must be amended in that way in order to provide an overarching framework to keep in mind to ensure that victims are treated with the courtesy, compassion, and dignity. An administrative document, such as a directive, does not provide an overarching framework to ensure that all victims are treated with dignity at every step of the justice process. The entire National Defence Act must take this preamble into account in the case of ambiguity. It would be a mistake not to include such a preamble since it already exists in the Canadian Victims Bill of Rights, which was passed in 2015. We must, for example, be sure to give victims a more effective voice in the military justice system when they are unable to have their rights as victims respected when they are deployed to theatre of operations. Such a preamble would clarify any ambiguity in the act by specifying that crime has a harmful impact on victims and on society; that it is important that victims’ rights be considered throughout the military justice system; that victims of crime have rights that are guaranteed by the Canadian Charter of Rights and Freedoms; that consideration of the rights of victims of crime is in the interest of the proper administration of justice; that the federal, provincial and territorial governments endorsed, in 1988, the Canadian Statement of Basic Principles of Justice for Victims of Crime and, in 2003, the Canadian Statement of Basic Principles of Justice for Victims of Crime. In my opinion, those principles will allow legislators, when they amend the National Defence Act in the future, to always take into account the situation of victims. Such a provision would ensure that Bill C-77 is consistent with other federal laws and more clearly express the bill’s objective.

According to another witness, Diane Crocker, professor at the sociology and criminology department at Saint Mary's University:

> My concern with this sort of preamble is a broader concern about framing victims bills of rights as a way of achieving better justice or even, in the context of the military, creating some kind of culture change for how victims experience what happens after there has been an offence of some kind.

That is why, in keeping with what Senator Boisvenu proposed in committee, I believe that such an amendment is necessary.

Honourable senators, it took the Trudeau government three years to reintroduce a bill that was introduced in 2015, and now we're being forced to pass it in the final days of this Parliament without any real concern for those most affected: the victims.

I invite you to consider the recommendations of the Federal Ombudsman for Victims of Crime, Professor Crocker, and the victims.

MOTION IN AMENDMENT NEGATIVED

Hon. Jean-Guy Dagenais: Therefore, honourable senators, in amendment, I move:

> That Bill C-77 be not now read a third time, but that it be amended, in clause 1, on page 1, by replacing lines 4 and 5 with the following:
>
> "**1 The *National Defence Act* is amended by adding the following before the enacting clause:**
>
> Whereas crime has a harmful impact on victims and on society;
>
> Whereas victims of crime and their families deserve to be treated with courtesy, compassion and respect, including respect for their dignity;
>
> Whereas it is important that victims' rights be considered throughout the military justice system;
>
> Whereas victims of crime have rights that are guaranteed by the *Canadian Charter of Rights and Freedoms*;
>
> Whereas consideration of the rights of victims of crime is in the interest of the proper administration of justice;
>
> Whereas the federal, provincial and territorial governments endorsed, in 1988, the *Canadian Statement of Basic Principles of Justice for Victims of Crime* and, in 2003, the *Canadian Statement of Basic Principles of Justice for Victims of Crime, 2003*;
>
> **1.1 The heading before section 2 of the French version of the Act is replaced by**".

• (2140)

The Hon. the Speaker pro tempore: In amendment, it was moved by the Honourable Senator Dagenais, seconded by the Honourable Senator Smith, that Bill C-77 be not now read the third time, but that it be further amended on page 1, by replacing lines 4 and 5 with the following —

Hon. Senators: Dispense.

[*English*]

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

Some Hon. Senators: Question.

The Hon. the Speaker pro tempore: In amendment, it was moved by the Honourable Senator Dagenais, seconded by the Honourable Senator Smith —

Some Hon. Senators: Dispense.

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker pro tempore: Will all those in favour of the amendment please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker pro tempore: All those not in favour of the amendment please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker pro tempore: In my opinion, the "nays" have it.

And two honourable senators having risen:

The Hon. the Speaker pro tempore: I see several senators rising. Do we have an agreement on the bell?

Senator Plett: One hour.

The Hon. the Speaker pro tempore: The vote will take place at 10:43 p.m.

Call in the senators.

• (2240)

Motion in amendment of the Honourable Senator Dagenais negatived on the following division:

YEAS
THE HONOURABLE SENATORS

Ataullahjan	Neufeld
Batters	Ngo
Boisvenu	Oh
Carignan	Patterson
Dagenais	Plett
Doyle	Poirier
Eaton	Richards
Housakos	Seidman
MacDonald	Smith
Manning	Stewart Olsen
Marshall	Tannas
McInnis	Tkachuk
McIntyre	Wells
Mockler	White—28

NAYS
THE HONOURABLE SENATORS

Anderson	Gold	Woo—55
Bellemare	Griffin	
Bernard	Harder	
Black (*Ontario*)	Hartling	
Boehm	Klyne	
Boniface	Kutcher	
Bovey	LaBoucane-Benson	
Boyer	Lankin	
Busson	Marwah	
Campbell	McCallum	
Cordy	McPhedran	
Cormier	Mégie	
Coyle	Mercer	
Dalphond	Mitchell	
Dasko	Miville-Dechêne	
Dawson	Moncion	
Day	Munson	
Deacon (*Nova Scotia*)	Omidvar	
Deacon (*Ontario*)	Pate	
Dean	Petitclerc	
Downe	Pratte	
Duncan	Ravalia	
Dupuis	Ringuette	
Forest	Saint-Germain	
Forest-Niesing	Simons	
Francis	Sinclair	
Gagné		
Galvez		

ABSTENTION
THE HONOURABLE SENATOR

Wallin—1

• (2250)

BILL TO AMEND—THIRD READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Gold, seconded by the Honourable Senator Omidvar, for the third reading of Bill C-77, An Act to amend the National Defence Act and to make related and consequential amendments to other Acts.

The Hon. the Speaker: Resuming debate on third reading of Bill C-77.

Some Hon. Senators: Question.

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

Hon. Senators: Question.

The Hon. the Speaker: It was moved by the Honourable Senator Gold, seconded by the Honourable Senator Omidvar, that the bill be read a third time.

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

Some Hon. Senators: No.

Some Hon. Senators: Yes.

The Hon. the Speaker: All those in favour of the motion will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: All those opposed to the motion will please say "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: I see two senators rising. Do we have an agreement on the bell?

Senator Plett: Fifteen minutes.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: The vote will take place at 11:05 p.m.

Call in the senators.

• (2300)

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

YEAS
THE HONOURABLE SENATORS

Anderson	Gold
Bellemare	Griffin
Bernard	Harder
Black (*Ontario*)	Hartling
Boehm	Klyne
Boniface	Kutcher
Bovey	LaBoucane-Benson
Boyer	Lankin
Busson	Marwah
Campbell	McCallum
Cordy	McPhedran
Cormier	Mégie
Coyle	Mercer
Dalphond	Mitchell
Dasko	Miville-Dechêne
Dawson	Moncion
Day	Munson
Deacon (*Nova Scotia*)	Omidvar
Deacon (*Ontario*)	Pate
Dean	Petitclerc
Downe	Pratte
Duncan	Ravalia
Dupuis	Ringuette
Forest	Saint-Germain
Forest-Niesing	Simons
Francis	Sinclair
Gagné	Woo—55
Galvez	

NAYS
THE HONOURABLE SENATORS

Ataullahjan	Neufeld
Batters	Ngo
Boisvenu	Oh
Carignan	Patterson
Dagenais	Plett
Doyle	Poirier
Eaton	Seidman
Housakos	Smith
MacDonald	Stewart Olsen
Manning	Tannas
Marshall	Tkachuk
McInnis	Wells
McIntyre	White—27
Mockler	

ABSTENTIONS
THE HONOURABLE SENATORS

Richards	Wallin—2

• (2310)

DIVORCE ACT
FAMILY ORDERS AND AGREEMENTS ENFORCEMENT ASSISTANCE ACT
GARNISHMENT, ATTACHMENT AND PENSION DIVERSION ACT

BILL TO AMEND—THIRD READING

Hon. Pierre J. Dalphond moved third reading of Bill C-78, An Act to amend the Divorce Act, the Family Orders and Agreements Enforcement Assistance Act and the Garnishment, Attachment and Pension Diversion Act and to make consequential amendments to another Act.

He said: Honourable senators, I am pleased to rise today to speak at third reading of Bill C-78, An Act to amend the Divorce Act, the Family Orders and Agreements Enforcement Assistance Act and the Garnishment, Attachment and Pension Diversion Act and to make consequential amendments to another Act.

Bill C-78 is a very important piece of legislation for all Canadian families, especially those in the midst of separation or divorce. The Minister of Justice has indicated in his remarks that this bill is a priority for his government. Witnesses appearing before us at the committee also stressed the importance of passing this important bill.

This reform of federal family laws is long overdue. It will improve the family justice system in significant ways and have a beneficial impact on many Canadian children and families.

Witnesses emphasized that even though improvements could be made to certain elements of the bill, this should not be a barrier to moving it forward, and they urged the Senate, the other place and the Minister of Justice to cooperate to make sure that we pass this bill before the end of this parliamentary session. I'm proud to be the sponsor of this bill and pleased to say that it has my full support and that of the committee.

[*Translation*]

I would like to start by acknowledging the excellent work done by the chair and members of the Standing Senate Committee on Legal and Constitutional Affairs in the study of Bill C-78. I

would also like to thank the witnesses for sharing their views and those of the different groups they represented before the committee during the study of this bill.

As experts on this subject, their opinions were very valuable to us because we wanted to ensure that Canadians' voices, especially the voices of children, were heard and reflected in the bill.

[*English*]

The needs of Canadian families have changed drastically since Parliament last amended the federal family laws over 20 years ago, dealing at the time with child support and taxation. The Divorce Act provisions on the care of children have not been amended in over 30 years, and the current law is silent on a number of challenging issues, such as relocation and family violence.

This bill offers the opportunity to modernize the family justice system by amending the Divorce Act and related federal legislation to better reflect the realities of families and better respond to their needs.

Bill C-78 is a key milestone in the Parliament of Canada's efforts to improve the lives of Canadian families. Separation and divorce are a reality for many Canadians, as over 2 million children live in families with separated or divorced parents. We all recognize that the impact of separation and divorce can be wide-reaching, especially when children are involved.

The Minister of Justice indicated that the government has carefully monitored the views and perspectives of the public, family justice professionals and witnesses in response to the bill and has considered the recommendations that were received, some of which led to amendments to the bill in the other place.

I would like to touch upon some of the comments that were made throughout the course of the committee hearings and, in so doing, reiterate the objectives that Bill C-78 aims to achieve.

[*Translation*]

Several committee members and some witnesses expressed concerns about harmonizing the bill with provincial and territorial family laws and, in particular, with the Civil Code of Quebec. I would like to point out that federal legislation must reflect both common law and civil law traditions, in both official languages. Canadians must be able to read federal laws and regulations in the official language of their choice and be able to find the terminology and wording that reflects the concepts, notions and institutions specific to the legal system of their province or territory. This is how we give full effect to the principles of bijuralism and bilingualism.

Since family law is a shared jurisdiction, the Divorce Act must harmonize as much as possible with all provincial and territorial family laws. The two legislative systems must complement each other and not contradict or oppose each other.

To that end, the provinces and territories were consulted extensively in the development of this bill. Our chamber also asked the necessary questions to make sure this happened.

[*English*]

Bill C-78 proposes to update the terminology around parenting. The terms "custody" and "access" would no longer be used. Instead, all those involved in family disputes will now speak of "allocation of parenting time" and "decision-making responsibility." Although not unanimous, most witnesses have applauded this proposed change towards more child-focused terminology. I would also point out that this was one of the recommendations made by the Special Joint Committee on Child Custody and Access over 20 years ago, by this Parliament.

[*Translation*]

However, concerns were raised at committee regarding the compatibility of the provision dealing with the allocation of parenting time and decision-making responsibility in respect of a child to an individual other than a spouse, particularly with respect to the provisions of the Civil Code of Quebec. It should be noted that the current custody and access provisions under the Divorce Act allow someone other than a spouse to obtain a custody or access order.

• (2320)

The bill provides that parenting orders may be made for those individuals who have or seek to have a parenting relationship with the child. This means that a non-spouse can apply for a parenting order, but he or she must first seek the court's permission. For instance, grandparents could apply for a parenting order if their own child, who is one of the spouses, were incapacitated. This type of application would be exceptional, but would be possible if a court found that the application was in the best interest of the child, and only in the context of a divorce proceeding, which would avoid multiple parallel proceedings. In other cases, one would have to defer to the provincial law given that the Divorce Act does not apply, for example, in the case of the separation of unmarried spouses under provincial law.

[*English*]

One of the bill's key objectives is to promote the best interests of the child as the primary consideration in all decisions relating to children. It is about always putting children first to ensure their security and well-being.

Throughout the parliamentary process, witnesses commended this legislation for its focus on the children's best interests. Bill C-78 takes a child-focused approach and emphasizes the need to consider the best interests of the child in all parenting decisions. A non-exhaustive list of criteria is included in the bill to help all persons — parents, lawyers, social workers and judges — to determine what is in the best interests of a particular child. In determining the best interests of the child, courts will be required to give primary consideration to the child's physical, emotional and psychological safety, security and well-being.

Bill C-78 recognizes the important role that both parents can play in a child's life. The bill also reflects social science evidence that it is generally of benefit for children to spend time with each parent after separation or divorce where the relationship with each parent is a positive one. The bill would require courts to

consider effects to the principle that the child should have as much time with each parent as is consistent with that child's best interests. The last words of this provision are key: ". . . as is consistent with the best interests of the child." The child's interests, including the primary consideration, are paramount.

Following concerns raised before the committee in the other place about how it was to be interpreted, the bill was amended to move this provision into the section on the best interests to further clarify this principle.

[*Translation*]

In their committee testimony, several witnesses raised concerns about the marginal note reading "Maximum parenting time" for subclause 16(6). They say the note could suggest a presumption of equal parenting time despite the fact that the clause itself emphasizes the best interests of the child.

To address that concern and make it clear that the child's best interest is the only factor to be taken into consideration in any decision about that child, the Minister of Justice sent the chair of the Standing Senate Committee on Legal and Constitutional Affairs a letter in which he promised to make an administrative amendment to the marginal note to replace the words "maximum parenting time" with wording to the effect of "parenting time consistent with the best interests of the child", which more accurately reflects the legislative intent behind the provision.

[*English*]

At committee, while a small number of witnesses expressed support for the addition of a presumption of equal shared parenting in the Divorce Act, most of them were strongly opposed to it.

Such a presumption would impose a one-size-fits-all model that does not work for all families and, as such, would go in many cases against the bill's intention to promote the children's best interests. Given that every family's circumstances are unique, courts need the flexibility to tailor parenting orders to the needs of each particular child. It is also important to emphasize that when a parent is violent, such a presumption could be dangerous to children and would force the other parent to engage fees and efforts to rebut the presumption, imposing an unnecessary burden on the non-violent parent and otherwise would benefit the violent parent.

In keeping with its child-focused approach, Bill C-78 instead preserves the best-interests-of-the-child test as the only consideration for parenting orders. In so doing, it keeps the child at the centre of all decisions.

Addressing family violence is another important objective of this bill. The concept of family violence is currently absent from the Divorce Act. The family violence provisions in Bill C-78 aim to improve the response of the family justice system to family violence and to protect the well-being of children and the non-violent spouse.

Though most cases of separation or divorce do not involve violence, those that do must be treated extremely seriously. The addition of family violence provisions has received undisputed support.

Family violence takes many forms, and the proposed definition of "family violence" demonstrates the complex and pervasive nature of such violence. Family violence is defined as:

> . . . any conduct . . . that is violent or threatening or that constitutes a pattern of coercive and controlling behaviour or that causes that other family member to fear for their own safety or for that of another person . . .

The proposed definition is intentionally broad. It includes not only single acts that are violent, threatening or cause fear but also acts that, by themselves, may not be considered violence but that would constitute violence when they form a pattern of behaviour aimed at controlling a family member. I want to emphasize that the term "pattern" in the definition only applies to coercive and controlling behaviour.

I would also like to emphasize that research demonstrates that coercive and controlling violence is predominantly exercised by men against women. By referring to this form of violence, the bill is highlighting a particularly dangerous and gendered form of family violence. This is in addition to the broad definition, which captures violence against any family member.

The definition also recognizes the particular vulnerability of children and the negative impacts of family violence on them. The definition states that in the case of a child, any exposure to family violence constitutes family violence in and of itself. In other words, the definition recognizes that exposure to family violence is a form of child abuse.

When making an order for parenting or contact, courts would be required to consider any family violence and its impacts, along with other orders, proceedings or measures relating to civil protection, child protection or criminal matters that are relevant to the best interests of the child. As previously mentioned, the primary consideration for courts would always be the physical, emotional and psychological safety, security and well-being of the child.

One suggestion raised during the committee's study of Bill C-78 was that family law practitioners should be screening for cases of family violence. For screening to be effective, however, lawyers or other professionals involved in family disputes need training both on screening for family violence and on what to do with information about family violence obtained through screening. Provincial and territorial law societies are responsible for training requirements for lawyers. Therefore, it would not be appropriate for the federal government to put such a requirement in legislation.

• (2330)

I am pleased to report that the Department of Justice is undertaking a number of initiatives aimed at raising awareness and understanding of family violence in the context of family disputes, particularly among family law lawyers. For example, it

is currently developing a new online course on family violence and a family violence screening tool for family law practitioners, both of which will assist lawyers to identify and respond effectively to evidence of family violence.

As you know, the bill also proposes a relocation framework to help families resolve disputes in this highly complex and litigated area. This issue requires a delicate balancing of interests, which, in my view, Bill C-78 has achieved.

The framework provides guidance to parties, lawyers and courts in relocation cases, which should facilitate resolutions of disputes based on relocation issues. The Canadian Bar Association and other witnesses expressed their approval with respect to the overall approach.

[*Translation*]

The Senate committee asked whether a gender-based analysis plus had been undertaken during the drafting of Bill C-78. The Minister of Justice said that an analysis had indeed been done to assess the potential impacts of the bill on diverse groups, such as women, men, people with other gender identities, as well as other factors such as use of official language, culture and income.

The analysis showed that men and women experience separation and divorce in different ways. Many of the parents involved in the family justice system are single parents and have limited funds to pay for legal assistance. Family breakdown has a greater than average economic impact on women, who run an especially high risk of experiencing financial difficulties as single mothers. On the other hand, more men than women pay child support.

According to Statistics Canada data, 96 per cent of support recipients registered in provincial or territorial maintenance enforcement programs are women, and 4 per cent are men. Men therefore tend to be more economically affected when the child support amount does not reflect their actual ability to pay. The amendments proposed in the bill take this analysis into account. This brings me to the other two key objectives of the bill, which are to reduce poverty and to make Canada's justice system more accessible and efficient.

The risk of poverty after separation or divorce can be mitigated when parents and children receive the financial support to which they are entitled without delay. Obtaining fair child support is a key factor in reducing the risk of poverty, including child poverty. It has been proven that the sooner a fair and accurate amount of child support is established after parents separate and payments are made, the better the outcomes are for the children.

Parents have a legal obligation to provide financial support to their children. From now on, parents will also have an obligation to provide complete, accurate and up-to-date information to establish child support amounts. The information is also required by law to ensure that children continue to receive fair child support amounts based on up-to-date income information.

The bill also proposes amendments to the Garnishment, Attachment and Pension Diversion Act in order to allow for earlier garnishment of the wages of federal public servants where possible, so that families can receive the garnished money more quickly.

By increasing the efficiency of the support enforcement system, Bill C-78 will help address the feminization of poverty and help ensure that children receive the child support to which they are entitled in a timely manner.

Bill C-78 will also improve the Divorce Act framework for the recalculation of child support by allowing recalculation to occur upon request, rather than simply at regular intervals.

When the service is offered by a province, this measure will allow payors, who are predominantly men, who have a reduction in income to request a modification of the child support amount to reflect their actual ability to pay without having to go to court, thereby avoiding the accumulation of arrears.

[*English*]

Several measures are also included in this bill to provide additional guidance, information and tools to help parents better navigate the family justice system. The bill focuses on family dispute resolution processes, such as promoting the use of mediation, negotiation and collaborative law, which will make the family justice system more accessible and help divert people away from the courts, thereby saving time and resources for cases that require judicial intervention.

This legislation recognizes that family dispute resolution may not be appropriate for all families, as may be the case where there has been family violence or where there is a high level of conflict. Bill C-78 was carefully drafted to promote the use of the family dispute resolution mechanisms only when appropriate. I wish to add that I can hardly conceive when a mediation could be appropriate when the other spouse is violent or has adopted a highly conflictual approach.

Legal advisers, including notaries in Quebec, will need to evaluate each situation and each client's circumstances, including whether there is violence or a power imbalance, before encouraging their client to use a family dispute resolution.

[*Translation*]

The last amendment I want to talk to you about is the one about official languages. The right to use either official language in divorce proceedings was proposed during the hearings of the Standing Committee on Justice and Human Rights and adopted in the other place. The bill will enable the parties to use either official language in all proceedings before the trial courts under the Divorce Act.

All parties will have the right to testify in the official language of their choice, which should be the norm not only in criminal law, but in all areas of Canadian law. The parties also have the right to be heard by a judge who speaks their language and to receive any judgment or order in the official language of their

choice. This important amendment will improve access to the family justice system for francophone communities outside Quebec and New Brunswick.

I hope that, one day, First Nations families engaging in divorce proceedings will have access to a judge who understands their language. People going through divorce experience intense emotions that they would prefer to express in their mother tongue.

[*English*]

Honourable senators, in conclusion, we can all support the objectives of Bill C-78. These will significantly improve the lives of Canadians, especially for the benefit of children who must contend with their parents' separation or divorce.

We heard divergent points of view from senators on some of the proposed amendments, but all were unanimous on one thing: Bill C-78 is an important piece of legislation that fills significant gaps in the area of family law.

Parliamentarians in the House of Commons from all parties, experts, family law professionals and witnesses all expressed support for Bill C-78. They have all asked us to work together to ensure that Bill C-78 is passed before Parliament rises.

The bill also received support from all provincial and territorial ministers of justice and public safety, including the Quebec Minister of Justice. It is now time for Canadians to benefit from this comprehensive and responsive federal family law amendment.

Honourable senators, I hope that you will join me in supporting Bill C-78 so that it can become law as quickly as possible, and thus benefit all Canadians.

Thank you, *meegwetch*.

• (2340)

Hon. Paul E. McIntyre: Honourable senators, I rise today to speak at third reading of Bill C-78. I will be brief. I spoke on this bill at second reading on April 11.

First, I want to thank my colleagues on both sides of this chamber and at the Standing Senate Committee on Legal and Constitutional Affairs for their study of Bill C-78.

The committee held three meetings on this bill, including clause-by-clause consideration, and heard from 20 witnesses, including the Minister of Justice and Attorney General of Canada, Department of Justice officials, legal academics and practitioners, and representatives from shelters serving women and children affected by violence. It also received more than 15 briefs from stakeholders.

Bill C-78 proposes substantial amendments to the Divorce Act, the Family Orders and Agreements Enforcement Assistance Act and the Garnishment, Attachment and Pension Diversion Act. It is the first major reform to the act in more than 20 years.

[*Translation*]

The bill would modernize the act by replacing the wording regarding custody and visitation rights with new wording focused on the parent-child relationship.

The bill also provides clearer guidelines to help courts and parents determine what is in the best interests of the child, address family violence, establish a framework for the relocation of a child, and simplify the processes related to recalculation and enforcement of family support obligations.

Bill C-78 would amend three federal acts and would also implement two international conventions in Canada, namely the Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children, which was concluded at The Hague in 1996, and the 2007 Convention on the International Recovery of Child Support and Other Forms of Family Maintenance.

I should note that Canada cannot ratify or be a party to these conventions until its federal, provincial and territorial laws are consistent with them, which is why the amendments proposed in this bill must be adopted.

Becoming a party to these conventions would make it easier to resolve certain family law issues where one or more parties lives in another country.

[*English*]

During our study of Bill C-78 at committee stage, some amendments deemed important were sought from the witnesses who testified. Among these amendments, the committee noted legal concerns in relation to the interpretation of certain parts of proposed new section 16 of the act.

Unfortunately, due to time restraints and given the importance of passing this bill into law and the consensus among witnesses that this should happen, the committee chose to append observations to the report that take into consideration many of the important concerns that were raised by various witnesses during the study of the bill. One can only hope that the remaining concerns will be addressed in a more timely fashion and that Canadians won't have to wait decades again for the next substantial changes to the family laws.

Overall, this is a bill that is finally aligning our family laws with the needs and realities of our society.

[*Translation*]

Honourable senators, I urge you to support this bill.

[*English*]

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

Some Hon. Senators: Agreed.

An Hon. Senator: On division.

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

CRIMINAL CODE

BILL TO AMEND—THIRD READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Boyer, seconded by the Honourable Senator Francis, for the third reading of Bill C-84, An Act to amend the Criminal Code (bestiality and animal fighting).

Hon. Nicole Eaton: Honourable senators, I am pleased to rise today to add my voice in support of Bill C-84.

I would like to thank the sponsor, Senator Boyer; the critic, Senator White; and the members of the Social Affairs Committee for their work on this bill.

Bill C-84 will fill a gap in the Criminal Code by providing a definition of bestiality that will broaden the offence to include all sexual contact with an animal. This became necessary after a Supreme Court decision in June 2016 that narrowed the offence of bestiality to a degree that did not capture the vast majority of depraved acts involving animals. The bill will also make it much easier to prosecute those involved in animal fighting.

According to the evidence we heard in committee, this bill fills a legal gap, but it does not bring Canada up to the standards of other developed countries. As witness Camille Labchuk, Executive Director of Animal Justice, told the committee, Canada’s animal protection laws are outdated and do not reflect our values or what we have learned about the cognitive, social and emotional capacity of animals.

The most shocking evidence we heard involves the link between child abuse and bestiality. Data gathered by the Canadian Centre for Child Protection found that more than 80 per cent of the cases of bestiality examined also involved sexual abuse of one or more children.

The Justice Committee in the other place, which spent more time on this bill than we did, heard significant evidence that animal abuse is a strong indicator of future sexual abuse. This is why that committee amended the bill to ensure that those convicted of bestiality will be placed on the Sex Offender Registry. And that linkage is the reasoning behind our committee’s observation that there should be cross-reporting between animal and child protection agencies. Such information sharing would make it easier to prevent or detect abuse of both animals and children.

There are clearly federal-provincial jurisdictional issues to sort out, but I urge the next government to waste no time in acting on this observation and, indeed, in further strengthening Canada’s animal protection laws. For now, though, it is imperative that we pass this bill without delay. Thank you.

Hon. Vernon White: Honourable senators, I am pleased to rise today to briefly speak on this final stage of Bill C-84, An Act to amend the Criminal Code (bestiality and animal fighting).

I want to thank the Chair of the Social Affairs Committee and the deputy chairs, as well as the committee itself and, of course, the sponsor, Senator Boyer, for bringing this bill forward.

This bill amends the Criminal Code, as we heard, to broaden the scope of three criminal offences in order to prohibit certain activities related to bestiality and animal fighting. The first is to define “bestiality,” and the other is to broaden the scope of prohibited activities pertaining to violence and cruelty toward animals and animal fighting.

The Criminal Code includes a number of offences to address animal cruelty, particularly in the context of animal fighting. The proposed amendments will expand the existing provisions in order to protect all animals and capture all activities related to animal fighting. The changes will also prohibit promoting, arranging, assisting, taking part in, or receiving money for the fighting or baiting of animals; breeding, training or transporting an animal to fight another animal; building or maintaining any arena for animal fighting, as current prohibitions are limited to building or maintaining a cockpit, which is a place used for cockfighting.

Bill C-84 aims to protect children and animals from cruelty and abuse, while ensuring the law does not interfere with legitimate and traditional farming, hunting and trapping practices, including Indigenous harvesting rights.

The failure to fix this law is not without consequence. Last year, there was at least one bestiality charge that was thrown out because it did not meet the limited definition that currently exists. In this case, a man had been accused of creating bestiality pornography and distributing child pornography, the latter of which earned him a one-year jail sentence, with the former being stayed. There is legitimate concern that other cases could be affected by our currently ill-defined law.

Canada’s criminal animal cruelty provisions are a century out of date, regularly resulting in animal abusers escaping criminal prosecution for sadistic cruelty. Although Bill C-84 is a step in the right direction, it is quite narrow in scope and is only a small effort toward improving Canada’s outdated animal cruelty laws.

• (2350)

Minister Lametti has stated publicly in the committee that this bill is but a start, and I quote:

> — the bill doesn't go far enough. It addresses two very specific problems, challenges, which need to be addressed. So this was something we could feasibly do in this Parliament with all-party support, so we've chosen this as a first step.

The majority of witnesses who appeared in both places are saying the same: This legislation is modest, but it is a step in the right direction. We hope for more comprehensive reform in the future.

During the debate that preceded the House of Commons vote, representatives from all parties repeatedly highlighted the importance of protecting animals, improving Canada's legal protections for animals, and advancing animal rights more generally. Although I believe this bill does not go far enough, it is a step in the right direction, which I support.

I would be remiss if I didn't thank organizations such as Humane Canada that have stood up for years to help legislators build legislation that would help combat the challenges we're facing. I want to congratulate them and the sponsor and ask you to support this bill.

Some Hon. Senators: Question.

Hon. Donald Neil Plett: I'm wondering if Senator White would take a question.

Senator White: Yes, I would.

Senator Plett: Senator White, you've had a lifetime of experience in law enforcement. I know you have shared some stories in the past about some personal experiences in policing. I'm wondering whether you would give us a very brief case or two about some of the needs for this because of your experiences.

Senator White: I would welcome the opportunity, briefly. Thank you very much.

The connection and link analysis that has been done between animal cruelty, in particular, and child abuse, specifically, has been well-known not only in Canada but around the world.

Training that is being done for police officers in Canada today specifically targets the opportunity for police officers to identify where animal cruelty becomes domestic violence or child abuse.

I can use the case in Norway as an example where an individual was under investigation multiple times as a youth for animal cruelty and then went to an island and killed over 70 teenagers. The investigation found a direct link between his behaviour as a youth involving animal cruelty and his behaviour on that island, murdering young people.

That's one case. We can look to many cases in the United States, *Dahmer* and many others, who have been involved in animal cruelty as young people, who found themselves involved in cruel, serious criminal acts as an adult.

[*Translation*]

Hon. Renée Dupuis: Would Senator White agree to answer a question?

Senator White: Yes, it would be my pleasure.

Senator Dupuis: Based on your experience, could you tell us about the connection between child pornography and pornography involving bestiality? You said that this bill is a step in the right direction even though it doesn't go far enough. Do you believe that a further step would be to better regulate social media and other digital platforms when it comes to the use of child pornography or pornography involving bestiality?

[*English*]

Senator White: That's a longer question than I'm willing to answer. There is a direct connection. We've seen those connections when it comes to bestiality, in particular, and child pornography.

In fact, the case I referred to tonight, and the one that brought this forward where a case was thrown out as a result of a decision by the Supreme Court of Canada, specifically related to bestiality and child pornography. I think there is a direct connection, and the analysis and training being done by police agencies will find that same link.

A second piece around social media platforms, I think that Canadians have to become more aware of what's out there. We have to decide whether we're going to better regulate. To be fair, there are a number of pieces of legislation in the past decade that have tried and failed to pass in the House of Commons or here that would have better regulated the Internet providers as to what they're allowing to occur on their websites.

A perfect example was in New Zealand with the number of people who were murdered in March, and the fact that social media allowed that video to be shown for days, and only some countries have now taken the steps of making that illegal — New Zealand and now Australia. That's what we should react to more quickly.

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 third time and passed.)

(*At 11:56 p.m., the Senate was continued until tomorrow at 2 p.m.*)

CONTENTS

Tuesday, June 18, 2019

PAGE

Tributes to Departing Pages
Hon. the Speaker. 8674

SENATORS' STATEMENTS

The Honourable Paul McIntyre
Hon. Jean-Guy Dagenais 8674

Visitors in the Gallery
Hon. the Speaker. 8674

National Inquiry into Missing and Murdered Indigenous Women and Girls
Hon. Lillian Eva Dyck 8674

Visitors in the Gallery
Hon. the Speaker. 8675

Women in Politics
Hon. Donna Dasko 8675

Visitors in the Gallery
Hon. the Speaker. 8675

Senate Commemorative Medal
Hon. David M. Wells 8676
Hon. Serge Joyal. 8676

Visitors in the Gallery
Hon. the Speaker. 8676

Teachers
Hon. Raymonde Gagné 8676

ROUTINE PROCEEDINGS

Commissioner of Lobbying
Lobbying Act—2018-19 Annual Report Tabled 8677
Access to Information Act and Privacy Act—2018-19 Annual Reports Tabled 8677

Information Commissioner
2018-19 Annual Report Tabled 8677

Auditor General
2018-19 Annual Reports Tabled 8677

Parliamentary Budget Officer
Federal Program Spending on Housing Affordability—Report Tabled. 8677

Bill to Provide No-cost, Expedited Record Suspensions for Simple Possession of Cannabis (Bill C-93)
Thirty-fifth Report of Legal and Constitutional Affairs Committee Presented
Hon. Serge Joyal. 8678

PAGE

Adjournment
Notice of Motion
Hon. Diane Bellemare. 8678

Canadian NATO Parliamentary Association
Standing Committee Meeting, March 23-24, 2018—Report Tabled
Hon. Joseph A. Day 8678
2018 Spring Session, May 25-28, 2018—Report Tabled
Hon. Joseph A. Day 8678

Commonwealth Parliamentary Association
Bilateral Visit to New Zealand and Samoa, March 1-10, 2019—Report Tabled
Hon. Terry M. Mercer. 8678
International Executive Committee Meeting, November 5-9, 2018—Report Tabled
Hon. Terry M. Mercer. 8678
International Executive Committee Meeting, March 20-24, 2018—Report Tabled
Hon. Terry M. Mercer. 8678

Federal Public Service Jobs
Notice of Inquiry
Hon. Percy E. Downe 8679

QUESTION PERIOD

Natural Resources
Oil and Gas Industry
Hon. Larry W. Smith 8680
Hon. Peter Harder 8680
Trans Mountain Pipeline
Hon. Larry W. Smith 8680
Hon. Peter Harder 8680

Small Business and Export Promotion
Clean Technology Venture Capital Funds
Hon. Leo Housakos 8680
Hon. Peter Harder 8681

Indigenous and Northern Affairs
Land Claims Negotiations
Hon. Mary Jane McCallum. 8681
Hon. Peter Harder 8681

Public Services and Procurement
Service Contracts
Hon. David Tkachuk 8681
Hon. Peter Harder 8681

Privy Council Office
Vice-Admiral Mark Norman
Hon. Jean-Guy Dagenais 8682
Hon. Peter Harder 8682

CONTENTS

Tuesday, June 18, 2019

PAGE

Crown-Indigenous Relations
Elimination of Sex-Based Inequities
Hon. Marilou McPhedran. 8682
Hon. Peter Harder 8682

ORDERS OF THE DAY

Business of the Senate
Hon. Diane Bellemare. 8682

National Security Bill, 2017 (Bill C-59)
Message from Commons—Motion for Non-Insistence Upon Senate Amendments—Motion in Amendment—Debate
Hon. Leo Housakos 8683
Message from Commons—Motion for Non-Insistence Upon Senate Amendments Adopted 8686

Access to Information Act
Privacy Act (Bill C-58)
Bill to Amend—Message from Commons—Certain Senate Amendments Concurred In, Disagreement with Certain Senate Amendments and Amendments. 8687

Fisheries Act (Bill C-68)
Bill to Amend—Message from Commons—Motion for Concurrence in Commons Amendments and Non-Insistence Upon Senate Amendments—Debate
Hon. Peter Harder 8688
Hon. David M. Wells 8689
Hon. Rose-May Poirier 8691
Hon. Diane F. Griffin 8691
Hon. Leo Housakos 8692
Hon. Fabian Manning 8692
Hon. Donald Neil Plett 8694

Appropriation Bill No. 2, 2019-20 (Bill C-102)
First Reading
Hon. Peter Harder 8695

Customs Tariff and the Canadian International Trade Tribunal Act (Bill C-101)
Bill to Amend—National Finance Committee Authorized to Study Subject Matter
Hon. Diane Bellemare. 8695

PAGE

Fisheries Act (Bill C-68)
Bill to Amend—Message from Commons—Motion for Concurrence in Commons Amendments and Non-Insistence Upon Senate Amendments Adopted
Hon. Pamela Wallin 8696

National Defence Act (Bill C-77)
Bill to Amend—Third Reading—Debate
Hon. Pierre-Hugues Boisvenu 8696
Motion in Amendment Negatived
Hon. Pierre-Hugues Boisvenu 8699

Oil Tanker Moratorium Bill (Bill C-48)
Message from Commons—Senate Amendment Concurred In and Amendments 8700

National Defence Act (Bill C-77)
Bill to Amend—Third Reading—Debate
Hon. Jean-Guy Dagenais 8701
Motion in Amendment Negatived
Hon. Jean-Guy Dagenais 8702
Bill to Amend—Third Reading 8703

Divorce Act
Family Orders and Agreements Enforcement Assistance Act
Garnishment, Attachment and Pension Diversion Act (Bill C-78)
Bill to Amend—Third Reading
Hon. Pierre J. Dalphond 8704
Hon. Paul E. McIntyre 8708

Criminal Code (Bill C-84)
Bill to Amend—Third Reading
Hon. Nicole Eaton. 8709
Hon. Vernon White 8709
Hon. Donald Neil Plett 8710
Hon. Renée Dupuis 8710